

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. 3

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
22 Attorneys for Appellants
23
24
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26

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X by using the Supreme Court Electronic Filing System:

DATED: This 3 day of March, 2022.


JODI ALHASAN

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 mortgage; 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]

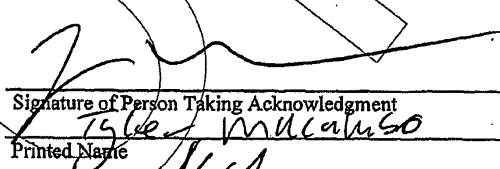
(Seal)
-Borrower
[Printed Name]

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
Printed Name Tyler Macaluso

Title or Rank N/A

Serial Number, if any: 16-3876-2

My Commission Expires: Oct 14, 2020

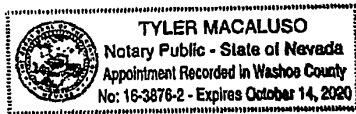


ACKNOWLEDGMENT

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 08/00 Rev. 11/15
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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]



FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “2”

Exhibit “2”

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	\$0
Note for balance of 10% down is \$24,500.	
Cash due at Closing (exclusive of closing costs)	\$465,495
TOTAL	\$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 KH*

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: *NZL* *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. 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 KQ

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 KQ

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 KQ

(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 *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: MEH/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 and initials]

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 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.

Michael Alisha Kari

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.

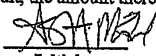
Notwithstanding the fact that Escrow Agent may have been provided with a copy of the Purchase Contract in relation to subject property for information purposes, Escrow Agent's liability to the undersigned is limited solely to Escrow Agent's compliance with these instructions, and any modifications hereto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

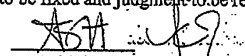
These instructions are executed for the sole purpose of enabling escrow holder to complete this transaction but are in no way intended to modify, amend, supersede or in any way change that certain agreement executed by and between the parties hereto prior to these instructions. The undersigned acknowledge 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.


Initials


Initials

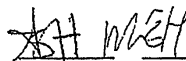
Time is of the essence in this agreement and each party hereto requires that the other party comply with all requirements necessary to place this escrow in a condition to close as provided in said Purchase Contract, however, that if the closing date, or any other compliance date specified herein, falls 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 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.





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.

ASH
Initials

MEH
Initials

KJ

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 Titor Title of Nevada, Inc. any and all funds so advanced on their behalf.

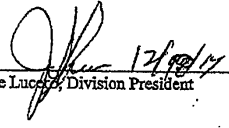
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SELLER

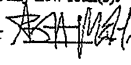
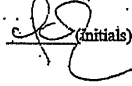
I agree to pay the following escrow charges: ALTA Policy of Title Insurance, Escrow Fee, Recording Fee, Reconveyance Fee, and incidental expenses necessary to convey insurable title as described herein.

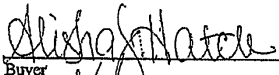
Toll South Reno, LLC, a Nevada limited liability company

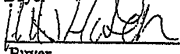

BY: Jake Lucas, Division President


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) 


Buyer Date 12/13/14


Buyer Date 12/13/14


Buyer Date 12/13/14

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 12/13/14
Date Accepted: _____


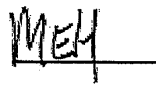
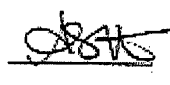
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2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “3”

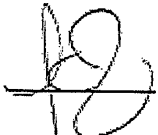
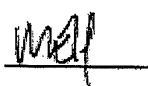
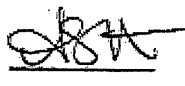
Exhibit “3”

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


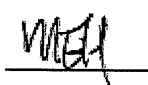
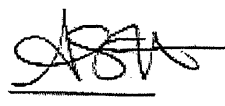
*This agreement is for repayment of a home loan between Kari Anne Johnson (lender) and Michael Edward Hatch & Alisha Suzanne Hatch (borrowers).

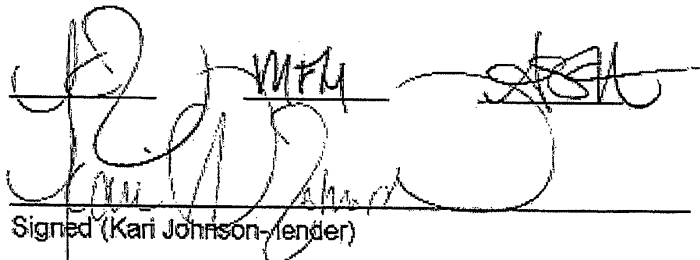
*Michael and Alisha Hatch agree to repay Kari Johnson the total amount borrowed in the amount of \$665,838.40.

*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.



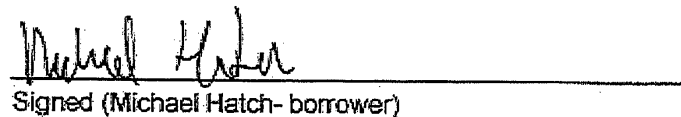
Signed (Kari Johnson-lender)

9/9/15
Date



Signed (Alisha Hatch- borrower)

9/9/15
Date



Signed (Michael Hatch- borrower)

9-9-15
Date

FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “4”

Exhibit “4”

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	\$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	\$1,512.66	\$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	\$525,865.96
\$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	\$1,094.96	\$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
\$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	\$386,386.09
\$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	\$857.58	\$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	2,003.99	\$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
\$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	\$151,388.68
\$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

FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “5”

Exhibit “5”

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

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

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_00536

Toll South Reno, LLC, a Nevada limited liability company

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

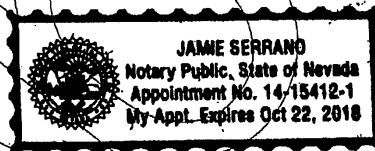
STATE OF NEVADA
COUNTY OF WASHOE

} ss:

This instrument was acknowledged before me on ,
by GARY M. MAYO *DAVID STANLEY*

August 3rd 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 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.

MAH ASH 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.

MAH ASH 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 ASH 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 ASH 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 ASH 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.

MZL *ARST* *cler*
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.

ATisha Hatch 12/18/14
BUYER: *Mitch Hatch* DATE 12/13/14
Anna Hatch
BUYER: *Mitch Hatch* DATE 12/13/14
John Johnson
SELLER: *John Johnson* DATE 12/18/14
Jake Lucero



WASHOE COUNTY RECORDER

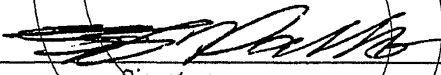
OFFICE OF THE COUNTY RECORDER
LAWRENCE R. BURTNES, RECORDER

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. S. FELTZ
Printed Name

FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “6”

Exhibit “6”

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

JA_00544

FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “7”

Exhibit “7”

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

MERS Modified Form 3029 1/01
Modified by Compliance Source 14301NV 10/05 Rev. 11/15
©2005-2015, The Compliance Source, Inc.



