

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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4                   Electronically Filed  
5                   Mar 03 2022 12:19 p.m.  
6                   Elizabeth A. Brown  
                    Clerk of Supreme Court

7                   MICHAEL EDWARD HATCH, an  
8                   individual; and ALISHA SUZANNE  
9                   HATCH, an individual,

**Supreme Court No.: 83692**  
                    (District Court Case No. CV21-00246)

10                   Appellants,

**JOINT APPENDIX VOL. 2**

11                   v.

12                   KARI ANNE JOHNSON,

13                   Respondent.

14  
15                   MARK G. SIMONS, ESQ.  
16                   Nevada Bar No. 5132  
17                   SIMONS HALL JOHNSTON PC  
18                   690 Sierra Rose Drive  
19                   Reno, Nevada 89511  
20                   T: (775) 785-0088  
21                   Email: [msimons@shjnevada.com](mailto:msimons@shjnevada.com)  
22                   Attorneys for Appellants  
23  
24  
25  
26

**CHRONOLOGICAL INDEX**

<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>BATES</u></b>
Verified Complaint	2/10/2021	1	JA_00001-67
Notice of Pendency of Action (Lis Pendens)	2/10/2021	1	JA_00068-69
Summons (Michael Edward Hatch)	2/19/2021	1	JA_00070-74
Summons (Alisha Suzanne Hatch)	2/19/2021	1	JA_00075-79
Notice of Appearance (M. Simons)	3/4/2021	1	JA_00080-82
Request for Hearing Pursuant to NRS 14.015	3/5/2021	1	JA_00083-85
Ex Parte Motion for Order Shortening Time	3/5/2021	1	JA_00086-89
Emergency Motion to Expunge Lis Pendens	3/5/2021	1	JA_00090-121
Motion to Dismiss	3/5/2021	1	JA_00122-154
Opposition to Ex Parte Motion for Order Shortening Time	3/8/2021	1	JA_00155-158
Reply in Support of Ex Parte Motion for Order Shortening Time	3/9/2021	1	JA_00159-163
Request for Submission	3/9/2021	1	JA_00164-166
Order Setting Hearing	3/10/2021	1	JA_00167-172
Notice of Hearing	3/11/2021	1	JA_00173-175
Notice of Appearance (H. Winston)	3/12/2021	1	JA_00176-178
Demand for Jury	3/12/2021	1	JA_00179-181

Supplement to Emergency Motion to Expunge Lis Pendens	3/15/2021	1	JA_00182-184
Verified First Amended Complaint	3/16/2021	1-2	JA-00185-254
Opposition to Motion to Dismiss	3/16/2021	2	JA_00255-377
Opposition to Emergency Motion to Expunge Lis Pendens	3/16/2021	2	JA_00378-430
Affidavit of Kari Anne Johnson in Support of Opposition to Emergency Motion to Expunge Lis Pendens	3/17/2021	2	JA_00431-436
Notice of Proposed Exhibits (Plaintiff)	3/17/2021	2-3	JA_00437-570
Reply in Support of Emergency Motion to Expunge Lis Pendens	3/19/2021	3	JA_00571-586
Request for Submission	3/19/2021	3	JA_00587-589
Transcript of 3/22/2021 Hearing	3/22/2021	3	JA_00590-616
Motion for Leave to File Second Amended Complaint	3/25/2021	3	JA_00617-697
Motion to Dismiss First Amended Complaint	3/30/2021	3-4	JA_00698-773
Request for Submission	3/31/2021	4	JA_00774-782
Plaintiff's Objection to Defendants' Proposed Order Granting Motion to Expunge Lis Pendens	4/1/2021	4	JA_00783-799

1	Opposition to Motion to Dismiss Verified First Amended Complaint	4/8/2021	4	JA_00800-822
2				
3	Opposition to Motion for Leave to File Second Amended Complaint	4/8/2021	4	JA_00823-859
4				
5	Defendants' Response to Plaintiff's Objection to Defendants' Proposed Order Granting Motion to Expunge Lis Pendens	4/8/2021	4	JA_00860-875
6				
7	Reply in Support of Motion to Dismiss Verified First Amended Complaint	4/8/2021	4	JA_00876-885
8				
9	Request for Submission	4/8/2021	4	JA_00886-888
10				
11	Reply in Support of Plaintiff's Objection to Defendants' Proposed Order Granting Motion to Expunge Lis Pendens	4/12/2021	4	JA_00889-893
12				
13	Request for Submission	4/12/2021	4	JA_00894-896
14				
15	Reply in Support of Motion for Leave to File Second Amended Complaint	4/14/2021	4	JA_00897-903
16				
17	Request for Submission	4/14/2021	4	JA_00904-906
18				
19	Order Granting Motion to Expunge Lis Pendens	4/27/2021	4	JA_00907-911
20				
21	Notice of Entry of Order	4/27/2021	4	JA_00912-921
22				
23	Notice of Release of Lis Pendens	4/28/2021	4	JA_00922-924
24				
25	Order to Set	5/21/2021	4	JA_00925-927
26				



1	Plaintiff's Motion for Leave	5/25/2021	4	JA_00928-936
2	to File Motion for			
3	Reconsideration of Order to			
4	Set or, Alternatively, Request			
5	for Clarification of Order to			
6	Set			
7	Notice of Hearing	6/1/2021	4	JA_00937-939
8	Minutes	6/8/2021	4	JA_00940
9	Opposition to Motion for	6/8/2021	4	JA_00941-944
10	Leave to File Motion for			
11	Reconsideration of Order to			
12	Set, or, Alternatively,			
13	Request for Clarification to			
14	Set			
15	Reply in Support of	6/10/2021	4	JA_00945-947
16	Plaintiff's Motion for Leave			
17	to File Motion for			
18	Reconsideration of Order to			
19	Set, or, Alternatively,			
20	Request for Clarification of			
21	Order to Set			
22	Request for Submission	6/10/2021	4	JA_00948-950
23	Request for Judicial Notice	6/23/2021	4-5	JA_00951-1069
24	Order Regarding the Court's	6/29/2021	5	JA_01070-1073
25	May 21, 2021, Order to Set			
26	Request for Judicial Notice	7/6/2021	5	JA_001074-1096
	re: Notary Public Documents			
	and Signatures			
	Opposition to Request for	7/7/2021	5	JA_01097-1103
	Judicial Notice			
	Minutes	7/14/2021	5	JA_01104-1105
	Order Addressing Motions	8/2/2021	5	JA_01106-1107
	Notice of Entry of Order	8/2/2021	5	JA_01108-1113

1	Notice of Voluntary Dismissal	8/12/2021	5	JA_01114-1116
2				
3	Motion for Attorney's Fee	8/19/2021	5	JA_01117-1173
4	Memorandum of Costs	8/19/2021	5	JA_01174-1182
5	Motion to Retax Costs	8/20/2021	5	JA_01183-1189
6	Opposition to Motion for an Award of Attorneys' Fees and Costs	8/27/2021	5	JA_01190-1197
7				
8	Reply in Support of Motion for an Award of Attorneys' Fees and Costs	9/2/2021	5	JA_01198-1214
9				
10	Opposition to Motion to Retax	9/2/2021	5	JA_01215-1217
11				
12	Request for Submission	9/2/2021	5	JA_01218-1224
13	Reply to Opposition to Motion to Retax Costs	9/8/2021	5	JA_01225-1231
14	Request for Submission	9/8/2021	5	JA_01232-1233
15	Order Regarding Attorneys' Fees and Costs	10/1/2021	5	JA_01234-1238
16				
17	Notice of Appearance (K. Robison)	10/5/2021	5	JA_01239-1241
18	Notice of Entry of Order	10/21/2021	6	JA_01242-1251
19	Notice of Appeal	10/21/2021	6	JA_01252-1254
20	Notice of Cross Appeal	10/27/2021	6	JA_01255-1257
21				
22				
23				
24				
25				
26				

**ALPHABETICAL INDEX**

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Affidavit of Kari Anne Johnson in Support of Opposition to Emergency Motion to Expunge Lis Pendens	3/17/2021	2	JA_00431-436
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Memorandum of Costs	8/19/2021	5	JA_01174-1182
Minutes	6/8/2021	4	JA_00940
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Motion to Dismiss	3/5/2021	1	JA_00122-154
Motion to Dismiss First Amended Complaint	3/30/2021	3-4	JA_00698-773
Motion to Retax Costs	8/20/2021	5	JA_01183-1189
Notice of Appeal	10/21/2021	6	JA_01252-1254
Notice of Appearance (H. Winston)	3/12/2021	1	JA_00176-178
Notice of Appearance (K. Robison)	10/5/2021	5	JA_01239-1241

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7	Notice of Hearing	3/11/2021	1	JA_00173-175
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16				
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22				
23				
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25				
26				

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23				
24				
25				
26				

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2	Emergency Motion to			
3	Expunge Lis Pendens			
4	Reply in Support of Ex Parte	3/9/2021	1	JA_00159-163
5	Motion for Order Shortening			
6	Time			
7	Reply in Support of Motion	9/2/2021	5	JA_01198-1214
8	for an Award of Attorneys'			
9	Fees and Costs			
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23	Reply in Support of	4/12/2021	4	JA_00889-893
24	Plaintiff's Objection to			
25	Defendants' Proposed Order			
26	Granting Motion to Expunge			
	Lis Pendens			
	Reply to Opposition to	9/8/2021	5	JA_01225-1231
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	Request for Hearing Pursuant	3/5/2021	1	JA_00083-85
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Transcript of 3/22/2021 Hearing	3/22/2021	3	JA_00590-616
Verified Complaint	2/10/2021	1	JA_00001-67
Verified First Amended Complaint	3/16/2021	1-2	JA-00185-254

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**CERTIFICATE OF SERVICE**

Pursuant to NRAP 25, I certify that I am an employee of SIMONS HALL  
JOHNSTON PC, and that on this date I caused to be served a true copy of the  
**JOINT APPENDIX VOL. 2** on all parties to this action by the method(s)  
indicated below:

X by using the Supreme Court Electronic Filing System:

Kent R. Robison  
Clayton P. Brust  
Stefanie T. Sharp  
Hannah E. Winston  
Robison, Sharp, Sullivan & Brust  
71 Washington St.  
Reno, NV 89503  
*Attorneys for Respondents*

DATED: This 3 day of March, 2022.

  
\_\_\_\_\_  
JODI ALHASAN



ACKNOWLEDGMENT

State of Nevada  
County of Washoe

§  
§  
§

The foregoing instrument was acknowledged before me on Dec 9, 2019 by Alisha Hatch.



Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:

(Seal)

Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184



Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184  
Loan No.: 156-2017268  
MIN: 100019915620172680

## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 9th day of December, 2019, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

9845 FIREFOOT LN, RENO, NV 89521

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

SOUTH MEADOWS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of

Multistate PUD Rider—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc. Page 1 of 3

Form 3150 1/01  
14501MU 08/00 Rev. 11/15  
©2000-2015, The Compliance Source, Inc.



the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then:

(i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.


**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have

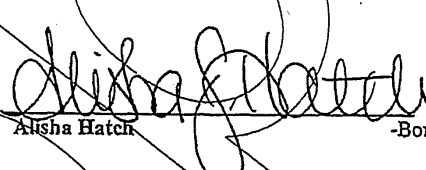


the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

  
\_\_\_\_\_  
MICHAEL HATCH (Seal)  
-Borrower

  
\_\_\_\_\_  
Alisha Hatch (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

[Sign Original Only]



2645  
STEFANIE T. SHARP, ESQ.  
Nevada State Bar No. 8661  
CLAYTON P. BRUST, ESQ.  
Nevada State Bar No. 5234  
HANNAH E. WINSTON, ESQ.  
Nevada State Bar No. 14520  
ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
a Professional Corporation  
71 Washington Street  
Reno, Nevada 89503  
Telephone: (775) 329-3151  
Facsimile: (775) 329-7169  
Email: [ssharp@rssblaw.com](mailto:ssharp@rssblaw.com)

*Attorneys for Plaintiff Kari Anne Johnson*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

KARI ANNE JOHNSON, an individual,  
Plaintiff,

**CASE NO.: CV21-00246  
DEPT. NO.: 7**

vs.

MICHAEL EDWARD HATCH, an individual;  
ALISHA SUZANNE HATCH, an individual;  
and DOES I THROUGH X, inclusive;  
Defendants.

**OPPOSITION TO MOTION TO DISMISS**

Plaintiff KARI ANNE JOHNSON (hereinafter “Kari” or “Plaintiff”), by and through her counsel of record herein, CLAYTON P. BRUST, ESQ., STEFANIE T. SHARP, ESQ. and HANNAH E. WINSTON, ESQ. of the law firm of ROBISON, SHARP, SULLIVAN & BRUST, LTD., hereby responds to and opposes the Motion to Dismiss (the “Motion”) filed by Defendants MICHAEL EDWARD HATCH and ALISHA SUZANNE HATCH.

Motion to Dismiss the Verified Complaint is now moot because Plaintiff filed a Verified First Amended Complaint on March 16, 2021. *See* NRCP 15(a)(1)(B) (“A party may amend its pleading once as a matter of course within 21 days after service of a motion under Rule 12(b) . . .

1 .”); *see also Allen v. Veterans Admin.*, 749 F.2d 1386, 1388 (9th Cir. 1984) (“A motion to dismiss  
2 the complaint is not a responsive pleading); *Washoe Med. Ctr. v. Second Jud. Dist. Ct.*, 122 Nev.  
3 1298, 1308 148 P.3d 790, 796 (2006) (affirming without deciding the district court’s holding that a  
4 motion to dismiss is not a responsive pleading under NRCP 15).

5 Defendants filed and served their Motion to Dismiss on March 5, 2021, and Plaintiff filed  
6 her Verified First Amended Complaint on March 16, 2021 which is within 21 days of service of  
7 Defendants’ Rule 12(b)(5) Motion. Therefore, Plaintiff’s Verified First Amended Complaint  
8 supersedes the Verified Complaint challenged by the Defendants, and the Defendants’ Motion is  
9 now moot. Not only are the arguments made by Defendants regarding the statute of limitations  
10 erroneous, the breach of contract claims asserted in the First Amended Verified Complaint are well  
11 within the limitation period allowed by NRS 11.190(1) (breach of written contract).

12 However, a discussion follows setting forth in detail why the Motion, had it not been mooted  
13 by the filing of the Verified First Amended Complaint, lacked merit and was not well founded.

## 14 MEMORANDUM OF POINTS AND AUTHORITIES

### 15 I. INTRODUCTION

16 Defendants seek dismissal of the entire Verified Complaint because they recorded the  
17 fraudulently obtained deed in 2015. Defendants represent that there is a “bright-line” rule in Nevada  
18 which provides that, as a matter of law, constructive notice stemming from a recorded document  
19 begins running the statute of limitations *on all claims*, regardless of the circumstances of a particular  
20 case. Defendants blatantly misrepresent the law to this Court.

21 The Nevada Supreme Court has several times held that whether a plaintiff has acted  
22 reasonably and with due diligence in discovering her cause of action is a question of fact that is  
23 inappropriate for determination on a Rule 12(b)(5) motion. Defendants argue that Nevada’s  
24 recording statutes are meant to put all people on notice of what is publicly recorded. This argument  
25 has been rejected by the Nevada Supreme Court which reached the opposite conclusion and found,  
26 instead, that as a matter of law, the recording statutes do not apply to put all people on notice in all  
27 situations.

1 The facts of this case are simple. Plaintiff loaned Defendants \$665,838.40 to purchase a  
2 residence. The parties expressly agreed that both the Plaintiff's name and the Defendants' names  
3 would appear on the deed to the property. Nevertheless, the Defendants never put Plaintiff's name  
4 on the property. After Defendants recorded the deed, Plaintiff had no reason to research the deed  
5 to the property because she trusted the Defendants and they initially made their loan payments.  
6 However, when suspect events occurred, Plaintiff immediately acted to research the deed and  
7 ascertain her rights.

8 Defendants' Motion to Dismiss is a self-serving, overreaching attempt to use this Court to  
9 perpetrate their own fraud. No matter how vehemently Defendants assert that Defendants have  
10 gotten away with stealing their house, it is improper, inequitable, and contrary to law for this Court  
11 to sanction, approve, or uphold Defendants' scheme. The Verified Complaint complies with Rule  
12 8 and puts the Defendants on notice of Plaintiff's claims against them. The Verified Complaint is  
13 timely. Accordingly, Defendants' Motion must be denied.

## 14 II. STATEMENT OF FACTS<sup>1</sup>

15 Plaintiff and Alisha met in childhood. Verified Complaint ("Comp.") ¶7. When they  
16 reconnected in adulthood they shared housing for a period of time and Plaintiff and Colin socialized  
17 with Defendants and considered them friends. *Id.*

18 In 2014, Defendants approached Kari and Colin about loaning them money to buy certain  
19 real property and improvements commonly known as 9845 Firefoot Lane, Reno, Nevada, Washoe  
20 County, APN: 141-254-09 (the "Property") because Defendants were unable to qualify for a  
21 conventional mortgage. *Id.* at ¶8. Defendants promised that they would pay the loan as agreed and  
22 that Kari's name would be on the title to the Property until the loan was paid in full. *Id.*

23 Kari agreed to loan (the "Loan") the money to the Defendants based on their representations  
24 that they would pay the Loan as agreed and on the condition that Kari would be on the title to the  
25 property with Defendants until the Loan was paid in full. *Id.* at ¶9.

26 The Property was new construction and Kari and the Defendants were identified as the  
27 "buyers" in the Purchase and Sale Contract (the "PSA"). *Id.* at ¶10. A true and correct copy of the  
28

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<sup>1</sup> Since the Motion attacked the now inoperative Verified Complaint, the facts cited herein are from that pleading.

1 PSA is attached hereto as "Exhibit 1." Prior to the closing under the PSA, Alisha presented certain  
2 escrow documents to Kari representing that the documents needed to be signed for closing. *Id.* at  
3 ¶11. Kari trusted Alisha implicitly and believed that Alisha and Michael would honor their  
4 agreement with Kari that she would be a joint owner of the Property with the Defendants until the  
5 Loan was paid in full. *Id.*

6 Kari paid the full amount of the purchase price for the Property and all closing costs. *Id.* at  
7 ¶12. The total amount of the Loan was \$665,838.40. *Id.* The Loan is evidenced by a "Promissory  
8 Note For Hatch Residence 9845 Firefoot Lane, Reno, NV 89521" (the "Note") Alisha prepared the  
9 Note. *Id.* The Note was signed and initialed by Michael, Alisha and Kari on September 9, 2015.  
10 *Id.* A true and correct copy of the Note is attached to the Verified Complaint and hereto as "Exhibit  
11 2."

12 The Note specifically refers to the Loan as being a "home loan" and accrues interest at the  
13 rate of 3% per annum. *Id.* at ¶13. A payment schedule requiring monthly payments of principal  
14 and interest was part of the Note and attached thereto. *Id.* A true and correct copy of the payment  
15 schedule is attached to the Verified Complaint and hereto as "Exhibit 3."

16 On or about November 13, 2020, Kari and Colin discovered that Defendants had  
17 manipulated Kari into signing documents removing Kari's name from the title to the Property at  
18 closing and interlineated through Kari's name on page 6 of the vesting deed (the "Deed"). *Id.* at  
19 ¶14. A true and correct copy of the Deed is attached to the Verified Complaint and hereto as "Exhibit  
20 4." The Deed also evidences that, but for the deception of the Defendants, Kari would have been a  
21 joint title holder on the Property with the Defendants. *Id.*

22 On or about November 13, 2020, Kari and Colin also discovered that on or about December  
23 9, 2019, Defendants obtained a loan in the original principal amount of \$259,000 from Guild  
24 Mortgage Company secured by the Property. *Id.* at ¶14. A true and correct copy of the Deed of  
25 Trust securing the Guild Mortgage Company loan is attached to the Verified Complaint and hereto  
26 as "Exhibit 5." Defendants never told Kari that they were obtaining a new loan against the house  
27 which further interferes with Kari's ability to recover the money she loaned her "friends", the  
28 Defendants. This further demonstrates the secretive and manipulative actions by Defendants.



1 Kari would never have extended the Loan to the Defendants without their agreement that  
2 Kari's name would be on the title to the Property until the Loan was paid in full. *Id.* at ¶15-18.  
3 Defendants used their relationship with Kari and Colin to exert influence over Kari and Colin to  
4 manipulate and convince Kari to make the Loan. *Id.*

5 Plaintiff is informed and believes that when Defendants represented to her and Colin that  
6 Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the Property  
7 until the Loan was paid in full that (i) Defendants knew the representations were false; (ii)  
8 Defendants made the representations for the purposes of, and with the intent to, induce Kari to make  
9 the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan  
10 as agreed. *Id.* at ¶19.

11 The Note lacks terms that would typically be found in a home loan promissory note,  
12 including but not limited to, a late fee or default interest rate, an acceleration provision, and a  
13 provision allowing the lender to recover costs and attorneys' fees associated with collection of the  
14 amount owed in the event of a default. *Id.* at ¶20. The Plaintiff is informed and believes that the  
15 Defendants drafted the Note to be favorable to their interests to her detriment. *Id.*

16 Plaintiff had trust and confidence in Defendants, and the Defendants, through deception,  
17 intimidation, and/or undue influence, obtained the Loan from her with the intention of depriving her  
18 of the ownership, use, benefit, and possession of her money. *Id.* at ¶21.

19 Plaintiff trusted and relied on the Defendants and the Defendants wrongfully asserted undue  
20 influence over her to obtain the Loan without it being secured by the Property and to obtain an  
21 advantage over her by allowing the Defendants to still retain title to the Property even if they  
22 defaulted under the Loan. *Id.* at ¶22. The Defendants defaulted under the Loan by failing and  
23 refusing to pay the monthly payment due under the Loan on January 1, 2021, and for failing and  
24 refusing to pay any amounts thereafter despite demand that they do so. *Id.* at ¶23.

25 In the Verified Complaint, Plaintiff alleged causes of action for Breach of Contract; Demand  
26 on Loan Documents; Unjust Enrichment; Fraud in the Inducement; Imposition of Constructive  
27 Trust; Imposition of Equitable Lien; and for Injunctive Relief.

28 ./. ./

1                   **III.     STANDARD OF REVIEW**

2                   Under NRCP 12(b)(5), a complaint may be dismissed if the allegations in the pleading are  
3                   insufficient to state a claim upon which relief may be granted. While commonly filed, these motions  
4                   are rarely granted because the standard is so rigorous. *See Torres v. Nev. Direct Ins. Co.*, 131 Nev.  
5                   531, 541, 353 P.3d 1203, 1210 (Nev. 2015) (holding that motions to dismiss are subject to rigorous  
6                   review on appeal). Motions to dismiss are only appropriately granted when there is no doubt that a  
7                   plaintiffs' allegations, even if true, would not afford relief. *Buzz Stew, LLC v. City of N. Las Vegas*,  
8                   124 Nev. 224, 228, 181 P.3d 670, 672 (2008).

9                   In Nevada, a properly pled claim need only contain "a short and plain statement of the claim  
10                  showing that the pleader is entitled to relief." NRCP 8(a). This is because "Nevada is a notice-  
11                  pleading jurisdiction." *Nev. State Bank v. Jamison Family P'ship*, 106 Nev. 792, 801, 801 P.2d  
12                  1377, 1383 (1990). Thus, "pleadings should be liberally construed to allow issues that are fairly  
13                  noticed to the adverse party." *Id.* The notice-pleading requirement is met if the allegations  
14                  supporting the claim provide the party with "fair notice of the nature and basis" of the claim.  
15                  *Vacation Village, Inc. v. Hitachi Am. Ltd.*, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994).

16                  When reviewing an order granting a motion to dismiss, "[t]his [C]ourt presumes all factual  
17                  allegations in the complaint are true and draws all inferences in favor of the plaintiff." *Id.* The  
18                  allegations in the complaint must be taken at "face value" and "construed favorably" on the  
19                  plaintiff's behalf. *Morris v. Bank of Am. Nev.*, 110 Nev. 1274, 1276, 886 P.2d 454, 456 (1994).  
20                  Furthermore, this Court may not make factual findings on a motion to dismiss. *Breliant v. Preferred*  
21                  *Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993). That is because motions to dismiss  
22                  are intended to test the pleadings, *see* NRCP 12(b), but subsequent motions and trial are intended to  
23                  test the facts. *See, e.g.*, NRCP 56(f). "[W]hen the plaintiff knew or in the exercise of proper  
24                  diligence should have known of the facts constituting the elements of [her] cause of action is a  
25                  question of fact for the trier of fact." *Siragusa v. Brown*, 114 Nev. 1384, 1393, 971 P.2d 801, 807  
26                  (1998).

27                  ././.

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1           **IV. ANALYSIS**

2           **A. Plaintiff's Claims are not Barred by the Statute of Limitations.**

3           Defendants seek to dismiss Plaintiff's claims for unjust enrichment, fraud in the inducement,  
4 equitable lien, constructive trust, and injunctive relief as barred by their respective statute of  
5 limitations because the fraudulent deed was recorded on August 6, 2015. Under Defendants' self-  
6 serving theory of the law, constructive notice automatically begins the statute of limitations for all  
7 claims of relief, regardless of the specific circumstances of each case. The Nevada Supreme Court  
8 has never adopted such a bright line rule for purposes of tolling the statute of limitations.

9           In fact, the Nevada Supreme Court has made clear that whether a plaintiff used due diligence  
10 to discover her claim—even where the document at issue is recorded—is a question of fact  
11 inappropriate for determination at this early stage in the proceedings. *Bemis v. Est. of Bemis*, 114  
12 Nev. 1021, 1025, 967 P.2d 437, 440 (1998). Further, and contrary to Defendants' representations  
13 to this Court, the Nevada Supreme Court has explained that Nevada's recording statutes and the  
14 doctrine of constructive notice are intended to impart notice on potential purchasers of real estate,  
15 not necessarily all persons in all situations. *Crescent v. White*, 88 Nev. 71, 72, 493 P.2d 1323, 1323  
16 (1972) (holding that NRS 111.320 does not give "notice to all persons in all situations") (internal  
17 quotation marks and citation omitted); *Allen v. Webb*, 87 Nev. 261, 270, 485 P.2d 682 (1971)  
18 ("Ordinarily the constructive knowledge of recording statutes is held to prospective purchasers of  
19 realty. It does not necessarily follow that people in the position of the Allens are stuck with the  
20 same application.").

21           In a discovery-based cause of action, a plaintiff must use due diligence in determining the  
22 existence of a cause of action. *Sierra Pacific Power Co. v. Nye*, 80 Nev. 88, 389 P.2d 387 (1964).  
23 Whether Plaintiff exercised reasonable diligence in discovering her causes of action "is a question  
24 of fact to be determined by the jury or trial court after a full hearing." *Millspaugh v. Millspaugh*, 96  
25 Nev. 446, 448, 611 P.2d 201, 203 (1980). "Dismissal on statute of limitations grounds is only  
26 appropriate when *uncontroverted evidence irrefutably demonstrates* plaintiff discovered or should  
27 have discovered the facts giving rise to the cause of action." *Bemis*, 114 Nev. at 1025, 967 P.2d at  
28 440 (internal quotation marks omitted) (emphasis added).

1 Here, the recorded deed alone is not “uncontroverted evidence” that “irrefutably  
2 demonstrates” Plaintiff should have discovered the facts giving rise to her claims. Indeed, the  
3 Nevada Supreme Court has made clear that this question is one of fact that is based on the particular  
4 circumstances of each case making it inappropriate to resolve on a Rule 12(b)(5) motion.

5 *Allen v. Webb* is instructive in this case. In *Allen*, the Allens held a note secured by a deed  
6 of trust on a ranch. The Allens gave their escrow agent the deed of trust for recording, but the  
7 escrow agent did not record it. *Id.* at 87 Nev. at 264, 485 P.2d at 678. The Allens eventually realized  
8 their deed of trust was not recorded, so they recorded it on August 29, 1956. *Id.* at 87 Nev. at 267,  
9 485 P.2d at 681. Unbeknownst to the Allens, the ranch owner had conveyed the ranch to a third-  
10 party purchaser, and the deed for that conveyance was recorded nineteen days prior to the date the  
11 Allens recorded their deed of trust. *Id.* at 267, 485 P.2d at 680. The Allens did not learn of the  
12 third-party purchaser’s deed until 1968. *Id.* at 267-68, 485 P.2d at 680-81. Litigation ensued, and  
13 the Allens ultimately sued their escrow agent for negligence in failing to record the deed of trust.  
14 *Id.* at 267, 485 P.2d at 680.

15 The escrow agent moved to dismiss the Allens’ claim arguing that it was barred by the statute  
16 of limitations because the Allens had constructive notice of the third-party purchaser’s deed as of  
17 1956 when it was recorded. *Id.* The Nevada Supreme Court framed the issue as follows:

18 May it be said on these facts that the Allens acted in a reasonable manner in failing  
19 to inquire further as to the status of their title, or must it be said as a matter of law  
20 that they had constructive knowledge of the Phillips-to-Yuma deed in August 1956  
21 or in early 1957 because they knew of certain facts which would have led a  
22 reasonable person to further inquiry?

23 *Id.* at 270, 485 P.2d at 682.

24 The Court specifically held that the issue was “a question of reasonableness of conduct” and  
25 therefore, “[i]t cannot be said as a matter of law on these facts that the Allens should have  
26 known of the Yuma deed and, hence, of the constructive fraud. Instead, further proceedings  
27 must be had.” *Id.* at 270-71, 485 P.2d at 682 (emphasis added).

1           Interestingly, Defendants cite *Allen* to support their contention that there is a “bright-line”  
2 rule requiring dismissal of the Verified Complaint in this case. But clearly, *Allen* stands for the  
3 opposite. In fact, in *Allen*, the Court expressly rejected the same argument Defendants’ make in this  
4 case, explaining that “[o]rdinarily the constructive knowledge of recording statutes is held to  
5 prospective purchasers of realty. It does not necessarily follow that people in the position of the  
6 Allens are stuck with the same application.” *Id.* at 270, 485 P.2d at 682.

7           The Court explained why it is necessary to attribute constructive notice differently  
8 depending on the facts of each case. For the Allens, and for Plaintiff in this case, the incident at  
9 issue occurred at the conclusion of the transaction. Therefore, “[t]heirs was a final position, not  
10 preliminary” as would be the situation where a prospective purchaser does not do due diligence to  
11 discover the status of title to real property. *Id.* at 270, 485 P.2d at 682. The expectation for a person  
12 like Plaintiff to research title to property *after* she purchased it is certainly different than the  
13 expectation for a potential purchaser of real estate to investigate title *prior* to purchasing the  
14 property. *See id.* As the Court explained, “**the mere fact of the record notice does not provide**  
15 **sufficient basis for holding the Allens to have had notice unless they had reason to check the**  
16 **real estate records.”** *Id.* (emphasis added). The Allens simply kept receiving payments under the  
17 note following the transaction, just as Plaintiff did in this case.

18           Nevada Supreme Court cases following *Allen* similarly demonstrate that there is no bright  
19 line rule requiring dismissal in this case simply because the deed was recorded in 2015. Defendants  
20 cite *Bemis v. Bemis*, 114 Nev. 1021, 967 P.2d 437, 441 (1998) to argue that “as a matter of law”  
21 recordation of a deed starts the clock running for the statute of limitations on *all claims*. Again,  
22 Defendants cite authority that does not support their position.

23           Not only does *Bemis* expressly provide that “[w]hether plaintiffs exercised reasonable  
24 diligence in discovering their causes of action is a question of fact to be determined by the jury or  
25 trial court after a full hearing,” but it also provides another circumstance under which the Court held  
26 it unreasonable to attribute the plaintiffs with constructive notice of a publicly available document  
27 for purposes of running the statute of limitations for their claims. *Id.* at 114 Nev. at 1025, 967 P.2d  
28 at 440 (internal quotation marks omitted).

1 In *Bemis*, the plaintiffs asserted claims against their father's estate based on his failure to  
2 fund their trusts as required by the divorce agreement between the plaintiffs' father and mother. *Id.*  
3 at 1023, 967 P.2d at 439. The father's estate moved to dismiss the complaint, filed in 1995 after the  
4 father's death, arguing that the plaintiffs were put on constructive notice of the parents' divorce  
5 agreement, which was filed in 1972. *Id.* After a full discussion of the specific facts of the case, the  
6 Court held that "it cannot be said as a matter of law that Kevin and Scott should have known of their  
7 parents' divorce agreement simply because it was public record." *Id.* at 1026, 967 P.2d at 441.  
8 Finally, the Court explained that "[w]hether Kevin and Scott exercised due diligence in discovering  
9 their cause of action is a question of fact which on remand should be determined by the trier of fact."  
10 *Id.*

11 *Millspaugh v. Millspaugh* is also informative in this case because it involves facts almost  
12 identical to the facts of this case. In *Millspaugh*, the plaintiff desired to convey her residence to her  
13 children upon her death, but she intended to remain the sole owner of the house until then. 96 Nev.  
14 at 447, 611 P.2d at 201. Nevertheless, the plaintiff's son drafted a deed that immediately conveyed  
15 the plaintiff's interest in the property to the children. *Id.* The plaintiff's son falsely represented that  
16 the deed reflected the plaintiff's wishes in order to fraudulently induce her to sign the deed. *Id.*  
17 Thereafter, the plaintiff herself recorded the deed in 1971. *Id.*

18 In 1976, plaintiff tried to record a declaration of homestead and discovered that she was no  
19 longer the sole owner of the house. *Id.* Two years later, the plaintiff filed suit to cancel the deed on  
20 the ground that the deed was the result of fraud and mistake. *Id.* The son moved to dismiss the  
21 plaintiff's suit, arguing that it was barred by the statute of limitations because the plaintiff had met  
22 with an attorney to draft her will in 1972, which should have caused her to review the deed and learn  
23 of the fraud. *Id.* at 448, 611 P.2d at 202.

24 Rejecting the son's argument that the district court correctly determined that, as a matter of  
25 law, the plaintiff's complaint was time barred, "[t]he pertinent question here is whether appellant  
26 should have learned, through the exercise of proper diligence, of the fraud or mistake when she met  
27 with her attorney in 1972, thereby triggering the statute of limitations." *Id.* "This is a question of  
28

1 fact to be determined by the jury or trial court after a full hearing where, as here, the facts are  
2 susceptible to opposing inferences.” *Id.* at 448-49, 611 P.2d at 202.

3 If there was such a “bright-line” rule that constructive notice begins running the statute of  
4 limitations from the date of recording, as Defendants would have this Court believe, the plaintiff’s  
5 suit in *Millspaugh* would have been immediately dismissed as the plaintiff herself recorded the  
6 fraudulent deed. Defendants completely misrepresent the law to this Court. There is no bright line  
7 rule “that as a matter of law, the recordation of a deed starts the statute of limitations relating to all  
8 [Plaintiff’s] claims arising out of or relating to the transaction involving the Deed.” Motion, p. 8.<sup>2</sup>  
9 Defendants’ theory would only promote the type of fraudulent conduct in which they engaged in  
10 this case. *See Large v. Cafferty Realty, Inc.*, 123 Idaho 676, 680, 851 P.2d 972, 976 (1993)  
11 (explaining that recording statutes are “not meant to be a shield against fraud and  
12 misrepresentation.”).

13 The allegations in the Verified Complaint make clear that Plaintiff did not have a reason to  
14 check the deed until she learned of the loan the Defendants obtained from Guild Mortgage  
15 Company. Verified Complaint, ¶17. When Plaintiff learned of that Guild Mortgage loan in  
16 November 2020, she immediately researched and discovered the fraudulent deed. *Id.* Thereafter,  
17 she initiated this lawsuit to protect her rights. Based upon the facts asserted in the Verified  
18 Complaint, which this Court must accept as true, the Motion should be denied.

19 **B. The Breach of Contract and Demand on Note Claims Should Not be Dismissed.**

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20  
21 <sup>2</sup> Notably, Defendants similarly represent that this is “the entire law of the United States,” but that is not true. Many  
22 courts are in accord with Nevada law that the fact alone that a deed is recorded does not automatically begin the statute  
23 of limitations. *See, e.g., Am. Freehold Land Mortg. Co. of London v. Pace*, 23 Tex. Civ. App. 222, 235-36, 56 S.W.  
24 377, 384 (1900) (“It would be an anomalous doctrine to assert that one who has been defrauded, relying with confidence  
25 upon his adversary, should immediately or within a definite and particular time enter upon a voyage of discovery to  
26 ascertain whether a wrong had been perpetrated, where there are no facts or circumstances occurring in the meantime  
27 suggestive of any imposition.”); *Fine v. Checcio*, 582 Pa. 253, 267, 870 A.2d 850, 858 (2005) (“[T]here are [very] few  
28 facts which diligence cannot discover, but there must be some reason to awaken inquiry and direct diligence in the  
channel in which it would be successful. This is what is meant by reasonable diligence.”); *Davis v. Tuma*, 167 Idaho  
267, 469 P.3d 595, 603 (2020) (“[T]his Court has not held that the principle of “record-as-notice” will establish  
discovery for purposes of the commencement of the statute of limitations in a fraud action. In fact, this Court held  
in *Large* that Idaho’s record-as-notice statute was not meant to be a shield against fraud and misrepresentation.”)  
(internal quotation marks omitted); *Maul v. Rider*, 59 Pa. 167, 167 (1869) (“The record of a deed is notice only to those  
who are bound to search for it. It is not publication to the world at large.”).

1 Defendants argue that this Court lacks jurisdiction over the breach of contract claim because  
2 the amount in controversy is less than \$15,000. Motion, p. 11. Defendants admit that this theory  
3 only applies in the event the remaining claims are dismissed. Because Plaintiff's claims cannot be  
4 dismissed at this stage in the proceedings, Defendants' argument is entirely without merit.

5 First, the amount in controversy is determined by combining the amount of damages for all  
6 claims made in a complaint, which, here well exceeds the jurisdictional amount. *Castillo v. United*  
7 *Fed. Credit Union*, 134 Nev. 13, 18, 409 P.3d 54, 58 (2018) (holding that a litigant can combine her  
8 damages claims to determine the jurisdictional amount). Second, "[t]he district court possesses  
9 original jurisdiction . . . over claims for injunctive relief." *Id.* at 18, 409 P.3d at 59. Therefore,  
10 "[w]hen monetary damages *and* injunctive relief are sought, the district court has jurisdiction over  
11 all portions of the complaint, even if the damages sought fail to meet the district court's monetary  
12 jurisdictional threshold." *Id.* (internal quotation marks omitted). There is no doubt this Court has  
13 subject matter jurisdiction in this case.

14 Moreover, it is certainly a fair inference from the fraudulent conduct of the Defendants as  
15 alleged in the Verified Complaint, that Defendants have made clear they no longer intend to pay the  
16 Loan. Such anticipatory repudiation would render the Defendants liable for the entire amount of  
17 the debt. *LeTarte v. W. Side Dev., LLC*, 151 N.H. 291, 294, 855 A.2d 505, 508 (2004) ("Successive  
18 breaches of a continuing contract, while generally viewed as a series of partial breaches, can result  
19 in a total breach when there is a repudiation or a material failure of performance."). Indeed, such  
20 anticipatory repudiation is alleged in the First Amended Verified Complaint.

21 Defendants argue that Plaintiff's Demand on Note claim should be stricken. But Nevada is  
22 a notice pleading state. Plaintiff is well within her right to make a demand for payment on the Note  
23 in the Verified Complaint. Defendants have demonstrated their anticipatory breach of the Note.  
24 Therefore, the demand on the Note is proper. If Defendants continue their refusal to pay the Note,  
25 then Plaintiff's claim for anticipatory repudiation will be even clearer. The Motion should be  
26 denied.

27 ./././

28 ./././



1           **C. Plaintiff Stated a Claim for Unjust Enrichment**

2           Defendants argue that Plaintiff's claim for unjust enrichment fails because (1) it is barred by  
3 the statute of limitations, and (2) Plaintiff cannot assert a claim for unjust enrichment where an  
4 express contract exists. Motion, p. 13. As fully explained above, Defendants' statute of limitation  
5 argument is meritless.

6           Further, Defendants again ignore applicable law to make their argument about the remedies  
7 Plaintiff is able to seek at this stage in the proceedings. It is common in Nevada litigation to plead  
8 breach of contract and unjust enrichment in the alternative. (See Exhibit 6, District Court, Clark  
9 County, Nevada Complaint, case number A-13-678276-C attached hereto.) Indeed, Nevada law  
10 expressly holds that plaintiffs are "not required to elect between suing on the contract or in quantum  
11 meruit before obtaining a jury verdict." *J.A. Jones Const. Co. v. Lehrer McGovern Bovis, Inc.*, 120  
12 Nev. 277, 289, 89 P.3d 1009, 1017 (2004) (citing *May v. Watt*, 822 F.2d 896 (9th  
13 Cir.1987) (determining that a party is not required to make an election between  
14 breach of contract remedies and rescission prior to a jury verdict); *North American Graphite Corp.*  
15 *v. Allan*, 184 F.2d 387 (D.C.Cir.1950) (concluding that no election between theories of recovery  
16 based on breach of contract and quantum meruit is required prior to a jury verdict). The Motion  
17 should be denied.

18           **D. Plaintiff's Equitable Lien, Constructive Trust, and Injunctive Relief Claims are not**  
19 **Barred.**

20           Defendants argue that Plaintiff's claims for equitable lien, constructive trust, and injunctive  
21 relief must be dismissed under the statute of limitations and because they cannot be standalone  
22 causes of action. As noted above, the statute of limitations does not bar Plaintiff's claims. Further,  
23 it is common to plead constructive trust and a claim for an injunction in Nevada. (See Exhibit 7,  
24 Complaint, Second Judicial District Court case number CV12-01777 and Exhibit 8, Verified  
25 Complaint for Damages and Injunctive Relief, Second Judicial District Court, case number CV14-  
26 00090 attached hereto.) The unofficial treatise in Nevada on claims includes the elements for a  
27 claim for constructive trust. Klearman, Wang, and Johnson, "Elements of Nevada Legal Theories"  
28 3<sup>rd</sup> Edition, page 102. Therefore, these are remedies the Plaintiff seeks for her claims. Plaintiff has

1 asserted these three remedies to put Defendants on notice for what Plaintiff seeks in this case, which  
2 is all that is required under Rule 8 (which Defendants even acknowledge in their Motion).  
3 Moreover, as explained above, Plaintiff need not elect her remedy (damages versus equitable relief)  
4 at this stage in the proceedings. *J.A. Jones Const. Co.*, 120 Nev. at 289, 89 P.3d at 1017.  
5 Defendants' Motion is overreaching and completely contrary to Nevada law. The Motion should  
6 be denied.

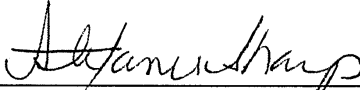
7 **V. CONCLUSION**

8 Based upon the foregoing, Plaintiff respectfully requests that this Court deny the Motion.

9 AFFIRMATION: The undersigned does hereby affirm that this document does not contain  
10 the social security number of any person.

11 DATED: This 16<sup>th</sup> day of March 2021.

12 ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
13 a Professional corporation  
14 71 Washington Street  
15 Reno, NV 89503

16 BY   
17 CLAYTON P. BRUST, ESQ.  
18 STEFANIE T. SHARP, ESQ.  
19 HANNAH E. WINSTON, ESQ.  
20 *Attorneys for Plaintiff Kari Anne Johnson*

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **OPPOSITION TO MOTION TO DISMISS** on all parties to this action by the method(s) indicated below:

\_\_\_\_\_ by placing true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

  x   by using the Court's CM/ECF Electronic Notification System addressed to:


Mark G. Simons, Esq.  
Anthony L. Hall, Esq.  
SIMONS HALL JOHNSTON PC  
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Attorneys for Defendants

\_\_\_\_\_ by personal delivery/hand delivery addressed to:

\_\_\_\_\_ by facsimile (fax) addressed to:

\_\_\_\_\_ by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 16<sup>th</sup> day of March 2021.

  
\_\_\_\_\_  
Employee of Robison, Sharp, Sullivan & Brust

**EXHIBIT LIST**

Exhibit #	Description	Pages
Exhibit "1"	Purchase and Sale Contract	13
Exhibit "2"	Promissory Note	1
Exhibit "3"	Payment Schedule	9
Exhibit "4"	Deed	7
Exhibit "5"	Deed of Trust	18
Exhibit "6"	Complaint (Clark County, case A-13-678276-C)	14
Exhibit "7"	Complaint (Second Judicial District Court, case CV12-01777)	19
Exhibit "8"	Complaint (Second Judicial District Court, case CV14-00090)	18

**EXHIBIT “1”**

**EXHIBIT “1”**

## PURCHASE CONTRACT AND RECEIPT

THIS PURCHASE CONTRACT AND RECEIPT (the "Agreement") dated this 13 day of December, 2014 is by and between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer") under the following terms and conditions:

1. **PURCHASE:** Seller hereby agrees to sell and Buyer agrees to buy Lot 0055 (the "Lot") of Estates at Saddle Ridge subdivision, Lot in the records of Washoe County, Nevada, having a street address of 9845 Firefoot Lane, Reno, NV 89521, together with a residence (the "Residence") to be constructed thereon in accordance with Seller's Plan Willshire Sonoran (the Lot and Residence being hereinafter referred to as the "Property"). The purchase price to be paid by Buyer for the Property and method of payment shall be as follows subject to any adjustments set forth on Exhibits "B" or "C":

Purchase Price	\$489,995
Earnest money applied from non-binding lot reservation agreement, which is to be released to Seller from escrow upon execution of this Agreement	\$5,000
Additional Earnest Money paid to Seller	\$19,500
Mortgage Amount	
Note for balance of 10% down is \$24,500.	\$0
Cash due at Closing (exclusive of closing costs)	\$465,495
<b>TOTAL</b>	<b>\$489,995</b>

Buyer agrees that all of the above payments (except for the Mortgage Amount and cash due at Closing) shall be paid direct to Seller outside of Escrow and may be used by Seller prior to the Closing; however, at the Closing, Buyer will be credited with all such payments. Buyer assumes the risk of losing such amounts paid to Seller if Buyer is unable or unwilling to perform under the terms of this Agreement.

Buyer's Initials: *MAH* *KJ*

2. **APPROVAL OF SELLER.** This Agreement will not be binding upon Seller unless executed by an officer of Seller within 30 days of Buyer's execution of this Agreement; Seller's salesperson has no authority to bind Seller hereunder. This Agreement shall constitute an irrevocable offer by Buyer for this 30 day period. Notwithstanding the foregoing, Seller may deposit into any one or more of its banking accounts any such sums paid on account of the purchase price and extras during said 30 day period. Any such deposit of funds shall not constitute Seller's approval of this Agreement.

3. **MORTGAGE APPLICATION.** Buyer has the right to select a mortgage lender of Buyer's choosing. Buyer shall in good faith make a truthful and complete application to TBI Mortgage and any other lender of Buyer's choosing. Buyer represents to Seller that the information contained in the loan qualification questionnaire already provided to Seller is truthful and accurate as of the date of Buyer's execution hereof. Buyer understands that Seller is relying on Buyer's information and on Buyer demonstrating that Buyer has or shall have sufficient funds to complete Closing in order for Seller to proceed with building the home.

Within 14 days of Buyer's execution of this Agreement ("Mortgage Application Period"), Buyer agrees to submit, at no cost to Buyer, a loan application to TBI Mortgage, under conditions herein stated for a mortgage amount not to exceed \$0, at market rates applicable to the Buyer. Buyer may also submit, at Buyer's own expense, an application to any mortgage lender of Buyer's choosing within the Mortgage Application Period. If Buyer chooses to apply to a lender other than TBI Mortgage Company, Buyer shall, within the Mortgage Application Period, return to Seller the completed Request for Lender Information form. Buyer shall cause each prospective mortgage lender to disclose to Seller all requested information regarding Buyer's loan application and credit report.

Buyer shall take all necessary action to secure financing. Buyer agrees to inform Seller on an ongoing basis of the status of each loan application. Buyer shall furnish all information required by any prospective lender, within 5 days of any such request. Buyer agrees to immediately send Seller copies of any notice from Buyer's lender(s) rejecting Buyer's loan application(s). If Buyer is not approved for a mortgage within 45 days of the date of Buyer's execution of this Agreement, Seller shall extend the mortgage application approval process until such time as (1) Seller submits another application on substantially the same terms described above to a lender chosen by Seller, with no additional application fee to Buyer, or (2) Seller declares this Agreement null and void, in which event, if Buyer has timely applied for a mortgage, pursued a mortgage diligently, and otherwise satisfied all obligations under this paragraph, the deposit shall be returned to Buyer, together with all sums paid on account of the purchase price and extras without interest, and neither party shall have any further rights or liabilities hereunder.