JA_00546

(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



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]

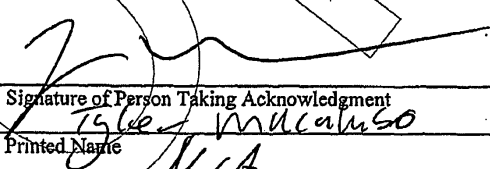
ACKNOWLEDGMENT

State of Nevada
County of Washoe

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



(Seal)


Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:



ACKNOWLEDGMENT

State of *Nevada*
County of *Washoe*

§
§
§

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



(Seal)

Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:

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
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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.

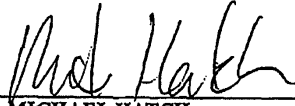
E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial 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) (Seal)
-Borrower -Borrower

[Sign Original Only]



FILED
Electronically
CV21-00246
2021-03-17 12:26:03 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8347328 : sacordag

Exhibit “8”

Exhibit “8”

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.
a Professional Corporation
71 Washington Street
Reno, Nevada 89503
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Facsimile: (775) 329-7169
Email: 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.

**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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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:

X 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 17th 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

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP,
3 SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **AFFIDAVIT OF**
4 **KARI ANNE JOHNSON IN SUPPORT OF OPPOSITION TO EMERGENCY MOTION TO**
5 **EXPUNGE LIS PENDENS** on all parties to this action by the method(s) indicated below:
6

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

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

10 Mark G. Simons, Esq.
11 Anthony L. Hall, Esq.
12 SIMONS HALL JOHNSTON PC
13 Email: MSimons@SHJNevada.com
AHall@SHJNevada.com
Attorneys for Defendants

14 _____ by personal delivery/hand delivery addressed to:

15 _____ by facsimile (fax) addressed to:

16 _____ by Federal Express/UPS or other overnight delivery addressed to:
17

18 DATED: This 17th day of March 2021.

19
20 /s/ Leslie M. Lucero
21 Employee of Robison, Sharp, Sullivan & Brust
22
23
24
25
26
27
28

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

3795
Mark G. Simons, Esq. (SBN 5132)
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AHall@SHJNevada.com

Attorneys for Defendants

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

KARI ANNE JOHNSON, an individual;
Plaintiffs,
v.
MICHAEL EDWARD HATCH, an
individual; ALISHA SUZANNE HATCH,
an individual; and DOES I to X, inclusive
Defendants.

CASE NO.: CV21-00246

DEPT. NO.: 7

REPLY IN SUPPORT OF
EMERGENCY MOTION TO EXPUNGE
LIS PENDENS

Defendants Michael Edward Hatch and Alisha Suzanne Hatch (the "Hatches"), by and through their attorney MARK G. SIMONS of SIMONS HALL JOHNSTON PC, hereby submit the following reply in support of their Emergency Motion to Expunge Lis Pendens.

I. THE RESOLUTION OF THIS MOTION MANDATES EXPUNGEMENT OF THE LIS PENDENS.

The opposition filed by Kari Anne Johnson ("Johnson") demonstrates that the Lis Pendens must be expunged. This is because Johnson admits her only viable claims seeks monetary damages. All other claims for relief are (1) either barred by the applicable statute of limitations or (2) are not valid "claims for relief" but only "remedies"

1 which remedies are insufficient as a matter of law to support a lis pendens. Further,
2 Johnson claims she will be "gravely injured" if the Court does not allow the lis pendens to
3 remain. Opp., p. 2:22.

4 The injury Johnson complains of is that she claims she may be at risk for not being
5 able to collect on her monetary judgment so wants the Court to allow her to seize the
6 Hatches' property as a means to collect the judgment. Am. Comp., ¶60 ("The Property is
7 believed to be the only possible source of repayment of the Loan."); see also Compl., ¶53
8 (same). This conduct has repeatedly been held to be wrongful and abusive and a lis
9 pendens is not to be used to promote recoveries in actions for personal or money
10 judgments. *Levinson v. Eighth Judicial Dist. Court*, 109 Nev. 747, 750-751, 857 P.2d 18,
11 20 (1993) ("**[L]is pendens are not appropriate instruments for use in promoting**
12 **recoveries in actions for personal or money judgments.**" (emphasis added)). As
13 detailed in the opening motion and herein, the Lis Pendens must be expunged.

14 II. COMPARISON OF COMPLAINT AND AMENDED COMPLAINT.

15 Recognizing the fatal defects in the original Complaint as detailed in the Motion to
16 Dismiss, Johnson subsequently filed an Amended Complaint. While Johnson has
17 subsequently filed an amended complaint, the Lis Pendens was premised upon the
18 contentions and allegations contained in the original Complaint. It is believed analysis of
19 the validity of the Lis Pendens is based upon the contentions in the Complaint only. See
20 Mot, Ex. 1., Lis Pendens ("In the Verified Complaint . . . Plaintiff is asserting claims
21 affecting the title or possession of the Real Property against the [Hatches].").

22 Alternatively, if the Court conducts an analysis of the allegations in the Amended
23 Complaint, this Motion must also be granted. The Amended Complaint asserts the
24 following claims as compared to the original Complaint.

1	Complaint	Amended Complaint
2	1 st Breach of Note	1 st Breach of Contract (PSA)
3	2 nd Demand on Loan Documents	2 nd Breach of Note
4	3 rd Unjust Enrichment on Loan Documents	3 rd Breach of Conf. Relationship
5	4 th Fraud in the Inducement	4 th Unjust Enrichment
6	5 th Equitable Lien (remedy)	5 th Fraud in the Inducement.
7	6 th Constructive Trust (remedy)	6 th Equitable Lien (remedy)
8	7 th Injunctive Relief (remedy)	7 th Constructive Trust (remedy)
9		8 th Injunctive Relief (remedy)
10		9 th Declaratory Relief (remedy)
11		
12		

13 All the Amended Complaint does is add a new claim for breach of contract (1st), a
14 claim for breach of confidential relationship (3rd) and a claim for declaratory relief (9th).
15 Other than this, the factual allegations of the two complaints remain identical. Comp. &
16 Am. Compl., ¶¶1-23. This action is solely premised on Johnson's contention that Hatches
17 breach some hypothetical contractual duty to include her name on the Deed. *Id.*, ¶¶14,
18 15. No such contractual duty exists. The only contractual duty contained in the PSA is
19 the "Sellers" duty to convey title. Johnson makes this allegation even though she admits
20 that the Deed transferring ownership of the Property expressly does not include her as an
21 owner. *Id.* Johnson also makes this specious contention even though she signed an
22 Endorsement that expressly terminated her right to be an owner in the Property. *Id.*, ¶14.
23 Johnson seeks to distance herself from her own freely affixed signature executed on the
24 Endorsement by claiming she does not remember signing it. *Id.* While irrelevant for
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1 resolution of this Motion, Johnson's contention that the Endorsement is not binding upon
2 her is without merit.¹

3 Johnson has asserted the following "new" claims. The fatal defect of each claim is
4 also identified below.

5
6 1. **New 1st Claim:** breach of contract—the PSA.

- 7 **Fatal Defect:** a. Breach of contract claim precludes
8 equitable remedies as a matter of law and
9 Lis Pendens improper and abusive.
b. Substantive defects will be disclosed in
subsequent motion practice.