Within five (5) days receipt of a loan commitment from the lender that Buyer intends to use for Closing, Buyer agrees to (i) accept the commitment and (ii) mail an executed copy of the commitment to Seller. Buyer agrees to execute all documents and pay all fees required to consummate the mortgage transaction. Buyer agrees to take no

action which shall have a materially detrimental impact on Buyer's financial condition. By accepting the loan commitment, Buyer agrees to be responsible for and bear the risk of meeting all terms and conditions of the commitment, if any, including, but not limited to, the sale of other real estate presently owned by Buyer, and for any changes in the interest rate until the Buyer locks the interest rate. Buyer's failure to fulfill any of such conditions or the termination or expiration of the mortgage commitment after it is received, for any reason, shall not release Buyer from Buyer's obligations under the Agreement.

#### 4. CONSTRUCTION AND COMPLETION.

(a) Seller shall cause the Residence to be constructed in substantial conformance with Seller's standard plans for the model selected by Buyer (the "Plans") and the specifications attached hereto as Exhibit "D", if any, (the "Specifications") subject to (i) substitution of materials, fixtures and appliances of equal or better value, (ii) such changes in the Plans and Specifications as may be required by any State, Federal, County or local government authority or in order to accommodate Buyer's requested changes to the plans and specifications, and (iii) any changes which may be required by any applicable homeowner association architectural committee. Buyer shall fully cooperate with Seller to expedite processing and obtain the approval of the applicable municipality and architectural committee for the Plans and changes thereto.

(b) Seller agrees to complete the construction of the Residence within a period of 2 years from the date this Agreement is signed by Buyer. If an Event of Delay occurs, this 2-year period shall be extended for a period of time equal to the length of the Event of Delay. An Event of Delay is defined as strikes or other labor disputes, shortages of labor or materials, weather conditions, Acts of God, acts of the federal, state or municipal governments or any governmental agency, including, but not limited to, building or other code inspections and approvals, governmental regulations, fire or other casualties and any other delays allowed by law. It is the express intent of the parties hereto that the parties' rights and obligations under this Agreement be construed in the manner necessary to exempt this Agreement and the sale of the Property from registration under the Interstate Land Sales Full Disclosure Act, and both Buyer and Seller hereby expressly waive any right or provision of this Agreement that would otherwise preclude any exemption, and such right or provision shall be severed from this Agreement and given no effect.

(c) Within fourteen (14) days from the date Seller accepts this Agreement, Buyer shall complete Seller's Initial Selection Sheet relative to initial variable color and structural components to be incorporated into the Residence. Within the earlier of sixty (60) days from the date Seller accepts this Agreement or fourteen (14) days from the commencement of construction, Buyer shall select all other variable decorative components or materials which are to be constructed, installed or applied by Seller, including but not limited to, landscaping selections. If such selections are not made within the required time periods, Seller shall have the right to make such selections and Buyer shall be charged Seller's standard price for such selections and the Purchase Price shall be increased accordingly. All selections shall be final and binding on Buyer, whether selected by Buyer or by Seller pursuant to the terms of this paragraph.

(d) All such changes to the Plans or Specifications requested by Buyer must be submitted in writing to Seller for review and pricing. No such changes shall be effective unless accepted in writing by Seller.

(e) Certain items of outside work (e.g. grading, seeding and driveway) may not be completed prior to Closing. Seller agrees to complete such items after closing as soon as practical and weather permitting and Buyer agrees that there will be no holdback or escrow of any part of the Purchase Price.

(f) Some of the items set forth in Exhibits "B" and "D" may be allowance items. Depending upon the selection made by Buyer, the price of the allowance item may differ from the estimate shown on Exhibit "B" or "D". Once Buyer makes its final selections on each allowance item, Seller shall provide current pricing on the allowance item and the amount of the Purchase Price shall be adjusted accordingly.

(g) Within a reasonable period of time following the Closing, Seller shall remedy punch list items and make adjustments agreed to by Buyer and Seller in a walk-through inspection which will be scheduled by Seller and Buyer either prior to or immediately after the Closing. The existence of any such punch list items or other nonstructural construction defects shall not entitle Buyer to cancel this Contract or delay the Closing.

#### 5. POSSESSION, ESCROW AND CLOSING.

(a) Possession of the Property shall remain exclusively with Seller until the Recorded Closing and Buyer shall not have the right to take possession or occupancy perform or cause to be performed any custom or other work on the Property prior to the Closing.

(b) Seller and Buyer hereby employ the escrow agent designated on Exhibit "A" (the "Escrow Agent") to act as escrow agent to facilitate the Closing of this transaction. Upon Closing, Escrow Agent shall cause the recording in the appropriate county offices of all necessary documents, disburse all funds, arrange for issuance to Buyer of the title insurance policy referred to below and arrange for issuance to any lender any required title insurance policy insuring lender's interest in the Property and the amount required by such Lender. The parties hereto grant to Escrow Agent the right to execute on their behalf an Affidavit of Value to enable recording of the deed, using the total purchase price set forth above, unless instructed mutually by the parties to the contrary.

(c) Closing shall occur within seven (7) days after written notice to close is given by Seller, provided that by the date scheduled for Closing the municipality in which the Property is located has approved the Residence for occupancy. The approval by the municipality shall include an electrical clearance or equivalent.

Should Buyer not fully perform all of its payment and performance obligations on or before the date set for the Closing, in addition to all other amounts payable hereunder, Buyer shall pay to Seller to compensate Seller for the delay, interest at twelve percent (12%) per annum on the entire unpaid portion of the purchase price and options/upgrades from the date originally scheduled for the Closing to the date that this transaction is actually completed, unless Seller elects to cancel this transaction by reason of the failure of Buyer to timely complete this transaction on the Closing, or unless such non-performance by Buyer is caused by Seller's non-performance of any terms or conditions hereof. Seller shall not be liable to Buyer for any costs, expenses, losses or damages incurred by Buyer as a result of any delay in the Closing, including but not limited to, any loss or damage as a result of any increase in commitment fees, points or interest rates assessed or charged by any lender. Buyer has the sole responsibility to arrange for utilities to be turned on at the Property and any delays incurred in connection therewith shall not entitle Buyer to delay the Closing and Seller shall have no responsibility in connection therewith.

6. **CONVEYANCE AND TITLE INSURANCE.** At the Closing, Seller shall pay for a Standard Owner's Policy of Title Insurance insuring title in the amount of the total purchase price for the Property. Title to the Property shall be conveyed by Grant deed at the Closing free and clear of all liens and encumbrances except (i) patent reservations, (ii) taxes and assessments not due and payable at Closing, (iii) any liabilities, charges and obligations imposed upon the Property by reason of inclusion or membership in any electrical, agricultural, hospital, community facilities or other improvement district or any water users association or drainage district, (iv) any Declaration of Covenants, Conditions or Restrictions for the subdivision and/or master planned community in which the Property is located and any amendments thereto, (v) matters shown on the plat of the subdivision, or which an accurate survey would show, (vi) easements and rights of way for roads, canals, ditches, drainage and public utilities, (vii) water rights, (viii) Buyer's purchase money encumbrance, if any; (ix) any other matters of record not adversely affecting marketability of title to the Property; and (x) any matters agreed in writing by Buyer.

7. **CLOSING COSTS AND PRORATIONS.** In addition to the Purchase Price of the Property, Buyer shall deposit in escrow at or prior to the Closing, an amount (determined by Escrow Agent or any lender) equal to the cost of all financing costs (including but not limited to credit reports, appraisal fees, inspection fees, recording fees, document preparation charges, insurance premiums, loan origination fees and points), tax service fees, one-half (1/2) of the escrow fee and all other charges normally assessed against a buyer (as determined by Escrow Agent), such impounds for taxes, interest, insurance and homeowner's association assessments as may be required by lender, and the cost of any title insurance premiums in excess of the cost of a standard owner's policy of title insurance. Buyer acknowledges that Buyer is responsible to pay all applicable Real Property Transfer Taxes at close of escrow. Taxes, general and special assessments, community facilities district/improvement district assessments and homeowner association assessments ("Prorate Items") shall be prorated as of the Closing based on the most recent information available to Escrow Agent without adjustment following the Closing; however, if Buyer causes any delay in the Closing, Buyer shall be responsible for all Prorate Items from the date initially established for the Closing regardless of the actual date of the Closing.

8. **DEFAULT AND REMEDIES.**

(a) If Buyer defaults in performing any of its obligations under this Agreement, and such default continues for 7 days after written notice, Seller shall have the right, as its sole remedy, to terminate this Agreement and retain all sums paid to Seller or its parents, subsidiaries or affiliates and to enforce any promissory notes given by Buyer to Seller or its parents, subsidiaries or affiliates, as liquidated damages. Buyer and Seller agree that such damages are not a penalty, but represent the parties' best estimate of the actual damages which Seller will sustain upon a default by Buyer, which damages are substantial but are not capable of precise determination. No delay or forbearance by Seller in exercising any right or remedy hereunder shall be deemed to be a waiver thereof.

(b) If Seller defaults under this Agreement and such default continues for 7 days after written notice, Seller's sole liability shall be the return of all sums paid on account of the purchase price and extras to Buyer and this Agreement shall be terminated in all other respects;

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event of Seller's default under Section 4(b) of this Agreement, Buyer shall have all remedies available at law and in equity without limitation or restriction.

Buyer's Initials: *MEH* *ASH* *KL*

9. **ARBITRATION:** Buyer, on behalf of Buyer and all residents of the Property, including minor children, hereby agree that any and all disputes with Seller, Seller's parent company or their partners, subsidiaries, or affiliates arising out of the Property, this Agreement, the Home Warranty, any other agreements, communications or dealings involving Buyer, or the construction or condition of the Property including, but not limited to, disputes concerning breach of contract, express and implied warranties, personal injuries and/or illness, mold-related claims, representations and/or omissions by Seller, on-site and off-site conditions and all other torts and statutory causes of action ("Claims"), shall be resolved by binding arbitration.

(a) All disputes arising out of the Home Warranty or any other express warranties shall be resolved by binding arbitration in accordance with the rules and procedures set forth in the Home Warranty.

(b) All other Claims, regardless of the amount in dispute, shall be resolved by binding arbitration by the American Arbitration Association ("AAA") and in accordance with its Expedited Procedures of the Commercial Arbitration Rules, which Rules can be viewed at [www.adr.org](http://www.adr.org). If AAA is unable to arbitrate a particular claim, then that claim shall be resolved by binding arbitration by AAA's successor or an equivalent organization mutually agreed upon by the Parties.



(c) The provisions of this paragraph shall be governed by the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, et seq. and shall survive settlement.

(d) In addition, Buyer agrees that Buyer may not initiate any arbitration proceeding for any Claim unless and until Buyer first provides a copy of the Demand for Arbitration stating specific written notice of each claim (sent to 250 Gibraltar Road, Horsham, PA 19044, Attn: Dispute Resolution - Legal Department) and gives Seller a reasonable opportunity after receipt to cure any default.

Buyer's Initials: MEH ASH KE

BUYER HEREBY WAIVES THE RIGHT TO A PROCEEDING IN A COURT OF LAW (INCLUDING WITHOUT LIMITATION A TRIAL BY JURY) FOR ANY CLAIMS OR COUNTERCLAIMS BROUGHT PURSUANT TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING.

Buyer's Initials: MEH ASH KE

10. NO ORAL CHANGES OR REPRESENTATIONS.

(a) Seller wishes to avoid any misunderstandings concerning the purchase of the Property and it is the policy of Seller not to enter into any oral agreements or to ask any buyer to rely on any oral representations concerning the Property or the subdivision in which the property is located. The entire Agreement between Buyer and Seller must be expressed in writing. Therefore, Buyer shall write in below any representations or promises which are not set out in this Agreement, but which have been made by Seller or its purported agents or employees, and upon which Buyer is relying in making this purchase, and if there are none, Buyer shall so indicate.

NONE

Buyer's Initials: MEH ASH KE

(b) BUYER ACKNOWLEDGES THAT THERE ARE NO UNDERSTANDINGS, REPRESENTATIONS OR PROMISES OF ANY KIND THAT HAVE BEEN MADE TO INDUCE THE EXECUTION OF THIS AGREEMENT AND THAT AGREEMENT SETS FORTH IN FULL THE ENTIRE AGREEMENT BETWEEN THE PARTIES. BUYER FURTHER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY ORAL AGREEMENT, STATEMENT, REPRESENTATION OR OTHER PROMISE THAT IS NOT EXPRESSED IN WRITING IN THIS CONTRACT. No salesperson or broker has any authority to modify the terms hereof nor any authority to make any representation or agreement not contained in this Agreement and no other person on behalf of Seller is authorized to make any future oral agreement upon which Buyer may rely to cancel, change or modify any portion of this Agreement. This Agreement supersedes any and all prior understandings and agreements. This Agreement may be amended or modified only by an agreement in writing signed by Buyer and Seller or Seller's authorized agent.

(c) Buyer hereby agrees that an electronic transmission of documents is acceptable in Adobe PDF format or an equivalent form. Any document delivered by electronic means shall be considered to be signed and delivered in writing for the purpose of any provision of the Agreement. Upon receipt of the electronic transmission of documents, Buyer agrees to respond immediately to the sender by electronic transmission, confirming receipt.

Print email address in box below or write "Decline" if you elect to receive all documents in hard copy.

Leshhatch@gmail.com

11. LIMITED WARRANTY.

(a) SELLER SHALL CAUSE TO BE PROVIDED TO BUYER A 10 YEAR LIMITED WARRANTY (THE "HOME WARRANTY"). BUYER ACKNOWLEDGES RECEIPT OF THE HOME WARRANTY, THE HOME CARE AND SERVICE GUIDE AND STANDARDS OF PERFORMANCE. EXCEPT AS EXPRESSLY SET FORTH IN THE HOME WARRANTY, SELLER SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER AFTER CLOSING WITH RESPECT TO THE PROPERTY OR THIS AGREEMENT. SELLER HEREBY SPECIFICALLY EXCLUDES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANSHIP AND FITNESS FOR A PARTICULAR PURPOSE. SELLER'S LIABILITY UNDER THE HOME WARRANTY OR THIS AGREEMENT OR ARISING IN ANY WAY OUT OF THE CONSTRUCTION, DELIVERY, SALE OR CONDITION OF THE PROPERTY SHALL BE LIMITED TO THE REPAIR OF THE PROPERTY IN ACCORDANCE WITH THE HOME WARRANTY STANDARDS. IN NO EVENT SHALL SELLER BE LIABLE FOR RESCISSION, SPECIFIC PERFORMANCE, ANY SPECIAL EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING.

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Revised 01/30/14

Buyer's Initials: MEI/ASH fg

(b) The manufacturers of some products used in the Property may have a manufacturer's warranty. Seller has no obligation or responsibility for the manufacturer's performance. If a manufacturer's warranty has been issued to Seller, Seller hereby assigns to Buyer (without recourse) all rights under such manufacturer's warranty, such assignment to be effective as of the Closing.

Buyer's Initials: MEI/ASH fg

(c) Seller shall contract with a licensed pest control company to apply a termite treatment to the foundation during construction of the Property. Buyer and Seller understand that current government regulations limit the types and concentration of chemicals and the methods of application that can be used in attempting to prevent or eradicate termites and consequently, termites may appear following completion of the Property. Seller shall obtain a certificate from the pest control company (the "Termite Certificate") which will provide, in substance, that the pest control company has applied the termite treatment in accordance with the applicable state and federal agencies and should termites be discovered at the Property within five (5) year period from the date of original treatment, the pest control company shall re-treat the Property on as many occasions as are necessary to control such termites. Seller shall assign the Termite Certificate to Buyer at the Closing, when required by a government agency. Seller recommends that Buyer annually consult with a pest control company as to the need for termite retreatments. BY RECEIPT OF THE TERMITE CERTIFICATE TO BE ASSIGNED BY SELLER TO BUYER AS DESCRIBED IN THIS PARAGRAPH, BUYER AND THEIR SUCCESSORS AND ASSIGNS AGREE TO LOOK SOLELY TO THE PEST CONTROL COMPANY FOR COSTS AND EXPENSES ASSOCIATED WITH INVESTIGATING AND REMEDYING ANY TERMITE PROBLEMS AND WAIVE ALL CLAIM OF LIABILITY AGAINST SELLER FOR LOSSES, COSTS AND EXPENSES IN CONNECTION WITH THE EXISTENCE OF TERMITES AT THE PROPERTY.

Buyer's Initials: MEI/ASH fg

12. VISITATION TO PROPERTY: Any visitation by Buyer or Buyer's invitees (limited to Buyer's immediate family) to the Property prior to Closing is subject to the following:

Buyer hereby acknowledges that the Property and adjacent houses are under construction and that active construction sites inherently possess potential safety hazards. If Buyer enters the Property, Buyer expressly assumes the risks of any injury or damage to person or property that may arise as a result of entry onto the Property by Buyer or an invitee of Buyer. No children under the age of 16 years are allowed in construction areas at any time. Buyer hereby releases and agrees to indemnify, defend and hold Seller harmless from all claims and liabilities incurred by Seller resulting from the presence of Buyer or Buyer's invitees on the Property or Seller's other property.

Buyer and members of Buyer's immediate family (provided that Buyer is present) may only enter the Property for the purpose of monitoring the progress of construction and only during Seller's normal working hours. Before entering any construction areas, Buyer must receive approval at the sales office or the construction office and be issued a hard hat. Hard hats shall be worn at all times in all construction areas. Buyer agrees that, due to construction conditions, access at certain times may not be feasible. Buyer acknowledges and understands that keys to the Property may not always be available. Seller reserves the right at any time to deny access to construction areas and to impose additional rules or conditions upon entry into the community or the Property as determined in Seller's sole and absolute discretion.

When at the Property, Buyer may only view the Property and any exposed components thereof. In no event may Buyer modify, alter, test, reinforce or otherwise interfere with the Property or any component thereof. Buyer may not access any other homes or any other area outside of the Property. In addition, Buyer agrees not to critique or instruct Seller's construction personnel or any of Seller's other workers or employees and will address any questions, instructions, or suggestions in writing to Seller.

13. ENVIRONMENTAL NOTICE. SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE EXISTING OR FUTURE SOIL OR ENVIRONMENTAL CONDITIONS ON OR ADJACENT TO THE PROPERTY OR THE SUBDIVISION, INCLUDING POSSIBLE PRESENT OR FUTURE POLLUTION OF THE AIR, WATER OR SOIL FROM ANY SOURCES, INCLUDING BUT NOT LIMITED TO RADON GAS OR UNDERGROUND MIGRATION OR SEEPAGE OF HAZARDOUS SUBSTANCES OR OTHER POLLUTANTS. SELLER EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY TYPE OF DAMAGE, WHETHER DIRECT OR INDIRECT OR CONSEQUENTIAL, WHICH THE LOT OR ITS INHABITANTS MAY SUFFER BECAUSE OF ANY EXISTING OR FUTURE ENVIRONMENTAL OR OTHER CONDITIONS, INCLUDING, BUT NOT LIMITED TO POWER LINES OR RADON, AFFECTING SUCH INHABITANTS, THE LOT OR REAL PROPERTIES IN OR ADJACENT TO THE SUBDIVISION.

14. PUBLIC OFFERING STATEMENT. The Property is part of a Planned Community, as further described in the Public Offering Statement for the Community. Buyer acknowledges having received the Public Offering Statement. The Public Offering Statement is hereby incorporated as part of this Agreement. In the event of any inconsistencies between this Agreement and the Public Offering Statement, the terms of the Agreement shall control.

Buyer's Initials: MEI/ASH fg

15. PROTECTIVE COVENANTS. The Property may be encumbered by a declaration of covenants and easements for the benefit of all homeowners and Seller. The declaration sets forth certain use and architectural

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restrictions, including restrictions on the construction and location of swimming pools, fences, tennis courts, signs, clotheslines, antennas, boats, trailers, campers, storage sheds and other structures.

Buyer's Initials: MBH/AST *JK*

16. MASTER ASSOCIATION AND OWNERS ASSOCIATION. A Landscape Maintenance Association and the Damonte Ranch Drainage District (collectively, the "Master Association") have been established for the benefit of all homeowners and Seller for the purpose of managing, operating and maintaining certain common areas and community facilities, drainage facilities and/or services within the community in which the Lot is located. Seller does not control the Master Association. Buyer will be a member of the Master Association and will be subject to the provisions of the Master Association's governing documents (the "Master Association Governing Documents") pursuant to which the Master Association has been established and will be operated. The affairs of the Master Association will be conducted by a Board of Directors. Buyer hereby agrees to pay and acknowledges Buyer's continuing liability to pay, when assessed by the Master Association, a share of the expenses of maintaining the Master Association, including, but not limited to, the Landscape Maintenance Association fees and the Damonte Ranch Drainage District fees, as may be amended from time to time. In addition to any other costs incident to the Closing hereunder, Buyer also agrees to pay at Closing the additional sum of FOUR HUNDRED Dollars (\$400), as may be amended from time to time, as a non-refundable contribution to the operating revenue, working capital and/or reserves of the Master Association, such contribution to be in addition to and not in lieu of any common expense assessments levied by the Master Association as they thereafter regularly or specially accrue.

In addition to the Master Association, all homeowners shall also be members of the SADDLE RIDGE Owners Association (the "Owners Association"). Buyer will be a member of the Owners Association and will be subject to the provisions of the Owners Association's Governing Documents (the "Owners Association Governing Documents") pursuant to which the Owners Association has been established and will be operated. The affairs of the Owners Association will be conducted by a Board of Directors. Buyer hereby agrees to pay and acknowledges Buyer's continuing liability to pay, when assessed by the Owners Association, a share of the expenses of maintaining the Owners Association. In addition to any other costs incident to the Closing hereunder, Buyer also agrees to pay at Closing the additional sum of THREE HUNDRED SEVENTY EIGHT Dollars (\$378), as may be amended from time to time, as a non-refundable contribution to the operating revenue, working capital and/or reserves of the Owners Association, such contribution to be in addition to and not in lieu of any common expense assessments levied by the Owners Association as they thereafter regularly or specially accrue.

Buyer hereby acknowledges having received copies of the Master Association Governing Documents and Owners Association Governing Documents, which are further described in the above paragraphs.

Buyer's Initials: MBH/AST *JK*

17. BROKERAGE DISCLOSURE. Buyer acknowledges that the real estate agents marketing lots and residences for Seller at the Subdivision are acting solely as the agents of the Seller and may be affiliated with Seller. Seller does not utilize sub-agents; therefore, if Buyer has been shown the lot by a real estate agent other than one of Seller's project agents, such real estate agent is an agent of the Buyer and solely represents the Buyer. Seller shall not pay any real estate broker or agent a real estate commission or any other compensation unless there is a written agreement signed by Seller and the real estate broker or agent detailing the amount of compensation to be paid, the conditions of payment and confirming that the real estate agent or broker is acting solely on behalf of Buyer and not as a sub-agent of Seller.

#### 18. MISCELLANEOUS.

(a) This Agreement and all Exhibits and Endorsements contain the entire agreement between the parties. No modification of this Agreement shall be binding unless it is in writing and signed by the parties. Any statement of square footage is an estimate and Seller does not guarantee or warrant the square footage of the completed Residence. In the event any marketing materials contain a representation that is different than this Agreement, Buyer acknowledges that any such representation is superseded by and is not a part of this Agreement and that Buyer has not relied upon any such representation in entering into this Agreement.

(b) If this Agreement is signed by more than one Buyer, each Buyer shall be jointly and severally liable hereunder. The numbers and gender used herein shall be deemed to apply to such number and gender as the context requires.

(c) This Agreement shall inure to the benefit of and shall be binding upon the parties, their heirs, personal representatives, successors and assigns, provided, however, neither this Agreement nor any rights hereunder may be assigned or transferred by Buyer prior to the Closing without the prior written consent of the Seller, and any such prohibited assignment shall be void.

(d) Except as otherwise provided herein, no waiver in connection with this Agreement shall be effective unless it is in writing signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not constitute a waiver of the same or a different breach in the future.

(e) Time is of the essence with respect to the performance of all terms, conditions and provisions of this Agreement.

(f) This Agreement shall not be binding upon Seller until accepted by Seller and executed by Seller's authorized representative. Buyer's earnest money deposit is accepted subject to acceptance by Seller and subject to prior sale and this Agreement may be canceled by Seller in the event of prior sale.

(g) Buyer's obligation to pay the entire purchase price, the price of any options/upgrades/extras and costs shall survive Closing.

(h) If prior to the Closing, all or a substantial portion of the Property shall be destroyed or materially damaged by fire or other casualty, either Buyer or Seller may cancel this Agreement, in which event Buyer shall be entitled to a full refund of all amounts paid hereunder, unless Seller agrees to repair and complete construction no later than one hundred eighty (180) days after the date of fire or other casualty, in which event this Agreement shall remain in full force and effect.

(i) This Agreement shall be governed and enforced under the laws of the State of Nevada.

(j) Within five (5) days after request thereof, Buyer and Seller shall execute and deliver any additional documents and provide any additional information required or reasonably requested by the other party, any lender or escrow agent in order to evidence or give effect to the provisions of this Agreement, both prior to and following the Closing. If the parties cannot agree upon the terms and conditions of any documents to be executed which are not specifically agreed upon in this Agreement, then Escrow Agent's standard form of that particular document shall be used.

(k) All provisions of all Endorsements and Exhibits to this Agreement are hereby incorporated by reference into this Agreement.

(l) Unless a Buyer or his/her agent has personally inspected the Property, the Buyer may cancel, by written notice, the Agreement for purchase of the Property until midnight of the fifth calendar day following the date of execution of the Agreement. Notice of cancellation must be in writing, delivered by hand or prepaid U.S. mail, addressed to Seller within such five-day period.

(m) Any and all Exhibits or Endorsements signed by any one Buyer are deemed to be authorized and accepted by all signatories to the Agreement who have signed as Buyer.

#### 19. ACKNOWLEDGEMENTS AND RIGHTS OF BUYER.

(a) Buyer understands and accepts that (i) the as-built location of utility lines, utility improvements (such as but not limited to junction boxes, transformers or pedestals) and sewer taps, may vary from locations shown on plot or site layout plans, (ii) there may be minor encroachments by fences on either side of actual lot lines, (iii) future construction on or grading or excavation of the Property by Buyer must comply with applicable drainage plans, and if not correctly engineered, could disrupt drainage and cause ponding or flooding, (iv) the character and uses of property surrounding and in the vicinity of the subdivision may change, (v) there may be deviations in the Property from Seller's standard plans or model or spec homes located within the subdivision and from illustrations and designs shown in promotional materials and some exterior and interior items shown in Seller's spec homes are upgrades over Seller's standard feature and, unless included as extras on Exhibit "B" attached hereto or on a change order approved in writing by Seller, such upgraded items are not included in the Purchase Price, (vi) square footage figures shown in the sample floor plans, preliminary drawings and promotional and other materials provided by or on behalf of Seller are estimates only, (vii) there may be minor variations from the Plans as to the location of the walls of the Residence, (ix) if a portion of the Lot consists of natural area open space ("NAOS"), then pursuant to the ordinances of the municipality in which the Lot is located, Buyer may not construct any improvements in the NAOS area or change the drainage or landscaping in the NAOS area. Seller disclaims liability or responsibility in connection with the foregoing and Buyer hereby releases Seller from any and all responsibility, obligation or liability whatsoever for the occurrence of the same.

*[Handwritten signatures]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

SELLER:  
Toll South Reno LLC

By: [Signature]  
Authorized Signature

ON: 12/18/14

BUYER(S):

Alisha Hatch  
Mike Hatch  
John Johnson

Michael and Alisha Hatch and Kari Johnson  
Mike Hatch  
6022 Monte Rosa Court,  
Reno, NV 89511

DATE: 12/18/14

Submitted by the following broker/salesperson on  
this 13 day of December, 2014

[Signature]

General Conditions of Escrow  
And Escrow Instructions

Escrow No. ....-JN

These "General Conditions of Escrow" shall become an addendum to the agreement entered into on 12-13-14 by and between Toll South Reno, LLC, a Nevada limited liability company as seller and Michael & Alisha Hatch and Kari Johnson, as buyer for property described as: 9845 Firefoot Lane Reno, NV 89521

Lot 0055 of The Estates at Saddle Ridge - Damonte Ranch Village - Unit 11D, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on April 3, 2014, as File No. 4341181, Official Records Tract Map No. 5071.

More commonly known as 9845 Firefoot Lane Reno, Nevada 89521

and in combination shall serve as escrow instructions to Escrow Agent, for said Agreement to purchase and any modifications thereto.

I authorize Escrow Agent to deliver Seller's instrument of conveyance to the above named party upon payment to Escrow Agent for Seller's account of the full consideration and upon condition that Titor Title of Nevada, Inc. issue the usual form of A.L.T.A. Standard Owner's policy and A.L.T.A. Lenders Policy for any Lenders.

Subject only to:

- 1) Taxes, INCLUDING PERSONAL PROPERTY TAXES, IF ANY, and any and all taxes and assessments levied or assessed after close of escrow.
- 2) RESTRICTIONS, CONDITIONS, RESERVATIONS, RIGHTS, RIGHTS OF WAY AND EASEMENTS NOW OF RECORD, if any, affecting the use and occupancy of said property as the same may now appear of record, except as otherwise specifically required herein.
- 3) Endorsement to Agreement of Sale.

ESCROW AGENT HAS NO RESPONSIBILITY FOR INVESTIGATING OR GUARANTEEING THE STATUS OF ANY GARBAGE FEE, POWER, WATER, TELEPHONE, GAS, AND/OR OTHER UTILITY OR USE BILL, EXCEPT AS SPECIFICALLY REQUIRED HEREIN.

An installment maturing on existent encumbrances, if any, during the period of this escrow shall be paid by Seller, unless otherwise specifically required herein. All prorations shall be computed on the basis of a 30-day month. The term "close of escrow" shall be deemed to mean the date upon which all necessary documents are filed for record with the appropriate county recorder's office. Escrow Agent is directed to mail the respective policy (ies) of title insurance to the holder of any new encumbrance called for herein and to the Buyer hereunder.

Commission, as per separate agreement, shall be payable to N/A and Escrow Agent is directed to disperse same to the extent that the proceeds of this escrow available become disburseable for Seller's account. Titor Title of Nevada, Inc. assumes no liability for, and is hereby relieved of any liability in connection with any PERSONAL PROPERTY which may be part of this escrow.

Escrow Agent is directed to file the necessary Deeds, Trust Deeds, and other instruments and pay for any encumbrance which a title search reveals against the subject property, except as set for herein. Escrow Agent is authorized and directed to pay said encumbrances as directed by the lien holder thereof, acting solely upon the written direction of such lien holder, and it is expressly understood and agreed that Escrow Agent assumes no liability for the accuracy of any such statement or direction.

Escrow Agent is further directed to insert the names of the Grantee in the necessary conveyance and/or encumbering documents prior to the recordation of the same, based upon the written direction tendered by Grantee or in compliance with instructions set for by the beneficiary under any new loan documents. Escrow Agent is expressly authorized to charge to the account of the party obligated to pay same, any charge or expense incurred in connection with this transaction or the terms thereof. Escrow Agent is further directed and authorized to reimburse itself for any charges which it may incur during this escrow by charging such amount to the party obligated to pay the same. All disbursements made under this transaction shall be made in the form of a check by Titor Title of Nevada.

Any deposit made by Buyer or Seller hereunder into this escrow shall be in the form of certified funds or cashier's check. Any check presented for deposit into this escrow by either party shall be subject to clearance thereof and Escrow Agent shall not be obligated to act upon nor disburse against any such funds until notified by the bank upon which check is drawn that said check has cleared its account. Buyer/Seller acknowledges funds are deposited into a non-interest bearing account.

All notices, demands or changes to these instructions shall be in writing.

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Supplemental tax bills, when issued and posted, may not be immediately available; therefore, there may be a gap in time where the bill may be posted, however, we would not have knowledge of the assessment. Therefore, in the event a supplemental tax bill is issued by the County Tax Collector after the date of the above mentioned preliminary report or after the close of escrow and transfer of title, the undersigned parties agree to handle any adjustment which might result from such supplemental tax bill directly between themselves.

Notwithstanding the fact that Escrow Agent may have been provided with a copy of the Purchase Contract in relation to subject property for information purposes, Escrow Agent's liability to the undersigned is limited solely to Escrow Agent's compliance with these instructions, and any modifications hereto given in writing prior to close of escrow.

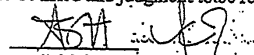
These instructions are executed for the sole purpose of enabling escrow holder to complete this transaction but are in no way intended to modify, amend, supersede or in any way change that certain agreement executed by and between the parties hereto prior to these instructions. The undersigned acknowledge that Escrow Agent, as escrow holder, are not charged with the responsibility of interpreting the provisions of any contract which may be the basis for this transaction, or making any disclosures relative to such provisions, or otherwise.

In the event any party to this escrow receives funds or is credited with funds that they are not entitled to, for whatever reason, they agree, upon written demand, to return said funds to the proper party entitled or to the escrow for disbursement. Escrow Agent is authorized and instructed to rely upon any statement furnished by any lien holder and the holder, payee or collection agent of payee for any note or contract of sale, without liability or responsibility for the accuracy of such statement.

In the event this transaction is an exchange or part of an exchange, the parties acknowledge the escrow holder has made no representations whatsoever regarding the sufficiency or effect of this transaction in relation to applicable federal and state tax laws. It is further acknowledged by the parties that they are hereby advised by escrow holder to seek the counsel of their own tax attorney or certified public accountant for the determination of any tax consequences of this exchange. The undersigned fully indemnify and hold escrow holder harmless from any loss or damage which the parties may sustain in the event this transaction fails to qualify for any special tax treatment.

In the event a suit is brought by any party (ies) to this escrow to which the escrow holder is named as a party and which results in a judgment in favor of the escrow holder and/or against party or principal of any part hereunder, the principal or principal's agent(s) agree to pay said escrow holder all costs, expenses and reasonable attorney fees which it pays or incurs in said suit, the amount thereof to be fixed and judgment to be rendered by the court in said suit.

  
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Time is of the essence in this agreement and each party hereto requires that the other party comply with all requirements necessary to place this escrow in a condition to close as provided in said Purchase Contract, however, that if the closing date, or any other compliance date specified herein, falls on a Saturday, Sunday, or Holiday, the time limit set forth herein is extended through the next full business day. In the absence of written direction to the contrary, Escrow Agent is authorized to take any administrative steps necessary to effect the closing of this escrow subsequent to the date set forth herein.

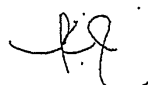
Either party hereunder claiming right of cancellation of this escrow shall file written notice and demand for cancellation in the office of the Escrow Agent in writing. Escrow Agent shall, within three (3) business days following receipt of such written notice, notify the party against whom said cancellation is filed by depositing a copy of said notice in the United States Mail, addressed to such other party at the last address filed with Escrow Agent.

In the absence of written indication from such party as to said party's mailing address, Escrow Agent is directed to deposit such notice in the United States Mail, certified with return receipt requested, addressed to such party in Reno, Nevada, or such other city as Escrow Agent may have written indication that such party resides. Said notice shall be deemed to have been given upon deposit of said notice in the United States Mail, addressed as specified herein, with proper affixed thereto, and no further notice, or evidence of receipt, shall be required.

Unless written objection to any cancellation notice hereunder shall be submitted and received by Escrow Agent from the party to whom such cancellation notice is directed with ten (10) business days following Escrow Agent's mailing of said cancellation notice, Escrow Agent is authorized and directed to comply with such cancellation notice and demand upon payment of its cancellation charges and expenditures.

In the event that such written objection shall be filed, Escrow Agent is are authorized to hold all money and instruments in this escrow pending mutual written instruction by the parties hereto, or a final order by a court of competent jurisdiction. The parties are aware, however, and expressly agree and consent, that Escrow Agent shall have the absolute right, at its sole discretion, to file a suit to counter claim in interpleader and to obtain an order from the court requiring the claimants to interplead and litigate in such court their several claims and rights amongst themselves. In the event such suit or claim is brought, the parties hereto jointly and severally agree to pay Escrow Agent all costs, expenses and reasonable attorney fees which it may expend or incur in such interpleader action, the amount thereof to be fixed and judgment therefore to be rendered by the court in such suit.

  
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Upon the filing of such suit or counterclaim said Escrow Agent shall thereupon be fully released and discharged from all obligations to further perform any duties or obligations otherwise imposed by the terms of this escrow.

It is expressly understood and agreed that the Escrow Agent without any obligation to exercise such right, retains the right to resign its duties as escrow agent under this transaction, at any time and at its sole discretion and/or refrain from taking any act in furtherance of the subject transaction at the sole discretion of Escrow Agent is deemed advisable. No liability shall accrue to said Escrow Agent for any such act or forbearance.

This agreement in all parts applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

These instructions may be executed in any number of counterparts, each of which shall be considered an original and be effective as such, and all of which, when aggregated, shall constitute one fully executed original.

Sellers and Buyers hereby authorize Escrow Agent to furnish copies of closing statements and escrow instructions to the Lender and or Broker involved herein. Escrow Agent is further authorized to deliver a copy of any notice filed in accordance with the terms set forth herein by one party upon the other, to the Broker(s) involved within.

Buyer and Seller shall notify Escrow Agent in writing of any change in address during the course of this escrow, and unless Escrow Agent is in receipt of written indication to the contrary, to mail any notices filed by either party to or against the other, to the address set forth herein.

Seller is hereby made aware that there is a law which became effective January 1, 1987, which requires all escrow holders to complete a modified 1099 form, based upon specific information known only between parties in this transaction and the escrow holder. Escrow Agent are authorized and instructed to provide this information to the Internal Revenue Service after the close of escrow in the manner prescribed by law, or it is understood that this transaction shall not close with Escrow Agent as the escrow holder.

The undersigned buyer herein acknowledges that the Homeowners Association is the Estates at Saddle Ridge Owners Association. The homeowner's association dues for Saddle Ridge Owners Association are \$89.00 monthly (which amount may increase from time to time) and a transfer fee of \$100.00 and a Capital Contribution Fee of \$378.00. In addition there is a \$57.00 quarterly payment to Damonte Ranch LMA along with a transfer fee of \$100.00 payable to Eugene Burger Management Company and a Capital Contribution of \$100.00 payable to Damonte Ranch LMA. There is also a quarterly payment of \$30.00 payable to Damonte Ranch Drainage District, accompanied by a Transfer fee of \$100.00 payable to Eugene Burger Management Company and a Capital Contribution of \$100.00 to Damonte Ranch Drainage. Escrow Agent is hereby authorized and instructed to collect homeowner's association dues upfront and through escrow.

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TO THE EXTENT THAT THE TERMS AND CONDITIONS OF SAID PURCHASE AGREEMENT, AND ANY MODIFICATION THERETO, SHALL CONFLICT WITH THESE "GENERAL CONDITIONS OF ESCROW"; THE OBLIGATIONS OF ESCROW AGENT SHALL BE GOVERNED EXCLUSIVELY BY THESE "GENERAL CONDITIONS OF ESCROW AND ESCROW INSTRUCTIONS" CONTAINED HEREIN, ANYTHING TO THE CONTRARY HEREIN. NOTWITHSTANDING, ESCROW AGENT IS HEREBY UNCONDITIONALLY RELIEVED FROM ANY LIABILITY OR RESPONSIBILITY WHATSOEVER INVOLVING COMPLIANCE WITH OR ADHERENCE TO CONSUMER CREDIT PROTECTION ACT (TRUTH IN LENDING) OR SIMILAR LAW.

SELLER(S) AND BUYER(S) HEREBY AUTHORIZE ESCROW AGENT TO FURNISH COPIES OF CLOSING STATEMENTS AND ESCROW INSTRUCTIONS TO LENDER AND/OR BROKER INVOLVED.

In the event a post-closing or post-disbursement adjustment is necessary by an entity involved with this escrow transaction, the undersigned authorizes Escrow Agent to, if immediate action to advance funds on their behalf is necessary to promptly effect an accurate closing statement. The undersigned, upon notification, and the opportunity to investigate such necessary advances, agrees to fully cooperate and pay Ticor Title of Nevada, Inc. any and all funds so advanced on their behalf.

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SELLER

I agree to pay the following escrow charges: ALTA Policy of Title Insurance, Escrow Fee, Recording Fee, Reconveyance Fee, and incidental expenses necessary to convey insurable title as described herein.

Toll South Reno, LLC, a Nevada limited liability company

BY: Jake Lucas 12/13/14  
Division President

BUYER

I have read the foregoing General Conditions of Escrow and am buying the property described on the terms and conditions set forth, and will within the time limit either hand Escrow Agent or cause to be handed Escrow Agent, the consideration as specified, and I require that Seller comply with all terms thereof within the time as listed above. I agree to pay the following escrow charges: ALTA Premium, Real Property Transfer Tax, Loan Fee (as required by Lender), Escrow Fee, Recording Fee, and Incidental Expenses as may be incurred in connection with any new loan(s).

These incidental expenses include any appraisals ordered by Lender ASH/MAH JS (initials)

Alisha G. Hatch 12/13/14  
Buyer Date

HH/WH 12/13/14  
Buyer Date

Farid Johnson 12/13/14  
Buyer Date

6154533  
Alisha Hatch : 0055



EXHIBIT B NO. 1

COMMUNITY: Estates at Saddle Ridge  
PLAN: Willshire Sonoran

LOT: 0055

THE AGREEMENT OF SALE made between Toll South Reno LLC Seller and Michael and Alisha Hatch and Kari Johnson Buyer is hereby modified as follows: Buyer hereby authorizes and offers to Seller the right to make the following construction changes to the new home indicated above. All construction change orders are offered subject to the acceptance of the Seller. The Seller reserves the right for any reason whatsoever, to reject in part or in whole, any requested construction changes.

OPTION NO.	OPTION DESCRIPTION	QTY	OPTION PRICE
	LOT PREMIUM		\$5,000
426	SECURITY SYSTEM - A, W/WEST - MINSTER SECURITY MONITORING	1	\$0

Diagram Attached: No

For the sum of five thousand DOLLARS	\$5,000
To be applied as payment of or on account of extras, upon the following terms:	
Down payment of signing of this Exhibit "B"	\$250
Cash or Buyer's Certified Check at Settlement	\$4,750

Buyer: [Signature]  
Buyer: Alisha Hatch  
Seller: \_\_\_\_\_

Date Offered: 12/13/14  
[Signature] 12/13/14  
Date Accepted: \_\_\_\_\_

**EXHIBIT “2”**

**EXHIBIT “2”**

**Promissory Note For Hatch Residence 9845 Firefoot**  
**Lane Reno, NV 89521**

\*This agreement is for repayment of a home loan between Kari Anne Johnson (lender) and Michael Edward Hatch & Alisha Suzanne Hatch (borrowers).

[Signature]      MEH      [Signature]

\*Michael and Alisha Hatch agree to repay Kari Johnson the total amount borrowed in the amount of \$665,838.40.

[Signature]      MEH      [Signature]

\*Michael and Alisha Hatch have agreed with Kari Johnson that an interest rate of 3.0% will be charged for the home loan.

[Signature]      MEH      [Signature]

\*A payment schedule/loan amortization has been established and is attached.

[Signature]      MEH      [Signature]  
[Signature]

Signed (Kari Johnson- lender)

9/9/15  
Date

Alisha Hatch

Signed (Alisha Hatch- borrower)

9/9/15.  
Date

Michael Hatch

Signed (Michael Hatch- borrower)

9-9-15  
Date

**EXHIBIT “3”**

**EXHIBIT “3”**

# 9845 FIREFOOT LANE

PAYMENT	PRINCIPAL	INTEREST	BALANCE	PAID/DATE/TYPE
\$2,807.20	\$1,177.38	\$1,629.84	\$650,759.70	\$2,807.20 Check #1326 9/14/16
\$2,807.20	\$1,180.30	\$1,626.90	\$649,579.40	\$2,807.20 Check #1336 10/10/16
\$2,807.20	\$1,183.25	\$1,623.95	\$648,396.15	\$2,807.20 check #1341 11/15/2016
\$2,807.20	\$1,186.21	\$1,620.99	\$647,209.94	\$2,807.20 Check #1351 12/12/2016
\$2,807.20	\$1,189.18	\$1,618.02	\$646,020.76	\$2,807.20 Check #1361 1/23/2017
\$2,807.20	\$1,192.15	\$1,615.05	\$644,828.61	\$2,807.20 Check #1365 2/21/2017
\$2,807.20	\$1,195.13	\$1,612.07	\$643,633.48	\$2,807.20 Check #1370 3/2/2017
\$2,807.20	\$1,198.12	\$1,609.08	\$642,435.36	\$2,807.20 Check #1380 4/3/2017
\$2,807.20	\$1,201.11	\$1,606.09	\$641,234.25	\$2,807.20 Check #1399 5/5/2017
\$2,807.20	\$1,204.11	\$1,603.09	\$640,030.14	\$2,807.20 Check # 1412 6/2/2017
\$2,807.20	\$1,207.12	\$1,600.08	\$638,823.02	\$2,807.20 Check #1422 7/5/2017
\$2,807.20	\$1,210.14	\$1,597.06	\$637,612.88	\$2,807.20 Check #1422 7/28/2017
\$2,807.20	\$1,213.17	\$1,594.03	\$636,399.71	\$2,807.20 CASH (Reimbursement)
\$2,807.20	\$1,216.20	\$1,591.00	\$635,183.51	\$2,807.20 Check #1452 10/3/2017
\$2,807.20	\$1,219.24	\$1,587.96	\$633,964.27	\$2,807.20 Check #1457 11/3/2017
\$2,807.20	\$1,222.29	\$1,584.91	\$632,741.98	\$2,807.20 Check #1465 12/3/2017
\$2,807.20	\$1,225.35	\$1,581.85	\$631,516.63	\$2,807.20 Check #1469 1/10/2018
\$2,807.20	\$1,228.41	\$1,578.79	\$630,288.22	\$2,807.20 Check #1479 2/1/2018
\$2,807.20	\$1,231.48	\$1,575.72	\$629,056.74	\$2,807.20 Check #1488 2/27/2018
\$2,807.20	\$1,234.56	\$1,572.64	\$627,822.18	\$2,807.20 Check #1501 4/1/2018
\$2,807.20	\$1,237.64	\$1,569.56	\$626,584.54	\$2,807.20 Check # 1506 4/30/2018
\$2,807.20	\$1,240.74	\$1,566.46	\$625,343.80	\$2,807.20 Check # 1513 5/31/2018
\$2,807.20	\$1,243.84	\$1,563.36	\$624,099.96	\$2,807.20 Check #1518 7/1/2018
\$2,807.20	\$1,246.95	\$1,560.25	\$622,853.01	\$2,807.20 Check #1523 cashed for Kari 8/1/2018
\$2,807.20	\$1,250.07	\$1,557.13	\$621,602.94	\$2,807.20 Check #1529 cashed for Kari 8/31/2018
\$2,807.20	\$1,253.19	\$1,554.01	\$620,349.75	\$2,807.20 cash 10/1/2018
\$2,807.20	\$1,256.33	\$1,550.87	\$619,093.42	\$2,807.20 cash 11/1/2018
\$2,807.20	\$1,259.47	\$1,547.73	\$617,833.95	\$2,807.20 cash 12/1/2018
\$2,807.20	\$1,262.62	\$1,544.58	\$616,571.33	\$2,807.20 cash 12/27/2018
\$2,807.20	\$1,265.77	\$1,541.43	\$615,305.56	\$2,807.20 CASH 1/30/2019
\$2,807.20	\$1,268.94	\$1,538.26	\$614,036.62	\$2,807.20 CASH 3/1/2019
\$2,807.20	\$1,272.11	\$1,535.09	\$612,764.51	\$2,807.20 Check #1547 4/3/2019

\$2,807.20	\$1,275.29	\$1,531.91	\$611,489.22	\$2,807.20 Check #1552 4/30/2019
\$2,807.20	\$1,278.48	\$1,528.72	\$610,210.74	Pd- Pay Increase
\$2,807.20	\$1,281.67	\$1,525.53	\$608,929.07	Pd- Pay Increase 6/27/2019 (\$2,807.20)
\$2,807.20	\$1,284.88	\$1,522.32	\$607,644.19	Pd- Pay Increase 8/15/2019 (\$2,807.20)
\$2,807.20	\$1,288.09	\$1,519.11	\$606,356.10	Pd- \$2,807.20 Cash 9/3/2019
\$2,807.20	\$1,291.31	\$1,515.89	\$605,064.79	Pd- \$2,807.20 Cash 10/1/2019
\$2,807.20	\$1,294.54	\$1,512.65	\$603,770.25	Pd- \$2,807.20 Cash 11/1/2019
\$2,807.20	\$1,297.77	\$1,509.43	\$602,472.48	Pd- \$2,807.20 Cash 12/1/2019
\$2,807.20	\$1,301.02	\$1,506.18	\$601,171.46	Pd- Salary January 1, 2020 (\$2,807.20)
\$2,807.20	\$1,304.27	\$1,502.93	\$599,867.19	Pd- Salary February 1, 2020 (\$2,807.20)
\$2,807.20	\$1,307.53	\$1,499.67	\$598,559.66	Pd- Salary March 1, 2020 (\$2,807.20)
\$2,807.20	\$1,310.80	\$1,496.40	\$597,248.86	Pd- Salary April 1, 2020 (\$2,807.20)
\$2,807.20	\$1,314.08	\$1,493.12	\$595,934.78	Pd- Salary May 1, 2020 (\$2,807.20)
\$2,807.20	\$1,317.36	\$1,489.84	\$594,617.42	Pd- Salary June 1, 2020 (\$2,807.20)
\$2,807.20	\$1,320.66	\$1,486.54	\$593,296.76	Pd- Salary July 1, 2020 (\$2,807.20)
\$2,807.20	\$1,323.96	\$1,483.24	\$591,972.80	Pd- Salary August 1, 2020 (\$2,807.20)
\$2,807.20	\$1,327.27	\$1,479.93	\$590,645.53	Pd- Salary September 1, 2020 (\$2,807.20)
\$2,807.20	\$1,330.59	\$1,476.61	\$589,314.94	Pd- Salary October 1, 2020 (\$2,807.20)
\$2,807.20	\$1,333.91	\$1,473.29	\$587,981.03	Pd- Salary November 1, 2020 (\$2,807.20)
\$2,807.20	\$1,337.25	\$1,469.95	\$586,643.78	Pd- Salary December 1, 2020 (\$2,807.20)
\$2,807.20	\$1,340.59	\$1,466.61	\$585,303.19	
\$2,807.20	\$1,343.94	\$1,463.26	\$583,959.25	
\$2,807.20	\$1,347.30	\$1,459.90	\$582,611.95	
\$2,807.20	\$1,350.67	\$1,456.53	\$581,261.28	
\$2,807.20	\$1,354.05	\$1,453.15	\$579,907.23	
\$2,807.20	\$1,357.43	\$1,449.77	\$578,549.80	
\$2,807.20	\$1,360.83	\$1,446.37	\$577,188.97	
\$2,807.20	\$1,364.23	\$1,442.97	\$575,824.74	
\$2,807.20	\$1,367.64	\$1,439.55	\$574,457.10	
\$2,807.20	\$1,371.05	\$1,436.14	\$573,086.04	
\$2,807.20	\$1,374.48	\$1,432.72	\$571,711.56	
\$2,807.20	\$1,377.92	\$1,429.28	\$570,333.64	
\$2,807.20	\$1,381.37	\$1,425.83	\$568,952.27	
\$2,807.20	\$1,384.82	\$1,422.38	\$567,567.45	
\$2,807.20	\$1,388.28	\$1,418.92	\$566,179.17	

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\$2,807.20	\$1,399.72	\$1,408.48	\$561,993.47
\$2,807.20	\$1,402.22	\$1,404.98	\$560,591.25
\$2,807.20	\$1,405.72	\$1,401.48	\$559,185.53
\$2,807.20	\$1,409.24	\$1,397.98	\$557,776.29
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\$2,807.20	\$1,419.83	\$1,387.37	\$553,527.41
\$2,807.20	\$1,423.38	\$1,383.82	\$552,104.03
\$2,807.20	\$1,426.94	\$1,380.26	\$550,677.09
\$2,807.20	\$1,430.51	\$1,376.69	\$549,246.58
\$2,807.20	\$1,434.08	\$1,373.12	\$547,812.50
\$2,807.20	\$1,437.67	\$1,369.53	\$546,374.83
\$2,807.20	\$1,441.26	\$1,365.94	\$544,933.57
\$2,807.20	\$1,444.87	\$1,362.33	\$543,488.70
\$2,807.20	\$1,448.48	\$1,358.72	\$542,040.22
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\$2,807.20	\$1,459.37	\$1,347.83	\$537,673.02
\$2,807.20	\$1,463.02	\$1,344.18	\$536,210.00
\$2,807.20	\$1,466.67	\$1,340.53	\$534,743.33
\$2,807.20	\$1,470.34	\$1,336.86	\$533,272.99
\$2,807.20	\$1,474.02	\$1,333.18	\$531,798.97
\$2,807.20	\$1,477.70	\$1,329.50	\$530,321.27
\$2,807.20	\$1,481.40	\$1,325.80	\$528,839.87
\$2,807.20	\$1,485.10	\$1,322.10	\$527,354.77
\$2,807.20	\$1,488.81	\$1,318.39	\$525,865.96
\$2,807.20	\$1,492.54	\$1,314.66	\$524,373.42
\$2,807.20	\$1,496.27	\$1,310.93	\$522,877.15
\$2,807.20	\$1,500.01	\$1,307.19	\$521,377.14
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\$2,807.20	\$1,831.66	\$975.54	\$388,386.09
\$2,807.20	\$1,836.23	\$970.97	\$386,549.86
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\$2,807.20	\$1,906.31	\$900.89	\$358,448.97
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\$2,807.20	\$1,949.64	\$857.56	\$341,076.26
\$2,807.20	\$1,954.51	\$852.69	\$339,121.75
\$2,807.20	\$1,959.40	\$847.80	\$337,162.35
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\$2,807.20	\$1,969.20	\$838.00	\$333,228.86
\$2,807.20	\$1,974.13	\$833.07	\$331,254.73
\$2,807.20	\$1,979.06	\$828.14	\$329,275.67
\$2,807.20	\$1,984.01	\$823.19	\$327,291.66
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\$2,807.20	\$1,998.93	\$808.27	\$321,309.82
\$2,807.20	2,003.93	\$803.27	\$319,305.89
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\$2,807.20	\$2,013.96	\$793.24	\$315,282.99
\$2,807.20	\$2,018.99	\$788.21	\$313,264.00
\$2,807.20	\$2,024.04	\$783.16	\$311,239.96
\$2,807.20	\$2,029.10	\$778.10	\$309,210.86
\$2,807.20	\$2,034.17	\$773.03	\$307,176.69
\$2,807.20	\$2,039.28	\$767.94	\$305,137.43
\$2,807.20	\$2,044.38	\$762.84	\$303,093.07
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\$2,807.20	\$2,070.04	\$737.16	\$292,794.36
\$2,807.20	\$2,075.21	\$731.99	\$290,719.15
\$2,807.20	\$2,080.40	\$726.80	\$288,638.75
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\$2,807.20	\$2,090.82	\$716.38	\$284,462.33
\$2,807.20	\$2,096.04	\$711.16	\$282,366.29
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\$2,807.20	\$2,138.33	\$668.87	\$265,408.20
\$2,807.20	\$2,143.68	\$663.52	\$263,264.52
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\$2,807.20	\$2,165.20	\$642.00	\$254,636.07
\$2,807.20	\$2,170.61	\$636.59	\$252,465.46
\$2,807.20	\$2,176.04	\$631.16	\$250,289.42

\$2,807.20	\$2,181.48	\$625.72	\$248,107.94
\$2,807.20	\$2,186.93	\$620.27	\$245,921.01
\$2,807.20	\$2,192.40	\$614.80	\$243,728.61
\$2,807.20	\$2,197.88	\$609.32	\$241,530.73
\$2,807.20	\$2,203.37	\$603.83	\$239,327.36
\$2,807.20	\$2,208.88	\$598.32	\$237,118.48
\$2,807.20	\$2,214.40	\$592.80	\$234,904.08
\$2,807.20	\$2,219.94	\$587.26	\$232,684.14
\$2,807.20	\$2,225.49	\$581.71	\$230,458.65
\$2,807.20	\$2,231.05	\$576.15	\$228,227.60
\$2,807.20	\$2,236.63	\$570.57	\$225,990.97
\$2,807.20	\$2,242.22	\$564.98	\$223,748.75
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\$2,807.20	\$2,253.45	\$553.75	\$219,247.47
\$2,807.20	\$2,259.08	\$548.12	\$216,988.39
\$2,807.20	\$2,264.73	\$542.47	\$214,723.66
\$2,807.20	\$2,270.49	\$536.81	\$212,453.27
\$2,807.20	\$2,276.07	\$531.13	\$210,177.20
\$2,807.20	\$2,281.76	\$525.44	\$207,895.44
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\$2,807.20	\$2,293.18	\$514.02	\$203,314.80
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\$2,807.20	\$2,310.42	\$496.78	\$196,400.81
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\$2,807.20	\$2,321.99	\$485.21	\$191,762.62
\$2,807.20	\$2,327.79	\$479.41	\$189,434.83
\$2,807.20	\$2,333.61	\$473.59	\$187,101.22
\$2,807.20	\$2,339.45	\$467.75	\$184,761.77
\$2,807.20	\$2,345.30	\$461.90	\$182,416.47
\$2,807.20	\$2,351.16	\$456.04	\$180,065.31
\$2,807.20	\$2,357.04	\$450.16	\$177,708.27
\$2,807.20	\$2,362.93	\$444.27	\$175,345.34
\$2,807.20	\$2,368.84	\$438.36	\$172,976.50
\$2,807.20	\$2,374.76	\$432.44	\$170,601.74

\$2,807.20	\$2,380.70	\$426.50	\$168,221.04
\$2,807.20	\$2,386.65	\$420.55	\$165,834.39
\$2,807.20	\$2,392.61	\$414.59	\$163,441.78
\$2,807.20	\$2,398.60	\$408.60	\$161,043.18
\$2,807.20	\$2,404.59	\$402.61	\$158,638.59
\$2,807.20	\$2,410.60	\$396.60	\$156,227.99
\$2,807.20	\$2,416.63	\$390.57	\$153,811.36
\$2,807.20	\$2,422.67	\$384.53	\$151,388.69
\$2,807.20	\$2,428.73	\$378.47	\$148,959.96
\$2,807.20	\$2,434.80	\$372.40	\$146,525.16
\$2,807.20	\$2,440.89	\$366.31	\$144,084.27
\$2,807.20	\$2,446.99	\$360.21	\$141,637.28
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\$2,807.20	\$2,459.24	\$347.96	\$136,724.93
\$2,807.20	\$2,465.39	\$341.81	\$134,259.54
\$2,807.20	\$2,471.55	\$335.65	\$131,787.99
\$2,807.20	\$2,477.73	\$329.47	\$129,310.26
\$2,807.20	\$2,483.92	\$323.28	\$126,826.34
\$2,807.20	\$2,490.13	\$317.07	\$124,335.21
\$2,807.20	\$2,496.36	\$310.84	\$121,839.85
\$2,807.20	\$2,502.60	\$304.60	\$119,337.25
\$2,807.20	\$2,508.86	\$298.34	\$116,828.39
\$2,807.20	\$2,515.13	\$292.07	\$114,313.26
\$2,807.20	\$2,521.42	\$285.78	\$111,791.84
\$2,807.20	\$2,527.72	\$279.48	\$109,264.12
\$2,807.20	\$2,534.04	\$273.16	\$106,730.08
\$2,807.20	\$2,540.37	\$266.83	\$104,189.71
\$2,807.20	\$2,546.73	\$260.47	\$101,642.98
\$2,807.20	\$2,553.09	\$254.11	\$99,089.89
\$2,807.20	\$2,559.48	\$247.72	\$96,530.41
\$2,807.20	\$2,565.87	\$241.33	\$93,964.54
\$2,807.20	\$2,572.29	\$234.91	\$91,392.25
\$2,807.20	\$2,578.72	\$228.48	\$88,813.53
\$2,807.20	\$2,585.17	\$222.03	\$86,228.36
\$2,807.20	\$2,591.63	\$215.57	\$83,636.73

\$2,807.20	\$2,598.11	\$209.09	\$81,038.62
\$2,807.20	\$2,604.60	\$202.60	\$78,434.02
\$2,807.20	\$2,611.11	\$196.09	\$75,822.91
\$2,807.20	\$2,617.64	\$189.56	\$73,205.27
\$2,807.20	\$2,624.19	\$183.01	\$70,581.08
\$2,807.20	\$2,630.75	\$176.45	\$67,950.33
\$2,807.20	\$2,637.32	\$169.88	\$65,313.01
\$2,807.20	\$2,643.92	\$163.28	\$62,669.09
\$2,807.20	\$2,650.53	\$156.67	\$60,018.56
\$2,807.20	\$2,657.15	\$150.05	\$57,361.41
\$2,807.20	\$2,663.80	\$143.40	\$54,697.61
\$2,807.20	\$2,670.46	\$136.74	\$52,027.15
\$2,807.20	\$2,677.13	\$130.07	\$49,350.02
\$2,807.20	\$2,683.82	\$123.38	\$46,666.20
\$2,807.20	\$2,690.53	\$116.67	\$43,975.67
\$2,807.20	\$2,697.26	\$109.94	\$41,278.41
\$2,807.20	\$2,704.00	\$103.20	\$38,574.41
\$2,807.20	\$2,710.76	\$96.44	\$35,863.65
\$2,807.20	\$2,717.54	\$89.66	\$33,146.11
\$2,807.20	\$2,724.33	\$82.87	\$30,421.78
\$2,807.20	\$2,731.15	\$76.05	\$27,690.63
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\$2,807.20	\$2,744.82	\$62.38	\$22,207.84
\$2,807.20	\$2,751.68	\$55.52	\$19,456.16
\$2,807.20	\$2,758.56	\$48.64	\$16,697.60
\$2,807.20	\$2,765.46	\$41.74	\$13,932.14
\$2,807.20	\$2,772.37	\$34.83	\$11,159.77
\$2,807.20	\$2,779.30	\$27.90	\$8,380.47
\$2,807.20	\$2,786.25	\$20.95	\$5,594.22
\$2,807.20	\$2,793.21	\$13.99	\$2,801.01
\$2,801.01	\$2,801.01	\$7.00	\$0.00

**EXHIBIT “4”**

**EXHIBIT “4”**

WHEN RECORDED MAIL TO:  
Michael Hatch and Alisha Hatch  
9845 Firefoot Lane  
Reno, NV 89521

DOC #4500519

08/06/2015 03:43:59 PM  
Electronic Recording Requested By  
TICOR TITLE - RENO (MAIN)  
Washoe County Recorder  
Lawrence R. Burtress  
Fee: \$23.00 RPTT: \$2621.95  
Page 1 of 7

MAIL TAX STATEMENTS TO:  
Same As Above

Escrow No. 1404892-LMZ

The undersigned hereby affirms that this document  
submitted for recording does not contain the social  
security number of any person or persons.  
(Pursuant to NRS 239b.030)

APN No.: 141-254-09  
R.P.T.T. \$2,621.95

SPACE ABOVE FOR RECORDER'S USE ONLY

## GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Toll South Reno, LLC, a Nevada Limited Liability Company

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby  
Grant, Bargain, Sell and Convey to Michael Hatch and Alisha Hatch, husband and wife as joint  
tenants with right of survivorship

all that real property situated in the County of Washoe, State of Nevada, described as follows:

SEE EXHIBIT "A&B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging  
or in anywise appertaining.

Signature and notary acknowledgement on page two.

THIS DOCUMENT IS BEING RECORDED  
AS AN ACCOMODATION ONLY. NO  
LIABILITY IS ASSUMED HEREBY.

JA\_00298



Toll South Reno, LLC, a Nevada limited liability company

By: Gary M. Mayo, President *DAVID STANLEY, VICE PRESIDENT*

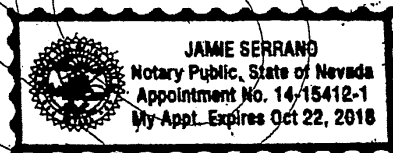
STATE OF NEVADA  
COUNTY OF WASHOE

} ss:

This instrument was acknowledged before me on,  
by Gary M. Mayo *DAVID STANLEY*

*August 3<sup>rd</sup> 2015*

[Signature]  
NOTARY PUBLIC



This Notary Acknowledgement is attached to that certain Grant, Bargain, Sale Deed dated date of document under escrow No. 01404892.

## Exhibit "A"

The land referred to in this Policy is described as follows:

Lot 55 of DAMONTE RANCH VILLAGE 11D, according to the map thereof, filed in the Office of the County Recorder of Washoe County, State of Nevada, on April 3, 2014, as File No. 4341181, Official Records, Tract Map No. 5071.

More Commonly Known as: 9845 Firefoot Lane, Reno, Nevada  
Assessor's Parcel No.: 141-254-09

COPY

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ALTA Plain Language Commitment Form (6/17/06)  
Schedule C

109-14000223-TB/15

JA\_00300

Exhibit "B"

**ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE  
BUYER'S USE OF PROPERTY**

ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer"), Lot No. 0055 (the "Property") in the community of Estates at Saddle Ridge.

1. **OWNER OCCUPANCY:** Seller desires to sell only to buyers who will occupy the home as their primary residence or a secondary residence, *i.e.*, vacation or seasonal home (their "**Residence**"), to create an established community of owner-occupied homes. Seller and Buyer agree that homebuyers prefer owner-occupied communities and, as such, owner-occupied communities proved a better environment to sell homes and in which to reside. Therefore, Seller chooses to only sell homes to buyers who intend to occupy the home as their Residence for a minimum of one (1) year after the closing. To induce Seller to agree to sell the Property to Buyer, Buyer represents warrants and agrees as follows:

1.1 **Use of Principal Residence for One (1) Year.** Buyer represents and warrants to Seller that (a) Buyer is purchasing the Property for use as Buyer's Residence; (b) Buyer will occupy the Property within thirty (30) calendar days after the Closing; and (c) Buyer will not attempt to transfer Buyer's rights under the Agreement or enter into any agreement for the lease, sale or other transfer of the Property that would result in Buyer's failure to occupy the Property as Buyer's Residence and hold title thereto in fee simple for a period of one (1) year after the Settlement of Buyer's purchase of the Property (the "**Occupancy Period**"). The provisions of this Section and the accuracy of the above representations warranties constitute a personal covenant of Buyer and a condition precedent to Seller's performance under the Agreement.

Michael Alisha Initials KJ

1.2 **Transfer before Closing.** Except for Hardship Situations, as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, any attempt by Buyer to assign Buyer's rights under this Agreement or to lease, sell or otherwise transfer the Property before the Closing will constitute both (a) a breach of the Agreement, entitling Seller, at its sole election, to immediately terminate this Agreement and retain Buyer's deposit as liquidated damages and (b) the failure of a condition precedent to Seller's obligation to sell the Property to Buyer. However, if Buyer's breach does not become known to Seller or Seller fails to terminate this Agreement until after Closing, then Seller will be limited solely to the remedy of Liquidated Damages described in Sections 1.3 and 1.4.

Michael Alisha Initials KJ

**1.3 Transfer after closing.** Except for Hardship Situations as described in **Section 1.5** or Unrestricted Transfers as described in **Section 1.6**, Buyer's transfer of title to the Property prior to or during the Occupancy Period constitutes a breach of this Agreement. Buyer and Seller agree that such a breach will entitle the Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the difference between the sales price on resale and the purchase price hereunder. **Seller and Buyer that the amount of liquidated damages is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

NEH ABH Initials

**1.4 Lease of Property After Closing.** Except for Hardship Situations as described in **Section 1.5** or Unrestricted Transfers as described in **Section 1.6**, Buyer's failure to make the Property Buyer's Residence during the Occupancy Period or Buyer's lease of the property during the Occupancy Period constitutes a breach of this Agreement, entitling Seller to liquidate damages. Buyer and Seller agree that such a breach will entitle Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the total payments received from the tenant for the first 12 months of the rental period. **Seller and Buyer agree that the liquidated damages amount is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

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**1.5 Hardship Situations.** The following events will be deemed to constitute "Hardship Situations" under which Buyer will be relieved of the obligations of this **Section** concerning limitations on the sale or lease of the Property.

- 1.5.1.1** The death of the Buyer (or any person who is co-buyer if more than one);
- 1.5.1.2** The dissolution of Buyer's marriage or legal separation of married Buyers;
- 1.5.1.3** A Mandatory job transfer required by Buyer's employer (not including Buyer if buyer is self employed);
- 1.5.1.4** A medical or financial emergency, proof of which Seller has approved within its sole discretion, and
- 1.5.1.5** A situation which, in the sole judgment of Seller, constitutes a hardship consistent with the purpose of this **Section**.

**1.6 Unrestricted Transfers.** The following transfers are not in violation of the stated purpose of this **Section** and are not subject to the provisions of **Sections 1.3 and 1.4**.

- 1.6.1.1** A transfer between spouses or between parent and child (but subsequent transfers within the Occupancy Period would be subject to this Endorsement);

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## WASHOE COUNTY RECORDER

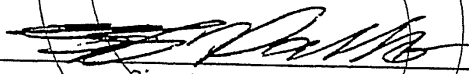
OFFICE OF THE COUNTY RECORDER  
LAWRENCE R. BURTNES, RECORDER

1061 E. NINTH STREET  
POST OFFICE BOX 11130  
RENO, NEVADA 89520-0027  
PHONE (775) 328-3661  
FAX (775) 325-8010


### LEGIBILITY NOTICE

The Washoe County Recorder's Office has determined that the attached document may not be suitable for recording by the method used by the Recorder to preserve the Recorder's records. The customer was advised that copies reproduced from the recorded document would not be legible. However, the customer demanded that the document be recorded without delay as the parties rights may be adversely affected because of a delay in recording. Therefore, pursuant to NRS 247.120 (3), the County Recorder accepted the document conditionally, based on the undersigned's representation (1) that a suitable copy will be submitted at a later date (2) it is impossible or impracticable to submit a more suitable copy.

By my signing below, I acknowledge that I have been advised that once the document has been microfilmed it may not reproduce a legible copy.

  
Signature

  
Date

  
Printed Name

**EXHIBIT “5”**

**EXHIBIT “5”**

DOC #4982284

12/13/2019 12:54:15 PM  
Electronic Recording Requested By  
TICOR TITLE - FERNLEY  
Washoe County Recorder  
Kalie M. Work  
Fee: \$41.00 RPTT: \$0  
Page 1 of 18

Assessor's Parcel No.: 141-254-09

Recording Requested by:  
GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION  
When Recorded Mail To:  
GUILD MORTGAGE COMPANY - ATTN: DMD

5898 COPLEY DRIVE  
SAN DIEGO, CA 92111

Mail Tax Statement To:  
MICHAEL HATCH  
9845 FIREFOOT  
RENO, NV 89521

[Space Above This Line For Recording Data]

Loan No.: 156-2017268

MIN: 100019915620172680

## DEED OF TRUST

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 9, 2019, together with all Riders to this document.

(B) "Borrower" is MICHAEL HATCH AND Alisha Hatch, HUSBAND AND WIFE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP. Borrower is the trustor under this Security Instrument.

Nevada Deed of Trust—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc.

Page 1 of 15

Modified by Compliance Source 14301NV 10/05 Rev. 11/15

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(C) "Lender" is GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION. Lender is a corporation organized and existing under the laws of CALIFORNIA. Lender's address is 5898 COPLEY DRIVE, SAN DIEGO, CA 92111.

(D) "Trustee" is GUILD ADMINISTRATION CORP, A CALIFORNIA CORPORATION.

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated December 9, 2019. The Note states that Borrower owes Lender Two Hundred Fifty Nine Thousand and 00/100ths Dollars (U.S. \$259,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2050.

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider                         | <input type="checkbox"/> Second Home Rider      |
| <input type="checkbox"/> Balloon Rider         | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> 1-4 Family Rider      | <input type="checkbox"/> Revocable Trust Rider                     |   |
| <input type="checkbox"/> Other(s) [specify]    |  |   |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.



(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

#### TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

County of WASHOE  
 [Type of Recording Jurisdiction] [Name of Recording Jurisdiction]  
 ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF WASHOE, STATE OF NEVADA, DESCRIBED AS FOLLOWS. LOT 55 OF DAMONTE RANCH VILLAGE 11D, ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF WASHOE COUNTY, STATE OF NEVADA, ON APRIL 3, 2014, AS FILE NO. 4341161, OFFICIAL RECORDS, TRACT MAP NO. 5071. APN: 141-254-09  
 which currently has the address of 9845 FIREFOOT LN

RENO  
 [City]

Nevada 89521  
 [Zip Code]

[Street]  
 ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.



BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.



3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien of encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground



rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) sequesters from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the 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, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services; and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction.



provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's



interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender



takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the





Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other



means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. These conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's



check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by 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; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. 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 (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) 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 Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private



party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender at its option may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$100 where no credit checks are required, the greater of \$400 or 1% of unpaid principal balance of the mortgage - up to a maximum of \$900 - if the change of ownership requires credit approval of the new mortgagor; or any maximum prescribed by Applicable Law or Regulations.



BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

*Michael Hatch* (Seal)  
MICHAEL HATCH -Borrower  
[Printed Name]

*Alisha Hatch* (Seal)  
Alisha Hatch -Borrower  
[Printed Name]


\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower  
[Printed Name]

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower  
[Printed Name]

ACKNOWLEDGMENT

State of Nevada  
County of Washoe

The foregoing instrument was acknowledged before me on Dec 9, 2019 by MICHAEL HATCH.

 TYLER MACALUSO  
Notary Public - State of Nevada  
Appointment Recorded in Washoe County  
No: 16-3876-2 - Expires October 14, 2020

Signature of Person Taking Acknowledgment

*Tyler Macaluso*  
Printed Name

N/A  
Title or Rank

Serial Number, if any:

My Commission Expires:

16-3876-2

Oct 14, 2020

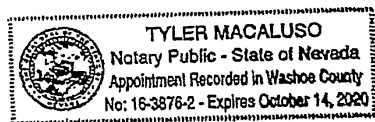


ACKNOWLEDGMENT

State of Nevada  
County of Washoe

§  
§  
§

The foregoing instrument was acknowledged before me on Dec 9, 2019 by Alisha Hatch.



Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:

(Seal)

Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184



Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184  
Loan No.: 156-2017268  
MIN: 100019915620172680

## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 9th day of December, 2019, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

9845 FIREFOOT LN, RENO, NV 89521

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

SOUTH MEADOWS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of

Multistate PUD Rider—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc.

Page 1 of 3

Form 3150 1/01

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the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then:

(i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have





the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

  
MICHAEL HATCH

(Seal)  
-Borrower

  
Alisha Hatch

(Seal)  
-Borrower

(Seal)  
-Borrower

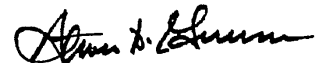
(Seal)  
-Borrower

[Sign Original Only]



**EXHIBIT “6”**

**EXHIBIT “6”**



CLERK OF THE COURT

**COMP**  
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*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOHN KLACKING, an individual,

Plaintiff,

v.

HONEST GUYS PIZZA, LLC, an  
Arizona limited liability company,  
CHRISTOPHER CARNAL, an  
individual, SHELBY JOBE, an individual,  
CHRIS QUITADAMO, an individual, and  
HALLY QUITADAMO, an individual, and  
DOES I-10, inclusive,

Defendants.

CASE NO.:

DEPT. NO.:

A- 13 - 678276 - C

**MANDATORY ARBITRATION PER PARTIES  
AGREEMENT**

**COMPLAINT**

**FOR BREACH OF CONTRACT, BREACH OF IMPLIED COVENANT OF GOOD  
FAITH AND FAIR DEALING, UNJUST ENRICHMENT, and BREACH OF  
COMMERCIAL GUARANTY**

John Klacking ("Klacking") by and through his attorney Mark G. Simons of the  
firm of Robison, Belaustegui, Sharp & Low, hereby alleges as follows:

1. Klacking is a Nevada resident.
2. Defendant Honest Guys Pizza, LLC is an Arizona limited liability company  
with, with its primary place of business in Clark County, Nevada ("HGP").
3. Defendant Christopher Carnal is an individual ("Carnal").

3. Defendant Christopher Carnal is an individual ("Carnal").

4. Defendant Shelby Jobe is an individual ("Jobe").

5. Defendant Chris Quitadamo is an individual ("Chris Quitadamo").

6. Defendant Hally Quitadamo is an individual (Hally Quitadamo”).

7. Upon information and belief, at all times herein mentioned, each of the Defendants were the agent and employee of the other Defendants and were acting within the course, scope and authority of said agency; each Defendant approved, ratified and authorized the acts of each of the other Defendants as herein alleged; each Defendant was subject to a right of control by the other Defendants; each Defendant was authorized to act for each and all of the other Defendants; and each Defendant is a successor in interest to each of the other Defendants.

8. Plaintiff does not know the true names and capacities of defendants sued herein as DOES 1 through 10 , inclusive, and therefore sues these defendants by fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named defendants are responsible in some actionable manner for the damages herein alleged. Plaintiff requests leave of Court to amend his Complaint to name the defendants specifically when their identities become known.

## GENERAL ALLEGATIONS

9. During October, 2012, Klacking retained equitable and/or legal ownership interest in a number of assets associated with Klacking's former ownership and operation of four (4) Roundtable Pizza Restaurants in Las Vegas, Nevada.

10. On or about October 10, 2012, defendants executed a commitment letter offering to purchase Klacking's interests for \$400,000.

11. After conducting due diligence and ongoing negotiations, and after

1 reducing the four (4) restaurant locations to three (3) locations for a price reduction, the  
2 Defendants moved forward with finalizing their agreement with Klacking for the amount  
3 of \$375,000.

4 12. On November 6, 2012, Klacking and HGP entered into an agreement  
5 whereby Klacking would sell to HGP his interest in proceeding with three (3)  
6 Roundtable Pizza Restaurants (the "Agreement") in the Las Vegas market.  
7

8 13. Under the terms of the Agreement, HGP agreed to accept the sale of the  
9 assets on an "as-is" "where-is" basis.

10 14. Under the terms of the Agreement, HGP relied upon its own due diligence  
11 in entering into the Agreement and agreed and understood that Klacking made no  
12 representations as to the condition, quality or quantity of any of the assets being sold to  
13 HGP.  
14

15 15. The Agreement obligated HGP to pay the sum of \$375,000 as follows:  
16 \$175,000 at time of closing and \$200,000 payable via a carry-back note secured by a  
17 collateral assignment and security agreement. Agreement, ¶2.

18 16. Pursuant to the Agreement, HGP executed a secured carry-back note in  
19 the amount of \$200,000 payable to Klacking (the "Note").  
20

21 17. Carnal, Jobe, Chris Quitadamo and Hally Quitadamo also executed the  
22 Note as personal guarantors.

23 18. HGP also executed a Collateral Assignment and Security Agreement  
24 granting Klacking a security interest in all of HGP's assets (the "Security Agreement").

25 19. As part of the sale, Klacking was obligated to assist HGP in performing  
26 the following functions:

27 A. negotiating new leases for the three (3) premises—which Klacking  
28

1                   did; and

2                   B.     providing HGP with a bill of sale for the assets called out for under  
3                   the Agreement—which Klacking did.

4                   20.    In addition, HGP was to enter into a new franchise agreement with the  
5                   Round Table Pizza franchiser.

6                   21.    Klacking is informed and believes that based upon Klacking's actions,  
7                   HGP did in fact enter into such new franchise agreement with the Round Table Pizza  
8                   franchiser.

9                   22.    The anticipated closing under the Agreement was to occur on November  
10                  14, 2012 (the "Termination Date").

11                  23.    Under the terms of the Agreement, either party had the right to terminate  
12                  the Agreement after the Termination Date without liability.

13                  24.    Upon the Termination Date, Klacking informed HGP and Defendants that  
14                  he had other purchasers wanting to purchase the assets identified in the Agreement  
15                  from him.

16                  25.    HGP agreed not to terminate the Agreement and insisted on moving  
17                  forward with the terms of the Agreement.

18                  26.    HGP insisted that it would close the transaction as soon as the additional  
19                  documentation for the leaseholds and the franchise agreement was completed.

20                  27.    In reliance upon the Defendants' representations and additional actions  
21                  Klacking continued complying with the terms of the Agreement assisting with the  
22                  transfer of assets to HGP.

23                  28.    Unfortunately, Klacking is informed and believes that notwithstanding his  
24                  full performance of the terms of the Agreement, and the Defendants' inducement not to  
25

1 sell the assets to another party, the Defendants have breached the terms of the  
2 Agreement by failing to complete the transaction and have instead pursued the  
3 franchise agreement and various leases without payment of any consideration to  
4 Klacking.

5  
6 29. The terms of the Note and Security Agreement provide that if an action is  
7 brought to enforce any of the terms of these contracts, Klacking is entitled to be  
8 awarded his reasonable attorneys' fees and costs, and Klacking has retained the firm of  
9 Robison, Belaustegui, Sharp & Low, and it is entitled to be awarded its attorneys' fees  
10 and costs incurred in enforcing said contracts.

11  
12 **FIRST CLAIM FOR RELIEF**  
**(Breach of Contract)**

13 30. Klacking hereby incorporates by reference the preceding paragraphs as if  
14 fully set forth herein.

15 31. The Agreement, Note and Security Agreement constitute valid and  
16 enforceable contracts between Klacking and Defendants.

17 32. Klacking has fully performed any and all obligations owed of him under  
18 said agreements.

19 33. Defendants have failed, neglected and refused, despite demand  
20 therefore, to make payment to Klacking as required by these contracts.

21 34. The failure and refusal of Defendants to make payment to Klacking as  
22 required under the contracts identified above constitutes material breaches and defaults  
23 under said contracts.

24 35. As of the filing of this Complaint, there is due and owing from Defendants  
25 to Klacking an amount in excess of \$375,000.

26 36. The Note and Security Agreement provide that Klacking is entitled to  
27  
28

1 recover any and all costs and expenses, including attorneys' fees, incurred by him in  
2 connection with the enforcement of the terms of these contracts.

3 37. Klacking has been required to engage the services of attorneys to collect  
4 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
5 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
6 with this action.  
7

8 **SECOND CLAIM FOR RELIEF**  
9 **(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing)**

10 38. Klacking hereby incorporates by reference the preceding paragraphs as if  
11 fully set forth herein.

12 39. In connection with the Agreement, Note and Security Agreement,  
13 Defendants have breached the implied covenant of good faith and fair dealing in that  
14 they have acted in bad faith, dealt unfairly, and deliberately contravened the intent and  
15 spirit of said contracts as specifically set forth above thereby denying Klacking of his  
16 justified expectations under these contracts.  
17

18 40. As of the filing of this Complaint, there is due and owing from Defendants  
19 to Klacking an amount in excess of \$375,000 resulting from Defendants' breach of the  
20 covenant of good faith and fair dealing.

21 41. The Note and Security Agreement provide that Klacking is entitled to  
22 recover any and all costs and expenses, including attorneys' fees, incurred by him in  
23 connection with the enforcement of the terms of these contracts.  
24

25 42. Klacking has been required to engage the services of attorneys to collect  
26 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
27 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
28 with this action.



**THIRD CLAIM FOR RELIEF**  
**(Promissory Estoppel)**

43. Klacking hereby incorporates the preceding paragraphs as if fully set forth herein.

44. At all times Defendants were apprised of the true state of the facts.

45. Defendants made representations and statements to Klacking to induce him into continuing with the sale of the assets to them before, during and after the Termination Date.

46. Defendants were fully informed that Klacking had other purchasers ready, willing and able to purchase the assets from him should HGP have terminated the right to purchase the assets under the Agreement.

47. Klacking was ignorant of the true state of Defendants' conduct in proceeding with the terms of the Agreement.

48. Klacking relied to his detriment on the conduct of Defendants.

49. As a proximate result of Defendants' conduct, Klacking has sustained damages in excess of \$375,000.

50. Klacking has been required to engage the services of attorneys to collect the sums owing to him from Defendants, therefore, Klacking is entitled to recover from Defendants all costs and fees, including attorneys' fees, incurred by him in connection with this action.

**FOURTH CLAIM FOR RELIEF**  
**(Fraud)**

51. Klacking hereby incorporates by reference the preceding paragraphs as if fully set forth herein.

52. Defendants made false and misleading statements to Klacking, by,

1 among other things: that they agreed to accept the assets in an as-is where-is  
2 condition; that they had conducted all their due diligence before entering into the  
3 Agreement; that they were ready, willing and able to pay all amounts owed to Klacking  
4 pursuant to the terms of the Agreement, Note and Security Agreement; that they did not  
5 rely upon any representations as to the condition, quality or quantity of the assets  
6 acquired under the Agreement; that they would perform all obligations owed of them  
7 under the various agreements in good faith; that they intended to proceed with  
8 consummation of the transaction before, during and after the Termination Date; and  
9 that at all times, Defendants intended to honor and abide by the terms of the  
10 Agreement, Note and Security Agreement.  
11

12 53. The foregoing representations, as well as other representations, made by  
13 Defendants to Klacking were material representations.  
14

15 54. Defendants knew these representations and promises were false and/or  
16 they had an insufficient basis of information for making the representations.

17 55. Defendants intended to induce Klacking to act and/or refrain from acting  
18 based upon these misrepresentations.

19 56. Klacking relied upon the representations and promises made by  
20 Defendants to his detriment.  
21

22 57. As a proximate result of Defendants' conduct, Klacking has sustained  
23 damages in excess of \$375,000.

24 58. When Defendants' actions complained of were performed, they acted with  
25 oppression, fraud and malice and/or with the willful, intentional and reckless disregard  
26 of Klacking's rights and interest, therefore, Klacking is entitled to punitive damages in  
27 excess of Ten Thousand Dollars (\$10,000.00) against Defendants.  
28

1           59. Klacking has been required to engage the services of attorneys to collect  
2 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
3 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
4 with this action.

5  
6                           **FIFTH CLAIM FOR RELIEF**  
7                           **(Negligent Misrepresentation)**

8           60. Klacking hereby incorporates by reference the preceding paragraphs as if  
9 fully set forth herein.

10          61. All Defendants, in the course of their negotiations, discussions and  
11 communications with Klacking, in which each had a pecuniary interest, failed to  
12 exercise reasonable care or competence in obtaining or communicating information  
13 regarding the Defendants' intention to not honor the terms of the Agreement, Note and  
14 Security Agreement and that they intended in proceeding with taking of Klacking's  
15 valuable property interests without payment therefore.

16          62. Klacking justifiably relied on the incorrect information supplied by  
17 Defendants, and each of them.

18          63. As a proximate result of Defendants' conduct, Klacking has sustained  
19 damages in excess of \$375,000.

20          64. When Defendants' actions complained of were performed, they acted with  
21 oppression, fraud and malice and/or with the willful, intentional and reckless disregard  
22 of Klacking's rights and interest, therefore, Klacking is entitled to punitive damages in  
23 excess of Ten Thousand Dollars (\$10,000.00) against Defendants.

24          65. Klacking has been required to engage the services of attorneys to collect  
25 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
26  
27  
28

1 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
2 with this action.

3  
4 **SIXTH CLAIM FOR RELIEF**  
5 **(Conspiracy)**

6 66. Klacking hereby incorporates the preceding paragraphs as if fully set forth  
7 herein.

8 67. Defendants, and each of them, engaged in concerted action with the  
9 unlawful intent to, among other things:

- 10 a. Deprive Klacking of his ownership interest in his assets;  
11 b. Deprive Klacking of his right to receive compensation from the sale  
12 of the assets to HGP;  
13 c. To exploit Klacking's cooperation and effort to assist in the transfer  
14 of all assets to HGP without payment of any compensation to  
15 Klacking; and  
16 d. To pay nothing to Klacking.

17 68. Defendants, and each of them, engaged in their concerted action with the  
18 intent to and for the purpose of harming Klacking.

19 69. As a proximate result of Defendants' conduct, Klacking has sustained  
20 damages in excess of \$375,000.

21 70. When Defendants' actions complained of were performed, they acted with  
22 oppression, fraud and malice and/or with the willful, intentional and reckless disregard  
23 of Klacking's rights and interest, therefore, Klacking is entitled to punitive damages in  
24 excess of Ten Thousand Dollars (\$10,000.00) against Defendants.

25 71. Klacking has been required to engage the services of attorneys to collect  
26 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
27 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
28

1 with this action.

2 **SEVENTH CLAIM FOR RELIEF**  
3 **(Conversion)**

4 72. Klacking hereby incorporates the preceding paragraphs as if fully set forth  
5 herein.

6 73. Klacking is the rightful legal and/or equitable interest owner of the assets  
7 identified under the Agreement.

8 74. Defendants wrongfully exerted an act of domain over Klacking's assets.

9 75. Defendants' actions were in derogation, exclusion, and defiance of  
10 Klacking's rights.

11 76. As a proximate result of Defendants' conduct, Klacking has sustained  
12 damages in excess of \$375,000.

13 77. When Defendants' actions complained of were performed, they acted with  
14 oppression, fraud and malice and/or with the willful, intentional and reckless disregard  
15 of Klacking's rights and interest, therefore, Klacking is entitled to punitive damages in  
16 excess of Ten Thousand Dollars (\$10,000.00) against Defendants.

17 78. Klacking has been required to engage the services of attorneys to collect  
18 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
19 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
20 with this action.

21 **EIGHTH CLAIM FOR RELIEF**  
22 **(Unjust Enrichment)**

23 79. Klacking hereby incorporates by reference the preceding paragraphs as if  
24 fully set forth herein.

25 80. Defendants have received a benefit of over \$375,000 and have taken  
26

1 advantage of such benefit.

2 81. Defendants have been unjustly enriched by acceptance and retention of  
3 such benefits to the detriment of Klacking so that it would be inequitable for Defendants  
4 to retain these benefits without payment of the value thereof.

5 82. As a proximate result of Defendants' conduct, Klacking has sustained  
6 damages in excess of \$375,000.

7  
8 83. Klacking has been required to engage the services of attorneys to collect  
9 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
10 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
11 with this action.

12  
13 **NINTH CLAIM FOR RELIEF**  
**(Claim and Delivery)**

14 84. Klacking hereby incorporates by reference the preceding paragraphs as if  
15 fully set forth herein.

16 85. Pursuant to the Security Agreement Klacking is a secured party in the  
17 following assets:

18 All leases; HGP's franchise agreement; all of the original assets; all tenant  
19 fixtures, equipment, signs and improvements as well as all replacement  
20 and proceeds thereof.

21 Security Agreement, ¶B.

22 86. The foregoing collateral described in the Security Agreement is  
23 hereinafter referred to as the "Collateral".

24 87. Under the terms of the Security Agreement, Klacking is entitled to  
25 possession and control of all of the Collateral, and to exercise all the rights of a secured  
26 parties, including the right to sell the Collateral at a public or private sale. Security  
27

28

1 Agreement, ¶13

2 88. Due to Defendants' defaults under the Agreement, Note and Security  
3 Agreement, Klacking is entitled to enforce his security agreement in the Collateral.

4 89. Defendants have wrongfully detained the Collateral.

5 90. Upon information and belief, the Collateral have not been taken for a tax  
6 assessment or fine pursuant to a statute, or seized under an execution or an  
7 attachment.

8 91. Pursuant to NRS 31.866, Klacking is entitled to the issuance of a writ of  
9 possession transferring possession and control of all the Collateral to Klacking.

10 92. Pursuant to NRS 31.863(2), Klacking is not required to post a bond.

11 93. As of the filing of this Complaint, there is due and owing from Defendants  
12 to Klacking an amount in excess of \$375,000 resulting from Defendants' breach of the  
13 covenant of good faith and fair dealing.

14 94. The Note and Security Agreement provide that Klacking is entitled to  
15 recover any and all costs and expenses, including attorneys' fees, incurred by him in  
16 connection with the enforcement of the terms of these contracts.

17 95. Klacking has been required to engage the services of attorneys to collect  
18 the sums owing to him from Defendants, therefore, Klacking is entitled to recover from  
19 Defendants all costs and fees, including attorneys' fees, incurred by him in connection  
20 with this action.

21 WHEREFORE, Klacking prays for judgment against Defendants, and each of  
22 them, as follows:

23 1. For damages in excess of \$375,000 as detailed herein, plus interest on  
24 all amounts due until paid in full;

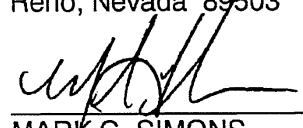
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2. For punitive damages;
3. For an order transferring possession of the Collateral to him;
4. For reasonable attorneys' fees and costs; and
5. For such other relief as the Court deems just and proper.

**AFFIRMATION:** The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 13<sup>th</sup> day of March, 2013.

ROBISON, BELAUSTEGUI, SHARP & LOW  
A Professional Corporation  
71 Washington Street  
Reno, Nevada 89503



MARK G. SIMONS  
Attorneys for Klacking

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**EXHIBIT “7”**

**EXHIBIT “7”**

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8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
9 **IN AND FOR THE COUNTY OF WASHOE**

10 TOP GUN GAMING, LLC,

CASE NO.: CV12 01777

11 Plaintiff,

DEPT. NO.: 6

12 v.

13 BALLY GAMING, INC., and DOES 1-  
14 10,

15 Defendant.  
16 \_\_\_\_\_/

17 **COMPLAINT**

18 Plaintiff, by and through its counsel, Robison, Belaustegui, Sharp & Low asserts  
19 the following claims for relief against the defendants, and each of them, and complains  
20 and alleges as follows:  
21

22 **PARTIES**

23 1. Plaintiff Top Gun Gaming, LLC ("Top Gun") is a Nevada limited liability  
24 company.

25 2. Defendant Bally Gaming, Inc. ("Bally") is a Nevada corporation.

26 3. Defendants does 1 through 10, are fictitious names; that Plaintiff is  
27 ignorant of the true names of the individuals, corporations, partnerships, or other  
28 business entities so designated by fictitious names, and when the true names are

1 discovered, Plaintiff prays leave to amend this Complaint to substitute the true names  
2 of said defendants. Plaintiff alleges that each of the defendants designated fictitiously  
3 are liable to Plaintiff for the acts of which Plaintiff herein complains.

#### 4 **BACKGROUND FACTS**

##### 5 **A. TOP GUN'S INITIAL RELATIONSHIP WITH BALLY.**

6  
7 4. Top Gun is in the business of conceptualizing, designing, crafting and  
8 partnering with or licensing its intellectual property to larger licensed gaming  
9 manufacturers and distributors to bring gaming concepts into production.

10 5. In October, 1997, Top Gun approached Bally for the purpose of licensing  
11 and developing Top Gun gaming concepts on Bally technology platforms, including  
12 concepts which might be applied to a "wide-area-progressive" system.

13  
14 6. A "wide-area-progressive" is a unique gaming application that allows  
15 multiple gaming machines at multiple gaming establishments to be linked together for  
16 the purpose of creating a chance to win a separate jackpot award(s) ("WAP"). A  
17 commonly-known WAP system is "Megabucks".

18 7. In December, 1997, Bally's entered into a Non-Disclosure Agreement with  
19 Top Gun whereby Bally agreed to protect and hold in confidence and trust gaming  
20 concepts disclosed by Top Gun to Bally ("NDA").

##### 21 **B. BETTY BOOP'S HUGE SUCCESS.**

22  
23 8. After the NDA was executed, in early 1998 Top Gun met with Bally and  
24 identified multiple proprietary gaming machine concepts and WAP concepts including  
25 but not limited to: Slotto, Rock Around the Clock and Crazy Cash.