10 2. **New 3rd Claim:** breach of confidential Relationship:

- 11 **Fatal Defects:** a. Barred by statute of limitations.

12 3. **New 9th Claim:** declaratory relief:

- 13 **Fatal Defects:** a. limited to breach of contract claims.
14 Contract claims do not support imposition
15 of any equitable remedies as a matter of
16 law and Lis Pendens is improper and
abusive.

17 **A. NEW 1ST CLAIM "BREACH OF CONTRACT-PSA".**

18 As detailed extensively, this claim is merely a claim for breach of contract. A claim
19 for breach of contract to recover monetary relief does not allow or support a lis pendens.
20 *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 440 F.Supp.2d 1184, 1197 (D.
21 Nev. 2006) ("Where a plaintiff can maintain an action at law and the legal remedy is
22 adequate, resort to equity is not appropriate.").

23
24
25 ¹ See e.g., *Pentax Corp. v. Boyd*, 111 Nev. 1296, 1299, 904 P.2d 1024,1026 (1995)
26 ("Boyd's failure to read the guarantee is not relevant in determining its validity."); *Smith v.*
27 *BAC Home Loans Servicing, LP*, 2014 WL 169573, 2 (6th Cir. 2014) ("It is a bedrock
28 principle of contract law that an individual who signs a contract is presumed to have read
the contract and is bound by its contents.").

1 Johnson seeks to circumvent this black letter law and claim that she also seeks an
2 injunction under this claim for breach of contract to put her name on the Deed. Opp.,
3 p. 6:7-8 ("Plaintiff is requesting an injunction forcing Defendants to place Plaintiff on title
4 to the house"). As stated, the Court does not have authority to grant equitable relief
5 of an injunction when there is already a legal remedy for breach of contract. *Las Vegas*
6 *Valley Water Dist. v. Curtis Park Manor Water Users Ass'n*, 98 Nev. 275, 278, 646 P.2d
7 549, 551 (1982) ("The district court was without authority to grant equitable relief, since an
8 adequate remedy exists at law.").

9
10 Next, the Court is barred from rewriting any of the parties' contract and "blue
11 penciling" in a term that does not exist. First, the PSA does not state that Johnson is
12 required to be on the Deed. Second, the Endorsement executed by Johnson affirmatively
13 takes her name off of the PSA. Third, the Installment Note identifies that the purported
14 obligation is a "loan" and makes no reference to any ownership interest held by Johnson.
15 Fourth, the Deed expressly excludes Johnson from being an owner. Consequently, the
16 Court is prohibited, as a matter of law, from granting injunctive relief putting Johnson's
17 name on the Deed since this would require the Court to rewrite four (4) separate
18 contracts. *See Golden Rd. Motor Inn, Inc. v. Islam*, 132 Nev. 476, 483, 376 P.3d 151,
19 156 (2016) ("Rightfully, we have long refrained from reforming or 'blue penciling' private
20 parties' contracts."). Based upon the foregoing, the furtive attempt to claim the Lis
21 Pendens is supported by a breach of contract claim fails as a matter of law.
22
23

24 **B. NEW 3RD CLAIM "BREACH OF CONFIDENTIAL RELATIONSHIP."**

25 A claim for a breach of a confidential relationship is three (3) years. *Cantlon Tr. of*
26 *William & Margaret Cantlon Fam. Tr. Dated Mar. 7, 2000 v. Wells Fargo & Co.*, 475 P.3d
27 776 (Nev. 2020) ("To the extent a breach of confidential relationship claim arises from a
28

1 breach of fiduciary duty, a three-year statute of limitations would likely apply.”). The
2 Complaint was filed well after the three year statute of limitations expired. Accordingly,
3 this claim is barred by the applicable statute of limitations.

4 **C. NEW 9th CLAIM “DECLARATORY RELIEF.”**

5 Johnson’s new declaratory relief claim asserts: “Plaintiff is entitled to a declaration
6 that she is to be added to the deed” Am. Comp., ¶68. Plaintiff provides no support
7 for this contention. But, based upon other allegations, this assertion merely seeks to
8 reiterate that the Johnson claims this should be granted as an equitable remedy.
9 However, as repeatedly stated, the Court has no authority to grant equitable remedies
10 when legal remedies exist.

11 Further, in *County of Clark v. Upchurch*, 114 Nev. 749, 753, 961 P.2d 754, 757
12 (1998) held that declaratory relief “is available only if: (1) a justiciable controversy exists
13 between persons with adverse interests” The only potentially justiciable controversy,
14 that is not barred by the applicable statutes of limitations and/or the limitations of this
15 Court’s subject matter jurisdiction, is the New 1st Claim for Relief for breach of the PSA.
16 However, that breach of contract claim does not allow for recovery of any injunctive relief
17 as a matter of law. That claim merely pursues the legal remedy of a judgment for
18 damages. Accordingly, again there is no basis in the law for the Lis Pendens.
19

20 **III. UNDISPUTED FACTS.**

21 The following undisputed facts are all that are relevant when analyzing the
22 Hatches’ Motion.

23 1. The deed transferring ownership of the Property to the Hatches is attached
24 to both the Complaint and Amended Complaint (the “Deed”). Comp. & Am. Compl., ¶14.
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2. The Deed was recorded with the Washoe County Recorder's Office as Document Number 4500519 and recorded on August 6, 2015. *Id.*

3. Johnson filed her Complaint on February 10, 2021 which is 5 years, 6 months and 4 days after the recordation of the Deed.

4. Johnson's Complaint alleged 4 claims for relief and 3 equitable remedies improperly labeled as "claims". See Mot.

5. Johnson's Amended Complaint asserts 4 claims for relief and 3 equitable remedies and a declaration of rights under the 4 claims for relief.

6. Johnson filed and recorded a Notice of Lis Pendens (the "Lis Pendens") against the Hatches' property located at 9845 Firefoot Lane, Reno, Nevada 89521 (the "Property").

IV. JOHNSON'S CLAIMS FOR RELIEF DO NOT SUPPORT A LIS PENDENS.

The fundamental flaw in Johnson's opposition is Johnson claims a lis pendens on Hatches' property when Johnson's only viable claims under the Complaint is for a breach of contract.² As a matter of law, a breach of contract claim does not support a lis pendens because a money judgment is deemed an adequate remedy as a matter of law. When a party has an adequate legal remedy, equity will not impose equitable remedies in addition to the existence of the legal remedy.

² While not necessary to independently address, Johnson seeks to salvage her breach of installment note claim by asserting she can accelerate the entire debt under the theory of anticipatory repudiation. Am. Compl., ¶34. As will be detailed in further motion practice to this Court, anticipatory repudiation does not apply to installment contracts. 17B C.J.S. Contracts § 716 (Mar. 2021) ("The general rule that an anticipatory repudiation will give rise to an action for a total breach of the contract does not apply in the case of a repudiation of an installment contract which contains no acceleration clause.").