26 9. Because Bally was going to exit a multi-year "non-compete agreement"  
27 with IGT in late 1998 Bally was interested in WAP related concepts.  
28

1           10.    On May 11, 1998, Bally and Top Gun enter into a Product Development  
2 Agreement whereby Bally agreed to pay Top Gun a royalty based upon usage of any of  
3 Top Gun's concepts that were implemented by Bally (the "PDA"). The PDA gave Bally  
4 the First Right of Refusal for any additional Top Gun concepts for a period of one year.  
5 The PDA's royalty obligations extended for thirty (30) years.  
6

7           11.    Before entering into the PDA, Top Gun had previously created the  
8 concept of using Betty Boop, Popeye and Blondie to design casino gaming machines  
9 and had initiated internal development of these concepts and had initiated  
10 communications with the company that controlled these trademarked characters, King  
11 Features, a subsidiary of the Hearst Corporation (hereinafter "King").  
12

13           12.    Bally contacted Top Gun and requested any WAP concepts that could be  
14 brought to market quickly. In response, Top Gun presented its concepts of Betty Boop  
15 and Popeye in response to this request from Bally with Betty Boop being Top Gun's  
16 proposal for the initial rollout of a new WAP product. Bally accepted Betty Boop as a  
17 WAP concept that could be brought to market quickly and therefore the first conveyed  
18 concept that Bally would develop in conjunction with Top Gun for Bally to employ on a  
19 WAP.  
20

21           13.    At all relevant times, Betty Boop continued to be trademarked by King.  
22

23           14.    Under a separate license agreement, Top Gun had previously intended to  
24 license Betty Boop from King in order to put the Betty Boop concept into production and  
25 if Bally did not accept the Betty Boop, Popeye and Blondie concepts and declined to co-  
26 develop these concepts under the terms of the PDA then Top Gun intended to pursue  
27 development of these gaming concepts with an alternative development partner.  
28

          15.    Bally initially accepted Betty Boop as a WAP and requested to proceed

1 with this gaming concept with Top Gun. In discussions with King, King informed Top  
2 Gun that given Top Gun was a small company that it preferred to enter into the license  
3 agreement directly with Bally.

4 16. Pursuant to the PDA, after the license agreement was negotiated by Top  
5 Gun with King and the terms of the licensing agreement were communicated to Bally  
6 then Bally and King subsequently enter into the license agreement for Bally to use the  
7 Betty Boop trademark.  
8

9 17. The PDA contemplated that Bally would be responsible for maintaining  
10 the licensing agreement during the times that its gaming devices were using such  
11 trademark—which would result in a royalty payment due to Top Gun.

12 18. After extensive development and production activities performed by Top  
13 Gun in conjunction with Bally, the Betty Boop's Big Hit WAP gaming concept was put  
14 into production and immediately became a huge success.  
15

16 19. Bally initially attempted to repudiate its royalty agreement with Top Gun,  
17 however, Bally subsequently acknowledged that it owed Top Gun royalties for the Betty  
18 Boop gaming machines and commenced royalty payments to Top Gun.

19 **C. ROCK AROUND THE CLOCK AND SOTTO CONCEPTS**  
20 **REACQUIRED BY TOP GUN UNDER THE PDA.**

21 20. In addition to the Betty Boop concept, Bally initially took steps to develop  
22 and produce Top Gun's Rock Around the Clock ("Rock") and the SOTTO concepts.

23 21. However, Bally elected not to produce Rock and SOTTO.

24 22. Under the PDA, if Bally did not release Rock or SOTTO, Top Gun had no  
25 obligation to repay any of the monthly advances Bally had paid to Top Gun.  
26

27 23. Although not originally required of Top Gun, Bally insisted that the only  
28 way it would allow Top Gun to pursue its own development of Rock or SOTTO is if Top

1 Gun repaid Bally the monthly advances it had received under the PDA in order for Top  
2 Gun to reacquire these concepts from Bally.

3 24. Due to Bally's superior economic position and Bally's exploitation of its  
4 royalty payment obligations to Top Gun, Top Gun was forced to pay Bally \$617,000 to  
5 reacquire Rock and Slotto.

6 25. The payment to Bally for the reacquisition of Rock and Slotto was paid by  
7 Top Gun via Bally's retention of royalties payable to Top Gun from the Betty Boop Big  
8 Hit gaming concept.

9 26. Bally's conduct violated the PDA.

10 **D. BETTY BOOP LOVE METER GAME.**

11 27. In May, 1999, Top Gun proposed another Betty Boop concept called the  
12 Betty Boop Love Meter for Bally.

13 28. Due to the overwhelming success of Betty Boop's Big Hit, Bally was eager  
14 to develop and put into production the Betty Boop Love Meter concept.

15 29. Top Gun performed the majority of mechanical design work necessary to  
16 get the Betty Boop Love Meter game concept through the development stages and into  
17 production with Top Gun incurring certain expenses that Bally had agreed to incur in  
18 order to ensure the timely completion of the Betty Boop Love Meter concept.

19 30. However, Bally, knowing Top Gun's financial situation and knowing that  
20 Top Gun did not have the financial capability to enter into a costly litigation battle,  
21 forced Top Gun to accept a severely reduced royalty payment on the Betty Boop Love  
22 Meter game than what was originally required under the PDA.

1           31. Having no economic ability to reject Bally's demand, Top Gun was forced  
2 to accept a modification of its royalty payments that solely benefitted Bally for the Betty  
3 Boop Love Meter gaming machine.

4           32. No additional consideration was provided by Bally for its forced  
5 renegotiation of the PDA regarding Betty Boop Love Meter and no additional  
6 consideration was provided by Top Gun for such amendment.  
7

8           33. Instead, Bally forced a unilateral modification of the PDA allowing it to pay  
9 a reduced royalty by exploiting Top Gun's economic vulnerability.

10          34. Bally's conduct violated the NDA and the PDA.

11           **E. BLONDIE AND POPEYE GAMES.**

12          35. Consistent with Bally's use of its superior financial position to harm Top  
13 Gun in connection with the Betty Boop concepts, Bally also exploited Top Gun's Blondie  
14 and Popeye gaming concepts and put these gaming concepts into production.  
15

16          36. Despite being covered by the parties' NDA and PDA, Bally refused to  
17 acknowledge that Top Gun was entitled to royalty payments for these two gaming  
18 concepts.

19          37. Again, Bally, knowing Top Gun did not have the financial ability to enter  
20 into a costly litigation battle essentially stole the Blondie and Popeye concepts and  
21 received all benefits without payment of the required royalties to Top Gun. Top Gun is  
22 informed and believes that Bally integrated the Blondie and Popeye games into the  
23 Betty Boop's Big Hit WAP but never paid Top Gun a royalty. In this fashion, Bally  
24 exploited Top Gun's Blondie and Popeye concepts, then put these games on the Betty  
25 Boop WAP thereby increasing Bally's financial success and avoided paying any  
26 royalties due to Top Gun.  
27  
28

1 38. Bally's conduct violated the NDA and the PDA.

2 **F. BETTY BOOP VIDEO APPLICATION.**

3 39. Bally originally agreed to release a video graphic version of the Betty  
4 Boop Gaming concept following the introduction of the traditional reel Betty Boop  
5 gaming concept and Top Gun for years recommended that Bally develop a video  
6 graphic version of the Betty Boop gaming concept.  
7

8 40. Bally finally agreed to the use of video graphics but, in contravention of  
9 the PDA, required that Top Gun bear a portion of the burden of the development  
10 expenses and responsibilities for the video graphic version of the Betty Boop gaming  
11 concept.  
12

13 41. In an effort to continue generating revenue, and because Bally had  
14 refused to pay Top Gun the royalties it was entitled to receive on Betty Boop Love  
15 Meter, Blondie and Popeye, Top Gun was forced to manage the development of the  
16 Betty Boop graphics and to pay half of the expenses for development of the Betty Boop  
17 video graphic's for the purpose of expanding Top Gun's royalty interests under its  
18 agreement with Bally.  
19

20 42. In short, Top Gun had to agree to pay for a portion of the Betty Boop  
21 video graphics to protect and ensure the longevity of its royalty income.  
22

23 43. Bally's conduct violated the NDA and the PDA.

24 **G. BETTY BOOP'S SUCCESS SAVES BALLY.**

25 44. Due to the overwhelming success of the Betty Boop's Big Hit and Betty  
26 Boop Love Meter gaming applications, Bally's then President stated to Top Gun that  
27 "Betty Boop" saved Bally from financial ruin.  
28

45. Due to Betty Boop's success, Bally's stock increased exponentially and



1 Bally was able to launch itself into new business endeavors making it a more successful  
2 company.

3 46. Unfortunately, as happens all too often, Bally was selfish in its success  
4 and was resentful of Top Gun's participation in the Betty Boop boom and that Top Gun  
5 was deriving revenue from Betty Boop.

6 47. Affirming Bally's resentment of Top Gun, Bally repeatedly introduced Top  
7 Gun's executives as "the guys who made too much money off of Betty Boop."

8 48. Demonstrating Bally's internal view that it was resentful of royalty  
9 payments to Top Gun, and that Bally's wanted to avoid payments of any royalties to  
10 Top Gun, in the later part of 2002, Bally inquired whether Top Gun would be interested  
11 in selling-out to Bally.

12 49. Bally's resentment of royalty payments to Top Gun manifested in: (i) its  
13 renegotiation of a reduced royalty payment for Betty Boop Love Meter; (ii) its refusal to  
14 pay royalties on Blondie; (iii) its refusal to pay royalties on Popeye; (iv) its placement of  
15 Blondie and Popeye on the Betty Boop's Big Hit WAP system (with Top Gun being  
16 informed and believing that in many cases by replacing Betty Boop machines); (v) its  
17 forcing Top Gun to bear partial expenses for the development of the Betty Boop Love  
18 Meter concept; (vi) its forcing Top Gun to share in the expense of Betty Boop WAP and  
19 local area progressive signage in the Canadian casino market; (vii) its forcing Top Gun  
20 to bear half the costs of developing video graphics for Betty Boop; and (viii) Bally's  
21 proposed purchase of Top Gun's Agreement to terminate its royalty payment  
22 obligations.

23 50. During the course of Bally's relationship with Top Gun, Bally was fully  
24 aware of Top Gun's financial condition and Top Gun's reliance upon the royalty  
25

1 payments required under the PDA for Top Gun to remain an operating and viable  
2 business entity.

3 51. Bally would repeatedly fail to timely pay Top Gun knowing that Top Gun  
4 was reliant upon the royalty payments it was entitled to receive under the PDA in order  
5 to remain a viable and operating business.  
6

7 52. By delaying royalty payments to Top Gun, Bally intentionally placed Top  
8 Gun in a position of economic vulnerability in order for Bally to exploit Top Gun's  
9 vulnerability by renegotiating various aspects of the PDA each time reducing its royalty  
10 payment obligation for the sole purpose of benefitting Bally at Top Gun's expense.

11 **H. BALLY'S PURPORTED "CLEANING-UP" OF THE BETTY BOOP**  
12 **ROYALTY PAYMENTS.**

13 53. In 2002, Bally's resentment of Top Gun's royalty again manifested itself in  
14 Bally forcing Top Gun to agree to absorb 50% of the trademark license fee being paid  
15 by Bally to King.  
16

17 54. In late 2002, Bally informed Top Gun that Bally wanted to prepare a  
18 revised agreement to "clean up" the various amendments to the original PDA and to  
19 outline the changes to royalty payments owed to Top Gun for the Betty Boop Love  
20 Meter concept and to shift 50% of the trademark license fee from Bally to Top Gun.

21 55. There were no discussions between Top Gun and Bally concerning any  
22 modification to the rights or responsibilities of the parties under the original PDA only  
23 that Bally wanted to "clean up" the PDA and its five (5) Amendments and to address the  
24 royalties that were to be paid on the Betty Boop Love Meter game.  
25

26 56. There were no discussions between the parties concerning: (1) any  
27 alteration to the termination or rights under the original PDA; (2) Bally's obligations to  
28 pay royalties under any Top Gun concepts other than Betty Boop; (3) a modification to

1 the original royalty schedule for all non-Betty Boop royalty payments; or (4) a release of  
2 any royalty obligations for any non-Betty Boop concepts.

3 57. Instead, Bally stated that rather than a 6<sup>th</sup> Amendment to the PDA, it  
4 wanted a separate agreement to confirm Bally's demand that Top Gun agree to pay for  
5 50% of the trademark license with King.

6  
7 58. This renegotiation by Bally to force Top Gun to bear 50% of the cost for  
8 the Betty Boop trademark license was contrary to the PDA.

9 59. On or about January 3, 2003, in reliance upon Bally's representations that  
10 it would retain its royalty rights on Betty Boop as long as Betty Boop was a gaming  
11 concept used by Bally and that no changes to its non-Betty Boop royalty interests were  
12 effected, Top Gun entered into the License Agreement that purports to address the  
13 royalty payments only for the Betty Boop concept (the "License Agreement").  
14

15 **I. BALLY'S PURPORTED TERMINATION OF THE BETTY BOOP**  
16 **ROYALTY PAYMENTS.**

17 60. Under the PDA and License Agreement Bally was obligated to ensure that  
18 all trademark licensing was obtained and maintained with King so that the royalties  
19 owed to Top Gun would be protected and paid.

20 61. On our about November, 2007, Bally notified Top Gun that it was allowing  
21 the trademark licensing to expire on December 31, 2007, and by doing so, the royalty  
22 payment to Top Gun would also be discontinued. Top Gun immediately approached  
23 Bally upon receipt of this letter stating that Top Gun had new uses of the Betty Boop  
24 trademark that would extend its success in the gaming industry, however, Bally declined  
25 to discuss any extended use of Top Gun's Betty Boop concept.  
26

27 62. Bally subsequently removed its Betty Boop gaming devices from operation  
28 under the pretext that such conduct would cancel Top Gun's royalty payments.

1           **J.     TOP GUN'S ATTEMPT TO PROTECT THE USE OF THE BETTY BOOP**  
2           **TRADEMARK IN THE GAMING INDUSTRY.**

3           63.     Bally provided Top Gun with no explanation regarding the termination of  
4 Bally's use of Betty Boop nor did it disclose to Top Gun the reasoning and decision  
5 underlying Bally's refusal to pay for the ongoing trademark licensing.

6           64.     Bally did not solicit Top Gun's input or consent to allow the Betty Boop  
7 trademark right to terminate with King even though Bally was charging Top Gun for  
8 50% of the cost of the trademark license under the Licensing Agreement between Top  
9 Gun and Bally.

10          65.     Knowing the value of the Betty Boop trademark and that there were  
11 additional gaming concepts that had yet to be exploited that built upon and enhanced  
12 the Betty Boop gaming brand, Top Gun undertook to license the trademark to keep any  
13 competitor from exploiting such brand.

14          66.     Unfortunately, due to Bally's history of financial duress placed upon Top  
15 Gun, Top Gun was unable to make the necessary payments to keep the King  
16 trademark licensing agreement in force.

17          67.     Subsequently, by mutual agreement, due to Top Gun's financial inability  
18 to pay for the Betty Boop trademark license, King and Top Gun mutually agreed to  
19 terminate Top Gun's separate trademark license agreement.

20           **K.     BALLY'S REINSTALLATION OF BETTY BOOP GAMING DEVICES.**

21          68.     Top Gun is informed and believes that in 2010, with full knowledge of the  
22 valuable Betty Boop brand and with full knowledge of Bally's royalty obligation owed to  
23 Top Gun, Bally re-obtained the trademark rights from King for Betty Boop and again  
24 released new gaming devices bearing the Betty Boop gaming concept and trademark  
25 brand.  
26  
27  
28

1           69. Top Gun is informed and believes that in 2011, Bally also re-released a  
2 new Betty Boop's Love Meter WAP game without disclosing its actions to Top Gun and  
3 without payment to Top Gun of any royalties associated with such game. Top Gun is  
4 also informed that Bally has released other Betty Boop games abroad and that Bally will  
5 be releasing these games in the United States in the coming years and expanding  
6 again on the Betty Boop brand.  
7

8           70. Top Gun is also informed and believes that Bally released a new Fortune  
9 Teller Betty Boop game without disclosing its actions to Top Gun and without payment  
10 to Top Gun of any royalties associated with such game.  
11

12           71. The Betty Boop's Love Meter and Fortune Teller Betty Boop games were  
13 based on Top Gun gaming concepts and are subject to royalty payments from Bally to  
14 Top Gun either under the NDA, the PDA or under the License Agreement.  
15

16           **L. BALLY'S RELEASE OF SLOTTO.**

17           72. As discussed above, although Slotto was an original gaming concept Top  
18 Gun brought to Bally, Bally elected not to release this gaming concept and instead Top  
19 Gun re-acquired Slotto as discussed above.  
20

21           73. However, Top Gun is informed and believes that sometime in 2009 or  
22 2010, Bally released a Slotto game without disclosing its actions to Top Gun.  
23

24           74. Slotto is a gaming concept that was subject to both the NDA and the PDA  
25 and for which there was a royalty obligation imposed upon Bally if it was implemented.  
26

27           75. Bally's use of Top Gun's Slotto gaming concept not only violates the NDA,  
28 and the PDA, it also violates Top Gun's confidential and proprietary ownership rights in  
the Slotto gaming concept for which Bally demanded Top Gun pay \$308,500.

**FIRST CLAIM FOR RELIEF**  
**(Breach of Contract-NDA, PDA, License Agreement)**

76. Top Gun hereby incorporates the preceding paragraphs as if fully set forth herein.

77. Top Gun and Bally are parties to the various agreements described herein including the NDA, the PDA and the License Agreement.

78. Top Gun has performed all obligations required of it by the terms and conditions of these agreements.

79. Bally has breached the terms of the NDA, the PDA and the License Agreement by, among other things: breaching the agreements by failing to pay Top Gun the amounts due and owing to it; by exploiting its superior financial position to unilaterally imposing terms and conditions upon Top Gun to Top Gun's detriment and Bally's benefit without any consideration to Top Gun; and by exploiting Top Gun's gaming concepts without payment therefore.

80. As a consequence of Bally's conduct, Top Gun has sustained damages in excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys' fees and costs incurred in this action.

**SECOND CLAIM FOR RELIEF**  
**(Contractual Breach of the Implied Covenant of Good Faith and Fair Dealing-  
NDA, PDA, License Agreement)**

81. Top Gun hereby incorporates the preceding paragraphs as if fully set forth herein.

82. Nevada law recognizes that implied in every contract is a covenant of good faith and fair dealing.

83. Top Gun and Bally are parties to the NDA, PDA and License Agreement.

84. The intent, spirit and purpose of the parties entering into the various

1 contracts was to ensure that Top Gun receive a royalty payment and financial benefit  
2 from the development and use of its gaming concepts for any gaming concept  
3 disclosed to and used by Bally.

4 85. Bally's failure to abide by the spirit and intent of the NDA, the PDA and the  
5 License Agreement deprives Top Gun of the benefits and expectations of such  
6 contracts and constitutes a breach of the implied covenant of good faith and fair dealing  
7 contained in said contracts.  
8

9 86. As a consequence of Bally's conduct, Top Gun has sustained damages in  
10 excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys'  
11 fees and costs incurred in this action.  
12

13 **THIRD CLAIM FOR RELIEF**  
14 **(Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing—NDA,  
PDA, License Agreement)**

15 87. Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
16 herein.

17 88. Nevada law recognizes that implied in every contract is a covenant of  
18 good faith and fair dealing.

19 89. Top Gun and Bally are parties to the NDA, PDA and License Agreement.

20 90. Due to its position of financial superiority and economic control, Bally  
21 owed Top Gun a fiduciary duty and/or was in a special relationship with Top Gun.  
22

23 91. The intent, spirit and purpose of the parties entering into the various  
24 contracts was to ensure that Top Gun receive a royalty payment and financial benefit  
25 from the development and use of its gaming concepts for any gaming concept  
26 disclosed to and used by Bally.  
27  
28

1           92.   Bally's failure to abide by the spirit and intent of the NDA, the PDA and the  
2 License Agreement deprives Top Gun of the benefits of such contracts and constitutes  
3 a breach of the implied covenant of good faith and fair dealing contained in said  
4 contracts.

5           93.   As a consequence of Bally's conduct, Top Gun has sustained damages in  
6 excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys'  
7 fees and costs incurred in this action.

8           94.   When Bally's actions complained of were performed, it acted with  
9 oppression, fraud and malice and Top Gun is entitled to punitive damages in an amount  
10 in excess of Ten Thousand Dollars (\$10,000.00) to be established at trial.

11  
12                           **FOURTH CLAIM FOR RELIEF**  
13                           **(Unjust Enrichment)**

14           95.   Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
15 herein.

16           96.   Top Gun conferred a benefit on Bally.

17           97.   Bally took advantage of such benefit.

18           98.   It is unjust and inequitable for Bally to accept and retain such benefit  
19 without payment of the value thereof.

20           99.   As a consequence of Bally's conduct, Top Gun has sustained damages in  
21 excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys'  
22 fees and costs incurred in this action.

23  
24                           **FIFTH CLAIM FOR RELIEF**  
25                           **(Breach of Fiduciary Duty)**

26           100.   Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
27 herein.



1 101. Bally owed a fiduciary duty to Top Gun to act with complete candor and  
2 with full and frank disclosure of all relevant and material facts.

3 102. Bally breached its duties to Top Gun.

4 103. Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
5 herein.

6  
7 104. As a consequence of Bally's conduct, Top Gun has sustained damages in  
8 excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys'  
9 fees and costs incurred in this action.

10 105. When Bally's actions complained of were performed, it acted with  
11 oppression, fraud and malice and Top Gun is entitled to punitive damages in an amount  
12 in excess of Ten Thousand Dollars (\$10,000.00) to be established at trial.

13  
14 **SIXTH CLAIM FOR RELIEF**  
**(Constructive Fraud)**

15 106. Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
16 herein.

17 107. Top Gun and Bally did maintain a confidential and/or fiduciary relationship  
18 with respect to the transactions involving Top Gun's gaming concepts and the  
19 development and release of such gaming concepts for profit.

20 108. Equity and good conscience required Bally to act in good faith and due  
21 regard to Top Gun's interests.

22 109. However, Bally's acted with the intent to deprive Top Gun of its interest in  
23 receiving royalties.

24 110. As a consequence of Bally's conduct, Top Gun has sustained damages in  
25 excess of \$1,000,000 and is entitled to recover its reasonable and necessary attorneys'  
26 fees and costs incurred in this action.  
27  
28

1           111. When Bally's actions complained of were performed, it acted with  
2 oppression, fraud and malice and Top Gun is entitled to punitive damages in an amount  
3 in excess of Ten Thousand Dollars (\$10,000.00) to be established at trial.

4                           **SEVENTH CLAIM FOR RELIEF**  
5                           **(Constructive Trust)**

6           112. Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
7 herein.

8           113. Top Gun is informed and believes that Bally has obtained a financial  
9 benefit from the release of Blondie, Popeye and Slotto and the re-release of the Betty  
10 Boop gaming concepts.

11           114. Top Gun has been deprived of all financial benefits from the release of  
12 Blondie, Popeye and Slotto gaming concepts and the re-release of the Betty Boop  
13 gaming concepts.

14           115. At all times Bally has been fully aware that these gaming concepts are  
15 subject to Top Gun's legal and equitable rights and interests.

16           116. By reason of the foregoing, this Court should impose a constructive trust  
17 upon all revenue generated by Bally's use of the Blondie, Popeye and Slotto gaming  
18 concepts and the re-release of the Betty Boop gaming concepts for which Top Gun has  
19 been deprived from receiving its royalties.

20                           **EIGHTH CLAIM FOR RELIEF**  
21                           **(Accounting)**

22           117. Top Gun hereby incorporates the preceding paragraphs as if fully set forth  
23 herein.

24           118. Top Gun is informed and believes that Bally has obtained a financial  
25 benefit from the release of Blondie, Popeye and Slotto and the re-release of the Betty  
26 Boop gaming concepts.

1 Boop gaming concepts.

2 119. Top Gun has been deprived of all financial benefits from the release of  
3 Blondie, Popeye and Slotto and the re-release of the Betty Boop gaming concepts.

4 120. At all times Bally has been fully aware that these gaming concepts are  
5 subject to Top Gun's legal and equitable rights and interests.

6 121. By reason of the foregoing, Top Gun is entitled to an accounting of all  
7 revenue generated by Bally's use of the Blondie, Popeye and Slotto gaming concepts  
8 and the re-release of the Betty Boop gaming concepts for which Top Gun has been  
9 deprived from receiving its royalties.

10 122. By reason of the foregoing, Top Gun is entitled to an accounting of an  
11 adjustment to the PDA and/or License Agreement to adjust the royalty payable to Top  
12 Gun to be calculated on a .25% of coin-in basis, which accounting adjustment is  
13 required to be performed by Bally.

14 WHEREFORE, Top Gun prays for relief against Bally as follows:

- 15
- 16 1. For damages in excess of \$10,000 including interest thereon;
  - 17 2. For punitive damages according to proof at trial;
  - 18 3. For imposition of a constructive trust on the Bally's assets as requested;
  - 19 4. For an accounting; and
  - 20 5. For such other relief as this Court deems just and proper.

21 ///

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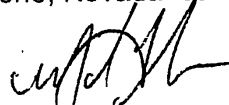
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**AFFIRMATION:** The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 6<sup>th</sup> day of July, 2012.

ROBISON, BELAUSTEGUI, SHARP & LOW  
A Professional Corporation  
71 Washington Street  
Reno, Nevada 89503



MARK G. SIMONS  
Attorneys for Plaintiff

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**EXHIBIT “8”**

**EXHIBIT “8”**

1 **\$1425**  
2 Mark G. Simons, Esq.  
3 Nevada Bar No. 5132  
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10 *Attorneys for Plaintiff*  
11 *Barone Imports and Wholesale, LLC*

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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

BARONE IMPORTS AND WHOLESALE,  
LLC, a Nevada limited liability company  
dba Barone Distribution,

Plaintiff,

vs.

DAVID SMITH, an individual; LEROY  
ADAY, an individual; NAPA SONOMA  
TRADING COMPANY, a Nevada  
Corporation; and DOES I-X,

Defendants.

**FILED**  
2014 JAN 13 PM 4:21  
JOEY GRONIA HASTINGS  
CLERK OF THE COURT  
BY V. Vitoria  
DEPUTY

**CASE NO. CV14 00090**  
**DEPT. NO. 10**

**VERIFIED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Plaintiff, Barone Imports and Wholesale, LLC by and through its attorney Mark  
G. Simons of Robison, Belaustegui, Sharp & Low, complains and alleges as follows:

1. Barone Imports and Wholesale, LLC, is a Nevada limited liability company, with its principal place of business in Reno, Nevada ("Barone").
2. Defendant David "Smitty" Smith ("Smith") is and was at all relevant times a resident of Washoe County, Nevada, and worked for Barone until Smith terminated his employment with Barone on or about January 3, 2014.
3. Defendant LeRoy Aday ("Aday"), upon information and belief, is and was at all relevant times a resident of Washoe County, Nevada.

1           4. Defendant Napa Sonoma Trading Company ("Napa Sonoma") is a  
2 Nevada corporation doing business in Washoe County, Nevada and is owned and  
3 operated by Aday.

4           5. Except as otherwise expressly alleged herein, Barone is informed and  
5 believes and thereupon alleges that each Defendant was at all relevant times the agent,  
6 servant and/or employee of each of the other remaining Defendants identified in this  
7 Complaint, and in doing the acts herein alleged acted within the scope of such agency  
8 and/or employment, and confirmed and ratified each and every act, or omission, of  
9 each of the remaining Defendants.

10           6. The true names of DOES I-X are unknown to Barone, but Barone is  
11 informed and believes that said Defendants are liable to Barone as alleged herein, and  
12 Barone prays for leave to amend its Complaint to state the true names and capacities  
13 of such parties when ascertained.

#### 14                                   **GENERAL ALLEGATIONS**

##### 15           **A. BACKGROUND OF BARONE.**

16           7. Barone is a distribution company specializing in the distribution of craft  
17 beer, cider, wines, spirits, as well as non-alcoholic beverages. Barone is in the  
18 business of obtaining product from its suppliers and distributing the product to its  
19 customers.

20           8. Barone's customers are generally either: (1) restaurants, taverns and bars  
21 who sell the product directly to the end user to consume the product "on-premises"; or  
22 (2) to grocery stores and convenience stores who sell the product to the end user to be  
23 consumed "off-premises."

##### 24           **B. SMITH'S EMPLOYMENT AND BARONE'S VALUABLE INFORMATION.**

25           9. Defendant Smith was an employee of Barone.

26           10. Smith's duties included but were not limited to: direct contact with  
27 Barone's suppliers (*i.e.*, vendors), Barone's customers and Barone's employees for the  
28 purpose of: maintaining good-will with Barone's customers, negotiating and placing  
customer orders; communicating with Barone employees to ensure customer order

1 fulfillment; maintaining good-will with Barone's suppliers, and negotiating and placing  
2 orders to suppliers. In addition, during his employment with Barone, Smith necessarily  
3 became intimately familiar with Barone's supplier and customer base, pricing  
4 information, pricing terms, volume information, timing of sales and delivery needs,  
5 seasonality of needs, contact persons, creditworthiness, and other confidential  
6 information regarding Barone's suppliers and customers. The foregoing information  
7 regarding Barone's suppliers, customers and employees is hereinafter referred to as  
8 the "Valuable Information".

9 11. On August 30, 2013, Smith executed his agreement to be bound by the  
10 terms of Barone's Employee Handbook ("Employee Handbook"). *A copy of Smith's*  
11 *agreement is attached hereto as Exhibit 1.*

12 12. Smith's Employee Handbook placed numerous restrictions upon Smith's  
13 use of Barone's Valuable Information including but not limited to:

- 14 A. **Diversion of Customers.** During Smith's employment with Barone  
15 Smith will not "influence or attempt to influence the employer's  
16 customers, either directly or indirectly, to divert their business to  
17 other companies."
- 18 B. **Prohibition on Competitive Employment.** Smith agrees not to  
19 "undertake employment competitive with [Barone] if the competitive  
20 employment would inherently demand that the employee reveal  
21 trade secrets which he/she has had access to while employed at  
22 [Barone]."
- 23 C. **Prohibition on Competitive Business Activities.** During Smith's  
24 employment with Barone he will not "undertake the planning or  
25 organizing of any business activity competitive with the work" he  
26 performs for Barone.
- 27 D. **1 Year Non-Compete Provision.** Smith agrees that "for one year  
28 following the termination of [your] employment with [Barone] [he]  
will not enter into business or work with any person who has been  
employed by [Barone] during the last six months . . . ."
- E. **1 Year Non-Solicitation of Barone Employees.** Smith agrees  
that "[he] will not, for one year following the termination of [his]  
employment with [Barone], either directly or indirectly, solicit any of  
[Barone] employees . . . to work for a competitive company."



1 F. **Confidential Trade Secret Information.** Smith agrees that  
2 Barone's confidential trade secret information includes but is not  
3 limited to: "all customer and employee lists . . . records and other  
4 documents used, prepared or made available to the employee . . .  
5 ."

6 *A true and correct copy of page 6 of the Employee Handbook is attached hereto and  
7 incorporated herein as **Exhibit 2**.*

8 13. As discussed in further detail herein, Smith has violated each and every  
9 one of the foregoing provisions contained in the Employee Handbook causing  
10 immediate and irreparable harm to Barone.

11 **C. ADAY'S AND NAPA'S SOLICITATION OF BARONE.**

12 14. In March 2013, Aday approached Barone seeking to purchase Barone.

13 15. After initial discussions with Aday, Barone elected not to enter into  
14 negotiations to sell Barone.

15 **D. ADAY'S AND NAPA'S SCHEME TO HARM BARONE.**

16 16. Barone has discovered that Aday and Napa then commenced a plan and  
17 scheme to solicit Barone employees to commence working for Napa, to bring Barone's  
18 Valuable Information to Napa and to take all of Barone's suppliers and customers (the  
19 "Aday Scheme").

20 **1. THEFT OF BARONE SUPPLIER—Montoliva Vineyard & Winery.**

21 17. Barone has discovered that commencing in and/or around August, 2013,  
22 (if not earlier) Smith began working in active concert with Aday and Napa to steal  
23 Barone suppliers and customers.

24 18. Pursuant to the Aday Scheme, commencing in August, 2013, (if not  
25 earlier) Smith was in ongoing communication with Montoliva Vineyard & Winery  
26 ("Montoliva") to carry Montoliva's wine product—not with Barone—but with Napa.  
27  
28

1           19. At the time Smith was in discussion with Montoliva, Smith was an  
2 employee of Barone and was subject to the express restrictions of his Employment  
3 Agreement which precluded Smith from "diverting" business away from Barone and  
4 from engaging in any activity that "competed" with Barone.

5           20. Smith's communications with Montoliva clearly identify that Smith was in  
6 negotiations with Montoliva to act as a distributor of Montoliva's product and that Smith  
7 intended to do so with a "new" company, i.e., Napa—not Barone. *See Smith's email*  
8 *communications with Montoliva attached hereto as Exhibit 3.*

9  
10           21. Smith's email communications with Montoliva establishes that as of  
11 September, 2013, Smith was in the process of establishing a new "warehouse" facility  
12 to handle the distribution of Montoliva's product. *Id.*

13  
14           22. On information and belief, as of August, 2013, if not before, Smith was  
15 engaged in wrongful activity as an active conspirator with Aday and Napa in the Aday  
16 Scheme to steal Barone suppliers.

17           **2. THEFT OF BARONE SUPPLIER—Lido Bay, Inc.**

18           23. Commencing in and/or around September, 2013, Smith solicited Lido Bay,  
19 Inc. ("Lido Bay")—another of Barone's suppliers—to terminate its business relationship  
20 with Barone and to commence using Aday and Napa as Lido Bay's new distributor of  
21 product.

22  
23           24. Pursuant to Smith's solicitation, Lido Bay terminated Barone as a  
24 distributor of Lido Bay's product as of October 1, 2013. *A copy of Lido Bay's*  
25 *termination letter is attached hereto as Exhibit 4.*

26           25. At the time Smith was in discussion with Lido Bay, Smith was an  
27 employee of Barone and was subject to the express restrictions of his Employment  
28

1 Agreement which precluded him from "diverting" business away from Barone and from  
2 engaging in any activity that "competed" with Barone.

3 26. On Friday, January 3, 2014, Smith sent an email to an existing Barone  
4 customer stating that Smith "will be the distributor for Lido Bay, along with many other  
5 cool brands" so that Barone's customer should purchase product from Smith and Napa  
6 instead of Barone. See Smith's email dated January 3, 2014 attached hereto as  
7

8 ***Exhibit 5.***

9 **3. THEFT OF BARONE SUPPLIER—Halby Marketing.**

10 27. Commencing in and/or around November-December, 2013, (if not before)  
11 Aday and Napa commenced repeated solicitation of Halby Marketing ("Halby")—another  
12 of Barone's suppliers—to terminate its business relationship with Barone and to  
13 commence using Aday and Napa as Halby Marketing's new distributor of product.  
14

15 28. Halby indicated that Aday and Napa represented they were associated  
16 with Smith and wanted Halby's business.

17 29. Halby has notified Barone of Aday's and Napa's repeated solicitation and  
18 has described Aday's and Napa's solicitation as "badgering".  
19

20 30. At all times Smith was contacting with Halby, Smith was an employee of  
21 Barone and was subject to the express restrictions of his Employment Agreement which  
22 precluded him from "diverting" business away from Barone and from engaging in any  
23 activity that "competed" with Barone.

24 **4. THEFT OF BARONE CUSTOMER—Boomtown Hotel and Casino.**

25 31. On December 26, 2013, Barone received a voicemail message from  
26 Boomtown Hotel and Casino ("Boomtown") stating that Boomtown was placing an order  
27 with Smith for a Boomtown purchase. A transcript of the Boomtown's voicemail  
28

1 message is attached hereto as **Exhibit 6**.

2 32. Boomtown advised that it could process the order with Smith's "new"  
3 business or could use an old Barone purchase order form to process the order for  
4 Smith's "new" business.

5 33. Based upon information and belief, Smith's "new" business Napa and is a  
6 business that is in direct competition with Barone and is being conducted in active  
7 concert with Aday and Napa.

8 34. At the time Smith was in discussion with Boomtown, Smith was an  
9 employee of Barone and was subject to the express restrictions of his Employment  
10 Agreement which precluded him from "diverting" business away from Barone and from  
11 engaging in any activity that "competed" with Barone.

12  
13  
14 **5. SOLICITATION OF BARONE EMPLOYEE-Cindy Collins.**

15 35. Smith, Aday and Napa have actively attempted to solicit Barone's  
16 bookkeeper Cindy Collins to terminate her employment with Barone and to commence  
17 working for Aday and Napa.

18 36. Attached hereto as **Exhibit 7** is Ms. Collin's December 13, 2013, text to  
19 Smith's cell phone asking Smith if she should be worried about not receiving a recent  
20 communication from Aday.

21 37. At the time Smith was in discussion with Ms. Collins about terminating her  
22 employment with Barone and working for Aday and Napa, Smith was an employee of  
23 Barone and was subject to the express restrictions of his Employment Agreement which  
24 precluded him from engaging in any activity that "competed" with Barone.

25  
26 **6. SOLICITATION OF BARONE EMPLOYEE-Mike Pyne.**

27 38. Smith, Aday and Napa have actively attempted to solicit Barone's  
28

1 employee Mike Pyne to terminate his employment with Barone and to commence  
2 working for Aday and Napa.

3 39. Smith sent a text to Mr. Pyne advising Pyne of Smith's new telephone  
4 number to contact him as the old number used by Smith is the property of Barone.

5 40. At all times Smith has been in contact with Mr. Pyne Smith was an  
6 employee of Barone and was subject to the express restrictions of his Employment  
7 Agreement which precluded him from engaging in any activity that "competed" with  
8 Barone. Subsequent to the termination of his employment on January 3, 2014, Smith is  
9 precluded by the terms of his Employee Handbook from soliciting any Barone  
10 employee.  
11

12 **7. SOLICITATION OF BARONE EMPLOYEE--Roger Davis.**

13 41. In or about October-November, 2013, Smith, Aday and Napa attempted to  
14 solicit Barone's employee Roger Davis to terminate his employment with Barone and to  
15 commence working for Aday and Napa.  
16

17 42. At all times Smith has been in contact with Mr. Davis, Smith was an  
18 employee of Barone and was subject to the express restrictions of his Employment  
19 Agreement which precluded him from engaging in any activity that "competed" with  
20 Barone. Subsequent to the termination of his employment on January 3, 2014, Smith is  
21 precluded by the terms of his Employee Handbook from soliciting any Barone  
22 employee.  
23

24 **8. SOLICITATION OF BARONE CUSTOMER--Casino Fandango.**

25 43. On January 3, 2014, Smith responded to email received by Barone on  
26 July 27, 2013, from Casino Fandango asking Barone about the pricing for Lido Bay  
27 wines. See Exhibit 5.  
28

1           44.     Smith's January 3, 2014 email states, in part, as follows:

2                             BTW-I just quit Barone, I'm involved with a new distributor. I've  
3                             been dealing with this for a while. . . . I will be the distributor  
4                             for Lido Bay, along with other cool brands. . . . Please use my  
                              personal email for short term. dsmith722@aol.com.

5     See Exh. 5 (emphasis added).

6           45.     Smith is precluded from communicating with and attempting to steal  
7     Barone's customers pursuant to the express restrictions of his Employment Agreement  
8     which precluded him from engaging in any activity "competing" with Barone, from using  
9     customer contact information to solicit Barone suppliers/customers, and from using any  
10    of Barone's Valuable Information to work with a competing distribution business.

12           **9.     SOLICITATION OF BARONE SUPPLIERS AND CUSTOMERS**  
13                   **-General.**

14           46.     After Smith terminated his employment with Barone, Smith sent out a  
15    global text message to all of Barone's suppliers and customers providing them all with  
16    Smith's new telephone number to contact him. *A copy of the screenshot of the mass*  
17    *text message is attached hereto as Exhibit 8.*

18           47.     Smith's global text message is an obvious attempt by Smith to use  
19    Barone's Valuable Information to contact and solicit Barone's suppliers and customers  
20    to transfer their business to Napa.

22           **C.     BARONE'S NOTICE TO CEASE AND DESIST.**

23           48.     On January 8, 2014, Barone's counsel provided written notice to Smith,  
24    Aday and Napa to immediately cease and desist from continuing to steal Barone  
25    suppliers, customers and employees. *See undersigned counsel's letters attached*  
26    *hereto respectively as Exhibits 9 and 10.*

49. Smith, Aday and Napa have refused to comply with the cease and desist demands and continue to actively work in concert to steal Barone's suppliers, customers and employees.

50. Barone has retained attorneys to prosecute this action and is entitled to reasonable attorneys' fees and costs related hereto.

51. In committing the acts herein mentioned, all defendants, and each of them, acted intentionally, maliciously and/or with reckless disregard for the rights of Barone. Accordingly, Barone is entitled to punitive damages in an amount to be determined at trial.

**FIRST CLAIM FOR RELIEF**  
**(Breach of Contract-Smith)**

52. Barone hereby incorporates the preceding paragraphs as if fully set forth herein.

53. Barone and Smith are parties to the Employment Agreement.

54. Barone has fully performed under the terms of the Employment Agreement.

55. Smith has breached the terms of the Employment Agreement as detailed above.

56. As a result of Smith's actions, Barone has sustained damages in excess of \$10,000 and is entitled to recovery its attorneys fees and costs incurred in this action.

**SECOND CLAIM FOR RELIEF**  
**(Contractual Breach of Covenant of Good Faith and Fair Dealing-Smith)**

57. Barone hereby incorporates the preceding paragraphs as if fully set forth herein.

58. Barone and Smith are parties to the Employment Agreement.

1           59. Under Nevada law, this agreement contains a covenant of good faith and  
2 fair dealing and Smith owed a duty of good faith and fair dealing to Barone arising from  
3 this contract.

4           60. Barone has fully performed under the terms of the Employment  
5 Agreement.  
6

7           61. Smith has breached the duty of good faith and fair dealing by performing  
8 in a manner that was unfaithful to the purpose of the contract, and which contravened  
9 the intention and spirit of the contract.

10           62. As a result of Smith's actions, Barone has sustained damages in excess  
11 of \$10,000 and is entitled to recovery its attorneys fees and costs incurred in this action.  
12

13                           **THIRD CLAIM FOR RELIEF**  
14                           **(Tortious Breach of Covenant of Good Faith and Fair Dealing-Smith)**

15           63. Barone hereby incorporates the preceding paragraphs as if fully set forth  
16 herein.

17           64. Barone and Smith are parties to the Employment Agreement.

18           65. Smith shared a special, fiduciary and/or confidential relationship with  
19 Barone arising out of the Employment Agreement.

20           66. Barone has fully performed under the terms of the Employment  
21 Agreement.

22           67. Smith has breached his special, fiduciary and/or confidential relationship  
23 with Barone as detailed herein.

24           68. As a result of Smith's actions, Barone has sustained damages in excess  
25 of \$10,000 and is entitled to recovery its attorneys fees and costs incurred in this action  
26

27           69. When Smith's actions complained of were performed, he acted with  
28



1 oppression, fraud and malice and/or with the willful, intentional and reckless disregard  
2 of Barone's rights and interests, and, therefore, Barone is entitled to punitive damages  
3 in excess of \$10,000.00.

4  
5 **FOURTH CLAIM FOR RELIEF**  
6 **(Misappropriation of Trade Secrets--All Defendants)**

7 70. Barone hereby incorporates the preceding paragraphs as if fully set forth  
8 herein.

9 71. During Smith's employment with Barone, Defendant Smith had access to  
10 Barone's Valuable Information. In addition, Smith had access to trade secret and  
11 confidential business information of Barone, which is not generally known by the  
12 general public or others, including, by way of illustration and not limitation, such  
13 information concerning Barone's programs, projects, marketing, business plans,  
14 business practices, and business operations.

15 72. The above-referenced Valuable Information and other confidential  
16 information were provided to Defendant Smith for exclusive use in providing Barone's  
17 suppliers and customers service on behalf of Barone. Barone compiled this information  
18 through diligent efforts to maintain and develop business relations.

19 73. The above-referenced Valuable Information and other confidential  
20 information derives independent economic value, actual and potential, from not being  
21 generally known to the public or persons who can obtain economic value from its  
22 disclosure or use, and is the subject of reasonable efforts by Barone to maintain its  
23 secrecy.

24 74. Barone is informed and believes and based upon such information and  
25 belief further alleges that Smith provided Aday and Napa, and otherwise  
26  
27  
28

1 misappropriated, said Valuable Information and other confidential information including  
2 Barone's customer list, all of which constitute trade secrets, without the express or  
3 implied consent of Barone, through improper means which include the breach of the  
4 terms of the Employee Handbook executed by Defendant Smith wherein Smith agreed  
5 to maintain the secrecy and confidentiality of said information.  
6

7 75. Defendants' actions have caused, and continue to cause, Barone harm in  
8 excess of Ten Thousand Dollars \$10,000.00.

9 76. When these Defendants' actions complained of were performed, they  
10 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
11 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
12 damages in excess of \$10,000.00 as against each defendant.  
13

14 **FIFTH CLAIM FOR RELIEF**  
15 **(Intentional Interference With Contractual Relations--All Defendants)**

16 77. Barone hereby incorporates the preceding paragraphs as if fully set forth  
17 herein.

18 78. Barone has valid, existing contractual relationships with its suppliers,  
19 employees and customers.

20 79. These defendants have gained knowledge of the relationships described  
21 in the preceding paragraph during Smith's employment with Barone.

22 80. The defendants also have knowledge of the terms of the contractual  
23 relationships existing between Barone and its suppliers, customers and employees.

24 81. These defendants have intentionally and wrongfully acted to interfere with  
25 and disrupt contractual relationships and have interfered with and disrupted Barone's  
26 contractual relationships described above.  
27

1 82. Defendants' actions have caused, and continue to cause, Barone harm in  
2 excess of Ten Thousand Dollars \$10,000.00.

3 83. When these defendants actions complained of were performed, they  
4 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
5 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
6 damages in excess of \$10,000.00 as against each defendant.  
7

8 **SIXTH CLAIM FOR RELIEF**  
9 **(Intentional Interference With Prospective Contractual Relations)**

10 84. Barone hereby incorporates the preceding paragraphs as if fully set forth  
11 herein.

12 85. Barone has valid, existing contractual relationships with its suppliers,  
13 customers and employees.

14 86. Barone has prospective contractual relationships with numerous  
15 suppliers, customers and employees.  
16

17 87. These defendants have gained knowledge of the relationships described  
18 in the preceding paragraph during Smith's employment with Barone.

19 88. The defendants also have knowledge of the terms of the contractual  
20 relationships existing between Barone and its suppliers, customers and employees.

21 89. These defendants have intentionally and wrongfully acted to interfere with  
22 and disrupt contractual relationships and have interfered with and disrupted Barone's  
23 contractual relationships described above.  
24

25 90. Defendants' actions have caused, and continue to cause, Barone harm in  
26 excess of Ten Thousand Dollars \$10,000.00.

27 91. When these defendants actions complained of were performed, they  
28

1 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
2 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
3 damages in excess of \$10,000.00 as against each defendant.

4 **SEVENTH CLAIM FOR RELIEF**  
5 **(Conversion--All Defendants)**

6 92. Barone hereby incorporates the preceding paragraphs as if fully set forth  
7 herein.

8 93. Barone alleges that all defendants have taken and/or used without  
9 permission, individually and/or jointly, for their own use, Barone's Valuable Information  
10 and/or confidential information.

11 94. Defendants' actions have caused, and continue to cause, Barone harm in  
12 excess of Ten Thousand Dollars \$10,000.00.

13 95. When these defendants actions complained of were performed, they  
14 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
15 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
16 damages in excess of \$10,000.00 as against each defendant.

17 **EIGHTH CLAIM FOR RELIEF**  
18 **(Unjust Enrichment--All Defendants)**

19 96. Barone hereby incorporates the preceding paragraphs as if fully set forth  
20 herein.

21 97. Barone alleges that all defendant have taken and/or used without  
22 permission, individually and/or jointly, for their own use, Barone's Valuable Information  
23 and/or confidential information.

24 98. Defendants have been unjustly enriched by retaining a benefit which in  
25 equity and good conscience belongs to Barone.

1 99. Defendants' actions have caused, and continue to cause, Barone harm in  
2 excess of Ten Thousand Dollars \$10,000.00.

3 100. When these defendants actions complained of were performed, they  
4 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
5 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
6 damages in excess of \$10,000.00 as against each defendant.  
7

8 **NINTH CLAIM FOR RELIEF**  
9 **(Conspiracy--All Defendants)**

10 101. Barone hereby incorporates the preceding paragraphs as if fully set forth  
11 herein.

12 102. Defendants, acting in concert, intended to and have accomplished an  
13 unlawful objective for the purpose of harming Barone.

14 103. Barone has sustained damage resulting from the defendants acts  
15 described herein.

16 104. Defendants' actions have caused, and continue to cause, Barone harm in  
17 excess of Ten Thousand Dollars \$10,000.00.