1 **A. JOHNSON CONCEDES THAT WHEN THERE IS A LEGAL REMEDY,**
2 **THE COURT WILL NOT IMPOSE AN EQUITABLE REMEDY.**

3 The law is clear that when a party has an adequate remedy at law, the Court has
4 no authority to grant any equitable relief. *Crockett & Myers, Ltd. v. Napier, Fitzgerald &*
5 *Kirby, LLP*, 440 F.Supp.2d 1184, 1197 (D. Nev. 2006) ("Where a plaintiff can maintain an
6 action at law and the legal remedy is adequate, resort to equity is not appropriate."); *Las*
7 *Vegas Valley Water Dist. v. Curtis Park Manor Water Users Ass'n*, 98 Nev. 275, 278, 646
8 P.2d 549, 551 (1982) ("The district court was without authority to grant equitable relief,
9 since an adequate remedy exists at law."); *see also Bank of Am., N.A. v. Saticoy Bay LLC*
10 *Series*, 2018 WL 3312969, at *2 (D. Nev. 2018) ("a party cannot obtain an equitable
11 remedy when it has an adequate remedy at law."). Accordingly, Johnson is barred from
12 seeking any equitable relief such as an equitable lien, a constructive trust and/or
13 injunctive relief because she has an adequate remedy at law under her breach of contract
14 claims.³

15 Johnson does not contest or rebut the application of this clear and unambiguous
16 law. Accordingly, it is conceded and admitted as applicable. *Alam v. Reno Hilton Corp.*,
17 819 F. Supp. 905, 908 fn. 3 (D. Nev. 1993) ("Plaintiffs did not argue to the contrary to this
18 issue in their opposition papers, thereby conceding this point."). Because Johnson's 1st
19 claim for breach of contract only allows for recovery of monetary damages, a lis pendens
20 fails as a matter of law. All other claims in the Amended Complaint fail as a matter of law
21 due to the application of the relevant statute of limitations and/or because the amount
22 claimed does not trigger this Court's subject matter jurisdiction.
23
24
25

26 _____
27 ³ Hatches do not concede the merits or validity of Johnson's breach of contract claims
28 and an appropriate motion will be filed seeking dismissal and/or judgment on the
Amended Complaint.

1 **B. JOHNSON DOES NOT CONTEST THAT AN EQUITABLE LIEN, A**
2 **CONSTRUCTIVE TRUST AND INJUNCTIVE RELIEF ARE EQUITABLE**
3 **REMEDIES—NOT LEGAL CLAIMS.**

4 Johnson's opposition does not contest or challenge that an equitable lien, a
5 constructive trust and injunctive relief are merely equitable remedies—not stand alone
6 claims for relief. Again, Johnson does not contest or rebut the application of this clear
7 and unambiguous law and it is therefore conceded and admitted as applicable. *Alam v.*
8 *Reno Hilton Corp.*, 819 F. Supp. 905, 908 fn. 3 (D. Nev. 1993) ("Plaintiffs did not argue to
9 the contrary to this issue in their opposition papers, thereby conceding this point.").
10 Because Johnson's only facially viable claim is a breach of contract claim for monetary
11 damages and all other claims are barred as a matter of law, the Lis Pendens must be
12 expunged.

13 **C. A CLAIM FOR EQUITABLE RELIEF DOES NOT SUPPORT A LIS**
14 **PENDENS.**

15 Johnson spends the majority of her opposition merely arguing that a request for
16 equitable relief (in the form of an equitable lien, constructive trust or injunctive relief) in
17 and of itself is capable of supporting a lis pendens regardless of the underlying
18 substantive claim for relief. Opp., pp. 7-8. This is a pure misstatement of the law.

19 While Johnson cites a number of cases for generic law, Johnson does not analyze
20 the actual facts and claims of each case. If Johnson would have done so, Johnson would
21 have discovered that the cases cited do not hold that an equitable claim for relief is
22 sufficient to support a Lis Pendens. A few of the sample cases cited by Johnson
23 undermining her argument is provided.

24 Johnson cites *Coppinger v. Superior Ct.*, 134 Cal. App. 3d 883, 892, 185 Cal. Rptr.
25 24, 29–30 (Cal. Ct. App. 1982) for the proposition that generically asserting a constructive
26 27
28

1 trust or equitable lien is sufficient in and of itself to support a lis pendens. Johnson
2 misstates this case. Instead, *Coppinger* holds the exact opposite and states as follows:

3 **As pleaded in the complaint, the imposition of a constructive trust on**
4 **the Chattanooga property was merely a means to recover the proceeds of**
5 **sale of the Longstreet property in aid of the cause of action for rescission.**
6 **Because plaintiff's interest in the Chattanooga property was purely monetary**
7 **and an undertaking would be adequate to secure the relief requested by**
 plaintiff, it was an abuse of discretion to deny the section 409.2 motion [to
 expunge].

8 *Id.* (emphasis added). Accordingly, the Court in *Coppinger* held asserting a constructive
9 trust or equitable lien was insufficient in and of itself to support a lis pendens and the
10 cause of action was purely for monetary relief voiding any entitlement to an equitable
11 remedy. *Id.*

12 Similarly, Johnson cites to *Polk v. Schwartz*, 399 A.2d 1001, 1004 (N.J. App. Div.
13 1979) that asserting a constructive trust as a remedy is sufficient in and of itself to support
14 a lis pendens. Again, the *Polk* court held the exact opposite as follows:

15 **[A lis pendens] may not be filed in an action to recover a judgment for**
16 **money or damages. . . . there must be a "legally sufficient basis for"**
17 **imposition of a constructive trust or lis pendens must be discharged."**

18 *Id.* (emphasis added). Again, *Polk* held that a prayer for a constructive trust was
19 insufficient in and of itself to support a lis pendens. Similarly, Johnson cites to *Rosenberg*
20 *v. Ritter*, 34 Misc. 2d 1099, 1100, 229 N.Y.S.2d 766, 767-68 (Sup. Ct. 1962) as support.
21 However, as with all cases cited, the holding is the exact opposite from that represented
22 to this Court by Johnson. Specifically, the *Rosenberg* court held:

23 **[T]he facts alleged in the complaint in the case at bar are not sufficient in law**
24 **to support an equitable lien On the complaint before the Court, the lis**
25 **pendens may not stand.**

26 *Id.* (emphasis added).
27
28

1 Even more egregious, Johnson cites *Coventry Homes, Inc. v. Scottscom*
2 *Partnership*, 745 P.2d 962 (Az. 1987) merely for use of generic equitable lien law.
3 However, in *Coventry*, the Court ruled that the lis pendens filed in that case claiming an
4 equitable lien was groundless since the contract between the parties did not provide the
5 plaintiff with any real property rights. The *Coventry* Court held that the plaintiff was simply
6 using the lis pendens as a mechanism to pressure defendant to pay the amount allegedly
7 owed and that “[i]t is well established that a lis pendens may not be predicated on
8 an action or suit for a money judgment. . . .” *Id.* at 965 (emphasis added). In further
9 finding that the lis pendens was improperly recorded, the *Coventry* Court held: “were this
10 not the rule, a groundless lis pendens could be filed with impunity in a simple money
11 judgment action, or in any action where title to property is not actually affected.” *Id.* The
12 only claim asserted by Johnson that is not barred by the applicable statute of limitations
13 or fails to trigger this Court’s subject matter jurisdiction is a simple breach of contract
14 claim seeking monetary damages. All other claims for relief are barred as a matter of law.
15