18 105. When these defendants actions complained of were performed, they  
19 acted with oppression, fraud and malice and/or with the willful, intentional and reckless  
20 disregard of Barone's rights and interests, and, therefore, Barone is entitled to punitive  
21 damages in excess of \$10,000.00 as against each defendant.  
22

23 **TENTH CLAIM FOR RELIEF**  
24 **(Injunction--All Defendants)**

25 106. Barone hereby incorporates the preceding paragraphs as if fully set forth  
26 herein.

27 107. Unless the aforesaid activities by the Defendants are enjoined as  
28

1 hereinafter requested, Barone will suffer irreparable harm to its business in that Barone  
2 will be unable to compete with its competitors, will lose accounts and will suffer  
3 irreparable damage to Barone's reputation and goodwill.

4 108. Injunctive relief is proper as Barone has no plain, speedy or  
5 adequate remedy at law because pecuniary compensation alone would not afford  
6 adequate, lasting and complete relief and an action at law would result in a multiplicity  
7 of actions.

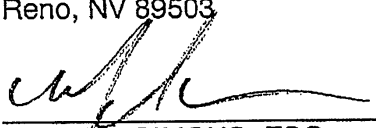
8  
9 WHEREFORE, Barone prays for judgment against the Defendants, and each of  
10 them, as follows:

- 11 1. For general damages in excess of \$10,000.00;  
12 2. For special damages in excess of \$10,000.00;  
13 3. For punitive damages in excess of \$10,000.00  
14 4. For injunctive relief;  
15 5. For its attorneys' fees and costs; and  
16 6. For such other further relief as may be proper and appropriate under the  
17 circumstances.  
18

19 **AFFIRMATION:** The undersigned does hereby affirm that the preceding  
20 document does not contain the social security number of any person.  
21

22 DATED this 13<sup>th</sup> day of January, 2014.

23 ROBISON, BELAUSTEGUI, SHARP & LOW  
24 71 Washington St.  
25 Reno, NV 89503

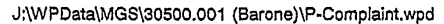
26   
27 MARK G. SIMONS, ESQ.  
28 Attorneys for Plaintiff

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JOSHUA BARONE, being first duly sworn, deposes and says under penalty of perjury:

JOSHUA BARONE

Wendy Osborne  
NOTARY PUBLIC



2645  
STEFANIE T. SHARP, ESQ.  
Nevada State Bar No. 8661  
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*Attorneys for Plaintiff Kari Anne Johnson*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

KARI ANNE JOHNSON, an individual,

Plaintiff,

vs.

MICHAEL EDWARD HATCH, an individual;  
ALISHA SUZANNE HATCH, an individual;  
and DOES I THROUGH X, inclusive;

Defendants.

**CASE NO.: CV21-00246**

**DEPT. NO.: 7**

**OPPOSITION TO EMERGENCY MOTION TO EXPUNGE LIS PENDENS**

Plaintiff KARI ANNE JOHNSON, by and through her counsel of record herein, CLAYTON P. BRUST, ESQ., STEFANIE T. SHARP, ESQ. and HANNAH E. WINSTON, ESQ. of the law firm of ROBISON, SHARP, SULLIVAN & BRUST, LTD., hereby opposes the Emergency Motion to Expunge Lis Pendens (the "Motion") filed by Defendants MICHAEL EDWARD HATCH and ALISHA SUZANNE HATCH. This Opposition is based upon the following Memorandum of Points and Authorities, the pleadings and papers on file herein and any other information and evidence the Court wishes to consider.

///



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants move to expunge the lis pendens because they contend Plaintiff does not assert  
4 a claim that affects title to the real property. But Plaintiff seeks to place her name on the title to the  
5 real property at issue in this case. Indeed, this entire case is about the Defendants' failure to put  
6 Plaintiff's name on the title to the real property that Defendants purchased using the money Plaintiff  
7 loaned them. Plaintiff only loaned Defendants the money on the express condition that her name  
8 would be on the title to the real property.

9 Additionally and/or alternatively, Plaintiff seeks to place the property in a constructive trust  
10 for her benefit or to put an equitable lien against the Property. Both a constructive trust and an  
11 equitable lien affect the title to real property. Indeed, a future purchaser must have notice of that  
12 those claims are being asserted against the property. Therefore, the lis pendens is proper under NRS  
13 14.015, and the Motion should be denied.

14 **II. THE REQUIREMENTS OF NRS 14.015 ARE SATISFIED**

15 As discussed below, NRS 14.015(2)(a) is satisfied because the Verified First Amended  
16 Complaint, as well as the initial Verified Complaint, in this action requests to place Plaintiff's name  
17 on the deed to the property, and Plaintiff seeks to place the property in a constructive trust and/or  
18 put an equitable lien on the property. Each of these actions affect title to real property. NRS  
19 14.015(2)(b) is satisfied because Plaintiff's counsel recorded the lis pendens based on their good  
20 faith belief that it was supported by law and to protect Plaintiffs' interest.

21 NRS 14.015(2)(c) is inapplicable as there are no conditions precedent to the relief sought in  
22 the action. Further, NRS 14.015(2)(d) is satisfied because Plaintiff will be gravely injured if the  
23 property is transferred before this matter concludes. Plaintiff only loaned Defendants the money to  
24 purchase the property on the condition that her name would be placed on title. As Defendants would  
25 have it, they get to keep Plaintiff's money *and* the Property. Finally, NRS 14.015(3)(a) is satisfied  
26 because Plaintiff will prevail in this action. Indeed, people do not normally gift others \$665,000.  
27 In no scenario under Nevada law do Defendants lawfully get to possess the Property and keep  
28 Plaintiff's money. Thus, the lis pendens was properly recorded under NRS 14.015.

1                   **III.     STATEMENT OF FACTS**

2           Plaintiff and Alisha met in childhood. Verified First Amended Complaint and Verified  
3 Complaint (collectively the “Comp.”) ¶7. When they reconnected in adulthood they shared housing  
4 for a period of time and Plaintiff and Colin socialized with Defendants and considered them friends.  
5 *Id.*

6           In 2014, Defendants approached Kari and Colin about loaning them money to buy certain  
7 real property and improvements commonly known as 9845 Firefoot Lane, Reno, Nevada, Washoe  
8 County, APN: 141-254-09 (the “Property”) because Defendants were unable to qualify for a  
9 conventional mortgage. *Id.* at ¶8. Defendants promised that they would pay the loan as agreed and  
10 that Kari’s name would be on the title to the Property until the loan was paid in full. *Id.*

11           Kari agreed to loan (the “Loan”) the money to the Defendants based on their representations  
12 that they would pay the Loan as agreed and on the condition that Kari would be on the title to the  
13 property with Defendants until the Loan was paid in full. *Id.* at ¶9.

14           The Property was new construction and Kari and the Defendants were identified as the  
15 “buyers” in the Purchase and Sale Contract (the “PSA”). *Id.* at ¶10. Prior to the closing under the  
16 PSA, Alisha presented certain escrow documents to Kari representing that the documents needed to  
17 be signed for closing. *Id.* at ¶11. Kari trusted Alisha implicitly and believed that Alisha and Michael  
18 would honor their agreement with Kari that she would be a joint owner of the Property with the  
19 Defendants until the Loan was paid in full. *Id.*

20           Kari paid the full amount of the purchase price for the Property and all closing costs. *Id.* at  
21 ¶12. The total amount of the Loan was \$665,838.40. *Id.* The Loan is evidenced by a “Promissory  
22 Note For Hatch Residence 9845 Firefoot Lane, Reno, NV 89521” (the “Note”) Alisha prepared the  
23 Note. *Id.* The Note was signed and initialed by Michael, Alisha and Kari on September 9, 2015.  
24 *Id.* A true and correct copy of the Note is attached to the First Amended Verified Complaint, the  
25 Verified Complaint and hereto as “Exhibit 1.”

26           The Note specifically refers to the Loan as being a “home loan” and accrues interest at the  
27 rate of 3% per annum. *Id.* at ¶13. A payment schedule requiring monthly payments of principal

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<sup>1</sup> The operative facts upon which plaintiff bases her claims are contained in both the Verified Complaint and Verified First Amended Complaint.

1 and interest was part of the Note and attached thereto. *Id.* A true and correct copy of the payment  
2 schedule is attached to the First Amended Verified Complaint, the Verified Complaint and hereto  
3 as “Exhibit 2.”

4 On or about November 13, 2020, Kari and Colin discovered that Defendants had  
5 manipulated Kari into signing documents removing Kari’s name from the title to the Property at  
6 closing and interlineated through Kari’s name on page 6 of the vesting deed (the “Deed”). *Id.* at  
7 ¶14. A true and correct copy of the Deed is attached to the First Amended Verified Complaint, the  
8 Verified Complaint and hereto as “Exhibit 3.” The Deed also evidences that, but for the deception  
9 of the Defendants, Kari would have been a joint title holder on the Property with the Defendants.  
10 *Id.*

11 On or about November 13, 2020, Kari and Colin also discovered that on or about December  
12 9, 2019, Defendants obtained a loan in the original principal amount of \$259,000 from Guild  
13 Mortgage Company secured by the Property. *Id.* at ¶14. A true and correct copy of the Deed of  
14 Trust securing the Guild Mortgage Company loan is attached to the First Amended Verified  
15 Complaint, the Verified Complaint and hereto as “Exhibit 4.”

16 Kari would never have extended the Loan to the Defendants without their agreement that  
17 Kari’s name would be on the title to the Property until the Loan was paid in full. *Id.* at ¶15-18.  
18 Defendants used their relationship with Kari and Colin to exert influence over the Kari and Colin to  
19 manipulate and convince Kari to make the Loan. *Id.*

20 Plaintiff is informed and believes that when Defendants represented to her and Colin that  
21 Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the Property  
22 until the Loan was paid in full that (i) Defendants knew the representations were false; (ii)  
23 Defendants made the representations for the purposes of, and with the intent to, induce Kari to make  
24 the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan  
25 as agreed. *Id.* at ¶19.

26 The Note lacks terms that would typically be found in a home loan promissory note,  
27 including but not limited to, a late fee or default interest rate, an acceleration provision, and a  
28 provision allowing the lender to recover costs and attorneys’ fees associated with collection of the

1 amount owed in the event of a default. *Id.* at ¶20. The Plaintiff is informed and believes that the  
2 Defendants drafted the Note to be favorable to their interests to her detriment. *Id.*

3 Plaintiff had trust and confidence in Defendants, and the Defendants, through deception,  
4 intimidation, and/or undue influence, obtained the Loan from her with the intention of depriving her  
5 of the ownership, use, benefit, and possession of her money. *Id.* at ¶21.

6 Plaintiff trusted and relied on the Defendants and the Defendants wrongfully asserted undue  
7 influence over her to obtain the Loan without it being secured by the Property and to obtain an  
8 advantage over her by allowing the Defendants to still retain title to the Property even if they  
9 defaulted under the Loan. *Id.* at ¶22. The Defendants defaulted under the Loan by failing and  
10 refusing to pay the monthly payment due under the Loan on January 1, 2021, and for failing and  
11 refusing to pay any amounts thereafter despite demand that they do so. *Id.* at ¶23.

12 In the Verified First Amended Complaint<sup>2</sup>, Plaintiff has alleged causes of action for Breach  
13 of Contract; Breach of Note; Breach of Confidential Relationship; Unjust Enrichment; Fraud in the  
14 Inducement;; Imposition of Equitable Lien; Imposition of Constructive Trust; Injunctive Relief;  
15 and Declaratory Judgement.

#### 16 **IV. LEGAL DISCUSSION**

##### 17 **A. The Requirements of NRS 14.015 are Satisfied.**

18 The primary ground upon which the Defendants seek to expunge the lis pendens is that the  
19 case at bar does not affect the title to or possession of real property. In the Verified First Amended  
20 Complaint, Plaintiff has alleged, among other claims, causes of action for imposition of a  
21 constructive trust and an equitable lien on the Property. These claims definitely affect title to real  
22 property. Thus, Plaintiff properly and in good faith filed and recorded a lis pendens.

23 Under NRS 14.010(1), in any action “affecting the title or possession of real property,” the  
24 plaintiff shall record a notice of lis pendens alerting potential purchasers of pending dispute  
25 involving rights to the realty. “The doctrine of lis pendens provides constructive notice to the world  
26 that a dispute involving real property is ongoing.” *Weddell v. H2O, Inc.*, 128 Nev. 94, 106, 271

27  
28 <sup>2</sup> In the Verified Complaint, Plaintiff alleged causes of action for Breach of Note; Demand on Loan Documents; Unjust  
Enrichment; Fraud in the Inducement; Imposition of an Equitable Lien; Imposition of Constructive Trust; and for  
Injunctive Relief.

1 P.3d 743, 751 (2012). The purpose of a lis pendens “is to prevent the transfer or loss of real property  
2 which is the subject of dispute in the action that provides the basis for the lis pendens.” *Id.* (quoting  
3 *Levinson v. District Court*, 109 Nev. 747, 750, 857 P.2d 18, 20 (1993)). Therefore, under Nevada  
4 law, the filing of a notice of pendency is required in actions involving “the foreclosure of a mortgage  
5 upon real property, or affecting the title or possession of real property.” *Id.* (citing NRS 14.010(1);  
6 NRS 14.015(2)(a)).

7 Here, Plaintiff is requesting an injunction forcing Defendants to place Plaintiff on title to  
8 the house, as should have been done when the parties initially purchased the house. Three could  
9 be no better example of a case affecting title to real property.

10 Plaintiff is also requesting other forms of equitable relief to create/protect her right to title  
11 in the property. Equitable liens and constructive trusts undoubtably affect the title or possession of  
12 real property. As the Nevada Supreme Court has explained, equitable liens stand for the “time-  
13 honored principle that states that he who keeps property that he knows belongs to another must  
14 restore that property.” *Maki v. Chong*, 119 Nev. 390, 393, 75 P.3d 376, 379 (2003). “This idea,  
15 manifested in the doctrine of equitable liens, *permeates our entire system of justice*  
16 *regarding equity.*” *Id.* (emphasis added). In fact, the Nevada Supreme Court explained that “[o]ne  
17 who has purchased real property with funds of another, under circumstances which ordinarily would  
18 entitle such other person to enforce a constructive trust in, or an equitable lien against, the property,  
19 cannot defeat the right to enforce such trust or lien on the ground that [the homestead exemption  
20 applies].” *Id.* (quoting *Annotation Remedy of One Whose Money Is Fraudulently Used in the*  
21 *Purchase or Improvement of Real Property*, 43 A.L.R. 1415, 1446 (1926)) (second alteration in  
22 original).

23 The Nevada Supreme Court has also explained that “[a] constructive trust will arise and  
24 affect property acquisitions under circumstances where: (1) a confidential relationship exists  
25 between the parties; (2) retention of legal title by the holder thereof against another would be  
26 inequitable; and (3) the existence of such a trust is essential to the effectuation of justice.” *Locken*  
27 *v. Locken*, 98 Nev. 369, 372, 650 P.2d 803, 805 (1982). Thus, placing property in a constructive  
28 trust certainly alters the title to that property. *See id.* (affirming the imposition of a constructive

1 trust and concluding that “[u]nder such circumstances, it would be manifestly inequitable to  
2 judicially countenance continued retention of legal title to the property in the so”).

3 Nevada Courts have not directly addressed whether claims for constructive trust and/or  
4 equitable lien are “proceedings affecting title to or possession of real property” under NRS 14.015.  
5 However, courts in other jurisdictions with substantially similar statutes to Nevada’s have held that  
6 these claims do affect the title to or possession of real property. For example, in *Coppinger v.*  
7 *Superior Court*, 134 Cal.App.3d 883, 891, 185 Cal.Rptr. 24 (Cal.Ct.App.1982), the California Court  
8 of Appeal stated: “We are satisfied that an action to impose a constructive trust on real property is  
9 an action affecting title to or possession of real property” that will support a lis pendens. The  
10 California Court of Appeal also held that a cause of action for the imposition of an equitable lien  
11 supports a lis pendens in *Okuda v. Superior Court*, 144 Cal.App.3d 135, 141, 192 Cal.Rptr.388  
12 (Cal.Ct.App.1983) (“For purposes of determining the propriety of a lis pendens, the constructive  
13 trust and the equitable lien are indistinguishable. Resulting trusts, constructive trusts and equitable  
14 liens are very much akin to each other, and their basic purposes to identify and *impress upon certain*  
15 *property the beneficial rights* that have arisen in an innocent party who in some way contributed to  
16 the acquisition, protection or improvement of that property are, in general, the same.” (internal  
17 citations omitted) (emphasis in original).

18 Courts in New Jersey, New York, Arizona, the District of Columbia, Colorado, Wisconsin,  
19 Minnesota, and Texas have also held that a cause of action for an equitable lien or constructive trust  
20 supports a lis pendens. See *Polk v. Schwartz*, 166 N.J.Super. 292, 399 A.2d 1001, 1004 (N.J. Super.  
21 Ct.App.Div.1979) (“There is no doubt that an action to impress a constructive trust on realty affects  
22 title to that property, so that a notice of lis pendens may be filed under a statute such as ours.”);  
23 *Rosenberg v. Ritter*, 34 Misc. 2d 1099, 1100, 229 N.Y.S.2d 766, 767 (Sup. Ct. 1962) (“A lis pendens  
24 may be filed in an action seeking to establish and impress an equitable lien upon real property.”);  
25 *Coventry Homes, Inc.*, 155 Ariz. at 218, 745 P.2d at 965 (Ct. App. 1987) (finding lis pendens  
26 available where an equitable lien is asserted because “an equitable lien on real property is an action  
27 affecting title to that property”); *Heck v. Adamson*, 941 A.2d 1028, 1030 (D.C.2008) (“On its face,  
28 Heck’s action asserting an equitable interest in the Naylor Road property *via* a constructive trust is

1 an ‘interest in real property,’ which is all the [D.C. lis pendens] statute requires.”) (emphasis in  
2 original); *Kerns v. Kerns*, 53 P.3d 1157, 1165 (Colo.2002) (holding “that an action to impose a  
3 constructive trust on real property ... entitles the party bringing the action to file a notice of lis  
4 pendens ....”); *Ross v. Specialty Risk Consultants, Inc.*, 240 Wis.2d 23, 35, 621 N.W.2d 669, 676  
5 (Wisc.2000) (holding that a lis pendens may be recorded in an action seeking a constructive trust  
6 because such an action “may ultimately change legal title” and thus “is an action seeking relief that  
7 ‘might confirm or change interests in the real property’”) (quoting Wisconsin’s lis pendens statute);  
8 and *Fingerhut Corp. v. Suburban Nat’l Bank*, 460 N.W.2d 63, 67 (Minn.App.1990) (“Although a  
9 constructive trust is not in itself construed as a lien, it establishes an equitable lien for enforcement  
10 of the trust which brings the cause of action within the lis pendens statute.”); also see *Long Beach*  
11 *Mortg. Co. v. Evans*, 284 S.W.3d 406, 413-414 (Tex.App.2009) (Receiver’s California action  
12 seeking to recover wrongfully diverted business funds was sufficient to establish a direct interest in  
13 a Texas residence as required to satisfy the Texas lis pendens statute.)

14 This view is also supported by a leading treatise on real property law. See 14 POWELL ON  
15 REAL PROPERTY § 82A.02[4][a], at 82A-16 (Michael Allen Wolf, ed. 2011) (“Lis pendens also  
16 applies to actions seeking creation of a constructive trust on specific property ....”).

17 **B. The Cases Upon Which Defendants Rely are Wholly Distinguishable.**

18 The two Nevada Cases cited by the Defendants in the Motion, *Levinson v. Eighth Judicial*  
19 *District Court*, 109 Nev. 747, 857 P.2d. 18 (1993) and *Weddell v. H2O, Inc.*, 128 Nev. Op. 9, 271  
20 P.3d 743 (2012), to support their position that the lis pendens should be expunged are distinguishable  
21 as to the facts and issues involved therein.

22 In *Levinson*, the defendants never had title to the property against which the lis pendens was  
23 recorded and the defendants were not parties to the action in which the plaintiff obtained her  
24 judgment. *Levinson, supra*, 109 Nev. at 751-752, 857 P.2d 20-21. The facts of the case at bar are  
25 in direct opposition to the *Levinson* facts. Plaintiff loaned Defendants the money they used to  
26 purchase the Property. Plaintiff and Defendants were identified as the “buyers” of the Property.  
27 The agreement between the parties was for both Plaintiff and Defendants to be identified on the title  
28 to the Property. Thus, Plaintiff is seeking a constructive trust and equitable lien on the Property

1 which that was not only purchased with the funds that the Defendants misappropriated from the  
2 Plaintiff, but which was also supposed to be placed in Plaintiff's name. Plaintiff's claims are proper  
3 and certainly involve the title to the Property. *Farmers Ins. Exch. v. Zerin*, 53 Cal. App. 4th 445,  
4 457, 61 Cal. Rptr. 2d 707, 713 (1997) (explaining that "[o]ne who gains a thing by fraud, accident,  
5 mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he has some other  
6 and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who  
7 would otherwise have had it") (internal quotation marks omitted).

8 Unlike the plaintiff in *Levinson*, the Plaintiff here seeks imposition of a constructive trust  
9 and an equitable lien on the Property she in fact purchased and would be record owner of but for the  
10 Defendants' fraudulent conduct. Plaintiff specifically seeks that her name be placed on the deed to  
11 the Property. See Verified First Amended Complaint, ¶53, 58. The facts of this case are in direct  
12 opposition to the *Levinson* facts.

13 In the *Weddell* case, a former business associate of the majority member of geothermal  
14 limited-liability company ("LLC") sued to enforce an alleged agreement that allowed the former  
15 business associate to purchase a membership interest in the LLC. See *Weddell*, 271 P.3d at 745.  
16 The issue before the Nevada Supreme Court concerning the lis pendens in the *Weddell* case was  
17 whether a lis pendens could be filed on an option to purchase a membership interest in a limited  
18 liability company.

19 This case is substantially different from both *Levinson* and *Weddell* with respect to the facts  
20 and claims alleged. The Property in this case is at the core of the dispute between the parties.  
21 Plaintiff gave the Defendants the money to purchase the Property upon the condition that she be  
22 named on the title to the Property. The Defendants fraudulently induced Plaintiff to enter that  
23 agreement and fraudulently caused her to sign or forged her signature on the Endorsement to  
24 Agreement of Sale. Based on the Defendants' improper conduct, Plaintiff has asserted a right to a  
25 constructive trust and equitable lien on the Property. *Zerin*, 53 Cal. App. 4th at 453, 61 Cal. Rptr.  
26 2d at 710-11 ("The basis of equitable liens is variously placed on the doctrines of estoppel, or unjust  
27 enrichment, or on the principle that a person having obtained an estate of another ought not in  
28 conscience to keep it as between them; and frequently it is based on the equitable maxim that equity



1 will deem as done that which ought to be done, or that he who seeks the aid of equity must himself  
2 do equity.”) (internal quotation marks omitted).

3 Further, Plaintiff expressly seeks injunctive relief placing her name on the Deed to the  
4 Property. The title to the Property is clearly at issue here. The Motion should be denied.

5 **C. Defendants’ Motion to Dismiss does not Require this Court to Expunge the Lis**  
6 **Pendens.**

7 Defendants reiterate the same arguments from their Motion to Dismiss in their Emergency  
8 Motion to Expunge the Lis Pendens. As Plaintiff has fully briefed the opposition to the Motion to  
9 Dismiss, Plaintiff does not repeat the same analysis herein but instead incorporates the analysis by  
10 reference. However, the main argument in Defendants’ Motion to Dismiss must be addressed herein  
11 because it is highly misleading.

12 Defendants base their entire Motion to Dismiss (and therefore, most of their Motion to  
13 Expunge) on the false proposition that Nevada law has a bright line rule that constructive notice  
14 begins the statute of limitations running for *all* claims. Defendants blatantly misrepresent the law.

15 The Nevada Supreme Court has numerous times explained that the question of due diligence  
16 in discovering a plaintiff’s claims is one of fact that is inappropriate on a Rule 12(b)(5) motion to  
17 dismiss. *Bemis v. Est. of Bemis*, 114 Nev. 1021, 1025, 967 P.2d 437, 440 (1998) (“Dismissal on  
18 statute of limitations grounds is only appropriate when *uncontroverted evidence irrefutably*  
19 *demonstrates* plaintiff discovered or should have discovered the facts giving rise to the cause of  
20 action.”) (internal quotation marks omitted) (emphasis added); *Millspaugh v. Millspaugh*, 96 Nev.  
21 446, 448, 611 P.2d 201, 203 (1980) (Whether Plaintiff exercised reasonable diligence in discovering  
22 her causes of action “is a question of fact to be determined by the jury or trial court after a full  
23 hearing.”).

24 Thus, to the extent Defendants argue the lis pendens should be expunged based on their  
25 misstatement of the law regarding the running of the statute of limitations, their argument is  
26 misplaced and must be rejected by this Court. The Motion should be denied.

27 **D. The Improperly Filed Supplement.**

28 The Defendants have filed a “Supplement to Emergency Motion to Expunge Lis Pendens”

1 (the "Supplement"). Not only does this Supplement not provide any legal authority demonstrating  
2 that the Lis Pendens is improper, but it was also filed improperly. The Washoe District Court Rules  
3 ("WDCR") provide only for the filing of Motions, Oppositions, and Replies. WDCR 12. If the  
4 Defendants wished to supplement their original Motion, they were required to seek this Court's  
5 leave to do so. The failure to obtain this Court's permission prior to filling the Supplement renders  
6 it a rogue document that should be rejected. However, out of an abundance of caution, Plaintiff  
7 addresses the argument in the Supplement in case this Court considers it.

8 In the Supplement, Defendants ask this Court to hold that, as a matter of law, at this stage in  
9 the proceedings, Plaintiff is barred from seeking both equitable and monetary relief. As this Court  
10 is well aware, Defendants' position is contrary to law. As fully briefed in Plaintiff's Opposition to  
11 Defendants' Motion to Dismiss, the Nevada Supreme Court has expressly held that plaintiffs are  
12 "not required to elect between suing on the contract or in quantum meruit before obtaining a jury  
13 verdict." *J.A. Jones Const. Co. v. Lehrer McGovern Bovis, Inc.*, 120 Nev. 277, 289, 89 P.3d 1009,  
14 1017 (2004) (citing *May v. Watt*, 822 F.2d 896 (9th Cir.1987) (determining that a party is not  
15 required to make an election between breach of contract remedies and rescission prior to a jury  
16 verdict); *North American Graphite Corp. v. Allan*, 184 F.2d 387 (D.C.Cir.1950) (concluding that  
17 no election between theories of recovery based on breach of contract and quantum meruit is required  
18 prior to a jury verdict).

19 Defendants continue to ignore binding Nevada law that contradicts their position. Indeed,  
20 the cases Defendants rely on in the Supplement are completely inapplicable to this case.

21 First, *Las Vegas Valley Water Dist. v. Curtis Park Manor Water Users Ass'n*, 98 Nev. 275,  
22 278, 646 P.2d 549, 551 (1982) involved a water rights issue and a petition for judicial review. The  
23 Court's decision regarding the district court's ability to grant equitable relief was based on the water  
24 rights statute at issue-- NRS 534.120. The Court explained that the district court abused its  
25 discretion because on a petition for judicial review of the State Engineer's decision, the district court  
26 can only reverse the State Engineer's decision for abuse of discretion, not grant either party equitable  
27 relief. The Court did not conclude, as Defendants represent, that a complaint cannot assert both  
28 equitable and legal claims for relief.

1 Second, the Court in *Bank of Am., N.A. v. Saticoy Bay LLC Series, No. 17-CV-02808-APG-*  
2 *CWH*, 2018 WL 3312969, at \*2 (D. Nev. July 5, 2018) did not hold that a plaintiff cannot assert  
3 both equitable and legal claims for relief in a complaint. It is ironic that Defendants chose this  
4 unpublished order upon which to rely in supplementing their Motion because it actually supports  
5 Plaintiff's position in this case. The Honorable Judge Gorden explained that "Bank of America  
6 seeks not just repayment of its loan, but the right to resort to this particular property as security for  
7 repayment. No remedy at law could overturn the foreclosure sale and reinstate Bank of America's  
8 lien on the property." *Id.* at \*2.

9 In this case, Plaintiff seeks to not only repayment of the loan but to also have her name  
10 placed on the title to the real property. Legal damages are inadequate because damages claims  
11 against the individual defendants are not an adequate substitute for being a named owner of the real  
12 property. *Cf. id.* ("Due to land's unique nature, damage claims against individuals are an inadequate  
13 substitute for a first position lien on real property.") (quoting *Bank of N.Y. Mellon v. Withers*, 771  
14 S.E.2d 762, 765 (N.C. Ct. App. 2015)).

15 Regardless, it is inappropriate to strike or dismiss equitable claims on a motion to dismiss  
16 under the basis which Defendants seek because a plaintiff does not have to elect his remedies at the  
17 beginning of the lawsuit. *J.A. Jones Const. Co.*, 120 Nev. at 289, 89 P.3d at 1017.

18 The arguments in the Supplement are not well founded and should be disregarded.

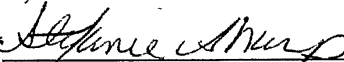
19 **V. CONCLUSION**

20 Based upon the foregoing, Plaintiff respectfully requests that this Court deny the Motion.

21 AFFIRMATION: The undersigned does hereby affirm that this document does not contain  
22 the social security number of any person.

23 DATED: This 16<sup>th</sup> day of March 2021.

24 ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
25 71 Washington Street  
Reno, NV 89503

26 BY   
27 CLAYTON P. BRUST, ESQ.  
STEFANIE T. SHARP, ESQ.  
HANNAH E. WINSTON, ESQ.  
28 *Attorneys for Plaintiff Kari Anne Johnson*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **OPPOSITION TO EMERGENCY MOTION TO EXPUNGE LIS PENDENS** on all parties to this action by the method(s) indicated below:

\_\_\_\_\_ by placing true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

  x   by using the Court's CM/ECF Electronic Notification System addressed to:


Mark G. Simons, Esq.  
Anthony L. Hall, Esq.  
SIMONS HALL JOHNSTON PC  
Email: [MSimons@SHJNevada.com](mailto:MSimons@SHJNevada.com)  
[AHall@SHJNevada.com](mailto:AHall@SHJNevada.com)  
Attorneys for Defendants

\_\_\_\_\_ by personal delivery/hand delivery addressed to:

\_\_\_\_\_ by facsimile (fax) addressed to:

\_\_\_\_\_ by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 16<sup>th</sup> day of March 2021.

  
Employee of Robison, Sharp, Sullivan & Brust

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**EXHIBIT LIST**

Exhibit #	Description	Pages
Exhibit "1"	Promissory Note	1
Exhibit "2"	Payment Schedule	9
Exhibit "3"	Deed	7
Exhibit "4"	Deed of Trust	18

# Exhibit “1”

FILED  
Electronically  
CV21-00246  
2021-03-16 12:30:48 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8345088 : sacordag

# Exhibit “1”

**Promissory Note For Hatch Residence 9845 Firefoot**  
**Lane Reno, NV 89521**

\*This agreement is for repayment of a home loan between Kari Anne Johnson (lender)  
and Michael Edward Hatch & Alisha Suzanne Hatch (borrowers).

[Signature]      MEH      ASH

\*Michael and Alisha Hatch agree to repay Kari Johnson the total amount borrowed in  
the amount of \$665,838.40.

[Signature]      MEH      ASH

\*Michael and Alisha Hatch have agreed with Kari Johnson that an interest rate of 3.0%  
will be charged for the home loan.

[Signature]      MEH      ASH

\*A payment schedule/loan amortization has been established and is attached.

[Signature]      MEH      ASH  
[Signature]  
Signed (Kari Johnson- lender)

9/9/15  
Date

Alisha Hatch  
Signed (Alisha Hatch- borrower)

9/9/15  
Date

Michael Hatch  
Signed (Michael Hatch- borrower)

9-9-15  
Date

# Exhibit “2”

FILED  
Electronically  
CV21-00246  
2021-03-16 12:30:48 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8345088 : sacordag

# Exhibit “2”



## 9845 FIREFOOT LANE

PAYMENT	PRINCIPAL	INTEREST	BALANCE	PAID/DATE/TYPE
\$2,807.20	\$1,177.36	\$1,629.84	\$650,759.70	\$2,807.20 Check #1326 9/14/16
\$2,807.20	\$1,180.30	\$1,626.90	\$649,579.40	\$2,807.20 Check #1336 10/10/16
\$2,807.20	\$1,183.25	\$1,623.95	\$648,396.15	2807.20 check #1341 11/15/2016
\$2,807.20	\$1,186.21	\$1,620.99	\$647,209.94	\$2,807.20 Check #1351 12/12/2016
\$2,807.20	\$1,189.18	\$1,618.02	\$646,020.76	\$2,807.20 Check #1361 1/23/2017
\$2,807.20	\$1,192.15	\$1,615.05	\$644,828.61	\$2,807.20 Check #1365 2/21/2017
\$2,807.20	\$1,195.13	\$1,612.07	\$643,633.48	\$2,807.20 Check #1370 3/2/2017
\$2,807.20	\$1,198.12	\$1,609.08	\$642,435.36	\$2,807.20 Check #1380 4/3/2017
\$2,807.20	\$1,201.11	\$1,606.09	\$641,234.25	\$2,807.20 Check #1399 5/5/2017
\$2,807.20	\$1,204.11	\$1,603.09	\$640,030.14	\$2,807.20 Check # 1412 6/2/2017
\$2,807.20	\$1,207.12	\$1,600.08	\$638,823.02	\$2,807.20 Check #1422 7/5/2017
\$2,807.20	\$1,210.14	\$1,597.06	\$637,612.88	\$2,807.20 Check #1422 7/28/2017
\$2,807.20	\$1,213.17	\$1,594.03	\$636,399.71	\$2,807.20 CASH (Reimbursement)
\$2,807.20	\$1,216.20	\$1,591.00	\$635,183.51	\$2,807.20 Check #1452 10/3/2017
\$2,807.20	\$1,219.24	\$1,587.96	\$633,964.27	\$2,807.20 Check #1457 11/3/2017
\$2,807.20	\$1,222.29	\$1,584.91	\$632,741.98	\$2,807.20 Check #1465 12/3/2017
\$2,807.20	\$1,225.35	\$1,581.85	\$631,516.63	\$2,807.20 Check #1469 1/10/2018
\$2,807.20	\$1,228.41	\$1,578.79	\$630,288.22	\$2,807.20 Check #1479 2/1/2018
\$2,807.20	\$1,231.48	\$1,575.72	\$629,056.74	\$2,807.20 Check #1488 2/27/2018
\$2,807.20	\$1,234.56	\$1,572.64	\$627,822.18	\$2,807.20 Check #1501 4/1/2018
\$2,807.20	\$1,237.64	\$1,569.56	\$626,584.54	\$2,807.20 Check # 1506 4/30/2018
\$2,807.20	\$1,240.74	\$1,566.46	\$625,343.80	\$2,807.20 Check # 1513 5/31/2018
\$2,807.20	\$1,243.84	\$1,563.36	\$624,099.96	\$2,807.20 Check #1518 7/1/2018
\$2,807.20	\$1,246.95	\$1,560.25	\$622,853.01	\$2,807.20 Check #1523 cashed for Kari 8/1/2018
\$2,807.20	\$1,250.07	\$1,557.13	\$621,602.94	\$2,807.20 Check #1529 cashed for Kari 8/31/2018
\$2,807.20	\$1,253.19	\$1,554.01	\$620,349.75	\$2,807.20 cash 10/1/2018
\$2,807.20	\$1,256.33	\$1,550.87	\$619,093.42	\$2,807.20 cash 11/1/2018
\$2,807.20	\$1,259.47	\$1,547.73	\$617,833.95	\$2,807.20 cash 12/1/2018
\$2,807.20	\$1,262.62	\$1,544.58	\$616,571.33	\$2,807.20 cash 12/27/2018
\$2,807.20	\$1,265.77	\$1,541.43	\$615,305.56	\$2,807.20 CASH 1/30/2019
\$2,807.20	\$1,268.94	\$1,538.26	\$614,036.62	\$2,807.20 CASH 3/1/2019
\$2,807.20	\$1,272.11	\$1,535.09	\$612,764.51	\$2,807.20 Check #1547 4/3/2019

\$2,807.20	\$1,275.29	\$1,531.91	\$511,489.22	\$2,807.20 Check #1552 4/30/2019
\$2,807.20	\$1,278.48	\$1,528.72	\$510,210.74	Pd- Pay Increase
\$2,807.20	\$1,281.67	\$1,525.53	\$508,929.07	Pd- Pay Increase 6/27/2019 (\$2,807.20)
\$2,807.20	\$1,284.88	\$1,522.32	\$507,644.19	Pd- Pay Increase 8/15/2019 (\$2,807.20)
\$2,807.20	\$1,288.09	\$1,519.11	\$506,356.10	Pd- \$2,807.20 Cash 9/3/2019
\$2,807.20	\$1,291.31	\$1,515.89	\$505,064.79	Pd- \$2,807.20 Cash 10/1/2019
\$2,807.20	\$1,294.54	\$1,512.66	\$503,770.25	Pd- \$2,807.20 Cash 11/1/2019
\$2,807.20	\$1,297.77	\$1,509.43	\$502,472.48	Pd- \$2,807.20 Cash 12/1/2019
\$2,807.20	\$1,301.02	\$1,506.18	\$501,171.46	Pd- Salary January 1, 2020 (\$2,807.20)
\$2,807.20	\$1,304.27	\$1,502.93	\$599,867.19	Pd- Salary February 1, 2020 (\$2,807.20)
\$2,807.20	\$1,307.53	\$1,499.67	\$598,559.66	Pd- Salary March 1, 2020 (\$2,807.20)
\$2,807.20	\$1,310.80	\$1,496.40	\$597,248.86	Pd- Salary April 1, 2020 (\$2,807.20)
\$2,807.20	\$1,314.08	\$1,493.12	\$595,934.78	Pd- Salary May 1, 2020 (\$2,807.20)
\$2,807.20	\$1,317.36	\$1,489.84	\$594,617.42	Pd- Salary June 1, 2020 (\$2,807.20)
\$2,807.20	\$1,320.65	\$1,486.54	\$593,296.76	Pd- Salary July 1, 2020 (\$2,807.20)
\$2,807.20	\$1,323.95	\$1,483.24	\$591,972.80	Pd- Salary August 1, 2020 (\$2,807.20)
\$2,807.20	\$1,327.27	\$1,479.93	\$590,645.53	Pd- Salary September 1, 2020 (\$2,807.20)
\$2,807.20	\$1,330.59	\$1,476.61	\$589,314.94	Pd- Salary October 1, 2020 (\$2,807.20)
\$2,807.20	\$1,333.91	\$1,473.29	\$587,981.03	Pd- Salary November 1, 2020 (\$2,807.20)
\$2,807.20	\$1,337.25	\$1,469.95	\$586,643.78	Pd- Salary December 1, 2020 (\$2,807.20)
\$2,807.20	\$1,340.59	\$1,466.61	\$585,303.19	
\$2,807.20	\$1,343.94	\$1,463.26	\$583,959.25	
\$2,807.20	\$1,347.30	\$1,459.90	\$582,611.95	
\$2,807.20	\$1,350.67	\$1,456.53	\$581,261.28	
\$2,807.20	\$1,354.05	\$1,453.15	\$579,907.23	
\$2,807.20	\$1,357.43	\$1,449.77	\$578,549.80	
\$2,807.20	\$1,360.83	\$1,446.37	\$577,188.97	
\$2,807.20	\$1,364.23	\$1,442.97	\$575,824.74	
\$2,807.20	\$1,367.64	\$1,439.56	\$574,457.10	
\$2,807.20	\$1,371.06	\$1,436.14	\$573,086.04	
\$2,807.20	\$1,374.48	\$1,432.72	\$571,711.56	
\$2,807.20	\$1,377.92	\$1,429.28	\$570,333.64	
\$2,807.20	\$1,381.37	\$1,425.83	\$568,952.27	
\$2,807.20	\$1,384.82	\$1,422.38	\$567,567.45	
\$2,807.20	\$1,388.28	\$1,418.92	\$566,179.17	

\$2,807.20	\$1,391.75	\$1,415.45	\$564,787.42
\$2,807.20	\$1,395.23	\$1,411.97	\$563,392.19
\$2,807.20	\$1,398.72	\$1,408.48	\$561,993.47
\$2,807.20	\$1,402.22	\$1,404.98	\$560,591.25
\$2,807.20	\$1,405.72	\$1,401.48	\$559,185.53
\$2,807.20	\$1,409.24	\$1,397.96	\$557,776.29
\$2,807.20	\$1,412.76	\$1,394.44	\$556,363.53
\$2,807.20	\$1,416.29	\$1,390.91	\$554,947.24
\$2,807.20	\$1,419.83	\$1,387.37	\$553,527.41
\$2,807.20	\$1,423.38	\$1,383.82	\$552,104.03
\$2,807.20	\$1,426.94	\$1,380.26	\$550,677.09
\$2,807.20	\$1,430.51	\$1,376.69	\$549,246.58
\$2,807.20	\$1,434.08	\$1,373.12	\$547,812.50
\$2,807.20	\$1,437.67	\$1,369.53	\$546,374.83
\$2,807.20	\$1,441.26	\$1,365.94	\$544,933.57
\$2,807.20	\$1,444.87	\$1,362.33	\$543,488.70
\$2,807.20	\$1,448.48	\$1,358.72	\$542,040.22
\$2,807.20	\$1,452.10	\$1,355.10	\$540,588.12
\$2,807.20	\$1,455.73	\$1,351.47	\$539,132.39
\$2,807.20	\$1,459.37	\$1,347.83	\$537,673.02
\$2,807.20	\$1,463.02	\$1,344.18	\$536,210.00
\$2,807.20	\$1,466.67	\$1,340.53	\$534,743.33
\$2,807.20	\$1,470.34	\$1,336.86	\$533,272.99
\$2,807.20	\$1,474.02	\$1,333.18	\$531,798.97
\$2,807.20	\$1,477.70	\$1,329.50	\$530,321.27
\$2,807.20	\$1,481.40	\$1,325.80	\$528,839.87
\$2,807.20	\$1,485.10	\$1,322.10	\$527,354.77
\$2,807.20	\$1,488.81	\$1,318.39	\$525,865.96
\$2,807.20	\$1,492.54	\$1,314.66	\$524,373.42
\$2,807.20	\$1,496.27	\$1,310.93	\$522,877.15
\$2,807.20	\$1,500.01	\$1,307.19	\$521,377.14
\$2,807.20	\$1,661.70	\$1,145.50	456,537.78
\$2,807.20	\$1,665.86	\$1,141.34	\$454,871.92
\$2,807.20	\$1,670.02	\$1,137.18	\$453,201.90
\$2,807.20	\$1,674.20	\$1,133.00	\$451,527.70

\$2,807.20	\$1,678.38	\$1,128.82	\$449,849.32
\$2,807.20	\$1,682.58	\$1,124.62	\$448,166.74
\$2,807.20	\$1,686.78	\$1,120.42	\$446,479.96
\$2,807.20	\$1,691.00	\$1,116.20	\$444,788.96
\$2,807.20	\$1,695.23	\$1,111.97	\$443,093.73
\$2,807.20	\$1,699.47	\$1,107.73	\$441,394.26
\$2,807.20	\$1,703.71	\$1,103.49	\$439,690.55
\$2,807.20	\$1,707.97	\$1,099.23	\$437,982.58
\$2,807.20	\$1,712.24	\$1,094.95	\$436,270.34
\$2,807.20	\$1,716.52	\$1,090.68	\$434,553.82
\$2,807.20	\$1,720.82	\$1,086.38	\$432,833.00
\$2,807.20	\$1,725.12	\$1,082.08	\$431,107.88
\$2,807.20	\$1,729.43	\$1,077.77	\$429,378.45
\$2,807.20	\$1,733.75	\$1,073.45	\$427,644.70
\$2,807.20	\$1,738.09	\$1,069.11	\$425,906.61
\$2,807.20	\$1,742.43	\$1,064.77	\$424,164.18
\$2,807.20	\$1,746.79	\$1,060.41	\$422,417.39
\$2,807.20	\$1,751.16	\$1,056.04	\$420,666.23
\$2,807.20	\$1,755.53	\$1,051.67	\$418,910.70
\$2,807.20	\$1,759.92	\$1,047.28	\$417,150.78
\$2,807.20	\$1,764.32	\$1,042.88	\$415,386.46
\$2,807.20	\$1,768.73	\$1,038.47	\$413,617.73
\$2,807.20	\$1,773.16	\$1,034.04	\$411,844.57
\$2,807.20	\$1,777.59	\$1,029.61	\$410,066.98
\$2,807.20	\$1,782.03	\$1,025.17	\$408,284.95
\$2,807.20	\$1,786.49	\$1,020.71	\$406,498.46
\$2,807.20	\$1,790.95	\$1,016.25	\$404,707.51
\$2,807.20	\$1,795.43	\$1,011.77	\$402,912.08
\$2,807.20	\$1,799.92	\$1,007.28	\$401,112.16
\$2,807.20	\$1,804.42	\$1,002.78	\$399,307.74
\$2,807.20	\$1,808.93	\$998.27	\$397,498.81
\$2,807.20	\$1,813.45	\$993.75	\$395,685.36
\$2,807.20	\$1,817.99	\$989.21	\$393,867.37
\$2,807.20	\$1,822.53	\$984.67	\$392,044.84
\$2,807.20	\$1,827.09	\$980.11	\$390,217.75

\$2,807.20	\$1,831.66	\$975.54	\$388,386.09
\$2,807.20	\$1,836.23	\$970.97	\$386,549.86
\$2,807.20	\$1,840.83	\$966.37	\$384,709.03
\$2,807.20	\$1,845.43	\$961.77	\$382,863.60
\$2,807.20	\$1,850.04	\$957.16	\$381,013.56
\$2,807.20	\$1,854.67	\$952.53	\$379,158.89
\$2,807.20	\$1,859.30	\$947.90	\$377,299.59
\$2,807.20	\$1,863.95	\$943.25	\$375,435.64
\$2,807.20	\$1,868.61	\$938.59	\$373,567.03
\$2,807.20	\$1,873.28	\$933.92	\$371,693.75
\$2,807.20	\$1,877.97	\$929.23	\$369,815.78
\$2,807.20	\$1,882.66	\$924.54	\$367,933.12
\$2,807.20	\$1,887.37	\$919.83	\$366,045.75
\$2,807.20	\$1,892.09	\$915.11	\$364,153.66
\$2,807.20	\$1,896.82	\$910.38	\$362,256.84
\$2,807.20	\$1,901.56	\$905.64	\$360,355.28
\$2,807.20	\$1,906.31	\$900.89	\$358,448.97
\$2,807.20	\$1,911.08	\$896.12	\$356,537.89
\$2,807.20	\$1,915.86	\$891.34	\$354,622.03
\$2,807.20	\$1,920.64	\$886.56	\$352,701.39
\$2,807.20	\$1,925.45	\$881.75	\$350,775.94
\$2,807.20	\$1,930.26	\$876.94	\$348,845.68
\$2,807.20	\$1,935.09	\$872.11	\$346,910.59
\$2,807.20	\$1,939.92	\$867.28	\$344,970.67
\$2,807.20	\$1,944.77	\$862.43	\$343,025.90
\$2,807.20	\$1,949.64	\$857.56	\$341,076.26
\$2,807.20	\$1,954.51	\$852.69	\$339,121.75
\$2,807.20	\$1,959.40	\$847.80	\$337,162.35
\$2,807.20	\$1,964.29	\$842.91	\$335,198.06
\$2,807.20	\$1,969.20	\$838.00	\$333,228.86
\$2,807.20	\$1,974.13	\$833.07	\$331,254.73
\$2,807.20	\$1,979.06	\$828.14	\$329,275.67
\$2,807.20	\$1,984.01	\$823.19	\$327,291.66
\$2,807.20	\$1,988.97	\$818.23	\$325,302.69
\$2,807.20	\$1,993.94	\$813.26	\$323,308.75