16 Based upon the foregoing, Johnson’s contention that demanding a constructive
17 trust, an equitable lien or injunctive relief in a complaint is legally sufficient to support a lis
18 pendens is simply wrong as a matter of law. Accordingly, the Lis Pendens must be
19 expunged as requested.
20

21
22 **D. NEVADA LAW CREATES A BRIGHT LINE RULE OF CONSTRUCTIVE**
23 **NOTICE.**

24 Johnson also claims that the Hatches’ representation of the bright line rule that
25 recordation of documents imparts constructive notice on a party as a matter of law “is
26 highly misleading.” Opp., p. 10:11. Johnson even contends that the Hatches “blatantly
27 misrepresent the law.” *Id.*, p. 10:14. Then Johnson embarks on an analysis of general
28 law relating to the “discovery rule.” General law relating to discovery of a cause of action

1 is not applicable in this case. This is because as a matter of law in Nevada a party is
2 charged with constructive notice of a recorded deed.

3 Johnson would be better served with addressing the legal merits of the Hatches'
4 motion instead of engaging in offensive rhetoric or hyperbole. Despite such failings, the
5 law is clear and undisputed the recordation of the Deed started the statute of limitations
6 on all of Johnson's claims. Further, Johnson does not address the Hatches' argument
7 that the recordation of the deed of trust on August 6, 2015, started the running of the
8 statute of limitations. *Alam v. Reno Hilton Corp.*, 819 F. Supp. 905, 908 fn. 3 (D. Nev.
9 1993) ("Plaintiffs did not argue to the contrary to this issue in their opposition papers,
10 thereby conceding this point."). Instead, Johnson merely asserts that there is no such
11 bright line rule and a discovery rule applies. The existence and applicability of the bright
12 line rule is a matter of law in Nevada.

13
14
15 An analysis of the case law relied upon by Johnson demonstrates that Johnson's
16 understanding of the law is entirely misplaced. First, Johnson cites to *Bemis v. Bemis*,
17 114 Nev. 1021, 1026, 967 P.2d 437, 441 (1998) arguing that this case demonstrates
18 there is no bright line rule. However, contrary to Johnson's statement, the *Bemis* case did
19 not trigger the application of the rule because the document at issue was the "parents'
20 divorce agreement". *Id.* The bright line rule did not apply "simply because [parents'
21 divorce agreement] was public record." *Id.* However, when the recorded document is a
22 **deed**, then the bright line rule does in fact apply. *Bemis v. Bemis*, 114 Nev. 1021, 1026,
23 fn.2, 967 P.2d 437, 441 fn. 2 (1998) (Nevada Supreme Court reiterating the "**well-known**
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1 principal that the public recording of real estate deeds constitutes constructive
2 notice of the transaction". (Emphasis added)).⁴

3 Similarly, Johnson also attempts to find solace in the case *Allen v. Webb*, 87 Nev.
4 261, 270, 485 P.2d 677, 682 (1971) for the proposition that the recordation of a deed is
5 not a bright line trigger for the running of a statute of limitations. Again, *Allen* does not
6 support Johnson's arguments in any fashion. In *Allen*, the document at issue was an
7 "unrecorded" deed of trust. Because the document was "unrecorded", it did not trigger
8 the bright line rule. *Id.* (plaintiffs "had no notice of the earlier unrecorded trust deed . . .
9 .").⁵

11 Lastly, Johnson also does not address the Hatches' argument that the reason
12 Nevada imposes a bright line rule that holds a party is deemed to have discovered a
13 cause of action relates to Nevada's recording statute NRS 111.320 which states that
14 every recorded deed "impart[s] notice to all persons of the contents thereof"
15 (Emphasis added). Again, Johnson's failure to address Nevada's applicable recording
16 statute conclusively demonstrates the merits and applicability of this statute. *Alam v.*
17 *Reno Hilton Corp.*, 819 F. Supp. 905, 908 fn. 3 (D. Nev. 1993) ("Plaintiffs did not argue to
18 the contrary to this issue in their opposition papers, thereby conceding this point.").
19 Johnson entirely ignores Nevada's recording statute and its application to the facts of this
20 case.
21
22
23

24 ⁴ Johnson's failure to address this "well-known principal" of Nevada law is troubling and
25 demonstrates Johnson's contentions are baseless.

26 ⁵ Johnson also cites to *Millspaugh v. Millspaugh*, 96 Nev. 446, 611 P.2d 201 (1980).
27 However, this case is entirely inapplicable. *Millspaugh* focused on an action between
28 grantors and did not address Nevada's bright line rule, the holdings of *Bemis* or *Allen* or
Nevada's recording statute NRS 111.320. Accordingly, *Millspaugh* has no applicability or
relevance to this action.

1 **E. JOHNSON'S ADDITIONAL NON-RELEVANT ARGUMENTS.**

2 Johnson also asserts some additional arguments that are misplaced and/or not
3 relevant. For instance, Johnson asserts that the Hatches wrongfully argue that "a
4 complaint cannot assert both equitable and legal claims for relief". Opp., p. 11:27-28.
5 The Hatches never asserted this argument. Accordingly, any argument by Johnson
6 relating to this topic is irrelevant. To the extent Johnson misunderstands the Hatches'
7 argument, the argument is simple, requests for equitable relief are not "claims for relief".
8 A party can assert both legal and equitable "claims" for relief. However, when a party
9 asserts an equitable "remedy", that does not magically transmute the remedy into a valid
10 legal or equitable "claim for relief".
11

12 Johnson also argues that the Lis Pendens should not be expunged because
13 Johnson can elect her remedies. Election of remedies does not trump the application of
14 the law. A party cannot "elect" a non-existent or inapplicable remedy. As shown the
15 equitable remedies of an equitable lien, constructive trust or injunctive relief do not exist in
16 this case as a matter of law. *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*,
17 440 F.Supp.2d 1184, 1197 (D. Nev. 2006) ("Where a plaintiff can maintain an action at
18 law and the legal remedy is adequate, resort to equity is not appropriate.").

19 **V. CONCLUSION.**

20 Based on the foregoing, the Court should grant the Hatches' Motion and enter its
21 Order expunging the Lis Pendens. Johnson's recordation of the Lis Pendens is in clear
22 violation of Nevada law. Johnson claims no "legally identifiable interest" in the Property.
23 Instead, Johnson is admittedly using the Lis Pendens simply as a tool to extort payment
24 from the Hatches. Am. Comp., ¶60 ("The Property is believed to be the only possible
25 source of repayment of the Loan."); see also Compl., ¶53 (same). Therefore, this Motion
26
27
28

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

1 should be granted and the Lis Pendens expunged from the Hatches' Property as
2 requested.

3 **AFFIRMATION:** This document does not contain the social security number of any
4 person.

5 DATED this 19th day of March, 2021.
6

7 SIMONS HALL JOHNSTON PC
8 6490 S. McCarran Blvd., Ste. F-46
9 Reno, NV 89509

10 By: 

11 MARK G. SIMONS
12 ANTHONY L. HALL
13 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), 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 **REPLY IN SUPPORT OF EMERGENCY MOTION TO EXPUNGE LIS PENDENS** on all parties to this action by the method(s) indicated below:

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

☒ I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Stefanie T. Sharp
Clayton P. Brust
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 19th day of March, 2021.


Employee of Simons Hall Johnston PC

1 **3860**
2 Mark G. Simons, Esq. (SBN 5132)
3 Anthony L Hall, Esq. (SBN 5977)
4 SIMONS HALL JOHNSTON PC
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7 Telephone: (775) 785-0088
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11 *Attorneys for Defendants*

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

11 KARI ANNE JOHNSON, an individual;

12 Plaintiffs,

13 v.

14 MICHAEL EDWARD HATCH, an
15 individual; ALISHA SUZANNE HATCH,
16 an individual; and DOES I to X, inclusive

17 Defendants.

CASE NO.: CV21-00246

DEPT. NO.: 7

REQUEST FOR SUBMISSION

19 It is hereby requested that Defendants' Emergency Motion to Expunge Lis
20 Pendens that was filed with the Court on March 5, 2021, be submitted for decision in this
21 matter.

22 ///

23 ///

24 ///

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SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

1 **AFFIRMATION:** This document does not contain the social security number of any
2 person.

3 DATED this 14th day of March, 2021.
4

5 SIMONS HALL JOHNSTON PC
6 6490 S. McCarran Blvd., Ste. F-46
7 Reno, NV 89509

8 By: _____

9 
10 MARK G. SIMONS
11 ANTHONY L. HALL
12 Attorneys for Defendants
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SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), 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 **REQUEST FOR SUBMISSION** on all parties to this action by the method(s) indicated below:

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

☒ I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Stefanie T. Sharp
Clayton P. Brust
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 19 day of March, 2021.


Employee of Simons Hall Johnston PC

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 KARI A. JOHNSON,)	
)	
12 Plaintiff,)	
)	
13 vs.)	Case No. CV21-00246
)	
14 MICHAEL EDWARD HATCH and)	Department 7
15 ALISHA SUZANNE HATCH,)	
)	
16 Defendants.)	

17
18 TRANSCRIPT OF PROCEEDINGS

19 HEARING

20 March 22, 2021

21 1:30 p.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

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APPEARANCES:

For the Plaintiff:

SIMONS HALL JOHNSTON
By: MARK SIMONS, ESQ.
6490 S. McCarran
Reno, Nevada

For the Defendant:

ROBISON SHARP SULLIVAN & BRUST
By: HANNAH WINSTON, ESQ.
71 Washington
Reno, Nevada

1 RENO, NEVADA, March 22, 2021, 1:30 p.m.

2

3 --oOo--

4 THE COURT: Good afternoon, folks, welcome.

5 Please go ahead and remain seated. This is case CV21-00246,
6 entitled, generally, Kari Anne Johnson versus Alisha Suzanne
7 and Michael Edward Hatch, et al. This is the time and date
8 set for a hearing on a motion for emergency lis pendens.

9 Let me place some general issues into the record.
10 This session of Court is taking place a March 22nd, 2021, at
11 1:28 p.m. and being held remotely because the closure of the
12 courthouse to in person hearings at 75 Court Street due to
13 the national and local emergency caused by COVID 19. The
14 Court and all the participants are appearing through
15 simultaneous audio/visual transmission means.

16 I'm physically located in Washoe County, Nevada,
17 which is the site of today's court session. I'm joined by
18 Ms. Kim Oates, the court clerk, who is located in Washoe
19 County, Nevada, and Ms. Stephanie Koetting, the court
20 reporter, who also located in Washoe County, Nevada.

21 This session of Court is open to the public for
22 viewing and listening through a simultaneous audio/visual
23 link found at the Second Judicial District Court website.

24 Any person who seeks to make an appearance this

1 afternoon, I ask at the time of their first appearance to
2 please state their full name and the county and state from
3 which they appear. If at any time during this hearing any of
4 the parties can't see or hear other participants in the case,
5 please let me know immediately and we'll work through the
6 simultaneous audio/visual issues.

7 Counsel, as I call on each of you in turn, I'm
8 going to ask each of you if you received notice that this
9 hearing is taking place pursuant to Nevada Supreme Court
10 Rules Part Nine relating to simultaneous audio/visual
11 transmissions in civil proceedings and consistent with the
12 Second Judicial District Court Orders and Administrative
13 Orders related to the COVID-19 emergency.

14 Finally, tell me if you have any objection to
15 proceeding in this manner this afternoon. Let me go around
16 the virtual room sort of in the order that you appear on my
17 screen. Ms. Sharp, good afternoon to you, ma'am.

18 MS. SHARP: Good afternoon, your Honor. And, yes,
19 I do confirm that I acknowledge that this hearing is being
20 conducted remotely and I agree to it being conducted
21 remotely.

22 THE COURT: Are you in Washoe County, Nevada?

23 MS. SHARP: Yes, I am.

24 THE COURT: Ms. Winston, good afternoon to you,

1 ma'am.

2 MS. WINSTON: Good afternoon, your Honor. I did
3 receive notice and have no objection. I am appearing from
4 San Diego County, California today.

5 THE COURT: Thank you. We won't hold that against
6 you, Ms. Winston, because it's raining and threatening to
7 snow here and I doubt it's doing that in San Diego.
8 Mr. Brust, good afternoon, sir. You're on mute, Mr. Brust.
9 Every conversation nowadays has to begin with the phrase
10 you're on mute.

11 MR. BRUST: Good afternoon, your Honor. I did
12 receive notice and I have no objection. I am in Washoe
13 County, Nevada.

14 THE COURT: Thank you very much. Mr. Simons, good
15 afternoon, sir.

16 MR. SIMONS: Good afternoon, your Honor. I, too,
17 am located -- for the record, it's Mark Simons, Washoe
18 County. I did receive notice and consent to proceeding as we
19 are today.

20 THE COURT: I intend this afternoon, then, to
21 hear, Mr. Simons, your motion to expunge the lis pendens
22 lodged against your clients' property. To my eye, the motion
23 to dismiss that was filed at the same time as the lis pendens
24 has been mooted by the filing of an amended complaint on

1 March 16th. Do you agree, Mr. Simons?

2 MR. SIMONS: Yes, I do, your Honor.

3 THE COURT: So we'll focus on the motion to
4 expunge the lis pendens. It is your motion, Mr. Simons.
5 Please go ahead.

6 MR. SIMONS: Thank you. Actually, this is one of
7 the simplest motions I've had in a long time. We have a deed
8 that was recorded, that's Exhibit 5 to the verified
9 complaint, August 6th, 2015. The complaint was subsequently
10 filed February 10th, 2021, which is over five years after.

11 What the complaint states is a bunch of causes of
12 action and then a be of bunch of claims for relief. We have
13 to see that the first complaint was not very artfully crafted
14 and had some claims that were either nonexistent or were
15 captioned as claims, although they're remedies, and we all
16 know the distinctions between claims and remedies.