\$2,807.20	\$1,998.93	\$808.27	\$321,309.82
\$2,807.20	2,003.93	\$803.27	\$319,305.89
\$2,807.20	\$2,008.94	\$798.26	\$317,296.95
\$2,807.20	\$2,013.96	\$793.24	\$315,282.99
\$2,807.20	\$2,018.99	\$788.21	\$313,264.00
\$2,807.20	\$2,024.04	\$783.16	\$311,239.96
\$2,807.20	\$2,029.10	\$778.10	\$309,210.86
\$2,807.20	\$2,034.17	\$773.03	\$307,176.69
\$2,807.20	\$2,039.26	\$767.94	\$305,137.43
\$2,807.20	\$2,044.36	\$762.84	\$303,093.07
\$2,807.20	\$2,049.47	\$757.73	\$301,043.60
\$2,807.20	\$2,054.59	\$752.61	\$298,989.01
\$2,807.20	\$2,059.73	\$747.47	\$296,929.28
\$2,807.20	\$2,064.88	\$742.32	\$294,864.40
\$2,807.20	\$2,070.04	\$737.16	\$292,794.35
\$2,807.20	\$2,075.21	\$731.99	\$290,719.15
\$2,807.20	\$2,080.40	\$726.80	\$288,638.75
\$2,807.20	\$2,085.60	\$721.60	\$286,553.15
\$2,807.20	\$2,090.82	\$716.38	\$284,462.33
\$2,807.20	\$2,096.04	\$711.16	\$282,366.29
\$2,807.20	\$2,101.28	\$705.92	\$280,265.01
\$2,807.20	\$2,106.54	\$700.66	\$278,158.47
\$2,807.20	\$2,111.80	\$695.40	\$276,046.67
\$2,807.20	\$2,117.08	\$690.12	\$273,929.59
\$2,807.20	\$2,122.38	\$684.82	\$271,807.21
\$2,807.20	\$2,127.68	\$679.52	\$269,679.53
\$2,807.20	\$2,133.00	\$674.20	\$267,546.53
\$2,807.20	\$2,138.33	\$668.87	\$265,408.20
\$2,807.20	\$2,143.68	\$663.52	\$263,264.52
\$2,807.20	\$2,149.04	\$658.16	\$261,115.48
\$2,807.20	\$2,154.41	\$652.79	\$258,961.07
\$2,807.20	\$2,159.80	\$647.40	\$256,801.27
\$2,807.20	\$2,165.20	\$642.00	\$254,636.07
\$2,807.20	\$2,170.61	\$636.59	\$252,465.46
\$2,807.20	\$2,176.04	\$631.16	\$250,289.42

\$2,807.20	\$2,181.48	\$525.72	\$248,107.94
\$2,807.20	\$2,186.93	\$520.27	\$245,921.01
\$2,807.20	\$2,192.40	\$514.80	\$243,728.61
\$2,807.20	\$2,197.88	\$509.32	\$241,530.73
\$2,807.20	\$2,203.37	\$503.83	\$239,327.35
\$2,807.20	\$2,208.88	\$598.32	\$237,118.48
\$2,807.20	\$2,214.40	\$592.80	\$234,904.08
\$2,807.20	\$2,219.94	\$587.26	\$232,684.14
\$2,807.20	\$2,225.49	\$581.71	\$230,458.65
\$2,807.20	\$2,231.05	\$576.15	\$228,227.60
\$2,807.20	\$2,236.63	\$570.57	\$225,990.97
\$2,807.20	\$2,242.22	\$564.98	\$223,748.75
\$2,807.20	\$2,247.83	\$559.37	\$221,500.92
\$2,807.20	\$2,253.45	\$553.75	\$219,247.47
\$2,807.20	\$2,259.08	\$548.12	\$216,988.39
\$2,807.20	\$2,264.73	\$542.47	\$214,723.66
\$2,807.20	\$2,270.49	\$536.81	\$212,453.27
\$2,807.20	\$2,276.07	\$531.13	\$210,177.20
\$2,807.20	\$2,281.76	\$525.44	\$207,895.44
\$2,807.20	\$2,287.48	\$519.74	\$205,607.98
\$2,807.20	\$2,293.18	\$514.02	\$203,314.80
\$2,807.20	\$2,298.91	\$508.29	\$201,015.89
\$2,807.20	\$2,304.66	\$502.54	\$198,711.23
\$2,807.20	\$2,310.42	\$496.78	\$196,400.81
\$2,807.20	\$2,316.20	\$491.00	\$194,084.61
\$2,807.20	\$2,321.99	\$485.21	\$191,762.62
\$2,807.20	\$2,327.79	\$479.41	\$189,434.83
\$2,807.20	\$2,333.61	\$473.59	\$187,101.22
\$2,807.20	\$2,339.45	\$467.75	\$184,761.77
\$2,807.20	\$2,345.30	\$461.90	\$182,416.47
\$2,807.20	\$2,351.16	\$456.04	\$180,065.31
\$2,807.20	\$2,357.04	\$450.16	\$177,708.27
\$2,807.20	\$2,362.93	\$444.27	\$175,345.34
\$2,807.20	\$2,368.84	\$438.36	\$172,976.50
\$2,807.20	\$2,374.76	\$432.44	\$170,601.74

\$2,807.20	\$2,380.70	\$426.50	\$168,221.04
\$2,807.20	\$2,386.65	\$420.55	\$165,834.39
\$2,807.20	\$2,392.61	\$414.59	\$163,441.78
\$2,807.20	\$2,398.60	\$408.60	\$161,043.18
\$2,807.20	\$2,404.59	\$402.61	\$158,638.59
\$2,807.20	\$2,410.60	\$396.60	\$156,227.99
\$2,807.20	\$2,416.63	\$390.57	\$153,811.36
\$2,807.20	\$2,422.67	\$384.53	\$151,388.69
\$2,807.20	\$2,428.73	\$378.47	\$148,959.96
\$2,807.20	\$2,434.80	\$372.40	\$146,525.16
\$2,807.20	\$2,440.89	\$366.31	\$144,084.27
\$2,807.20	\$2,446.99	\$360.21	\$141,637.28
\$2,807.20	\$2,453.11	\$354.09	\$139,184.17
\$2,807.20	\$2,459.24	\$347.96	\$136,724.93
\$2,807.20	\$2,465.39	\$341.81	\$134,259.54
\$2,807.20	\$2,471.55	\$335.65	\$131,787.99
\$2,807.20	\$2,477.73	\$329.47	\$129,310.26
\$2,807.20	\$2,483.92	\$323.28	\$126,826.34
\$2,807.20	\$2,490.13	\$317.07	\$124,336.21
\$2,807.20	\$2,496.36	\$310.84	\$121,839.85
\$2,807.20	\$2,502.60	\$304.60	\$119,337.25
\$2,807.20	\$2,508.86	\$298.34	\$116,828.39
\$2,807.20	\$2,515.13	\$292.07	\$114,313.26
\$2,807.20	\$2,521.42	\$285.78	\$111,791.84
\$2,807.20	\$2,527.72	\$279.48	\$109,264.12
\$2,807.20	\$2,534.04	\$273.16	\$106,730.08
\$2,807.20	\$2,540.37	\$266.83	\$104,189.71
\$2,807.20	\$2,546.73	\$260.47	\$101,642.98
\$2,807.20	\$2,553.09	\$254.11	\$99,089.89
\$2,807.20	\$2,559.48	\$247.72	\$96,530.41
\$2,807.20	\$2,565.87	\$241.33	\$93,964.54
\$2,807.20	\$2,572.29	\$234.91	\$91,392.25
\$2,807.20	\$2,578.72	\$228.48	\$88,813.53
\$2,807.20	\$2,585.17	\$222.03	\$86,228.36
\$2,807.20	\$2,591.63	\$215.57	\$83,636.73



\$2,807.20	\$2,598.11	\$209.09	\$81,038.62
\$2,807.20	\$2,604.60	\$202.60	\$78,434.02
\$2,807.20	\$2,611.11	\$196.09	\$75,822.91
\$2,807.20	\$2,617.64	\$189.56	\$73,205.27
\$2,807.20	\$2,624.19	\$183.01	\$70,581.08
\$2,807.20	\$2,630.75	\$176.45	\$67,950.33
\$2,807.20	\$2,637.32	\$169.88	\$65,313.01
\$2,807.20	\$2,643.92	\$163.28	\$62,669.09
\$2,807.20	\$2,650.53	\$156.67	\$60,018.56
\$2,807.20	\$2,657.15	\$150.05	\$57,361.41
\$2,807.20	\$2,663.80	\$143.40	\$54,697.61
\$2,807.20	\$2,670.46	\$136.74	\$52,027.15
\$2,807.20	\$2,677.13	\$130.07	\$49,350.02
\$2,807.20	\$2,683.82	\$123.38	\$46,666.20
\$2,807.20	\$2,690.53	\$116.67	\$43,975.67
\$2,807.20	\$2,697.26	\$109.94	\$41,278.41
\$2,807.20	\$2,704.00	\$103.20	\$38,574.41
\$2,807.20	\$2,710.76	\$96.44	\$35,863.65
\$2,807.20	\$2,717.54	\$89.66	\$33,146.11
\$2,807.20	\$2,724.33	\$82.87	\$30,421.78
\$2,807.20	\$2,731.15	\$76.05	\$27,690.63
\$2,807.20	\$2,737.97	\$69.23	\$24,952.66
\$2,807.20	\$2,744.82	\$62.38	\$22,207.84
\$2,807.20	\$2,751.68	\$55.52	\$19,456.16
\$2,807.20	\$2,758.56	\$48.64	\$16,697.60
\$2,807.20	\$2,765.46	\$41.74	\$13,932.14
\$2,807.20	\$2,772.37	\$34.83	\$11,159.77
\$2,807.20	\$2,779.30	\$27.90	\$8,380.47
\$2,807.20	\$2,786.25	\$20.95	\$5,594.22
\$2,807.20	\$2,793.21	\$13.99	\$2,801.01
\$2,801.01	\$2,801.01	\$7.00	\$0.00

# Exhibit “3”

FILED  
Electronically  
CV21-00246  
2021-03-16 12:30:48 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8345088 : sacordag

# Exhibit “3”

WHEN RECORDED MAIL TO:  
Michael Hatch and Alisha Hatch  
9845 Firefoot Lane  
Reno, NV 89521

DOC #4500519  
08/06/2015 03:43:59 PM  
Electronic Recording Requested By  
TICOR TITLE - RENO (MAIN)  
Washoe County Recorder  
Lawrence R. Burnett  
Fee: \$23.00 RPTT: \$2621.95  
Page 1 of 7

MAIL TAX STATEMENTS TO:  
Same As Above

Escrow No. 1404892-LMZ

The undersigned hereby affirms that this document  
submitted for recording does not contain the social  
security number of any person or persons.  
(Pursuant to NRS 239b.030)

APN No.: 141-254-09  
R.P.T.T. \$2,621.95

SPACE ABOVE FOR RECORDER'S USE ONLY

## GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Toll South Reno, LLC, a Nevada Limited Liability Company

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby  
Grant, Bargain, Sell and Convey to Michael Hatch and Alisha Hatch, husband and wife as joint  
tenants with right of survivorship

all that real property situated in the County of Washoe, State of Nevada, described as follows:

SEE EXHIBIT "A&B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging  
or in anywise appertaining.

Signature and notary acknowledgement on page two.

THIS DOCUMENT IS BEING RECORDED  
AS AN ACCOMODATION ONLY. NO  
LIABILITY IS ASSUMED HEREBY.

JA\_00405

Toll South Reno, LLC, a Nevada limited liability company

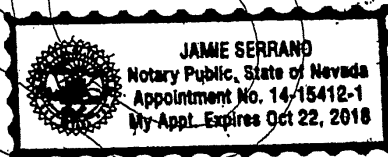
By: Gary M. Mayo, President *DAVID STANLEY, VICE PRESIDENT*

STATE OF NEVADA  
COUNTY OF WASHOE

} ss:

This instrument was acknowledged before me on, August 3<sup>rd</sup> 2015  
by Gary M. Mayo, DAVID STANLEY.

[Signature]  
NOTARY PUBLIC



This Notary Acknowledgement is attached to that certain Grant, Bargain, Sale Deed dated date of document under escrow No. 01404892.

## Exhibit "A"

The land referred to in this Policy is described as follows:

Lot 55 of DAMONTE RANCH VILLAGE 11D, according to the map thereof, filed in the Office of the County Recorder of Washoe County, State of Nevada, on April 3, 2014, as File No. 4341181, Official Records, Tract Map No. 5071.

More Commonly Known as: 9845 Firefoot Lane, Reno, Nevada  
Assessor's Parcel No.: 141-254-09

COPY

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ALTA Plain Language Commitment Form (6/17/06)  
Schedule C

109-14000223-TBI/15

JA\_00407

Exhibit "B"

**ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE  
BUYER'S USE OF PROPERTY**

ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer"), Lot No. 0055 (the "Property") in the community of Estates at Saddle Ridge.

1. **OWNER OCCUPANY:** Seller desires to sell only to buyers who will occupy the home as their primary residence or a secondary residence, *i.e.*, vacation or seasonal home (their "**Residence**"), to create an established community of owner-occupied homes. Seller and Buyer agree that homebuyers prefer owner-occupied communities and, as such, owner-occupied communities proved a better environment to sell homes and in which to reside. Therefore, Seller chooses to only sell homes to buyers who intend to occupy the home as their Residence for a minimum of one (1) year after the closing. To induce Seller to agree to sell the Property to Buyer, Buyer represents warrants and agrees as follows:

1.1 **Use of Principal Residence for One (1) Year.** Buyer represents and warrants to Seller that (a) Buyer is purchasing the Property for use as Buyer's Residence; (b) Buyer will occupy the Property within thirty (30) calendar days after the Closing; and (c) Buyer will not attempt to transfer Buyer's rights under the Agreement or enter into any agreement for the lease, sale or other transfer of the Property that would result in Buyer's failure to occupy the Property as Buyer's Residence and hold title thereto in fee simple for a period of one (1) year after the Settlement of Buyer's purchase of the Property (the "**Occupancy Period**"). The provisions of this Section and the accuracy of the above representations warranties constitute a personal covenant of Buyer and a condition precedent to Seller's performance under the Agreement.

MSH ASH Initials JS

1.2 **Transfer before Closing.** Except for Hardship Situations, as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, any attempt by Buyer to assign Buyer's rights under this Agreement or to lease, sell or otherwise transfer the Property before the Closing will constitute both (a) a breach of the Agreement, entitling Seller, at its sole election, to immediately terminate this Agreement and retain Buyer's deposit as liquidated damages and (b) the failure of a condition precedent to Seller's obligation to sell the Property to Buyer. However, if Buyer's breach does not become known to Seller or Seller fails to terminate this Agreement until after Closing, then Seller will be limited solely to the remedy of Liquidated Damages described in Sections 1.3 and 1.4.

MSH ASH Initials JS

**1.3 Transfer after closing.** Except for Hardship Situations as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, Buyer's transfer of title to the Property prior to or during the Occupancy Period constitutes a breach of this Agreement. Buyer and Seller agree that such a breach will entitle the Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the difference between the sales price on resale and the purchase price hereunder. **Seller and Buyer that the amount of liquidated damages is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

*MSK* *ASH* *KJ*  
Initials

**1.4 Lease of Property After Closing.** Except for Hardship Situations as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, Buyer's failure to make the Property Buyer's Residence during the Occupancy Period or Buyer's lease of the property during the Occupancy Period constitutes a breach of this Agreement, entitling Seller to liquidate damages. Buyer and Seller agree that such a breach will entitle Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the total payments received from the tenant for the first 12 months of the rental period. **Seller and Buyer agree that the liquidated damages amount is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

*MSK* *ASH* *KJ*  
Initials

**1.5 Hardship Situations.** The following events will be deemed to constitute "Hardship Situations" under which Buyer will be relieved of the obligations of this Section concerning limitations on the sale or lease of the Property.

- 1.5.1.1 The death of the Buyer (or any person who is co-buyer if more than one);
- 1.5.1.2 The dissolution of Buyer's marriage or legal separation of married Buyers;
- 1.5.1.3 A Mandatory job transfer required by Buyer's employer (not including Buyer if buyer is self employed);
- 1.5.1.4 A medical or financial emergency, proof of which Seller has approved within its sole discretion, and
- 1.5.1.5 A situation which, in the sole judgment of Seller, constitutes a hardship consistent with the purpose of this Section.

**1.6 Unrestricted Transfers.** The following transfers are not in violation of the stated purpose of this Section and are not subject to the provisions of Sections 1.3 and 1.4.

- 1.6.1.1 A transfer between spouses or between parent and child (but subsequent transfers within the Occupancy Period would be subject to this Endorsement);

*MSK* *ASH* *KJ*

1.6.1.2 A transfer resulting from a decree of dissolution of marriage or legal separation or from a property settlement agreement incident to such a decree;

1.6.1.3 A transfer into a revocable *inter vivos* trust in which Buyer is the beneficiary; and

1.6.1.4 A transfer, conveyance, pledge, or assignment of the Property (such as a Mortgage) to secure the performance of an obligation, which will be released or reconveyed upon the completion of the performance; and

1.6.1.5 A transfer resulting from a foreclosure (by judicial foreclosure or trustee's sale) by the beneficiary of a first mortgage or a transfer in lieu thereof.

1.7 **FHA/VA Loans.** Notwithstanding anything to the contrary contained herein, in the event the mortgage or deed of trust on the Property is insured by FHA or guaranteed by VA any occupancy requirements of FHA and/or VA, as applicable, shall apply and the provisions of this endorsement shall be of no further force and effect as to the Property.

1.8 **No Unreasonable Restraint.** The purpose of this Section is to comply with Seller's intention to sell homes only to persons who intend to occupy them as their Residences; to obtain a stabilized community of owner-occupied homes; and to provide the type of community in which prospective buyers are most interested in living. Buyer agrees that the provisions and restrictions set forth in this Section do not constitute an unreasonable restraint upon alienation of the Property, and that the liquidated damages provisions in Sections 1.3 and 1.4 are not a penalty or a forfeiture.

*[Signature]* *[Signature]* Initials

1.9 **Survival.** The rights and duties pursuant to this Section shall survive Closing and remain in full force and effect in accordance with its terms.

**THIS ENDORSEMENT TO AGREEMENT OF SALE** is intended to be incorporated into and made a part of the Agreement and all other terms and conditions contained in the Agreement, unless expressly modified herein, remain in full force and effect.

**IN WITNESS WHEREOF,** the parties hereto, intending to be legally bound hereby, have hereunto set their hands and seals the day and year written.

*[Signature]* *[Signature]* 12/13/14  
 BUYER: *[Signature]* *[Signature]* DATE 12/13/14  
*[Signature]* *[Signature]*  
 BUYER: *[Signature]* *[Signature]* DATE 12/13/14  
*[Signature]*  
 SELLER: *[Signature]* DATE 12/13/14  
*[Signature]* Jake Lubero





## WASHOE COUNTY RECORDER


OFFICE OF THE COUNTY RECORDER  
LAWRENCE R. BURTNESS, RECORDER

1061 E. NINTH STREET  
POST OFFICE BOX 11130  
RENO, NEVADA 89520-0027  
PHONE (775) 328-3661  
FAX (775) 325-8010

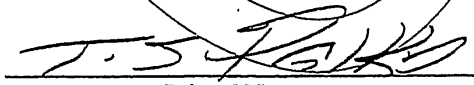
### LEGIBILITY NOTICE

The Washoe County Recorder's Office has determined that the attached document may not be suitable for recording by the method used by the Recorder to preserve the Recorder's records. The customer was advised that copies reproduced from the recorded document would not be legible. However, the customer demanded that the document be recorded without delay as the parties rights may be adversely affected because of a delay in recording. Therefore, pursuant to NRS 247.120 (3), the County Recorder accepted the document conditionally, based on the undersigned's representation (1) that a suitable copy will be submitted at a later date (2) it is impossible or impracticable to submit a more suitable copy.

By my signing below, I acknowledge that I have been advised that once the document has been microfilmed it may not reproduce a legible copy.

  
Signature

  
Date

  
Printed Name

# Exhibit “4”

FILED  
Electronically  
CV21-00246  
2021-03-16 12:30:48 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8345088 : sacordag

# Exhibit “4”

**DOC #4982284**

12/13/2019 12:54:15 PM  
Electronic Recording Requested By  
TICOR TITLE - FERNLEY  
Washoe County Recorder  
Kalie M. Work  
Fee: \$41.00 RPTT: \$0  
Page 1 of 18

Assessor's Parcel No.: 141-254-09

Recording Requested by:  
GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION  
When Recorded Mail To:  
GUILD MORTGAGE COMPANY - ATTN: DMD

5898 COPLEY DRIVE  
SAN DIEGO, CA 92111

Mail Tax Statement To:  
MICHAEL HATCH  
9845 FIREFOOT  
RENO, NV 89521

[Space Above This Line For Recording Data]

Loan No.: 156-2017268

MIN: 100019915620172680

## DEED OF TRUST

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 9, 2019, together with all Riders to this document.

(B) "Borrower" is MICHAEL HATCH AND Alisha Hatch, HUSBAND AND WIFE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP. Borrower is the trustor under this Security Instrument.

Nevada Deed of Trust—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc.

Page 1 of 15

Modified by Compliance Source 14301NV 10/05 Rev. 11/15

©2005-2015, The Compliance Source, Inc.



JA\_00413

(C) "Lender" is GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION. Lender is a corporation organized and existing under the laws of CALIFORNIA. Lender's address is 5898 COPLEY DRIVE, SAN DIEGO, CA 92111.

(D) "Trustee" is GUILD ADMINISTRATION CORP, A CALIFORNIA CORPORATION.

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated December 9, 2019. The Note states that Borrower owes Lender Two Hundred Fifty Nine Thousand and 00/100ths Dollars (U.S. \$259,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2050.

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider                         | <input type="checkbox"/> Second Home Rider      |
| <input type="checkbox"/> Balloon Rider         | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> 1-4 Family Rider      | <input type="checkbox"/> Revocable Trust Rider                     |   |
| <input type="checkbox"/> Other(s) [specify]    |  |   |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.



(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

# TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

County of WASHOE  
 [Type of Recording Jurisdiction] [Name of Recording Jurisdiction]  
 ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF WASHOE, STATE OF NEVADA, DESCRIBED AS FOLLOWS. LOT 55 OF DAMONTE RANCH VILLAGE 11D, ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF WASHOE COUNTY, STATE OF NEVADA, ON APRIL 3, 2014, AS FILE NO. 4341161, OFFICIAL RECORDS, TRACT MAP NO. 5071. APN: 141-254-09  
 which currently has the address of 9845 FIREFOOT LN

RENO, Nevada 89521  
 [City] [Zip Code]  
 [Street] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.



BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.



3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien of encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground



rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the 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, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services; and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction.





provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's



interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender



takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has – if any – with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the



Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first-class mail or when actually delivered to Borrower's notice address if sent by other



means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. These conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's



check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by 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; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. 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 (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) 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 Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private



party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.


24. Substitute Trustee. Lender at its option may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$100 where no credit checks are required, the greater of \$400 or 1% of unpaid principal balance of the mortgage - up to a maximum of \$900 - if the change of ownership requires credit approval of the new mortgagor; or any maximum prescribed by Applicable Law or Regulations.



BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

  
\_\_\_\_\_  
MICHAEL HATCH (Seal)  
-Borrower  
[Printed Name]

  
\_\_\_\_\_  
Alisha Hatch (Seal)  
-Borrower  
[Printed Name]


\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

\_\_\_\_\_  
(Seal)  
-Borrower  
[Printed Name]

ACKNOWLEDGMENT

State of Nevada  
County of Washoe

The foregoing instrument was acknowledged before me on Dec 9, 2019 by MICHAEL HATCH.

  
TYLER MACALUSO  
Notary Public - State of Nevada  
Appointment Recorded in Washoe County  
No. 16-3876-2 - Expires October 14, 2020

\_\_\_\_\_  
Signature of Person Taking Acknowledgment

Tyler Macaluso  
Printed Name

N/A  
Title or Rank

Serial Number, if any: 16-3876-2

My Commission Expires: Oct 14, 2020

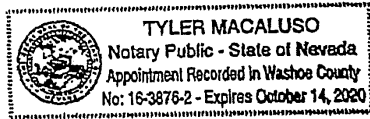




ACKNOWLEDGMENT

State of Nevada  
County of Washoe

The foregoing instrument was acknowledged before me on Dec 9, 2019 by Alisha Hatch.



Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:

(Seal)

Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184



Loan Originator Organization: GUILD MORTGAGE COMPANY, NMLSR ID: 3274  
Individual Loan Originator's Name: AMANDA ROCHELLE REA, NMLSR ID: 398184  
Loan No.: 156-2017268  
MIN: 100019915620172680

## PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 9th day of December, 2019, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

9845 FIREFOOT LN, RENO, NV 89521

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in Declaration of Covenants, Conditions, and Restrictions (the "Declaration"). The Property is a part of a planned unit development known as:

SOUTH MEADOWS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. **PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of

Multistate PUD Rider—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc. Page 1 of 3

Form 3150 1/01  
14501MU 03/00 Rev. 11/15  
©2000-2015, The Compliance Source, Inc.



the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then:

(i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

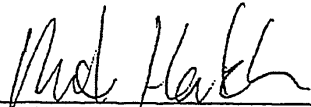
**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have




the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

  
\_\_\_\_\_  
MICHAEL HATCH (Seal)  
-Borrower

  
\_\_\_\_\_  
Alisha Hatch (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

[Sign Original Only]



1030  
STEFANIE T. SHARP, ESQ.  
Nevada State Bar No. 8661  
CLAYTON P. BRUST, ESQ.  
Nevada State Bar No. 5234  
HANNAH E. WINSTON, ESQ.  
Nevada State Bar No. 14520  
ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
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Reno, Nevada 89503  
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Facsimile: (775) 329-7169  
Email: [ssharp@rssblaw.com](mailto:ssharp@rssblaw.com)

*Attorneys for Plaintiff Kari Anne Johnson*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

KARI ANNE JOHNSON, an individual,

Plaintiff,

vs.

MICHAEL EDWARD HATCH, an individual;  
ALISHA SUZANNE HATCH, an individual;  
and DOES I THROUGH X, inclusive;

Defendants.

**CASE NO.: CV21-00246**

**DEPT. NO.: 7**

**AFFIDAVIT OF KARI ANNE JOHNSON IN SUPPORT OF OPPOSITION TO**  
**EMERGENCY MOTION TO EXPUNGE LIS PENDENS**

STATE OF NEVADA            )  
  ):ss  
COUNTY OF WASHOE        )

I, KARI ANNE JOHNSON, affiant herein, do depose and say under penalty of perjury that the following assertions are true of my own personal knowledge:

1. I am over the age of 18 years, am mentally competent and have personal knowledge of the matters set forth in this declaration. If called upon as a witness, I could and would competently testify to the matters set forth herein.

1           2.       I reside in Reno, Nevada, am the Plaintiff in this action and make this Affidavit in  
2 support of my Opposition (the "Opposition") to Defendants' Emergency Motion To Expunge Lis  
3 Pendens filed with this Affidavit. Capitalized terms used herein and not otherwise defined shall  
4 have the meanings given to such terms in the Opposition.

5           3.       I met Alisha Hatch met in childhood. When I reconnected with her in adulthood, we  
6 shared housing for a period of time. My husband, Colin, and I socialized with Alisha and Michael  
7 Hatch (the Defendants in this action) and considered them friends.

8           4.       In approximately November of 2014, Alisha and Michael approached me about  
9 loaning them money to buy the residential real property located at 9845 Firefoot Lane, Reno,  
10 Nevada, Washoe County, APN: 141-254-09 (the "Property") because they (Alisha and Michael)  
11 were unable to qualify for a conventional mortgage. During these conversations which occurred at  
12 my house, Alisha and Michael promised that they would pay the loan as agreed and that my name  
13 would be on the title to the Property until the loan was paid in full.

14           5.       I agreed to loan (the "Loan") the money to Alisha and Michael based on their  
15 representations that they would pay the Loan as agreed and on the condition that I would be on the  
16 title to the property with Alisha and Michael until the Loan was paid in full.

17           6.       The Property was new construction and I was identified as a "buyer" in the Purchase  
18 and Sale Contract (the "PSA") along with Alisha and Michael. The PSA was signed on December  
19 13, 2014.

20           7.       Prior to the closing under the PSA, Alisha presented certain escrow documents to me  
21 representing that the documents needed to be signed for closing. I trusted Alisha implicitly and  
22 believed that Alisha and Michael would honor their agreement with me that I would be a joint owner  
23 of the Property with the Alisha and Michael until the Loan was paid in full.

24           8.       I paid the full amount of the purchase price for the Property and all closing costs.  
25 The total amount of the Loan was \$665,838.40. The Loan is evidenced by a "Promissory Note For  
26 Hatch Residence 9845 Firefoot Lane, Reno, NV 89521" (the "Note"). Alisha prepared the Note.  
27 The Note was signed and initialed by me, Michael and Alisha and Kari on September 9, 2015.

28           9.       The Note specifically refers to the Loan as being a "home loan" and accrues interest

1 at the rate of 3% per annum. A payment schedule requiring monthly payments of principal and  
2 interest was part of the Note and attached thereto.

3 10. On or about November 13, 2020, Colin and I discovered that Alisha and Michael had  
4 manipulated me into signing documents removing my name from the title to the Property at closing  
5 and that they had interlineated through my name on page 6 of the PSA which was recorded with the  
6 deed at closing. At the time of closing, Alisha concealed from me that Alisha and Michael had  
7 substantially changed the deal and had arranged for me to be removed from the Deed.

8 11. I would never have loaned Alisha and Michael the money if I knew I was not on title  
9 to the Property.

10 12. Shortly after the closing of the purchase of the Property, I requested a copy of the  
11 Deed. Alisha and Michael told me that they could not provide it to me because they needed it for  
12 landscaping. Alisha and Michael never gave me a copy of the Deed.

13 13. On or about November 13, 2020, Colin and I also discovered that on or about  
14 December 9, 2019, Alisha and Michael obtained a loan in the original principal amount of \$259,000  
15 from Guild Mortgage Company secured by the Property.

16 14. I would never have extended the Loan to Alisha and Michael without their agreement  
17 that my name would be on the title to the Property until the Loan was paid in full. Alisha and  
18 Michael used their relationship with me to exert influence over me to manipulate and convince me  
19 to make the Loan.

20 15. I am informed and believe that when Alisha and Michael represented to me that they  
21 (Alisha and Michael) would pay the Loan in full as agreed and that I would be a joint owner of the  
22 Property until the Loan was paid in full that (i) Alisha and Michael knew these representations were  
23 false; (ii) Alisha and Michael made the representations for the purposes of, and with the intent to,  
24 induce me to make the Loan and get me to enter into the Note; and (iii) Alisha and Michael never  
25 intended to pay the Loan as agreed.

26 16. I had trust and confidence in Alisha and Michael, and they (Alisha and Michael),  
27 through deception, intimidation, and/or undue influence, obtained the Loan from me with the  
28 intention of depriving me of the ownership, use, benefit, and possession of my money.

1           17. I trusted and relied on Alisha and Michael and they wrongfully asserted undue  
2 influence over me to obtain the Loan without it being secured by the Property and to obtain an  
3 advantage over me by allowing Alisha and Michael to still retain title to the Property even if they  
4 defaulted under the Loan. Alisha and Michael defaulted under the Loan by failing and refusing to  
5 pay the monthly payment due under the Loan on January 1, 2021, and for failing and refusing to  
6 pay any amounts thereafter despite demand that they do so.

7           DATED: This 16 day of March 2021.

8  
9           BY \_\_\_\_\_

KARI ANNE JOHNSON

10  
11           Subscribed and sworn to before me  
12 this 16 day of March, 2021, by  
Kari Anne Johnson.

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14           \_\_\_\_\_  
NOTARY PUBLIC





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**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA**

**AFFIRMATION  
Pursuant to NRS 239B.030**

The undersigned does affirm that the preceding document, **AFFIDAVIT OF KARI ANNE JOHNSON IN SUPPORT OF OPPOSITION TO EMERGENCY MOTION TO EXPUNGE LIS PENDENS** filed in case number CV21-00246:

☒ Document does not contain the social security number of any person,

**-OR-**

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

**-or-**

☐ For the administration of a public program

**-or-**

☐ For an application for a federal or state grant

**-or-**

☐ Confidential Family Court Information Sheet

(NRS 125.130, NRS 125.230 and NRS 125B.055)

DATED: This 17<sup>th</sup> day of March 2021.

ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
a Professional corporation  
71 Washington Street  
Reno, NV 89503

BY /s/ Stefanie T. Sharp  
CLAYTON P. BRUST, ESQ.  
STEFANIE T. SHARP, ESQ.  
*Attorneys for Plaintiff Kari Anne Johnson*

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **AFFIDAVIT OF KARI ANNE JOHNSON IN SUPPORT OF OPPOSITION TO EMERGENCY MOTION TO EXPUNGE LIS PENDENS** on all parties to this action by the method(s) indicated below:

\_\_\_\_\_ by placing true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

  x   by using the Court's CM/ECF Electronic Notification System addressed to:

Mark G. Simons, Esq.  
Anthony L. Hall, Esq.  
SIMONS HALL JOHNSTON PC  
Email: [MSimons@SHJNevada.com](mailto:MSimons@SHJNevada.com)  
[AHall@SHJNevada.com](mailto:AHall@SHJNevada.com)  
Attorneys for Defendants

\_\_\_\_\_ by personal delivery/hand delivery addressed to:

\_\_\_\_\_ by facsimile (fax) addressed to:

\_\_\_\_\_ by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 17th day of March 2021.

\_\_\_\_\_  
/s/ Leslie M. Lucero  
Employee of Robison, Sharp, Sullivan & Brust

3975  
STEFANIE T. SHARP, ESQ.  
Nevada State Bar No. 8661  
CLAYTON P. BRUST, ESQ.  
Nevada State Bar No. 5234  
HANNAH E. WINSTON, ESQ.  
Nevada State Bar No. 14520  
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Facsimile: (775) 329-7169  
Email: [ssharp@rssblaw.com](mailto:ssharp@rssblaw.com)

*Attorneys for Plaintiff Kari Anne Johnson*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

KARI ANNE JOHNSON, an individual,  
Plaintiff,

**CASE NO.: CV21-00246**

**DEPT. NO.: 7**

vs.

MICHAEL EDWARD HATCH, an individual;  
ALISHA SUZANNE HATCH, an individual;  
and DOES I THROUGH X, inclusive;

Defendants.

**PROPOSED EXHIBITS SUBMITTED BY PLAINTIFF**

**FOR MARCH 22, 2021 HEARING AT 1:30 P.M.**

Plaintiff KARI ANNE JOHNSON (hereinafter "Kari" or "Plaintiff"), by and through her counsel of record herein, CLAYTON P. BRUST, ESQ., STEFANIE T. SHARP, ESQ. and HANNAH E. WINSTON, ESQ. of the law firm of ROBISON, SHARP, SULLIVAN & BRUST, LTD., hereby submits her list of the following exhibits she expects to utilize at the hearing regarding the Motion to Expunge Lis Pendens, scheduled to be heard on March 22, 2021, commencing at 1:30 p.m.

EXHIBIT NO.	DESCRIPTION
1.	Verified Complaint, filed February 10, 2021.
2.	Purchase and Sale Contract, Exhibit 1 to Verified Complaint, filed February 10, 2021.
3.	Promissory Note , Exhibit 2 to Verified Complaint, filed February 10, 2021.
4.	Payment Schedule, Exhibit 3 to Verified Complaint, filed February 10, 2021.
5.	Deed, Exhibit 4 to Verified Complaint, filed February 10, 2021.
6.	Irregular Endorsement to Agreement of Sale, Exhibit 5 to Verified Complaint, filed February 10, 2021.
7.	Deed of Trust, Exhibit 6 to Verified Complaint, filed February 10, 2021.
8.	Affidavit of Kari Anne Johnson In Support of Opposition to Emergency Motion to Expunge Lis Pendens, filed March 17, 2021.

**AFFIRMATION**

**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that this document does not contain the Social Security Number of any person.

DATED: This 17<sup>th</sup> day of March 2021.

ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
a Professional corporation  
71 Washington Street  
Reno, NV 89503

BY /s/ Stefanie T. Sharp  
CLAYTON P. BRUST, ESQ.  
STEFANIE T. SHARP, ESQ.  
HANNAH E. WINSTON, ESQ.  
*Attorneys for Plaintiff Kari Anne Johnson*

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DATED: This 17th day of March 2021.

JA\_00439

**EXHIBIT LIST**

Exhibit #	Description	Pages
Exhibit "1"	Verified Complaint, filed February 10, 2021.	67
Exhibit "2"	Purchase and Sale Contract, Exhibit 1 to Verified Complaint, filed February 10, 2021.	13
Exhibit "3"	Promissory Note , Exhibit 2 to Verified Complaint, filed February 10, 2021.	1
Exhibit "4"	Payment Schedule, Exhibit 3 to Verified Complaint, filed February 10, 2021.	9
Exhibit "5"	Deed, Exhibit 4 to Verified Complaint, filed February 10, 2021.	7
Exhibit "6"	Irregular Endorsement to Agreement of Sale, Exhibit 5 to Verified Complaint, filed February 10, 2021.	1
Exhibit "7"	Deed of Trust, Exhibit 6 to Verified Complaint, filed February 10, 2021.	18
Exhibit "8"	Affidavit of Kari Anne Johnson In Support of Opposition to Emergency Motion to Expunge Lis Pendens, filed March 17, 2021.	6

FILED  
Electronically  
CV21-00246  
2021-03-17 12:26:03 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 1347328 sacor lag

# Exhibit “1”

# Exhibit “1”

1 **\$1425**  
2 STEFANIE T. SHARP, ESQ.  
3 Nevada State Bar No. 8661  
4 CLAYTON P. BRUST, ESQ.  
5 Nevada State Bar No. 5234  
6 ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
7 a Professional Corporation  
8 71 Washington Street  
9 Reno, Nevada 89503  
10 Telephone: (775) 329-3151  
11 Facsimile: (775) 329-7169  
12 Email: [ssharp@rssblaw.com](mailto:ssharp@rssblaw.com)

13 *Attorneys for Plaintiff Kari Anne Johnson*

14 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
15 **IN AND FOR THE COUNTY OF WASHOE**

16 KARI ANNE JOHNSON, an individual,  
17 Plaintiff,

18 vs.

19 MICHAEL EDWARD HATCH, an individual;  
20 ALISHA SUZANNE HATCH, an individual;  
21 and DOES I THROUGH X, inclusive;  
22 Defendants.

CASE NO.:

DEPT. NO.:

**ARBITRATION EXEMPT: Amount in  
Controversy Exceeds \$50,000 and  
Injunctive Relief Requested**

**Jury Requested**

23 **VERIFIED COMPLAINT**

24 COMES NOW, Plaintiff KARI ANNE JOHNSON, by and through her counsel of record  
25 herein, STEFANIE T. SHARP, ESQ. and CLAYTON P. BRUST, ESQ. of the law firm of  
26 ROBISON, SHARP, SULLIVAN & BRUST, LTD., and files her Verified Complaint for Breach of  
27 Contract, Demand on Loan, Unjust Enrichment, Fraud, Equitable Lien, Constructive Trust, and  
28 Injunctive Relief (the "Complaint") complaining as follows:

**PARTIES**

1. Plaintiff KARI ANNE JOHNSON ("Plaintiff" or "Kari") is an individual and is married to COLIN GROVER ("Colin"). Kari and Colin are residents of Washoe County, Nevada.
2. Defendant MICHAEL EDWARD HATCH ("Michael") is an individual residing in



1 Washoe County, Nevada.

2 3. Defendant ALISHA SUZANNE HATCH ("Alisha") is an individual residing in  
3 Washoe County, Nevada.

4 4. Alisha and Michael are husband and wife. Alisha and Michael are sometimes  
5 individually referred to herein as a "Defendant" and collectively referred to herein as the  
6 "Defendants."

7 5. The Plaintiff is ignorant of the true names and capacities of the defendants sued  
8 herein as DOES I through X, inclusive, and therefore sues these defendants by such fictitious names.  
9 The Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.

10 6. The Plaintiff is informed and believes and thereon alleges that, at all times herein  
11 mentioned, each of the defendants sued herein was the agent of each of the remaining defendants  
12 and was at all times acting within the purpose and scope of such agency.

13 **BACKGROUND AND STATEMENT OF FACTS**

14 7. Plaintiff and Alisha met in childhood. When they reconnected in adulthood they  
15 shared housing for a period of time and Plaintiff and Colin socialized with Defendants and  
16 considered them friends.

17 8. In approximately November of 2014, Defendants approached Kari about loaning  
18 Defendants money to buy certain real property and improvements commonly known as 9845  
19 Firefoot Lane, Reno, Nevada, Washoe County, APN: 141-254-09 (the "Property") because  
20 Defendants were unable to qualify for a conventional mortgage. During these conversations that  
21 occurred at Plaintiff's house, Defendants promised that they would pay the loan as agreed and that  
22 Kari's name would be on the title to the Property until the loan was paid in full.

23 9. Kari agreed to loan (the "Loan") the money to the Defendants based on their  
24 representations that they would pay the Loan as agreed and on the condition that Kari would be on  
25 the title to the property with Defendants until the Loan was paid in full.

26 10. The Property was new construction and Kari and the Defendants were identified as  
27 the "buyers" in the Purchase and Sale Contract (the "PSA"). The PSA was signed on December 13,  
28 2014. A true and correct copy of the PSA is attached hereto as "Exhibit 1."

1           11. Prior to the closing under the PSA, Alisha presented certain escrow documents to  
2 Kari representing that the documents needed to be signed for closing. Kari trusted Alisha implicitly  
3 and believed that Alisha and Michael would honor their agreement with Kari that she would be a  
4 joint owner of the Property with the Defendants until the Loan was paid in full.

5           12. Kari paid the full amount of the purchase price for the Property and all closing costs.  
6 The total amount of the Loan was \$665,838.40. The Loan is evidenced by a "Promissory Note For  
7 Hatch Residence 9845 Firefoot Lane, Reno, NV 89521" (the "Note"). Alisha prepared the Note.  
8 The Note was signed and initialed by Michael, Alisha and Kari on September 9, 2015. A true and  
9 correct copy of the Note is attached hereto as "Exhibit 2."

10           13. The Note specifically refers to the Loan as being a "home loan" and accrues interest  
11 at the rate of 3% per annum. A payment schedule requiring monthly payments of principal and  
12 interest was part of the Note and attached thereto. A true and correct copy of the payment schedule  
13 is attached hereto as "Exhibit 3."

14           14. On or about November 13, 2020, Kari and Colin discovered that Defendants had  
15 manipulated Kari into signing documents removing Kari's name from the title to the Property at  
16 closing and interlineated through Kari's name on page 6 of the PSA which was recorded with the  
17 deed at closing. A true and correct copy of the deed (the "Deed") recorded at closing with the  
18 attached interlineated pages of the PSA is attached hereto as "Exhibit 4." At the time of closing,  
19 Alisha concealed from Kari that Defendants had substantially changed the deal and had arranged  
20 for Kari to be removed from the Deed. A true and correct copy of an irregular Endorsement to  
21 Agreement of Sale, purporting to remove Kari from the purchase at the last minute, was either  
22 obtained by manipulation/fraud or is a forgery ("Fraudulent Endorsement") is attached hereto as  
23 "Exhibit 5." Kari does not recall executing the Fraudulent Endorsement and does not believe it  
24 contains her signature. Even if it does contain her signature, her signature was obtained by  
25 assurances from Defendants that the deal was the same and Defendants' concealed from Kari that  
26 the deal had materially changed. Further, the Fraudulent Endorsement does not even contain a  
27 signature line for the seller, necessary party to the Fraudulent Endorsement. See, Exhibit 5.

28           15. Upon information and belief, Defendants used the Fraudulent Endorsement to obtain

1 the Deed to the Property that did not include Kari as a grantee. *See*, "Exhibit 4." The Deed also  
2 evidences that, but for the deception of the Defendants, Kari would have been a joint title holder on  
3 the Property with the Defendants. Kari never would have loaned the money if she knew she was  
4 not on title to the Property.

5 16. Shortly after the Defendants closed the purchase of the Property, Kari requested a  
6 copy of the Deed. Defendants told her they could not provide it to her because they needed it for  
7 landscaping. Defendants never gave Kari a copy of the Deed.

8 17. On or about November 13, 2020, Kari and Colin also discovered that on or about  
9 December 9, 2019, Defendants' obtained a loan in the original principal amount of \$259,000 from  
10 Guild Mortgage Company secured by the Property. A true and correct copy of the Deed of Trust  
11 securing the Guild Mortgage Company loan is attached hereto as "Exhibit 6."

12 18. Kari would never have extended the Loan to the Defendants without their agreement  
13 that Kari's name would be on the title to the Property until the Loan was paid in full. Defendants  
14 used their relationship with Kari to exert influence over Kari to manipulate and convince Kari to  
15 make the Loan.

16 19. Plaintiff is informed and believes that when Defendants represented to her that  
17 Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the Property  
18 until the Loan was paid in full that (i) Defendants knew the representations were false; (ii)  
19 Defendants made the representations for the purposes of, and with the intent to, induce Kari to make  
20 the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan  
21 as agreed.

22 20. The Note lacks terms that would typically be found in a home loan promissory note,  
23 including but not limited to, a late fee or default interest rate, an acceleration provision, and a  
24 provision allowing the lender to recover costs and attorneys' fees associated with collection of the  
25 amount owed in the event of a default. The Plaintiff is informed and believes that the Defendants  
26 drafted the Note to be favorable to their interests to her detriment.

27 21. Plaintiff had trust and confidence in Defendants, and the Defendants, through  
28 deception, intimidation, and/or undue influence, obtained the Loan from her with the intention of

1 depriving her of the ownership, use, benefit, and possession of her money.

2 22. Plaintiff trusted and relied on the Defendants and the Defendants wrongfully asserted  
3 undue influence over her to obtain the Loan without it being secured by the Property and to obtain  
4 an advantage over her by allowing the Defendants to still retain title to the Property even if they  
5 defaulted under the Loan.

6 23. The Defendants defaulted under the Loan by failing and refusing to pay the monthly  
7 payment due under the Loan on January 1, 2021, and for failing and refusing to pay any amounts  
8 thereafter despite demand that they do so.

9 **PLAINTIFF'S CLAIMS FOR RELIEF**

10 **FIRST CLAIM FOR RELIEF**  
11 **Breach of Note**

12 24. The Plaintiff incorporates by reference all prior allegations of this Complaint as  
13 though fully set forth herein.

14 25. The Defendants breached the Note by refusing and failing to pay the Plaintiff the  
15 amounts due under the Note.

16 26. Due to the defaults of the Defendants and their breach of the Note, the Plaintiff has  
17 sustained and continues to sustain damages.

18 27. As a result of the Defendants' breach, as of the date of filing of this Complaint, the  
19 Plaintiff has incurred damages in the amount of \$5,614.40, plus interest accruing at the rate of 3  
20 percent per annum from and after January 1, 2021 until paid in full plus costs.

21 28. As a further consequence of the Defendants' breach, the Plaintiff was required to  
22 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

23 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and  
24 severally, as set forth below.

25 **SECOND CLAIM FOR RELIEF**  
26 **Demand on the Loan Documents**

27 29. Plaintiff incorporates by reference all prior allegations of this Complaint as though  
28 fully set forth herein.

30. On September 9, 2015, the Defendants made, executed, and delivered the Note for  
the Loan to the Decedent in Washoe County, Nevada.

1           31. The Defendants defaulted on the Note and as of the date of the filing of this  
2 Complaint, Defendants have not paid the sum of \$5,614.40, plus interest accruing at the rate of 3  
3 percent per annum from and after January 1, 2021 until paid in full, plus costs due the Plaintiff.

4           32. The balance due and owing as of the filing of this Complaint, is \$5,614.40, plus  
5 interest accruing at the rate of 3 percent per annum from and after January 1, 2021 until paid in full  
6 plus costs.

7           33. As a result of the Defendants' default, as of the date of the filing of this Complaint,  
8 the Plaintiff has incurred damages in the amount of \$5,614.40, plus interest accruing at the rate of 3  
9 percent per annum compounding monthly from and after January 1, 2021 until paid in full, plus  
10 costs.

11           34. As a further consequence of the Defendants' default, the Plaintiff was required to  
12 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

13           WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and  
14 severally, as set forth below.

15                                   **THIRD CLAIM FOR RELIEF**  
16                                   **Unjust Enrichment on Loan Documents**

17           35. The Plaintiff incorporates by reference all prior allegations of this Complaint as  
18 though fully set forth herein.

19           36. The Defendants unjustly retained the amount due and owing to the Plaintiff as  
20 provided in the Note as of the date of the filing of this Complaint in the amount of \$5,614.40, plus  
21 interest accruing at the rate of 3 percent per annum from and after January 1, 2021 until paid in full  
22 plus costs, against fundamental principles of justice or equity and good conscience.

23           37. The Plaintiff suffered damages as a result of the failure of the Defendants to pay the  
24 amount due and owing under the terms of the Note as of the date of the filing of this Complaint, the  
25 Plaintiff has incurred damages in the amount of \$5,614.40, plus interest accruing at the rate of 3  
26 percent per annum from and after January 1, 2021 until paid in full, plus costs, plus attorneys' fees  
27 and costs of court.

28           WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and  
severally, as set forth below.

**FOURTH CLAIM FOR RELIEF**  
**Fraud in the Inducement**

38. The Plaintiff incorporates by reference all prior allegations of this Complaint as though fully set forth herein.

39. Plaintiff is informed and believes that when Defendants represented to her and Colin that Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the Property until the Loan was paid in full that (i) Defendants knew the representations were false; (ii) Defendants made the representations for the purposes of, and with the intent to, induce Kari to make the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan as agreed.

40. On or about August 6, 2015, Plaintiff, in justifiable reliance upon the representations made by Defendants, made the Loan to the Defendants, which funds were fully disbursed by Plaintiff to the Defendants on or around that same date, and on September 9, 2015, executed the Note prepared by Alisha.

41. Plaintiff has incurred and continues to incur damages based on the misrepresentations made by Defendants. As of the date of the filing of this Plaintiff has incurred damages in the amount of \$588,110.19, plus interest accruing at the rate of 3 percent per annum from and after January 1, 2021 until paid in full, plus costs, plus attorneys' fees and costs of court.

42. Plaintiff is informed and believes that Defendants acted with recklessness, oppression, fraud, and/or malice against her in obtaining control of \$588,110.19 of Plaintiff's money.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, as set forth below.

**FIFTH CLAIM FOR RELIEF**  
**Equitable Lien**

43. The Plaintiff incorporates by reference all prior allegations of this Complaint as though fully set forth herein.

44. The Defendants have a debt, duty, and obligation owing to the Plaintiff.

45. The debt, duty, and obligation fasten to the Property which is described with certainty.

46. The Defendants have used the Loan proceeds, that they obtained through misrepresentation and undue influence, to enhance and augment the Property, which Property should have been encumbered to secure the Loan. Therefore, the Plaintiff is entitled to an equitable lien against the Property.

47. The Plaintiff has suffered damages in excess of \$10,000.00 as a result of the Defendants' exploitation of Plaintiff.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, as set forth below.

### SIXTH CLAIM FOR RELIEF

Constructive Trust

48. The Plaintiff incorporates by reference all prior allegations of this Complaint as though fully set forth herein.

49. A confidential relationship existed between Plaintiff and the Defendants.

50. The Defendants used this confidential relationship to obtain the Loan and took advantage of Plaintiff's trust in the Defendants to induce her to make the Loan without seeking counsel to ensure that her rights to re-payment were properly protected.

51. Retention of unencumbered legal title to the Property would be inequitable under these circumstances and it is essential to the effectuation of justice that a constructive trust be imposed on the Property for the benefit of the Plaintiff. Plaintiff should be reinstated on the Deed and be granted joint title to the Property.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as set forth below.

## SEVENTH CLAIM FOR RELIEF

### Injunctive Relief

52. Plaintiff incorporates by reference all prior allegations of this Complaint as though fully set forth herein.

53. The Property is believed to be the only possible source of repayment of the Loan.

54. If Defendants sell or further encumber or record a homestead exemption against the Property, Plaintiff will be left without a remedy. Defendants will not be damaged by the granting

1 of the injunctive relief requested by Plaintiff and Plaintiff will be irreparably harmed. Defendants  
2 took advantage of Plaintiff and fraudulently obtained the Loan for the purchase of the Property and  
3 the equities require that Defendants be prohibited from cashing out, and spending, the equity in the  
4 Property and from recording a homestead exemption against it. A person who fraudulently obtains  
5 funds to purchase or improve real property cannot be protected by a homestead exemption. *Maki v.*  
6 *Chong*, 119 Nev. 390, 75 P.3d 376 (2003).

7 55. Plaintiff enjoys a reasonable probability of success on the merits with respect to its  
8 claims asserted herein.

9 56. Plaintiff is entitled to a preliminary injunction pursuant to NRS 33.010 pending final  
10 judgment in this case, ordering that the Defendants:

- 11 a. Are prohibited from selling the Property;
- 12 b. Are prohibited from recording a homestead against the Property; and
- 13 c. Are prohibited from further encumbering the Property and/or securing  
14 additional loans secured by the Property.
- 15 d. Requiring Defendants to add Plaintiff to the Deed for the Property.

16 57. Plaintiff has been required to obtain the services of an attorney to assist in the  
17 prosecution of this matter and is entitled to payment of its attorney's fees and costs incurred herein.

18 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as set  
19 forth below.

#### 20 PRAYER

21 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and  
22 severally, as follows:

- 23 A. For general and special damages in an amount in excess of \$15,000, to be determined  
24 at the time of trial;
- 25 B. For interest according to the Note;
- 26 C. For interest as allowed by law;
- 27 D. For an award of punitive damages against Defendants;
- 28 E. For imposition of an equitable lien on the Property in favor of the Plaintiff;



1 F. For a declaration that the Defendants hold the Property as constructive trustees for  
2 the benefit of the Plaintiff;

3 G. For the injunctive relief requested herein;

4 H. For immediate rescission of the Loan and payment in full of the amount owed;

5 I. For and award of attorney's fees and costs of suit;

6 J. For attorney's fees as special damages according to proof;

7 L. For an order exempting this case from Arbitration; and

8 M. For such other and further relief as this Court deems just and proper.

9 **AFFIRMATION**

10 **Pursuant to NRS 239B.030**

11 The undersigned does hereby affirm that this document does not contain the social security  
12 number of any person.

13 DATED: This 10th day of February 2021.

14  
15 ROBISON, SHARP, SULLIVAN & BRUST, LTD.  
16 a Professional corporation  
17 71 Washington Street  
18 Reno, NV 89503

19 BY /s/ Stefanie T. Sharp  
20 STEFANIE T. SHARP, ESQ.  
21 CLAYTON P. BRUST, ESQ.

22 *Attorneys for Plaintiff Kari Anne Johnson*  
23  
24  
25  
26  
27  
28

**VERIFICATION**

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF WASHOE    )

I, KARI ANNE JOHNSON, being first duly sworn, deposes and says under penalty of perjury:

1. That I am the Plaintiff named herein in the foregoing VERIFIED COMPLAINT;
2. I have read the same and knows the contents thereof; and that the same is true of my own knowledge, except as to the matters stated therein on information and belief, and as to those matters I believe them to be true.

KARI ANNE JOHNSON

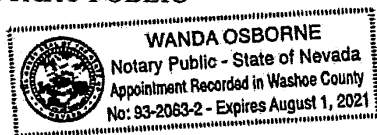
By: 

Name: Kari Anne Johnson

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF WASHOE    )

SUBSCRIBED and SWORN to before me  
this 10th day of February 2021 by  
Kari Anne Johnson.

  
NOTARY PUBLIC



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**EXHIBIT LIST**

Exhibit #	Description	Pages
Exhibit "1"	Purchase and Sale Contract	13
Exhibit "2"	Promissory Note	1
Exhibit "3"	Payment Schedule	9
Exhibit "4"	Deed	7
Exhibit "5"	Irregular Endorsement to Agreement of Sale	1
Exhibit "6"	Deed of Trust	18

# Exhibit “1”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvilorla

# Exhibit “1”

## PURCHASE CONTRACT AND RECEIPT

THIS PURCHASE CONTRACT AND RECEIPT (the "Agreement") dated this 13 day of December, 2014 is by and between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer") under the following terms and conditions:

1. **PURCHASE:** Seller hereby agrees to sell and Buyer agrees to buy Lot 0055 (the "Lot") of Estates at Saddle Ridge subdivision, Lot in the records of Washoe County, Nevada, having a street address of 9845 Firefoot Lane, Reno, NV 89521, together with a residence (the "Residence") to be constructed thereon in accordance with Seller's Plan Willshire Sonoran (the Lot and Residence being hereinafter referred to as the "Property"). The purchase price to be paid by Buyer for the Property and method of payment shall be as follows subject to any adjustments set forth on Exhibits "B" or "C":

**Purchase Price**

Earnest money applied from non-binding lot reservation agreement, which is to be released to Seller from escrow upon execution of this Agreement

Additional Earnest Money paid to Seller

**Mortgage Amount**

Note for balance of 10% down is \$24,500.

Cash due at Closing (exclusive of closing costs)

**TOTAL**

\$489,995  
\$5,000  
\$19,500  
\$0  
\$465,495  
\$489,995

Buyer agrees that all of the above payments (except for the Mortgage Amount and cash due at Closing) shall be paid direct to Seller outside of Escrow and may be used by Seller prior to the Closing; however, at the Closing, Buyer will be credited with all such payments. Buyer assumes the risk of losing such amounts paid to Seller if Buyer is unable or unwilling to perform under the terms of this Agreement.

Buyer's Initials: *MAH*

2. **APPROVAL OF SELLER.** This Agreement will not be binding upon Seller unless executed by an officer of Seller within 30 days of Buyer's execution of this Agreement; Seller's salesperson has no authority to bind Seller hereunder. This Agreement shall constitute an irrevocable offer by Buyer for this 30 day period. Notwithstanding the foregoing, Seller may deposit into any one or more of its banking accounts any such sums paid on account of the purchase price and extras during said 30 day period. Any such deposit of funds shall not constitute Seller's approval of this Agreement.

3. **MORTGAGE APPLICATION.** Buyer has the right to select a mortgage lender of Buyer's choosing. Buyer shall in good faith make a truthful and complete application to TBI Mortgage and any other lender of Buyer's choosing. Buyer represents to Seller that the information contained in the loan qualification questionnaire already provided to Seller is truthful and accurate as of the date of Buyer's execution hereof. Buyer understands that Seller is relying on Buyer's information and on Buyer demonstrating that Buyer has or shall have sufficient funds to complete Closing in order for Seller to proceed with building the home.

Within 14 days of Buyer's execution of this Agreement ("Mortgage Application Period"), Buyer agrees to submit, at no cost to Buyer, a loan application to TBI Mortgage, under conditions herein stated for a mortgage amount not to exceed \$0, at market rates applicable to the Buyer. Buyer may also submit, at Buyer's own expense, an application to any mortgage lender of Buyer's choosing within the Mortgage Application Period. If Buyer chooses to apply to a lender other than TBI Mortgage Company, Buyer shall, within the Mortgage Application Period, return to Seller the completed Request for Lender Information form. Buyer shall cause each prospective mortgage lender to disclose to Seller all requested information regarding Buyer's loan application and credit report.

Buyer shall take all necessary action to secure financing. Buyer agrees to inform Seller on an ongoing basis of the status of each loan application. Buyer shall furnish all information required by any prospective lender, within 5 days of any such request. Buyer agrees to immediately send Seller copies of any notice from Buyer's lender(s) rejecting Buyer's loan application(s). If Buyer is not approved for a mortgage within 45 days of the date of Buyer's execution of this Agreement, Seller shall extend the mortgage application approval process until such time as (1) Seller submits another application on substantially the same terms described above to a lender chosen by Seller, with no additional application fee to Buyer, or (2) Seller declares this Agreement null and void, in which event, if Buyer has timely applied for a mortgage, pursued a mortgage diligently, and otherwise satisfied all obligations under this paragraph, the deposit shall be returned to Buyer, together with all sums paid on account of the purchase price and extras without interest, and neither party shall have any further rights or liabilities hereunder.

Within five (5) days receipt of a loan commitment from the lender that Buyer intends to use for Closing, Buyer agrees to (i) accept the commitment and (ii) mail an executed copy of the commitment to Seller. Buyer agrees to execute all documents and pay all fees required to consummate the mortgage transaction. Buyer agrees to take no

action which shall have a materially detrimental impact on Buyer's financial condition. By accepting the loan commitment, Buyer agrees to be responsible for and bear the risk of meeting all terms and conditions of the commitment, if any, including, but not limited to, the sale of other real estate presently owned by Buyer, and for any changes in the interest rate until the Buyer locks the interest rate. Buyer's failure to fulfill any of such conditions or the termination or expiration of the mortgage commitment after it is received, for any reason, shall not release Buyer from Buyer's obligations under the Agreement.

#### 4. CONSTRUCTION AND COMPLETION.

(a) Seller shall cause the Residence to be constructed in substantial conformance with Seller's standard plans for the model selected by Buyer (the "Plans") and the specifications attached hereto as Exhibit "D", if any, (the "Specifications") subject to (i) substitution of materials, fixtures and appliances of equal or better value, (ii) such changes in the Plans and Specifications as may be required by any State, Federal, County or local government authority or in order to accommodate Buyer's requested changes to the plans and specifications, and (iii) any changes which may be required by any applicable homeowner association architectural committee. Buyer shall fully cooperate with Seller to expedite processing and obtain the approval of the applicable municipality and architectural committee for the Plans and changes thereto.

(b) Seller agrees to complete the construction of the Residence within a period of 2 years from the date this Agreement is signed by Buyer. If an Event of Delay occurs, this 2-year period shall be extended for a period of time equal to the length of the Event of Delay. An Event of Delay is defined as strikes or other labor disputes, shortages of labor or materials, weather conditions, Acts of God, acts of the federal, state or municipal governments or any governmental agency, including, but not limited to, building or other code inspections and approvals, governmental regulations, fire or other casualties and any other delays allowed by law. It is the express intent of the parties hereto that the parties' rights and obligations under this Agreement be construed in the manner necessary to exempt this Agreement and the sale of the Property from registration under the Interstate Land Sales Full Disclosure Act, and both Buyer and Seller hereby expressly waive any right or provision of this Agreement that would otherwise preclude any exemption, and such right or provision shall be severed from this Agreement and given no effect.

(c) Within fourteen (14) days from the date Seller accepts this Agreement, Buyer shall complete Seller's Initial Selection Sheet relative to initial variable color and structural components to be incorporated into the Residence. Within the earlier of sixty (60) days from the date Seller accepts this Agreement or fourteen (14) days from the commencement of construction, Buyer shall select all other variable decorative components or materials which are to be constructed, installed or applied by Seller, including but not limited to, landscaping selections. If such selections are not made within the required time periods, Seller shall have the right to make such selections and Buyer shall be charged Seller's standard price for such selections and the Purchase Price shall be increased accordingly. All selections shall be final and binding on Buyer, whether selected by Buyer or by Seller pursuant to the terms of this paragraph.

(d) All such changes to the Plans or Specifications requested by Buyer must be submitted in writing to Seller for review and pricing. No such changes shall be effective unless accepted in writing by Seller.

(e) Certain items of outside work (e.g. grading, seeding and driveway) may not be completed prior to Closing. Seller agrees to complete such items after closing as soon as practical and weather permitting and Buyer agrees that there will be no holdback or escrow of any part of the Purchase Price.

(f) Some of the items set forth in Exhibits "B" and "D" may be allowance items. Depending upon the selection made by Buyer, the price of the allowance item may differ from the estimate shown on Exhibit "B" or "D". Once Buyer makes its final selections on each allowance item, Seller shall provide current pricing on the allowance item and the amount of the Purchase Price shall be adjusted accordingly.

(g) Within a reasonable period of time following the Closing, Seller shall remedy punch list items and make adjustments agreed to by Buyer and Seller in a walk-through inspection which will be scheduled by Seller and Buyer either prior to or immediately after the Closing. The existence of any such punch list items or other nonstructural construction defects shall not entitle Buyer to cancel this Contract or delay the Closing.

#### 5. POSSESSION, ESCROW AND CLOSING.

(a) Possession of the Property shall remain exclusively with Seller until the Recorded Closing and Buyer shall not have the right to take possession or occupancy perform or cause to be performed any custom or other work on the Property prior to the Closing.

(b) Seller and Buyer hereby employ the escrow agent designated on Exhibit "A" (the "Escrow Agent") to act as escrow agent to facilitate the Closing of this transaction. Upon Closing, Escrow Agent shall cause the recording in the appropriate county offices of all necessary documents, disburse all funds, arrange for issuance to Buyer of the title insurance policy referred to below and arrange for issuance to any lender any required title insurance policy insuring lender's interest in the Property and the amount required by such Lender. The parties hereto grant to Escrow Agent the right to execute on their behalf an Affidavit of Value to enable recording of the deed, using the total purchase price set forth above, unless instructed mutually by the parties to the contrary.

(c) Closing shall occur within seven (7) days after written notice to close is given by Seller, provided that by the date scheduled for Closing the municipality in which the Property is located has approved the Residence for occupancy. The approval by the municipality shall include an electrical clearance or equivalent.

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Revised 01/30/14

Should Buyer not fully perform all of its payment and performance obligations on or before the date set for the Closing, in addition to all other amounts payable hereunder, Buyer shall pay to Seller to compensate Seller for the delay, interest at twelve percent (12%) per annum on the entire unpaid portion of the purchase price and options/upgrades from the date originally scheduled for the Closing to the date that this transaction is actually completed, unless Seller elects to cancel this transaction by reason of the failure of Buyer to timely complete this transaction on the Closing, or unless such non-performance by Buyer is caused by Seller's non-performance of any terms or conditions hereof. Seller shall not be liable to Buyer for any costs, expenses, losses or damages incurred by Buyer as a result of any delay in the Closing, including but not limited to, any loss or damage as a result of any increase in commitment fees, points or interest rates assessed or charged by any lender. Buyer has the sole responsibility to arrange for utilities to be turned on at the Property and any delays incurred in connection therewith shall not entitle Buyer to delay the Closing and Seller shall have no responsibility in connection therewith.

6. **CONVEYANCE AND TITLE INSURANCE.** At the Closing, Seller shall pay for a Standard Owner's Policy of Title Insurance insuring title in the amount of the total purchase price for the Property. Title to the Property shall be conveyed by Grant deed at the Closing free and clear of all liens and encumbrances except (i) patent reservations, (ii) taxes and assessments not due and payable at Closing, (iii) any liabilities, charges and obligations imposed upon the Property by reason of inclusion or membership in any electrical, agricultural, hospital, community facilities or other improvement district or any water users association or drainage district, (iv) any Declaration of Covenants, Conditions or Restrictions for the subdivision and/or master planned community in which the Property is located and any amendments thereto, (v) matters shown on the plat of the subdivision, or which an accurate survey would show, (vi) easements and rights of way for roads, canals, ditches, drainage and public utilities, (vii) water rights, (viii) Buyer's purchase money encumbrance, if any, (ix) any other matters of record not adversely affecting marketability of title to the Property; and (x) any matters agreed in writing by Buyer.

7. **CLOSING COSTS AND PRORATIONS.** In addition to the Purchase Price of the Property, Buyer shall deposit in escrow at or prior to the Closing, an amount (determined by Escrow Agent or any lender) equal to the cost of all financing costs (including but not limited to credit reports, appraisal fees, inspection fees, recording fees, document preparation charges, insurance premiums, loan origination fees and points), tax service fees, one-half (1/2) of the escrow fee and all other charges normally assessed against a buyer (as determined by Escrow Agent), such impounds for taxes, interest, insurance and homeowner's association assessments as may be required by lender, and the cost of any title insurance premiums in excess of the cost of a standard owner's policy of title insurance. Buyer acknowledges that Buyer is responsible to pay all applicable Real Property Transfer Taxes at close of escrow. Taxes, general and special assessments, community facilities district/improvement district assessments and homeowner association assessments ("Prorate Items") shall be prorated as of the Closing based on the most recent information available to Escrow Agent without adjustment following the Closing; however, if Buyer causes any delay in the Closing, Buyer shall be responsible for all Prorate Items from the date initially established for the Closing regardless of the actual date of the Closing.

8. **DEFAULT AND REMEDIES.**

(a) If Buyer defaults in performing any of its obligations under this Agreement, and such default continues for 7 days after written notice, Seller shall have the right, as its sole remedy, to terminate this Agreement and retain all sums paid to Seller or its parents, subsidiaries or affiliates and to enforce any promissory notes given by Buyer to Seller or its parents, subsidiaries or affiliates, as liquidated damages. Buyer and Seller agree that such damages are not a penalty, but represent the parties' best estimate of the actual damages which Seller will sustain upon a default by Buyer, which damages are substantial but are not capable of precise determination. No delay or forbearance by Seller in exercising any right or remedy hereunder shall be deemed to be a waiver thereof.

(b) If Seller defaults under this Agreement and such default continues for 7 days after written notice, Seller's sole liability shall be the return of all sums paid on account of the purchase price and extras to Buyer and this Agreement shall be terminated in all other respects;

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event of Seller's default under Section 4(b) of this Agreement, Buyer shall have all remedies available at law and in equity without limitation or restriction.

Buyer's Initials: *NEH* *ASH* *kg*

9. **ARBITRATION:** Buyer, on behalf of Buyer and all residents of the Property, including minor children, hereby agree that any and all disputes with Seller, Seller's parent company or their partners, subsidiaries, or affiliates arising out of the Property, this Agreement, the Home Warranty, any other agreements, communications or dealings involving Buyer, or the construction or condition of the Property including, but not limited to, disputes concerning breach of contract, express and implied warranties, personal injuries and/or illness, mold-related claims, representations and/or omissions by Seller, on-site and off-site conditions and all other torts and statutory causes of action ("Claims"), shall be resolved by binding arbitration.

(a) All disputes arising out of the Home Warranty or any other express warranties shall be resolved by binding arbitration in accordance with the rules and procedures set forth in the Home Warranty.

(b) All other Claims, regardless of the amount in dispute, shall be resolved by binding arbitration by the American Arbitration Association ("AAA") and in accordance with its Expedited Procedures of the Commercial Arbitration Rules, which Rules can be viewed at [www.adr.org](http://www.adr.org). If AAA is unable to arbitrate a particular claim, then that claim shall be resolved by binding arbitration by AAA's successor or an equivalent organization mutually agreed upon by the Parties.

(c) The provisions of this paragraph shall be governed by the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, et seq. and shall survive settlement.

(d) In addition, Buyer agrees that Buyer may not initiate any arbitration proceeding for any Claim unless and until Buyer first provides a copy of the Demand for Arbitration stating specific written notice of each claim (sent to 250 Gibraltar Road, Horsham, PA 19044, Attn: Dispute Resolution - Legal Department) and gives Seller a reasonable opportunity after receipt to cure any default.

Buyer's Initials: MEH ASH kg

**BUYER HEREBY WAIVES THE RIGHT TO A PROCEEDING IN A COURT OF LAW (INCLUDING WITHOUT LIMITATION A TRIAL BY JURY) FOR ANY CLAIMS OR COUNTERCLAIMS BROUGHT PURSUANT TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING.**

Buyer's Initials: MEH ASH kg

10. NO ORAL CHANGES OR REPRESENTATIONS.

(a) Seller wishes to avoid any misunderstandings concerning the purchase of the Property and it is the policy of Seller not to enter into any oral agreements or to ask any buyer to rely on any oral representations concerning the Property or the subdivision in which the property is located. The entire Agreement between Buyer and Seller must be expressed in writing. Therefore, Buyer shall write in below any representations or promises which are not set out in this Agreement, but which have been made by Seller or its purported agents or employees, and upon which Buyer is relying in making this purchase, and if there are none, Buyer shall so indicate.

NONE

Buyer's Initials: MEH ASH kg

(b) BUYER ACKNOWLEDGES THAT THERE ARE NO UNDERSTANDINGS, REPRESENTATIONS OR PROMISES OF ANY KIND THAT HAVE BEEN MADE TO INDUCE THE EXECUTION OF THIS AGREEMENT AND THAT AGREEMENT SETS FORTH IN FULL THE ENTIRE AGREEMENT BETWEEN THE PARTIES. BUYER FURTHER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY ORAL AGREEMENT, STATEMENT, REPRESENTATION OR OTHER PROMISE THAT IS NOT EXPRESSED IN WRITING IN THIS CONTRACT. No salesperson or broker has any authority to modify the terms hereof nor any authority to make any representation or agreement not contained in this Agreement and no other person on behalf of Seller is authorized to make any future oral agreement upon which Buyer may rely to cancel, change or modify any portion of this Agreement. This Agreement supersedes any and all prior understandings and agreements. This Agreement may be amended or modified only by an agreement in writing signed by Buyer and Seller or Seller's authorized agent.

(c) Buyer hereby agrees that an electronic transmission of documents is acceptable in Adobe PDF format or an equivalent form. Any document delivered by electronic means shall be considered to be signed and delivered in writing for the purpose of any provision of the Agreement. Upon receipt of the electronic transmission of documents, Buyer agrees to respond immediately to the sender by electronic transmission, confirming receipt.

Print email address in box below or write "Decline" if you elect to receive all documents in hard copy.

Leshhatch@gmail.com

11. LIMITED WARRANTY.

(a) SELLER SHALL CAUSE TO BE PROVIDED TO BUYER A 10 YEAR LIMITED WARRANTY (THE "HOME WARRANTY"). BUYER ACKNOWLEDGES RECEIPT OF THE HOME WARRANTY, THE HOME CARE AND SERVICE GUIDE AND STANDARDS OF PERFORMANCE. EXCEPT AS EXPRESSLY SET FORTH IN THE HOME WARRANTY, SELLER SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER AFTER CLOSING WITH RESPECT TO THE PROPERTY OR THIS AGREEMENT. SELLER HEREBY SPECIFICALLY EXCLUDES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANSHIP AND FITNESS FOR A PARTICULAR PURPOSE. SELLER'S LIABILITY UNDER THE HOME WARRANTY OR THIS AGREEMENT OR ARISING IN ANY WAY OUT OF THE CONSTRUCTION, DELIVERY, SALE OR CONDITION OF THE PROPERTY SHALL BE LIMITED TO THE REPAIR OF THE PROPERTY IN ACCORDANCE WITH THE HOME WARRANTY STANDARDS. IN NO EVENT SHALL SELLER BE LIABLE FOR RESCISSION, SPECIFIC PERFORMANCE, ANY SPECIAL EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING.

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Revised 01/30/14



Buyer's Initials: *MEH/ASH* *KG*

(b) The manufacturers of some products used in the Property may have a manufacturer's warranty. Seller has no obligation or responsibility for the manufacturer's performance. If a manufacturer's warranty has been issued to Seller, Seller hereby assigns to Buyer (without recourse) all rights under such manufacturer's warranty, such assignment to be effective as of the Closing.

Buyer's Initials: *MEH/ASH* *KG*

(c) Seller shall contract with a licensed pest control company to apply a termite treatment to the foundation during construction of the Property. Buyer and Seller understand that current government regulations limit the types and concentration of chemicals and the methods of application that can be used in attempting to prevent or eradicate termites and consequently, termites may appear following completion of the Property. Seller shall obtain a certificate from the pest control company (the "Termite Certificate") which will provide, in substance, that the pest control company has applied the termite treatment in accordance with the applicable state and federal agencies and should termites be discovered at the Property within five (5) year period from the date of original treatment, the pest control company shall re-treat the Property on as many occasions as are necessary to control such termites. Seller shall assign the Termite Certificate to Buyer at the Closing, when required by a government agency. Seller recommends that Buyer annually consult with a pest control company as to the need for termite retreatments. BY RECEIPT OF THE TERMITE CERTIFICATE TO BE ASSIGNED BY SELLER TO BUYER AS DESCRIBED IN THIS PARAGRAPH, BUYER AND THEIR SUCCESSORS AND ASSIGNS AGREE TO LOOK SOLELY TO THE PEST CONTROL COMPANY FOR COSTS AND EXPENSES ASSOCIATED WITH INVESTIGATING AND REMEDYING ANY TERMITE PROBLEMS AND WAIVE ALL CLAIM OF LIABILITY AGAINST SELLER FOR LOSSES, COSTS AND EXPENSES IN CONNECTION WITH THE EXISTENCE OF TERMITES AT THE PROPERTY.

Buyer's Initials: *MEH/ASH* *KG*

12. **VISITATION TO PROPERTY:** Any visitation by Buyer or Buyer's invitees (limited to Buyer's immediate family) to the Property prior to Closing is subject to the following:

Buyer hereby acknowledges that the Property and adjacent houses are under construction and that active construction sites inherently possess potential safety hazards. If Buyer enters the Property, Buyer expressly assumes the risks of any injury or damage to person or property that may arise as a result of entry onto the Property by Buyer or an invitee of Buyer. No children under the age of 16 years are allowed in construction areas at any time. Buyer hereby releases and agrees to indemnify, defend and hold Seller harmless from all claims and liabilities incurred by Seller resulting from the presence of Buyer or Buyer's invitees on the Property or Seller's other property.

Buyer and members of Buyer's immediate family (provided that Buyer is present) may only enter the Property for the purpose of monitoring the progress of construction and only during Seller's normal working hours. Before entering any construction areas, Buyer must receive approval at the sales office or the construction office and be issued a hard hat. Hard hats shall be worn at all times in all construction areas. Buyer agrees that, due to construction conditions, access at certain times may not be feasible. Buyer acknowledges and understands that keys to the Property may not always be available. Seller reserves the right at any time to deny access to construction areas and to impose additional rules or conditions upon entry into the community or the Property as determined in Seller's sole and absolute discretion.

When at the Property, Buyer may only view the Property and any exposed components thereof. In no event may Buyer modify, alter, test, reinforce or otherwise interfere with the Property or any component thereof. Buyer may not access any other homes or any other area outside of the Property. In addition, Buyer agrees not to critique or instruct Seller's construction personnel or any of Seller's other workers or employees and will address any questions, instructions, or suggestions in writing to Seller.

13. **ENVIRONMENTAL NOTICE.** SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE EXISTING OR FUTURE SOIL OR ENVIRONMENTAL CONDITIONS ON OR ADJACENT TO THE PROPERTY OR THE SUBDIVISION, INCLUDING POSSIBLE PRESENT OR FUTURE POLLUTION OF THE AIR, WATER OR SOIL FROM ANY SOURCES, INCLUDING BUT NOT LIMITED TO RADON GAS OR UNDERGROUND MIGRATION OR SEEPAGE OF HAZARDOUS SUBSTANCES OR OTHER POLLUTANTS. SELLER EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY TYPE OF DAMAGE, WHETHER DIRECT OR INDIRECT OR CONSEQUENTIAL, WHICH THE LOT OR ITS INHABITANTS MAY SUFFER BECAUSE OF ANY EXISTING OR FUTURE ENVIRONMENTAL OR OTHER CONDITIONS, INCLUDING, BUT NOT LIMITED TO POWER LINES OR RADON, AFFECTING SUCH INHABITANTS, THE LOT OR REAL PROPERTIES IN OR ADJACENT TO THE SUBDIVISION.

14. **PUBLIC OFFERING STATEMENT.** The Property is part of a Planned Community, as further described in the Public Offering Statement for the Community. Buyer acknowledges having received the Public Offering Statement. The Public Offering Statement is hereby incorporated as part of this Agreement. In the event of any inconsistencies between this Agreement and the Public Offering Statement, the terms of the Agreement shall control.

Buyer's Initials: *MEH/ASH* *KG*

15. **PROTECTIVE COVENANTS.** The Property may be encumbered by a declaration of covenants and easements for the benefit of all homeowners and Seller. The declaration sets forth certain use and architectural

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Revised 01/30/14

restrictions, including restrictions on the construction and location of swimming pools, fences, tennis courts, signs, clotheslines, antennas, boats, trailers, campers, storage sheds and other structures.

Buyer's Initials: MEH AST KE

16. MASTER ASSOCIATION AND OWNERS ASSOCIATION: A Landscape Maintenance Association and the Damonte Ranch Drainage District (collectively, the "Master Association") have been established for the benefit of all homeowners and Seller for the purpose of managing, operating and maintaining certain common areas and community facilities, drainage facilities and/or services within the community in which the Lot is located. Seller does not control the Master Association. Buyer will be a member of the Master Association and will be subject to the provisions of the Master Association's governing documents (the "Master Association Governing Documents") pursuant to which the Master Association has been established and will be operated. The affairs of the Master Association will be conducted by a Board of Directors. Buyer hereby agrees to pay and acknowledges Buyer's continuing liability to pay, when assessed by the Master Association, a share of the expenses of maintaining the Master Association, including, but not limited to, the Landscape Maintenance Association fees and the Damonte Ranch Drainage District fees, as may be amended from time to time. In addition to any other costs incident to the Closing hereunder, Buyer also agrees to pay at Closing the additional sum of FOUR HUNDRED Dollars (\$400), as may be amended from time to time, as a non-refundable contribution to the operating revenue, working capital and/or reserves of the Master Association, such contribution to be in addition to and not in lieu of any common expense assessments levied by the Masters Association as they thereafter regularly or specially accrue.

In addition to the Master Association, all homeowners shall also be members of the SADDLE RIDGE Owners Association (the "Owners Association"). Buyer will be a member of the Owners Association and will be subject to the provisions of the Owners Association's Governing Documents (the "Owners Association Governing Documents") pursuant to which the Owners Association has been established and will be operated. The affairs of the Owners Association will be conducted by a Board of Directors. Buyer hereby agrees to pay and acknowledges Buyer's continuing liability to pay, when assessed by the Owners Association, a share of the expenses of maintaining the Owners Association. In addition to any other costs incident to the Closing hereunder, Buyer also agrees to pay at Closing the additional sum of SEVENTY EIGHT Dollars (\$78), as may be amended from time to time, as a non-refundable contribution to the operating revenue, working capital and/or reserves of the Owners Association, such contribution to be in addition to and not in lieu of any common expense assessments levied by the Owners Association as they thereafter regularly or specially accrue.

Buyer hereby acknowledges having received copies of the Master Association Governing Documents and Owners Association Governing Documents, which are further described in the above paragraphs.

Buyer's Initials: MEH AST KE

17. BROKERAGE DISCLOSURE. Buyer acknowledges that the real estate agents marketing lots and residences for Seller at the Subdivision are acting solely as the agents of the Seller and may be affiliated with Seller. Seller does not utilize sub-agents; therefore, if Buyer has been shown the lot by a real estate agent other than one of Seller's project agents, such real estate agent is an agent of the Buyer and solely represents the Buyer. Seller shall not pay any real estate broker or agent a real estate commission or any other compensation unless there is a written agreement signed by Seller and the real estate broker or agent detailing the amount of compensation to be paid, the conditions of payment and confirming that the real estate agent or broker is acting solely on behalf of Buyer and not as a sub-agent of Seller.

#### 18. MISCELLANEOUS.

(a) This Agreement and all Exhibits and Endorsements contain the entire agreement between the parties. No modification of this Agreement shall be binding unless it is in writing and signed by the parties. Any statement of square footage is an estimate and Seller does not guarantee or warrant the square footage of the completed Residence. In the event any marketing materials contain a representation that is different than this Agreement, Buyer acknowledges that any such representation is superseded by and is not a part of this Agreement and that Buyer has not relied upon any such representation in entering into this Agreement.

(b) If this Agreement is signed by more than one Buyer, each Buyer shall be jointly and severally liable hereunder. The numbers and gender used herein shall be deemed to apply to such number and gender as the context requires.

(c) This Agreement shall inure to the benefit of and shall be binding upon the parties, their heirs, personal representatives, successors and assigns, provided, however, neither this Agreement nor any rights hereunder may be assigned or transferred by Buyer prior to the Closing without the prior written consent of the Seller, and any such prohibited assignment shall be void.

(d) Except as otherwise provided herein, no waiver in connection with this Agreement shall be effective unless it is in writing signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not constitute a waiver of the same or a different breach in the future.

(e) Time is of the essence with respect to the performance of all terms, conditions and provisions of this Agreement.

(f) This Agreement shall not be binding upon Seller until accepted by Seller and executed by Seller's authorized representative. Buyer's earnest money deposit is accepted subject to acceptance by Seller and subject to prior sale and this Agreement may be canceled by Seller in the event of prior sale.

(g) Buyer's obligation to pay the entire purchase price, the price of any options/upgrades/extras and costs shall survive Closing.

(h) If prior to the Closing, all or a substantial portion of the Property shall be destroyed or materially damaged by fire or other casualty, either Buyer or Seller may cancel this Agreement, in which event Buyer shall be entitled to a full refund of all amounts paid hereunder, unless Seller agrees to repair and complete construction no later than one hundred eighty (180) days after the date of fire or other casualty, in which event this Agreement shall remain in full force and effect.

(i) This Agreement shall be governed and enforced under the laws of the State of Nevada.

(j) Within five (5) days after request thereof, Buyer and Seller shall execute and deliver any additional documents and provide any additional information required or reasonably requested by the other party, any lender or escrow agent in order to evidence or give effect to the provisions of this Agreement, both prior to and following the Closing. If the parties cannot agree upon the terms and conditions of any documents to be executed which are not specifically agreed upon in this Agreement, then Escrow Agent's standard form of that particular document shall be used.

(k) All provisions of all Endorsements and Exhibits to this Agreement are hereby incorporated by reference into this Agreement.

(l) Unless a Buyer or his/her agent has personally inspected the Property, the Buyer may cancel, by written notice, the Agreement for purchase of the Property until midnight of the fifth calendar day following the date of execution of the Agreement. Notice of cancellation must be in writing, delivered by hand or prepaid U.S. mail, addressed to Seller within such five-day period.

(m) Any and all Exhibits or Endorsements signed by any one Buyer are deemed to be authorized and accepted by all signatories to the Agreement who have signed as Buyer.

#### 19. ACKNOWLEDGEMENTS AND RIGHTS OF BUYER.

(a) Buyer understands and accepts that (i) the as-built location of utility lines, utility improvements (such as but not limited to junction boxes, transformers or pedestals) and sewer taps, may vary from locations shown on plot or site layout plans, (ii) there may be minor encroachments by fences on either side of actual lot lines, (iii) future construction on or grading or excavation of the Property by Buyer must comply with applicable drainage plans, and if not correctly engineered, could disrupt drainage and cause ponding or flooding, (iv) the character and uses of property surrounding and in the vicinity of the subdivision may change, (v) there may be deviations in the Property from Seller's standard plans or model or spec homes located within the subdivision and from illustrations and designs shown in promotional materials and some exterior and interior items shown in Seller's spec homes are upgrades over Seller's standard feature and, unless included as extras on Exhibit "B" attached hereto or on a change order approved in writing by Seller, such upgraded items are not included in the Purchase Price, (vi) square footage figures shown in the sample floor plans, preliminary drawings and promotional and other materials provided by or on behalf of Seller are estimates only, (vii) there may be minor variations from the Plans as to the location of the walls of the Residence, (ix) if a portion of the Lot consists of natural area open space ("NAOS"), then pursuant to the ordinances of the municipality in which the Lot is located, Buyer may not construct any improvements in the NAOS area or change the drainage or landscaping in the NAOS area. Seller disclaims liability or responsibility in connection with the foregoing and Buyer hereby releases Seller from any and all responsibility, obligation or liability whatsoever for the occurrence of the same.

*[Handwritten signatures]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

SELLER:  
Toll South Reno LLC

By: [Signature]  
Authorized Signature

ON: 12/18/14

BUYER(S): Alisha Hatch  
Mike Hatch  
Kari Johnson

Michael and Alisha Hatch and Kari Johnson  
Mike Hatch  
6022 Monte Rosa Court  
Reno, NV 89511

DATE: 12/18/14

Submitted by the following broker/salesperson on  
this 13 day of December, 2014

[Signature]

General Conditions of Escrow  
And Escrow Instructions

Escrow No. ....-JN

These "General Conditions of Escrow" shall become an addendum to the agreement entered into on 12-13-14 by and between Toll South Reno, LLC, a Nevada limited liability company as seller and Michael & Alisha Hatch and Kari Johnson, as buyer for property described as: 9845 Firefoot Lane Reno, NV 89521

Lot 0055 of The Estates at Saddle Ridge - Damonte Ranch Village - Unit 11D, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on April 3, 2014, as File No. 4341181, Official Records Tract Map No. 5071.

More commonly known as 9845 Firefoot Lane Reno, Nevada 89521

and in combination shall serve as escrow instructions to Escrow Agent, for said Agreement to purchase and any modifications thereto.

I authorize Escrow Agent to deliver Seller's instrument of conveyance to the above named party upon payment to Escrow Agent for Seller's account of the full consideration and upon condition that Titor Title of Nevada, Inc. issue the usual form of A.L.T.A. Standard Owner's policy and A.L.T.A. Lenders Policy for any Lenders.

Subject only to:

- 1) Taxes, INCLUDING PERSONAL PROPERTY TAXES, IF ANY, and any and all taxes and assessments levied or assessed after close of escrow.
- 2) RESTRICTIONS, CONDITIONS, RESERVATIONS, RIGHTS, RIGHTS OF WAY AND BASEMENTS NOW OF RECORD, if any, affecting the use and occupancy of said property as the same may now appear of record, except as otherwise specifically required herein.
- 3) Endorsement to Agreement of Sale.

ESCROW AGENT HAS NO RESPONSIBILITY FOR INVESTIGATING OR GUARANTEEING THE STATUS OF ANY GARBAGE FEE, POWER, WATER, TELEPHONE, GAS, AND/OR OTHER UTILITY OR USE BILL, EXCEPT AS SPECIFICALLY REQUIRED HEREIN.

An installment maturing on existent encumbrances, if any, during the period of this escrow shall be paid by Seller, unless otherwise specifically required herein. All prorations shall be computed on the basis of a 30-day month. The term "close of escrow" shall be deemed to mean the date upon which all necessary documents are filed for record with the appropriate county recorder's office. Escrow Agent is directed to mail the respective policy (ies) of title insurance to the holder of any new encumbrance called for herein and to the Buyer hereunder.

Commission, as per separate agreement, shall be payable to N/A and Escrow Agent is directed to disperse same to the extent that the proceeds of this escrow available become disburseable for Seller's account. Titor Title of Nevada, Inc. assumes no liability for, and is hereby relieved of any liability in connection with any PERSONAL PROPERTY which may be part of this escrow.

Escrow Agent is directed to file the necessary Deeds, Trust Deeds, and other instruments and pay for any encumbrance which a title search reveals against the subject property, except as set for herein. Escrow Agent is authorized and directed to pay said encumbrances as directed by the lien holder thereof, acting solely upon the written direction of such lien holder, and it is expressly understood and agreed that Escrow Agent assumes no liability for the accuracy of any such statement or direction.

Escrow Agent is further directed to insert the names of the Grantee in the necessary conveyance and/or encumbering documents prior to the recordation of the same, based upon the written direction tendered by Grantee or in compliance with instructions set for by the beneficiary under any new loan documents. Escrow Agent is expressly authorized to charge to the account of the party obligated to pay same, any charge or expense incurred in connection with this transaction or the terms thereof. Escrow Agent is further directed and authorized to reimburse itself for any charges which it may incur during this escrow by charging such amount to the party obligated to pay the same. All disbursements made under this transaction shall be made in the form of a check by Titor Title of Nevada.

Any deposit made by Buyer or Seller hereunder into this escrow shall be in the form of certified funds or cashier's check. Any check presented for deposit into this escrow by either party shall be subject to clearance thereof and Escrow Agent shall not be obligated to act upon nor disburse against any such funds until notified by the bank upon which check is drawn that said check has cleared its account. Buyer/Seller acknowledges funds are deposited into a non-interest bearing account.

All notices, demands or changes to these instructions shall be in writing.

MEH ASA KE

Supplemental tax bills, when issued and posted, may not be immediately available; therefore, there may be a gap in time where the bill may be posted, however, we would not have knowledge of the assessment. Therefore, in the event a supplemental tax bill is issued by the County Tax Collector after the date of the above mentioned preliminary report or after the close of escrow and transfer of title, the undersigned parties agree to handle any adjustment which might result from such supplemental tax bill directly between themselves.

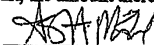
Notwithstanding the fact that Escrow Agent may have been provided with a copy of this Purchase Contract in relation to subject property for information purposes, Escrow Agent's liability to the undersigned is limited solely to Escrow Agent's compliance with these instructions, and any modifications hereto given in writing prior to close of escrow.

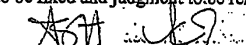
These instructions are executed for the sole purpose of enabling escrow holder to complete this transaction but are in no way intended to modify, amend, supersede or in any way change that certain agreement executed by and between the parties hereto prior to these instructions. The undersigned acknowledge that Escrow Agent, as escrow holder, are not charged with the responsibility of interpreting the provisions of any contract which may be the basis for this transaction, or making any disclosures relative to such provisions, or otherwise.

In the event any party to this escrow receives funds or is credited with funds that they are not entitled to, for whatever reason, they agree, upon written demand, to return said funds to the proper party entitled or to the escrow for disbursement. Escrow Agent is authorized and instructed to rely upon any statement furnished by any lien holder and the holder, payee or collection agent of payee for any note or contract of sale, without liability or responsibility for the accuracy of such statement.

In the event this transaction is an exchange or part of an exchange, the parties acknowledge the escrow holder has made no representations whatsoever regarding the sufficiency or effect of this transaction in relation to applicable federal and state tax laws. It is further acknowledged by the parties that they are hereby advised by escrow holder to seek the counsel of their own tax attorney or certified public accountant for the determination of any tax consequences of this exchange. The undersigned fully indemnify and hold escrow holder harmless from any loss or damage which the parties may sustain in the event this transaction fails to qualify for any special tax treatment.

In the event a suit is brought by any party (ies) to this escrow to which the escrow holder is named as a party and which results in a judgment in favor of the escrow holder and/or against party or principal of any part hereunder, the principal or principal's agent(s) agree to pay said escrow holder all costs, expenses and reasonable attorney fees which it pays or incurs in said suit, the amount thereof to be fixed and judgment to be rendered by the court in said suit.

  
Initials

  
Initials

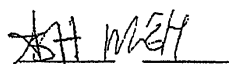
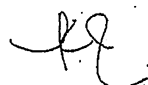
Time is of the essence in this agreement and each party hereto requires that the other party comply with all requirements necessary to place this escrow in a condition to close as provided in said Purchase Contract, however, that if the closing date, or any other compliance date specified herein, falls on a Saturday, Sunday, or Holiday, the time limit set forth herein is extended through the next full business day. In the absence of written direction to the contrary, Escrow Agent is authorized to take any administrative steps necessary to effect the closing of this escrow subsequent to the date set forth herein.

Either party hereunder claiming right of cancellation of this escrow shall file written notice and demand for cancellation in the office of the Escrow Agent in writing. Escrow Agent shall, within three (3) business days following receipt of such written notice, notify the party against whom said cancellation is filed by depositing a copy of said notice in the United States Mail, addressed to such other party at the last address filed with Escrow Agent.

In the absence of written indication from such party as to said party's mailing address, Escrow Agent is directed to deposit such notice in the United States Mail, certified with return receipt requested, addressed to such party in Reno, Nevada, or such other city as Escrow Agent may have written indication that such party resides. Said notice shall be deemed to have been given upon deposit of said notice in the United States Mail, addressed as specified herein, with proper affixed thereto, and no further notice, or evidence of receipt, shall be required.

Unless written objection to any cancellation notice hereunder shall be submitted and received by Escrow Agent from the party to whom such cancellation notice is directed with ten (10) business days following Escrow Agent's mailing of said cancellation notice, Escrow Agent is authorized and directed to comply with such cancellation notice and demand upon payment of its cancellation charges and expenditures.

In the event that such written objection shall be filed, Escrow Agent is authorized to hold all money and instruments in this escrow pending mutual written instruction by the parties hereto, or a final order by a court of competent jurisdiction. The parties are aware, however, and expressly agree and consent, that Escrow Agent shall have the absolute right, at its sole discretion, to file a suit to counter claim in interpleader and to obtain an order from the court requiring the claimants to interplead and litigate in such court their several claims and rights amongst themselves. In the event such suit or claim is brought, the parties hereto jointly and severally agree to pay Escrow Agent all costs, expenses and reasonable attorney fees which it may expend or incur in such interpleader action, the amount thereof to be fixed and judgment therefore to be rendered by the court in such suit.

Upon the filing of such suit or counterclaim said Escrow Agent shall thereupon be fully released and discharged from all obligations to further perform any duties or obligations otherwise imposed by the terms of this escrow.

It is expressly understood and agreed that the Escrow Agent without any obligation to exercise such right, retains the right to resign its duties as escrow agent under this transaction, at any time and at its sole discretion and/or refrain from taking any act in furtherance of the subject transaction at the sole discretion of Escrow Agent is deemed advisable. No liability shall accrue to said Escrow Agent for any such act or forbearance.