17 The amended complaint sought to correct some of
18 those deficiencies, but didn't do so. And what we have is at
19 the heart of this is a claim for breach of contract. They
20 want to get paid some money and then they're trying to
21 shoehorn equitable remedies, such as an equitable lien,
22 constructive trust or injunctive relief, which as a matter of
23 law, as we briefed in our reply, remedies do not support a
24 lis pendens. They just can't.

1 It's like an injunction and this Court is aware
2 when you have an adequate remedy at law and a breach of
3 contract, you don't grant injunctive relief. That's why
4 preliminary injunctions are denied all the time. That's all
5 we have in this case.

6 Under their breach of contract claim, they're
7 requesting an injunction that you slap Johnson's name on
8 title. Well, you can't really do that, because that's an
9 injunctive remedy and you're changing what would be a
10 contract. While they later if they had a claim that would
11 support some type of injunctive relief, but they don't.

12 The only other thing that really is relevant is
13 the Nevada recording statutes as well as the caselaw
14 applicable. They're on constructive notice. That runs the
15 statute of limitations. You're going to hear some arguments
16 where they try to differentiate and they try to rely on Bemis
17 or Allen.

18 Bemis was a divorce decree, not a deed. Allen was
19 an unrecorded deed. So those cases actually are not
20 applicable to the enforcement and applicability of Nevada's
21 bright line recording statute and caselaw putting them on
22 notice of when their statute of limitation ran. So that's
23 it. I mean, I stand on my motion. It's straightforward.

24 THE COURT: Thank you. In opposition, Ms. Sharp,

1 Mr. Brust, Ms. Winston, who is going to argue?

2 MS. WINSTON: I'll be arguing, your Honor. This
3 is Hannah Winston.

4 THE COURT: Please go ahead.

5 MS. WINSTON: So today plaintiff has the burden to
6 prove by affidavits or otherwise that the lis pendens was
7 properly recorded. So plaintiff will submit as evidence to
8 this Court all of their hearing exhibits identified and
9 submitted to the Court for today's hearing. That's the first
10 issue just to take care of that as we go through them.

11 The facts of the case are simple, and,
12 understandably, Mr. Simons didn't address the facts. But
13 they go like this: The defendants wanted to purchase a home.
14 They couldn't qualify for a conventional mortgage, so they
15 reach out to plaintiff, Kari Anne, their close childhood
16 friend and ask her to lend them the money to buy this new
17 construction in Damonte Ranch.

18 Plaintiff agrees, but on the condition that she be
19 named a joint owner to the property and that her name be on
20 the deed to the property. That's the agreement that's at
21 play in this case.

22 THE COURT: In fact, she asked for a copy of the
23 deed, correct?

24 MS. WINSTON: That is correct.

1 THE COURT: And she never got a copy of the deed,
2 correct?

3 MS. WINSTON: That is correct.

4 THE COURT: She never followed up to see what the
5 deed said?

6 MS. WINSTON: That is correct, your Honor. And to
7 address that issue of constructive notice, I've got sort of
8 an outline of my presentation, but if your Honor has
9 questions, obviously, interrupt me and I'll redirect to meet
10 your needs.

11 THE COURT: I appreciate that. Thank you for the
12 interruption. I'd like you to focus on this: I don't see
13 how your client is likely to prevail on her claims except
14 perhaps in equity, which is -- for which a lis pendens is a
15 tool that is barred by law, at least as I understand it.

16 And when I read her affidavit and she acknowledged
17 that the deed was important to her, that she expected to be
18 on the deed and that she'd asked for a copy of the deed,
19 would seem to me she will have a steep hill to climb to
20 prevail on any of her causes of actions that might otherwise
21 be time barred. So focus there, please.

22 MS. WINSTON: Okay. The first issue, your Honor,
23 is that this is a fraud case. So I think fraud cases are
24 always a bit of an uphill battle, as your Honor acknowledged.

1 And the difficult part about the case that will be shown in
2 discovery and in evidence at the appropriate time is that
3 there was this close, special relationship between the
4 parties where the plaintiff did trust the defendants.

5 And so when they enter this purchase contract and
6 receipt with Toll Brothers, that's what the agreement was
7 called to purchase the home, then Kari Anne, the plaintiff,
8 is named as a buyer of the property. And she's listed as a
9 buyer, because she's the only one with the money.

10 So she is undertaking all of these obligations and
11 she's, you know, making promises to Toll Brothers as part of
12 this purchase contract and receipt. And at the end of the
13 transaction, she doesn't have a reason to question whether
14 her name is on the deed, because that's the arrangement and
15 the understanding between the parties. And she trusts the
16 defendants that they're going to follow through with that.

17 THE COURT: I don't mean this -- I'm sorry to
18 interrupt again -- I don't mean this argumentatively, but I
19 mean it directly for purposes of arming you to address my
20 concerns, I understand that she alleges that, hey, I had the
21 money, I did what we all know we should never do, I loaned
22 money to my friends, and I expected to be on title.

23 And so when I read her affidavit saying, I trusted
24 my friends, I thought I was going to be on title, I even

1 asked for a copy of the deed, how is she going to overcome
2 the fact that she knew or had to know that there was a
3 question about title when she actually asked the question?

4 MS. WINSTON: Well, your Honor, asking the
5 question doesn't necessarily give rise to an inference that
6 she had a reason to suspect that the defendants didn't follow
7 through with their promises. This is at the end of the
8 transaction. She trusts them. She just wants all of the
9 documents to have in her records and they said we can't give
10 it to right now.

11 And the real issue, your Honor, is that this
12 recordation of the deed is not a per se start to the clock on
13 the statute of limitations for plaintiff. That is a question
14 of fact that needs to be determined at trial where this Court
15 has to look at the circumstances and say, is this reasonable?
16 Is it reasonable that she didn't go in and look at the deed
17 herself? But I --

18 THE COURT: I agree unequivocally there's a
19 question of fact. That's why I made clear I'm not going to
20 decide the motion to dismiss today. I just think because the
21 lens I have to view this issue through is whether or not
22 pursuant to NRS 14.0153 your clients are likely to prevail on
23 any of their claims and/or they have a fair chance of success
24 coupled with hardship.

1 And, again, without deciding the facts looking
2 through the lens of likely to prevail or a fair chance seems
3 to me very problematic for her to say, I was defrauded, which
4 may be the only claim, I'm not deciding it is, but may be the
5 only claim, that or a breach of contract, actually, is
6 perhaps the only claim that survives a statute of limitations
7 issue, it just seems very, very difficult for me to say that
8 your clients are likely to prevail. Please go ahead.

9 MS. WINSTON: Well, your Honor, I think we do have
10 to look at the full agreement, then, because, yes, it's a
11 promise to repay a loan, but it's also a promise that the
12 plaintiff is going to be a joint owner.

13 And I understand the argument that, you know, if
14 you have an adequate legal remedy, then you can't seek
15 equitable relief. But here the legal remedy is inadequate,
16 your Honor. There is no legal remedy to make our client a
17 joint owner of that property. That was the benefit of the
18 bargain that our plaintiff bargained for and she didn't get
19 it. And there isn't a legal remedy to make her an owner of
20 the property.