This agreement in all parts applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

These instructions may be executed in any number of counterparts, each of which shall be considered an original and be effective as such, and all of which, when aggregated, shall constitute one fully executed original.

Sellers and Buyers hereby authorize Escrow Agent to furnish copies of closing statements and escrow instructions to the Lender and or Broker involved herein. Escrow Agent is further authorized to deliver a copy of any notice filed in accordance with the terms set forth herein by one party upon the other, to the Broker(s) involved within.

Buyer and Seller shall notify Escrow Agent in writing of any change in address during the course of this escrow, and unless Escrow Agent is in receipt of written indication to the contrary, to mail any notices filed by either party to or against the other, to the address set forth herein.

Seller is hereby made aware that there is a law which became effective January 1, 1987, which requires all escrow holders to complete a modified 1099 form, based upon specific information known only between parties in this transaction and the escrow holder. Escrow Agent are authorized and instructed to provide this information to the Internal Revenue Service after the close of escrow in the manner prescribed by law, or it is understood that this transaction shall not close with Escrow Agent as the escrow holder.

The undersigned buyer herein acknowledges that the Homeowners Association is the Estates at Saddle Ridge Owners Association. The homeowner's association dues for Saddle Ridge Owners Association are \$89.00 monthly (which amount may increase from time to time) and a transfer fee of \$190.00 and a Capital Contribution Fee of \$378.00. In addition there is a \$57.00 quarterly payment to Damonte Ranch LMA along with a transfer fee of \$100.00 payable to Eugene Burger Management Company and a Capital Contribution of \$100.00 payable to Damonte Ranch LMA. There is also a quarterly payment of \$30.00 payable to Damonte Ranch Drainage District, accompanied by a Transfer fee of \$100.00 payable to Eugene Burger Management Company and a Capital Contribution of \$100.00 to Damonte Ranch Drainage. Escrow Agent is hereby authorized and instructed to collect homeowner's association dues upfront and through escrow.

ASA  
Initials

MEH  
Initials

JK

TO THE EXTENT THAT THE TERMS AND CONDITIONS OF SAID PURCHASE AGREEMENT, AND ANY MODIFICATION THERETO, SHALL CONFLICT WITH THESE "GENERAL CONDITIONS OF ESCROW"; THE OBLIGATIONS OF ESCROW AGENT SHALL BE GOVERNED EXCLUSIVELY BY THESE "GENERAL CONDITIONS OF ESCROW AND ESCROW INSTRUCTIONS" CONTAINED HEREIN, ANYTHING TO THE CONTRARY HEREIN. NOTWITHSTANDING, ESCROW AGENT IS HEREBY UNCONDITIONALLY RELIEVED FROM ANY LIABILITY OR RESPONSIBILITY WHATSOEVER INVOLVING COMPLIANCE WITH OR ADHERENCE TO CONSUMER CREDIT PROTECTION ACT (TRUTH IN LENDING) OR SIMILAR LAW.

SELLER(S) AND BUYER(S) HEREBY AUTHORIZE ESCROW AGENT TO FURNISH COPIES OF CLOSING STATEMENTS AND ESCROW INSTRUCTIONS TO LENDER AND/OR BROKER INVOLVED.

In the event a post-closing or post-disbursement adjustment is necessary by an entity involved with this escrow transaction, the undersigned authorizes Escrow Agent to, if immediate action to advance funds on their behalf is necessary to promptly effect an accurate closing statement. The undersigned, upon notification, and the opportunity to investigate such necessary advances, agrees to fully cooperate and pay Title of Nevada, Inc. any and all funds so advanced on their behalf.

ASA MEH  
Initials Initials

JK

**SELLER**

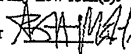
I agree to pay the following escrow charges: ALTA Policy of Title Insurance, Escrow Fee, Recording Fee, Reconveyance Fee, and incidental expenses necessary to convey insurable title as described herein.

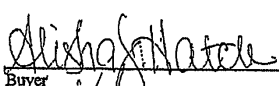
Toll South Reno, LLC, a Nevada limited liability company

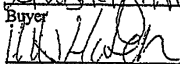
  
BY: Jake Lucas, Division President

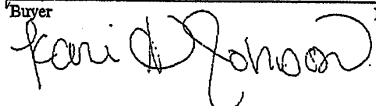
**BUYER**

I have read the foregoing General Conditions of Escrow and am buying the property described on the terms and conditions set forth, and will within the time limit either hand Escrow Agent or cause to be handed Escrow Agent, the consideration as specified, and I require that Seller comply with all terms thereof within the time as listed above. I agree to pay the following escrow charges: ALTA Premium, Real Property Transfer Tax, Loan Fee (as required by Lender), Escrow Fee, Recording Fee, and Incidental Expenses as may be incurred in connection with any new loan(s).

These incidental expenses include any appraisals ordered by Lender  (Initials)

 12/13/14  
Buyer Date

 12/13/14  
Buyer Date

 12/13/14  
Buyer Date



6154533  
Alisha Hatch : 0055



EXHIBIT B NO. 1

COMMUNITY: Estates at Saddle Ridge  
PLAN: Willshire Sonoran

LOT: 0055

THE AGREEMENT OF SALE made between Toll South Reno LLC Seller and Michael and Alisha Hatch and Karl Johnson Buyer is hereby modified as follows: Buyer hereby authorizes and offers to Seller the right to make the following construction changes to the new home indicated above. All construction change orders are offered subject to the acceptance of the Seller. The Seller reserves the right for any reason whatsoever, to reject in part or in whole, any requested construction changes.

OPTION NO.	OPTION DESCRIPTION	QTY	OPTION PRICE
	LOT PREMIUM		\$5,000
426	SECURITY SYSTEM - A, W/WEST-MINSTER SECURITY MONITORING	1	\$0

Diagram Attached: No

For the sum of five thousand DOLLARS	\$5,000
To be applied as payment of or on account of extras, upon the following terms:	
Down payment of signing of this Exhibit "B"	\$250
Cash or Buyer's Certified Check at Settlement	\$4,750

Buyer: [Signature]  
Buyer: Alisha Hatch  
Seller: \_\_\_\_\_

Date Offered: 12/13/14  
Karl Johnson  
Date Accepted: \_\_\_\_\_

12/13/14



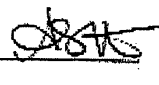
# Exhibit “2”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvilorla

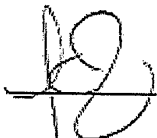

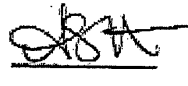
# Exhibit “2”

**Promissory Note For Hatch Residence 9845 Firefoot**  
**Lane Reno, NV 89521**




\*This agreement is for repayment of a home loan between Kari Anne Johnson (lender) and Michael Edward Hatch & Alisha Suzanne Hatch (borrowers).

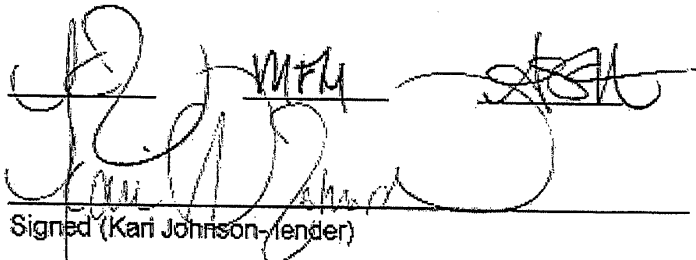
\*Michael and Alisha Hatch agree to repay Kari Johnson the total amount borrowed in the amount of \$665,838.40.

\*Michael and Alisha Hatch have agreed with Kari Johnson that an interest rate of 3.0% will be charged for the home loan.

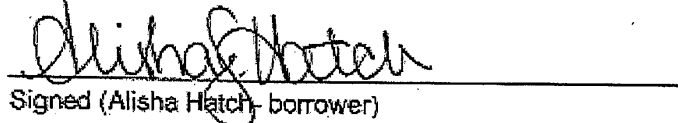
  

\*A payment schedule/loan amortization has been established and is attached.



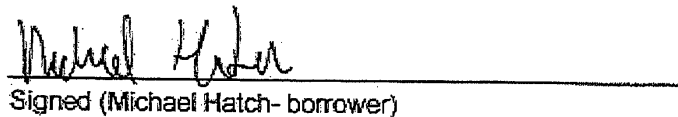
Signed (Kari Johnson- lender)

9/9/15  
Date



Signed (Alisha Hatch- borrower)

9/9/15  
Date



Signed (Michael Hatch- borrower)

9-9-15  
Date

# Exhibit “3”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvitoria

# Exhibit “3”

## 9845 FIREFOOT LANE

PAYMENT	PRINCIPAL	INTEREST	BALANCE	PAID/DATE/TYPER
\$2,807.20	\$1,177.36	\$1,629.84	\$650,759.70	\$2,807.20 Check #1328 9/14/16
\$2,807.20	\$1,180.30	\$1,626.90	\$649,579.40	\$2,807.20 Check #1336 10/10/16
\$2,807.20	\$1,183.25	\$1,623.65	\$648,396.15	2807.20 check #1341 11/15/2016
\$2,807.20	\$1,186.21	\$1,620.99	\$647,209.94	\$2,807.20 Check #1351 12/12/2016
\$2,807.20	\$1,189.18	\$1,618.02	\$646,020.76	\$2,807.20 Check #1361 1/23/2017
\$2,807.20	\$1,192.15	\$1,615.05	\$644,828.61	\$2,807.20 Check #1365 2/21/2017
\$2,807.20	\$1,195.13	\$1,612.07	\$643,633.48	\$2,807.20 Check #1370 3/2/2017
\$2,807.20	\$1,198.12	\$1,609.08	\$642,435.36	\$2,807.20 Check #1380 4/3/2017
\$2,807.20	\$1,201.11	\$1,606.09	\$641,234.25	\$2,807.20 Check #1399 5/5/2017
\$2,807.20	\$1,204.11	\$1,603.09	\$640,030.14	\$2,807.20 Check # 1412 6/2/2017
\$2,807.20	\$1,207.12	\$1,600.08	\$638,823.02	\$2,807.20 Check #1422 7/5/2017
\$2,807.20	\$1,210.14	\$1,597.06	\$637,612.88	\$2,807.20 Check #1422 7/28/2017
\$2,807.20	\$1,213.17	\$1,594.03	\$636,399.71	\$2,807.20 CASH (Reimbursement)
\$2,807.20	\$1,216.20	\$1,591.00	\$635,183.51	\$2,807.20 Check #1452 10/3/2017
\$2,807.20	\$1,219.24	\$1,587.96	\$633,964.27	\$2,807.20 Check #1457 11/3/2017
\$2,807.20	\$1,222.29	\$1,584.81	\$632,741.98	\$2,807.20 Check #1465 12/3/2017
\$2,807.20	\$1,225.35	\$1,581.85	\$631,518.63	\$2,807.20 Check #1469 1/10/2018
\$2,807.20	\$1,228.41	\$1,578.79	\$630,288.22	\$2,807.20 Check #1479 2/1/2018
\$2,807.20	\$1,231.46	\$1,575.72	\$629,056.74	\$2,807.20 Check #1488 2/27/2018
\$2,807.20	\$1,234.56	\$1,572.64	\$627,822.18	\$2,807.20 Check #1501 4/1/2018
\$2,807.20	\$1,237.64	\$1,569.56	\$626,584.54	\$2,807.20 Check # 1506 4/30/2018
\$2,807.20	\$1,240.74	\$1,566.46	\$625,343.80	\$2,807.20 Check # 1513 5/31/2018
\$2,807.20	\$1,243.84	\$1,563.36	\$624,099.96	\$2,807.20 Check #1518 7/1/2018
\$2,807.20	\$1,246.95	\$1,560.25	\$622,853.01	\$2,807.20 Check #1523 cashed for Kari 8/1/2018
\$2,807.20	\$1,250.07	\$1,557.13	\$621,602.94	\$2,807.20 Check #1529 cashed for Kari 8/31/2018
\$2,807.20	\$1,253.19	\$1,554.01	\$620,349.75	\$2,807.20 cash 10/1/2018
\$2,807.20	\$1,256.33	\$1,550.87	\$619,093.42	\$2,807.20 cash 11/1/2018
\$2,807.20	\$1,259.47	\$1,547.73	\$617,833.95	\$2,807.20 cash 12/1/2018
\$2,807.20	\$1,262.62	\$1,544.58	\$616,571.33	\$2,807.20 cash 12/27/2018
\$2,807.20	\$1,265.77	\$1,541.43	\$615,305.56	\$2,807.20 CASH 1/30/2019
\$2,807.20	\$1,268.94	\$1,538.26	\$614,036.62	\$2,807.20 CASH 3/1/2019
\$2,807.20	\$1,272.11	\$1,535.09	\$612,764.51	\$2,807.20 Check #1547 4/3/2019

\$2,807.20	\$1,275.29	\$1,531.91	\$611,489.22	\$2,807.20 Check #1552 4/30/2019
\$2,807.20	\$1,278.48	\$1,528.72	\$610,210.74	PD- Pay Increase
\$2,807.20	\$1,281.67	\$1,525.53	\$608,929.07	PD- Pay Increase 6/27/2019 (\$2,807.20)
\$2,807.20	\$1,284.88	\$1,522.32	\$607,644.19	PD- Pay Increase 8/15/2019 (\$2,807.20)
\$2,807.20	\$1,288.09	\$1,519.11	\$606,358.10	Pd- \$2,807.20 Cash 9/3/2019
\$2,807.20	\$1,291.31	\$1,515.89	\$605,064.79	Pd- \$2,807.20 Cash 10/1/2019
\$2,807.20	\$1,294.54	\$1,512.66	\$603,770.25	Pd- \$2,807.20 Cash 11/1/2019
\$2,807.20	\$1,297.77	\$1,509.43	\$602,472.48	Pd- \$2,807.20 Cash 12/1/2019
\$2,807.20	\$1,301.02	\$1,506.18	\$601,171.46	Pd- Salary January 1, 2020 (\$2,807.20)
\$2,807.20	\$1,304.27	\$1,502.93	\$599,867.19	Pd- Salary February 1, 2020 (\$2,807.20)
\$2,807.20	\$1,307.53	\$1,499.67	\$598,559.66	Pd- Salary March 1, 2020 (\$2,807.20)
\$2,807.20	\$1,310.80	\$1,496.40	\$597,248.86	Pd- Salary April 1, 2020 (\$2,807.20)
\$2,807.20	\$1,314.08	\$1,493.12	\$595,934.78	Pd- Salary May 1, 2020 (\$2,807.20)
\$2,807.20	\$1,317.36	\$1,489.84	\$594,617.42	Pd- Salary June 1, 2020 (\$2,807.20)
\$2,807.20	\$1,320.66	\$1,486.54	\$593,296.76	Pd- Salary July 1, 2020 (\$2,807.20)
\$2,807.20	\$1,323.96	\$1,483.24	\$591,972.80	PD- Salary August 1, 2020 (\$2,807.20)
\$2,807.20	\$1,327.27	\$1,479.93	\$590,645.53	PD- Salary September 1, 2020 (\$2,807.20)
\$2,807.20	\$1,330.59	\$1,476.61	\$589,314.94	PD- Salary October 1, 2020 (\$2,807.20)
\$2,807.20	\$1,333.91	\$1,473.29	\$587,981.03	Pd- Salary November 1, 2020 (\$2,807.20)
\$2,807.20	\$1,337.25	\$1,469.95	\$586,643.78	PD- Salary December 1, 2020 (\$2,807.20)
\$2,807.20	\$1,340.59	\$1,466.61	\$585,303.19	
\$2,807.20	\$1,343.94	\$1,463.26	\$583,959.25	
\$2,807.20	\$1,347.30	\$1,459.90	\$582,611.95	
\$2,807.20	\$1,350.67	\$1,456.53	\$581,261.28	
\$2,807.20	\$1,354.05	\$1,453.15	\$579,907.23	
\$2,807.20	\$1,357.43	\$1,449.77	\$578,549.80	
\$2,807.20	\$1,360.83	\$1,446.37	\$577,188.97	
\$2,807.20	\$1,364.23	\$1,442.97	\$575,824.74	
\$2,807.20	\$1,367.64	\$1,439.56	\$574,457.10	
\$2,807.20	\$1,371.06	\$1,436.14	\$573,086.04	
\$2,807.20	\$1,374.48	\$1,432.72	\$571,711.56	
\$2,807.20	\$1,377.92	\$1,429.28	\$570,333.64	
\$2,807.20	\$1,381.37	\$1,425.83	\$568,952.27	
\$2,807.20	\$1,384.82	\$1,422.38	\$567,567.45	
\$2,807.20	\$1,388.28	\$1,418.92	\$566,179.17	

\$2,807.20	\$1,391.75	\$1,415.45	\$564,787.42
\$2,807.20	\$1,395.23	\$1,411.97	\$563,392.19
\$2,807.20	\$1,398.72	\$1,408.48	\$561,993.47
\$2,807.20	\$1,402.22	\$1,404.98	\$560,591.25
\$2,807.20	\$1,405.72	\$1,401.48	\$559,185.53
\$2,807.20	\$1,409.24	\$1,397.96	\$557,776.29
\$2,807.20	\$1,412.76	\$1,394.44	\$556,363.53
\$2,807.20	\$1,416.29	\$1,390.91	\$554,947.24
\$2,807.20	\$1,419.83	\$1,387.37	\$553,527.41
\$2,807.20	\$1,423.38	\$1,383.82	\$552,104.03
\$2,807.20	\$1,426.94	\$1,380.26	\$550,677.09
\$2,807.20	\$1,430.51	\$1,376.69	\$549,246.58
\$2,807.20	\$1,434.08	\$1,373.12	\$547,812.50
\$2,807.20	\$1,437.67	\$1,369.53	\$546,374.83
\$2,807.20	\$1,441.26	\$1,365.94	\$544,933.57
\$2,807.20	\$1,444.87	\$1,362.33	\$543,488.70
\$2,807.20	\$1,448.48	\$1,358.72	\$542,040.22
\$2,807.20	\$1,452.10	\$1,355.10	\$540,588.12
\$2,807.20	\$1,455.73	\$1,351.47	\$539,132.39
\$2,807.20	\$1,459.37	\$1,347.83	\$537,673.02
\$2,807.20	\$1,463.02	\$1,344.18	\$536,210.00
\$2,807.20	\$1,466.67	\$1,340.53	\$534,743.33
\$2,807.20	\$1,470.34	\$1,336.86	\$533,272.99
\$2,807.20	\$1,474.02	\$1,333.18	\$531,798.97
\$2,807.20	\$1,477.70	\$1,329.50	\$530,321.27
\$2,807.20	\$1,481.40	\$1,325.80	\$528,839.87
\$2,807.20	\$1,485.10	\$1,322.10	\$527,354.77
\$2,807.20	\$1,488.81	\$1,318.39	\$525,865.86
\$2,807.20	\$1,492.54	\$1,314.66	\$524,373.42
\$2,807.20	\$1,496.27	\$1,310.93	\$522,877.15
\$2,807.20	\$1,500.01	\$1,307.19	\$521,377.14
\$2,807.20	\$1,681.70	\$1,145.50	458,537.78
\$2,807.20	\$1,665.86	\$1,141.34	\$454,871.92
\$2,807.20	\$1,670.02	\$1,137.18	\$453,201.80
\$2,807.20	\$1,674.20	\$1,133.00	\$451,527.70

\$2,807.20	\$1,678.38	\$1,128.82	\$449,849.32
\$2,807.20	\$1,682.58	\$1,124.62	\$448,166.74
\$2,807.20	\$1,686.78	\$1,120.42	\$446,479.96
\$2,807.20	\$1,691.00	\$1,116.20	\$444,788.96
\$2,807.20	\$1,695.23	\$1,111.97	\$443,093.73
\$2,807.20	\$1,699.47	\$1,107.73	\$441,394.26
\$2,807.20	\$1,703.71	\$1,103.49	\$439,690.55
\$2,807.20	\$1,707.97	\$1,099.23	\$437,982.58
\$2,807.20	\$1,712.24	\$1,094.96	\$436,270.34
\$2,807.20	\$1,716.52	\$1,090.68	\$434,553.82
\$2,807.20	\$1,720.82	\$1,086.38	\$432,833.00
\$2,807.20	\$1,725.12	\$1,082.08	\$431,107.88
\$2,807.20	\$1,729.43	\$1,077.77	\$429,378.45
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\$2,807.20	\$1,738.09	\$1,069.11	\$425,906.61
\$2,807.20	\$1,742.43	\$1,064.77	\$424,164.18
\$2,807.20	\$1,746.79	\$1,060.41	\$422,417.39
\$2,807.20	\$1,751.16	\$1,056.04	\$420,666.23
\$2,807.20	\$1,755.53	\$1,051.67	\$418,910.70
\$2,807.20	\$1,759.92	\$1,047.28	\$417,150.78
\$2,807.20	\$1,764.32	\$1,042.88	\$415,386.46
\$2,807.20	\$1,768.73	\$1,038.47	\$413,617.73
\$2,807.20	\$1,773.16	\$1,034.04	\$411,844.57
\$2,807.20	\$1,777.59	\$1,029.61	\$410,068.98
\$2,807.20	\$1,782.03	\$1,025.17	\$408,284.95
\$2,807.20	\$1,786.49	\$1,020.71	\$406,498.46
\$2,807.20	\$1,790.95	\$1,016.25	\$404,707.51
\$2,807.20	\$1,795.43	\$1,011.77	\$402,912.08
\$2,807.20	\$1,799.92	\$1,007.28	\$401,112.16
\$2,807.20	\$1,804.42	\$1,002.78	\$399,307.74
\$2,807.20	\$1,808.93	\$998.27	\$397,498.81
\$2,807.20	\$1,813.45	\$993.75	\$395,685.38
\$2,807.20	\$1,817.99	\$989.21	\$393,867.37
\$2,807.20	\$1,822.53	\$984.67	\$392,044.84
\$2,807.20	\$1,827.09	\$980.11	\$390,217.75



\$2,807.20	\$1,831.66	\$975.54	\$388,386.09
\$2,807.20	\$1,838.23	\$970.97	\$386,548.86
\$2,807.20	\$1,840.83	\$966.37	\$384,709.03
\$2,807.20	\$1,845.43	\$961.77	\$382,863.60
\$2,807.20	\$1,850.04	\$957.16	\$381,013.56
\$2,807.20	\$1,854.67	\$952.53	\$379,158.89
\$2,807.20	\$1,859.30	\$947.90	\$377,299.59
\$2,807.20	\$1,863.95	\$943.25	\$375,435.64
\$2,807.20	\$1,868.61	\$938.59	\$373,567.03
\$2,807.20	\$1,873.28	\$933.92	\$371,693.75
\$2,807.20	\$1,877.97	\$929.23	\$369,815.78
\$2,807.20	\$1,882.66	\$924.54	\$367,933.12
\$2,807.20	\$1,887.37	\$919.83	\$366,045.75
\$2,807.20	\$1,892.09	\$915.11	\$364,153.66
\$2,807.20	\$1,896.82	\$910.38	\$362,256.04
\$2,807.20	\$1,901.56	\$905.64	\$360,355.28
\$2,807.20	\$1,906.31	\$900.89	\$358,448.97
\$2,807.20	\$1,911.08	\$896.12	\$356,537.89
\$2,807.20	\$1,915.86	\$891.34	\$354,622.03
\$2,807.20	\$1,920.64	\$886.56	\$352,701.39
\$2,807.20	\$1,925.45	\$881.75	\$350,775.94
\$2,807.20	\$1,930.26	\$876.94	\$348,845.68
\$2,807.20	\$1,935.09	\$872.11	\$346,910.59
\$2,807.20	\$1,939.92	\$867.28	\$344,970.67
\$2,807.20	\$1,944.77	\$862.43	\$343,025.90
\$2,807.20	\$1,949.64	\$857.56	\$341,076.26
\$2,807.20	\$1,954.51	\$852.69	\$339,121.75
\$2,807.20	\$1,959.40	\$847.80	\$337,162.35
\$2,807.20	\$1,964.29	\$842.91	\$335,198.06
\$2,807.20	\$1,969.20	\$838.00	\$333,228.86
\$2,807.20	\$1,974.13	\$833.07	\$331,254.73
\$2,807.20	\$1,979.06	\$828.14	\$329,275.67
\$2,807.20	\$1,984.01	\$823.19	\$327,291.66
\$2,807.20	\$1,988.97	\$818.23	\$325,302.69
\$2,807.20	\$1,993.94	\$813.26	\$323,308.75

\$2,807.20	\$1,998.93	\$808.27	\$321,309.82
\$2,807.20	2,003.93	\$803.27	\$319,305.89
\$2,807.20	\$2,008.94	\$798.26	\$317,296.95
\$2,807.20	\$2,013.96	\$793.24	\$315,282.99
\$2,807.20	\$2,018.99	\$788.21	\$313,264.00
\$2,807.20	\$2,024.04	\$783.16	\$311,239.96
\$2,807.20	\$2,029.10	\$778.10	\$309,210.86
\$2,807.20	\$2,034.17	\$773.03	\$307,176.69
\$2,807.20	\$2,039.26	\$767.94	\$305,137.43
\$2,807.20	\$2,044.36	\$762.84	\$303,093.07
\$2,807.20	\$2,049.47	\$757.73	\$301,043.60
\$2,807.20	\$2,054.59	\$752.61	\$298,989.01
\$2,807.20	\$2,059.73	\$747.47	\$296,929.28
\$2,807.20	\$2,064.88	\$742.32	\$294,864.40
\$2,807.20	\$2,070.04	\$737.16	\$292,794.36
\$2,807.20	\$2,075.21	\$731.99	\$290,719.15
\$2,807.20	\$2,080.40	\$726.80	\$288,638.75
\$2,807.20	\$2,085.60	\$721.60	\$286,553.15
\$2,807.20	\$2,090.82	\$716.38	\$284,462.33
\$2,807.20	\$2,096.04	\$711.16	\$282,366.29
\$2,807.20	\$2,101.28	\$705.92	\$280,265.01
\$2,807.20	\$2,106.54	\$700.66	\$278,158.47
\$2,807.20	\$2,111.80	\$695.40	\$276,046.67
\$2,807.20	\$2,117.08	\$690.12	\$273,929.59
\$2,807.20	\$2,122.38	\$684.82	\$271,807.21
\$2,807.20	\$2,127.68	\$679.52	\$269,679.53
\$2,807.20	\$2,133.00	\$674.20	\$267,546.53
\$2,807.20	\$2,138.33	\$668.87	\$265,408.20
\$2,807.20	\$2,143.68	\$663.52	\$263,264.52
\$2,807.20	\$2,149.04	\$658.16	\$261,115.48
\$2,807.20	\$2,154.41	\$652.79	\$258,961.07
\$2,807.20	\$2,159.80	\$647.40	\$256,801.27
\$2,807.20	\$2,165.20	\$642.00	\$254,636.07
\$2,807.20	\$2,170.61	\$636.59	\$252,465.46
\$2,807.20	\$2,176.04	\$631.16	\$250,289.42

\$2,807.20	\$2,181.48	\$625.72	\$248,107.94
\$2,807.20	\$2,186.93	\$620.27	\$245,921.01
\$2,807.20	\$2,192.40	\$614.80	\$243,728.61
\$2,807.20	\$2,197.88	\$609.32	\$241,530.73
\$2,807.20	\$2,203.37	\$603.83	\$239,327.36
\$2,807.20	\$2,208.88	\$598.32	\$237,118.48
\$2,807.20	\$2,214.40	\$592.80	\$234,904.08
\$2,807.20	\$2,219.94	\$587.26	\$232,684.14
\$2,807.20	\$2,225.49	\$581.71	\$230,458.65
\$2,807.20	\$2,231.05	\$576.15	\$228,227.60
\$2,807.20	\$2,236.63	\$570.57	\$225,990.97
\$2,807.20	\$2,242.22	\$564.98	\$223,748.75
\$2,807.20	\$2,247.83	\$559.37	\$221,500.92
\$2,807.20	\$2,253.45	\$553.75	\$219,247.47
\$2,807.20	\$2,259.08	\$548.12	\$216,988.39
\$2,807.20	\$2,264.73	\$542.47	\$214,723.66
\$2,807.20	\$2,270.49	\$536.81	\$212,453.27
\$2,807.20	\$2,276.07	\$531.13	\$210,177.20
\$2,807.20	\$2,281.76	\$525.44	\$207,895.44
\$2,807.20	\$2,287.46	\$519.74	\$205,607.98
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\$2,807.20	\$2,298.91	\$508.29	\$201,015.89
\$2,807.20	\$2,304.66	\$502.54	\$198,711.23
\$2,807.20	\$2,310.42	\$496.78	\$196,400.81
\$2,807.20	\$2,316.20	\$491.00	\$194,084.61
\$2,807.20	\$2,321.99	\$485.21	\$191,762.62
\$2,807.20	\$2,327.79	\$479.41	\$189,434.83
\$2,807.20	\$2,333.61	\$473.59	\$187,101.22
\$2,807.20	\$2,339.45	\$467.75	\$184,761.77
\$2,807.20	\$2,345.30	\$461.90	\$182,416.47
\$2,807.20	\$2,351.16	\$456.04	\$180,065.31
\$2,807.20	\$2,357.04	\$450.16	\$177,708.27
\$2,807.20	\$2,362.93	\$444.27	\$175,345.34
\$2,807.20	\$2,368.84	\$438.36	\$172,976.50
\$2,807.20	\$2,374.76	\$432.44	\$170,601.74

\$2,807.20	\$2,380.70	\$426.50	\$168,221.04
\$2,807.20	\$2,386.65	\$420.55	\$165,834.39
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\$2,807.20	\$2,398.60	\$408.60	\$161,043.18
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\$2,807.20	\$2,410.60	\$396.60	\$156,227.99
\$2,807.20	\$2,416.63	\$390.57	\$153,811.36
\$2,807.20	\$2,422.67	\$384.53	\$151,388.69
\$2,807.20	\$2,428.73	\$378.47	\$148,959.96
\$2,807.20	\$2,434.80	\$372.40	\$146,525.16
\$2,807.20	\$2,440.89	\$366.31	\$144,084.27
\$2,807.20	\$2,446.99	\$360.21	\$141,637.28
\$2,807.20	\$2,453.11	\$354.09	\$139,184.17
\$2,807.20	\$2,459.24	\$347.96	\$136,724.93
\$2,807.20	\$2,465.39	\$341.81	\$134,259.54
\$2,807.20	\$2,471.55	\$335.65	\$131,787.99
\$2,807.20	\$2,477.73	\$329.47	\$129,310.26
\$2,807.20	\$2,483.92	\$323.28	\$126,826.54
\$2,807.20	\$2,490.13	\$317.07	\$124,336.21
\$2,807.20	\$2,496.36	\$310.84	\$121,839.85
\$2,807.20	\$2,502.60	\$304.60	\$119,337.25
\$2,807.20	\$2,508.86	\$298.34	\$116,828.39
\$2,807.20	\$2,515.13	\$292.07	\$114,313.26
\$2,807.20	\$2,521.42	\$285.78	\$111,791.84
\$2,807.20	\$2,527.72	\$279.48	\$109,264.12
\$2,807.20	\$2,534.04	\$273.16	\$106,730.08
\$2,807.20	\$2,540.37	\$266.83	\$104,189.71
\$2,807.20	\$2,546.73	\$260.47	\$101,642.98
\$2,807.20	\$2,553.09	\$254.11	\$99,089.89
\$2,807.20	\$2,559.48	\$247.72	\$96,530.41
\$2,807.20	\$2,565.87	\$241.33	\$93,964.54
\$2,807.20	\$2,572.29	\$234.91	\$91,392.25
\$2,807.20	\$2,578.72	\$228.49	\$88,813.53
\$2,807.20	\$2,585.17	\$222.03	\$86,228.36
\$2,807.20	\$2,591.63	\$215.57	\$83,636.73

\$2,807.20	\$2,598.11	\$209.09	\$81,038.62
\$2,807.20	\$2,604.60	\$202.60	\$78,434.02
\$2,807.20	\$2,611.11	\$196.09	\$75,822.91
\$2,807.20	\$2,617.64	\$189.56	\$73,205.27
\$2,807.20	\$2,624.19	\$183.01	\$70,581.08
\$2,807.20	\$2,630.75	\$176.45	\$67,950.33
\$2,807.20	\$2,637.32	\$169.88	\$65,313.01
\$2,807.20	\$2,643.92	\$163.28	\$62,669.09
\$2,807.20	\$2,650.53	\$156.67	\$60,018.56
\$2,807.20	\$2,657.15	\$150.05	\$57,361.41
\$2,807.20	\$2,663.80	\$143.40	\$54,697.61
\$2,807.20	\$2,670.46	\$136.74	\$52,027.15
\$2,807.20	\$2,677.13	\$130.07	\$49,350.02
\$2,807.20	\$2,683.82	\$123.38	\$46,666.20
\$2,807.20	\$2,690.53	\$116.67	\$43,975.67
\$2,807.20	\$2,697.26	\$109.94	\$41,278.41
\$2,807.20	\$2,704.00	\$103.20	\$38,574.41
\$2,807.20	\$2,710.76	\$96.44	\$35,863.65
\$2,807.20	\$2,717.54	\$89.66	\$33,146.11
\$2,807.20	\$2,724.33	\$82.87	\$30,421.78
\$2,807.20	\$2,731.15	\$76.05	\$27,690.63
\$2,807.20	\$2,737.97	\$69.23	\$24,952.66
\$2,807.20	\$2,744.82	\$62.38	\$22,207.84
\$2,807.20	\$2,751.68	\$55.52	\$19,456.16
\$2,807.20	\$2,758.56	\$48.64	\$16,697.60
\$2,807.20	\$2,765.46	\$41.74	\$13,932.14
\$2,807.20	\$2,772.37	\$34.83	\$11,159.77
\$2,807.20	\$2,779.30	\$27.90	\$8,380.47
\$2,807.20	\$2,786.25	\$20.95	\$5,594.22
\$2,807.20	\$2,793.21	\$13.99	\$2,801.01
\$2,801.01	\$2,801.01	\$7.00	\$0.00

# Exhibit “4”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvilorla

# Exhibit “4”

WHEN RECORDED MAIL TO:  
Michael Hatch and Alisha Hatch  
9845 Firefoot Lane  
Reno, NV 89521

**DOC #4500519**

08/06/2015 03:43:59 PM  
Electronic Recording Requested By  
TICOR TITLE - RENO (MAIN)  
Washoe County Recorder  
Lawrence R. Burtress  
Fee: \$23.00 RPTT: \$2621.95  
Page 1 of 7

MAIL TAX STATEMENTS TO:  
Same As Above

Escrow No. 1404892-LMZ

The undersigned hereby affirms that this document  
submitted for recording does not contain the social  
security number of any person or persons.  
(Pursuant to NRS 239b.030)

APN No.: 141-254-09  
R.P.T.T. \$2,621.95

SPACE ABOVE FOR RECORDER'S USE ONLY

## GRANT, BARGAIN, SALE DEED

**THIS INDENTURE WITNESSETH:** That Toll-South Reno, LLC, a Nevada Limited Liability Company

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, do/does hereby Grant, Bargain, Sell and Convey to Michael Hatch and Alisha Hatch, husband and wife as joint tenants with right of survivorship

all that real property situated in the County of Washoe, State of Nevada, described as follows:

**SEE EXHIBIT "A&B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF**

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Signature and notary acknowledgement on page two.

**THIS DOCUMENT IS BEING RECORDED  
AS AN ACCOMODATION ONLY. NO  
LIABILITY IS ASSUMED HEREBY.**

Toll South Reno, LLC, a Nevada limited liability company

By: Gary M. Mayo, President *DAVID STANLEY, VICE PRESIDENT*

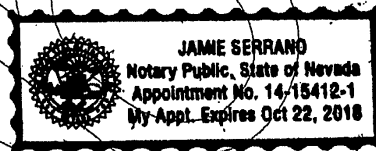
STATE OF NEVADA  
COUNTY OF WASHOE

} ss:

This instrument was acknowledged before me on ,  
by GARY M. MAYO *DAVID STANLEY*

*August 3<sup>rd</sup> 2015*

*[Signature]*  
NOTARY PUBLIC



This Notary Acknowledgement is attached to that certain Grant, Bargain, Sale Deed dated date of document under escrow No. 01404892.



## Exhibit "A"

The land referred to in this Policy is described as follows:

Lot 55 of DAMONTE RANCH VILLAGE 11D, according to the map thereof, filed in the Office of the County Recorder of Washoe County, State of Nevada, on April 3, 2014, as File No. 4341181, Official Records, Tract Map No. 5071.

More Commonly Known as: 9845 Firefoot Lane, Reno, Nevada  
Assessor's Parcel No.: 141-254-09

COPY

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ALTA Plain Language Commitment Form (6/17/06)  
Schedule C

109-14000223-TBI/15

Exhibit "B"

**ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE  
BUYER'S USE OF PROPERTY**

ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer"), Lot No. 0055 (the "Property") in the community of Estates at Saddle Ridge.

1. **OWNER OCCUPANY:** Seller desires to sell only to buyers who will occupy the home as their primary residence or a secondary residence, *i.e.*, vacation or seasonal home (their "**Residence**"), to create an established community of owner-occupied homes. Seller and Buyer agree that homebuyers prefer owner-occupied communities and, as such, owner-occupied communities proved a better environment to sell homes and in which to reside. Therefore, Seller chooses to only sell homes to buyers who intend to occupy the home as their Residence for a minimum of one (1) year after the closing. To induce Seller to agree to sell the Property to Buyer, Buyer represents warrants and agrees as follows:

1.1 **Use of Principal Residence for One (1) Year.** Buyer represents and warrants to Seller that (a) Buyer is purchasing the Property for use as Buyer's Residence; (b) Buyer will occupy the Property within thirty (30) calendar days after the Closing; and (c) Buyer will not attempt to transfer Buyer's rights under the Agreement or enter into any agreement for the lease, sale or other transfer of the Property that would result in Buyer's failure to occupy the Property as Buyer's Residence and hold title thereto in fee simple for a period of one (1) year after the Settlement of Buyer's purchase of the Property (the "**Occupancy Period**"). The provisions of this Section and the accuracy of the above representations warranties constitute a personal covenant of Buyer and a condition precedent to Seller's performance under the Agreement.

Michael Alisha Initials KJ

1.2 **Transfer before Closing.** Except for Hardship Situations, as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, any attempt by Buyer to assign Buyer's rights under this Agreement or to lease, sell or otherwise transfer the Property before the Closing will constitute both (a) a breach of the Agreement, entitling Seller, at its sole election, to immediately terminate this Agreement and retain Buyer's deposit as liquidated damages and (b) the failure of a condition precedent to Seller's obligation to sell the Property to Buyer. However, if Buyer's breach does not become known to Seller or Seller fails to terminate this Agreement until after Closing, then Seller will be limited solely to the remedy of Liquidated Damages described in Sections 1.3 and 1.4.

Michael Alisha Initials KJ

**1.3 Transfer after closing.** Except for Hardship Situations as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, Buyer's transfer of title to the Property prior to or during the Occupancy Period constitutes a breach of this Agreement. Buyer and Seller agree that such a breach will entitle the Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the difference between the sales price on resale and the purchase price hereunder. **Seller and Buyer that the amount of liquidated damages is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

NEH ASA Initials

**1.4 Lease of Property After Closing.** Except for Hardship Situations as described in Section 1.5 or Unrestricted Transfers as described in Section 1.6, Buyer's failure to make the Property Buyer's Residence during the Occupancy Period or Buyer's lease of the property during the Occupancy Period constitutes a breach of this Agreement, entitling Seller to liquidate damages. Buyer and Seller agree that such a breach will entitle Seller to liquidated damages to be promptly paid by Buyer to Seller in the amount of one-half of the total payments received from the tenant for the first 12 months of the rental period. **Seller and Buyer agree that the liquidated damages amount is a reasonable measurement of Seller's damages in the case of such a breach given that Seller's actual damages would be extremely difficult and impractical to determine.**

NEH ASA Initials

**1.5 Hardship Situations.** The following events will be deemed to constitute "Hardship Situations" under which Buyer will be relieved of the obligations of this Section concerning limitations on the sale or lease of the Property.

- 1.5.1.1 The death of the Buyer (or any person who is co-buyer if more than one);
- 1.5.1.2 The dissolution of Buyer's marriage or legal separation of married Buyers;
- 1.5.1.3 A Mandatory job transfer required by Buyer's employer (not including Buyer if buyer is self employed);
- 1.5.1.4 A medical or financial emergency, proof of which Seller has approved within its sole discretion, and
- 1.5.1.5 A situation which, in the sole judgment of Seller, constitutes a hardship consistent with the purpose of this Section.

**1.6 Unrestricted Transfers.** The following transfers are not in violation of the stated purpose of this Section and are not subject to the provisions of Sections 1.3 and 1.4.

- 1.6.1.1 A transfer between spouses or between parent and child (but subsequent transfers within the Occupancy Period would be subject to this Endorsement);

NEH ASA Initials

- 1.6.1.2 A transfer resulting from a decree of dissolution of marriage or legal separation or from a property settlement agreement incident to such a decree;
- 1.6.1.3 A transfer into a revocable *inter vivos* trust in which Buyer is the beneficiary; and
- 1.6.1.4 A transfer, conveyance, pledge, or assignment of the Property (such as a Mortgage) to secure the performance of an obligation, which will be released or reconveyed upon the completion of the performance; and
- 1.6.1.5 A transfer resulting from a foreclosure (by judicial foreclosure or trustee's sale) by the beneficiary of a first mortgage or a transfer in lieu thereof.

**1.7 FHA/VA Loans.** Notwithstanding anything to the contrary contained herein, in the event the mortgage or deed of trust on the Property is insured by FHA or guaranteed by VA any occupancy requirements of FHA and/or VA, as applicable, shall apply and the provisions of this endorsement shall be of no further force and effect as to the Property.

**1.8 No Unreasonable Restraint.** The purpose of this Section is to comply with Seller's intention to sell homes only to persons who intend to occupy them as their Residences; to obtain a stabilized community of owner-occupied homes; and to provide the type of community in which prospective buyers are most interested in living. Buyer agrees that the provisions and restrictions set forth in this Section do not constitute an unreasonable restraint upon alienation of the Property, and that the liquidated damages provisions in Sections 1.3 and 1.4 are not a penalty or a forfeiture.

*MEL ASH* Initials *clor*

**1.9 Survival.** The rights and duties pursuant to this Section shall survive Closing and remain in full force and effect in accordance with its terms.

**THIS ENDORSEMENT TO AGREEMENT OF SALE** is intended to be incorporated into and made a part of the Agreement and all other terms and conditions contained in the Agreement, unless expressly modified herein, remain in full force and effect.

**IN WITNESS WHEREOF,** the parties hereto, intending to be legally bound hereby, have hereunto set their hands and seals the day and year written.

*Alina Hatch*  
BUYER: *Mitch Hatch* DATE 12/13/14  
*Anna Hatch*  
BUYER: *Mitch Hatch* DATE 12/13/14  
*Jake Lucero*  
SELLER: *Jake Lucero* DATE 12/13/14



## WASHOE COUNTY RECORDER


OFFICE OF THE COUNTY RECORDER  
LAWRENCE R. BURTNES, RECORDER

1001 E. NINTH STREET  
POST OFFICE BOX 11130  
RENO, NEVADA 89520-0027  
PHONE (775) 328-3661  
FAX (775) 325-8010

### LEGIBILITY NOTICE

The Washoe County Recorder's Office has determined that the attached document may not be suitable for recording by the method used by the Recorder to preserve the Recorder's records. The customer was advised that copies reproduced from the recorded document would not be legible. However, the customer demanded that the document be recorded without delay as the parties rights may be adversely affected because of a delay in recording. Therefore, pursuant to NRS 247.120 (3), the County Recorder accepted the document conditionally, based on the undersigned's representation (1) that a suitable copy will be submitted at a later date (2) it is impossible or impracticable to submit a more suitable copy.

By my signing below, I acknowledge that I have been advised that once the document has been microfilmed it may not reproduce a legible copy.

  
Signature

8-6-15  
Date

T. J. FELT  
Printed Name

# Exhibit “5”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvitoria

# Exhibit “5”

9/22/2020

9845 Firefoot Lane- Hatch 1.jpeg

6154533

### ENDORSEMENT TO AGREEMENT OF SALE

ENDORSEMENT TO AGREEMENT OF SALE between Toll South Reno LLC ("Seller") and Michael and Alisha Hatch and Kari Johnson ("Buyer") of House No. 9845 Firefoot Lane, Reno, NV, 89521 Lot No. 0055 in the community of Estates at Saddle Ridge (the "Agreement").

NOTWITHSTANDING anything contained in the Agreement to the contrary, Buyer and Seller further agree as follows:

#### Assignment - Deletion of Buyer at Closing

Buyers desire to remove Kari Johnson from the Agreement at closing. Seller agrees that at closing, Kari Johnson shall be removed from the Agreement and not referenced in any conveyance documents; provided both Kari Johnson and Michael Hatch and Alisha Hatch shall remain liable for the full performance of the Agreement, including closing.

THIS ENDORSEMENT is intended to be incorporated into and made a part of the Agreement and all other terms and conditions contained in the Agreement, unless expressly modified herein, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have hereunto set their hands and seals the day and year written.

BUYER: Kari Johnson DATE: 7/29/15

BUYER: Michael Hatch DATE: 7/29/15

SELLER: Alisha Hatch DATE: 7/29/15

Page 1 of 1

# Exhibit “6”

FILED  
Electronically  
CV21-00246  
2021-02-10 11:36:17 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 8289076 : yvitoria

# Exhibit “6”



**DOC #4982284**

12/13/2019 12:54:15 PM  
Electronic Recording Requested By  
TICOR TITLE - FERNLEY  
Washoe County Recorder  
Kalie M. Work  
Fee: \$41.00 RPTT: \$0  
Page 1 of 18

Assessor's Parcel No.: 141-254-09

Recording Requested by:  
GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION  
When Recorded Mail To:  
GUILD MORTGAGE COMPANY - ATTN: DMD

5898 COPLEY DRIVE  
SAN DIEGO, CA 92111

Mail Tax Statement To:  
MICHAEL HATCH  
9845 FIREFOOT  
RENO, NV 89521

[Space Above This Line For Recording Data]

Loan No.: 156-2017268

MIN: 100019915620172680

## DEED OF TRUST

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 9, 2019, together with all Riders to this document.

(B) "Borrower" is MICHAEL HATCH AND Alisha Hatch, HUSBAND AND WIFE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP. Borrower is the trustor under this Security Instrument.

Nevada Deed of Trust—Single Family—Fannie Mae/Freddie Mac Uniform Instrument  
The Compliance Source, Inc.

MERS Modified Form 3029 1/01  
Page 1 of 15 Modified by Compliance Source 14301NV 10/05 Rev. 11/15  
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(C) "Lender" is GUILD MORTGAGE COMPANY, A CALIFORNIA CORPORATION. Lender is a corporation organized and existing under the laws of CALIFORNIA. Lender's address is 5898 COPLEY DRIVE, SAN DIEGO, CA 92111.

(D) "Trustee" is GUILD ADMINISTRATION CORP, A CALIFORNIA CORPORATION.

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated December 9, 2019. The Note states that Borrower owes Lender Two Hundred Fifty Nine Thousand and 00/100ths Dollars (U.S. \$259,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2050.

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider                         | <input type="checkbox"/> Second Home Rider      |
| <input type="checkbox"/> Balloon Rider         | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> 1-4 Family Rider      | <input type="checkbox"/> Revocable Trust Rider                     |   |
| <input type="checkbox"/> Other(s) [specify]    |  |   |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.



(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

#### TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

County of WASHOE  
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]  
ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF WASHOE, STATE OF NEVADA, DESCRIBED AS FOLLOWS. LOT 55 OF DAMONTE RANCH VILLAGE 11D, ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF WASHOE COUNTY, STATE OF NEVADA, ON APRIL 3, 2014, AS FILE NO. 4341161, OFFICIAL RECORDS, TRACT MAP NO. 5071. APN: 141-254-09  
which currently has the address of 9845 FIREFOOT LN

RENO  
[City]

Nevada 89521  
[Zip Code]

[Street]

("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.



**BORROWER COVENANTS** that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

**THIS SECURITY INSTRUMENT** combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.



3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien of encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground



rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the 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, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services; and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction,



provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's



interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender





takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the



Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other