21 And it's interesting, because in the defendants'
22 supplement to their motion to expunge, they cite the Bank of
23 America v. Sataquoi property cases. And in that case, the
24 judge said Bank of America had a deed of trust recorded

1 against the property and a money judgment is not adequate
2 where the property was security for that deed of trust. And,
3 therefore, the judge allowed equitable claims and legal
4 claims to go forward.

5 And here it's the same type of issue. Plaintiff
6 is already owed that money. But she's also supposed to be a
7 title owner of the property. And there's no legal remedy
8 that is going to put her in that position.

9 So if plaintiff succeeds on her claims, which here
10 I think it's very obviously that there was an agreement in
11 place, the defendants have breached it, they have not
12 continued paying.

13 And the facts really are suspect, your Honor.
14 They enter this agreement in December of 2014 with Toll
15 Brothers. Kari Anne is listed as a buyer. Eight months
16 later, they have her sign this endorsement to agreement of
17 sale. The whole document is fishy.

18 First of all, an endorsement should be to the
19 purchase contract and receipt. That's what the purchase and
20 sale agreement was called. It was not called an agreement to
21 sale. So the title of this endorsement to sale is suspect.

22 It's also suspect, because the defendant, Alisha
23 Hatch, signed it as the seller. The purchase contract and
24 receipt did not allow any assignment or modification of it

1 unless all three parties, Toll, the Hatches and plaintiff
2 signed it, but here we have the defendant signing on behalf
3 of seller. And they just sort of slid it in here. Like,
4 it's okay you're going to sign this one last document that we
5 need to close.

6 And then what also needs to be acknowledged is
7 under the purchase contract and receipt, Kari Anne who has
8 the money remains liable under that purchase contract, but at
9 the very last second, Alisha Hatch removes her as a party.
10 It just doesn't make sense, your Honor.

11 THE COURT: Well, I grant to you that there are
12 factual questions. You know, the case is, of course, to my
13 eye -- I know the case less well than any of you, it likely
14 will unless and until it's tried in front of me. I grant you
15 that there are factual questions, but, again, my focus is
16 what is my sense of whether or not your clients can prevail
17 and I'm struggling there. Please go ahead.

18 MS. WINSTON: You know, your Honor, I think that
19 at this early stage in the proceedings, especially with only
20 having have filed the motion to expunge and the motion to
21 dismiss, the facts at this stage are taken as true. There
22 hasn't been a full evidentiary hearing. There hasn't been
23 discovery. And ultimately this Court may decide it's not
24 reasonable that plaintiff didn't discover her claims. But

1 here where there's this close relationship, there's this
2 implicit trust of the defendants, the transaction closes and
3 it's over and things proceed as normal.

4 And the defendants do begin making the payments on
5 the note and these -- you know, they're friends. They're
6 close. There's no reason for plaintiff to suspect that
7 something went awry, to suspect that the defendants didn't
8 uphold their promises and their agreements. There's nothing
9 to put plaintiff on inquiry notice that she needs to go check
10 the deed.

11 And I understand the Court's concern that she did
12 ask for a copy of the deed and the defendants said no. And
13 at this point, though, the allegations are plaintiff trusted
14 her friends. She trusted them that they followed through
15 with what the agreement would be.

16 And, you know, it's not common that one person
17 would give over \$650,000 to another person without any
18 security at all and that's really what having plaintiff be a
19 record owner was in this situation. It really was security
20 for repayment of the loan, because the agreement was as soon
21 as the loan is repaid, then plaintiff is taken off title to
22 the property.

23 So it makes sense. It makes sense that would be
24 the arrangement. What doesn't make sense and what means that

1 defendants will not prevail is that somebody would just give
2 someone else over \$600,000, be considered a purchaser of the
3 property, but then not be a record owner of the property.
4 That doesn't make sense.

5 And I think that just the facts and the equities
6 of the case show that plaintiff will prevail, because this is
7 not -- people don't just give other people over \$600,000 to
8 buy property without some sort of security for repayment.

9 THE COURT: Thank you. I believe I understand
10 that argument.

11 MS. WINSTON: With that, your Honor, you know, we
12 believe all the elements are satisfied for a lis pendens.
13 This action certainly affects title to real property, because
14 if this Court does grant the relief that plaintiff seeks, her
15 name will be on the title to the property. She will be a
16 record owner as originally agreed by the parties.

17 And the reason for a lis pendens is to put
18 potential purchasers on notice that somebody claims an
19 interest in the title to the property and that is what
20 plaintiff seeks by way of her complaint. She expressly asked
21 to be placed on title to the property and there's no legal
22 remedy that will give her that. And potential purchasers of
23 the property should have notice that that's what plaintiff
24 seeks in this case.

1 And she seeks it along with that money damages,
2 but that doesn't mean that the lis pendens was improperly
3 recorded. It was clearly recorded in good faith. And as I
4 mentioned, I think that plaintiff will ultimately prevail in
5 this action.

6 THE COURT: Mr. Brust, I see that you've raised
7 your hand. I'll tell you, Mr. Brust, I will not allow
8 multiple attorneys to make arguments on the same side of an
9 issue. I'll certainly give you an opportunity to correspond
10 with Ms. Winston or Ms. Sharp if you'd like for a few moments
11 before I return to Mr. Simons. Would you like that
12 opportunity?

13 MR. BRUST: Yes, your Honor, just briefly. Just
14 to address what your Honor seems to be --

15 THE COURT: But Ms. Winston needs to make the
16 argument, Mr. Brust.

17 MR. BRUST: I understand.

18 THE COURT: Go ahead.

19 Ms. Winston, please go ahead.

20 MS. WINSTON: So, your Honor, just one last thing
21 to add is that in the verified complaint and the first
22 amended complaint, which is also verified, the plaintiff did
23 allege that when she asked for the deed, the defendants
24 stated that it was given to the landscapers. And remember

1 that this was a new construction, so this isn't, you know, a
2 lawnmower. This is developing the entire property.

3 And so it was reasonable for plaintiff to think,
4 okay, the landscapers need this for maybe they're going to
5 record a lien if something goes wrong or they need to look at
6 the boundaries and that sort of thing.

7 And then just to wrap it up, the policy
8 implications here that it would take one question, can I get
9 the deed, and there's a seemingly valid explanation for why
10 the deed can't be given to her at that time, and then
11 everything else proceeds as normal under the terms of the
12 parties' agreement and where this relationship of trust
13 exists, to allow, you know, that one question to be
14 conclusive as to whether the plaintiff knew or should have
15 known of her claims really would be poor policy to set going
16 forward.

17 And I said that was the last thing, but I actually
18 have one additional comment that I would like to make.

19 THE COURT: You mean I couldn't rely on it when
20 you said you would be brief?

21 MS. WINSTON: I apologize, your Honor.

22 THE COURT: I'm teasing you, Ms. Winston. Please
23 go ahead.

24 MS. WINSTON: Just one additional note and that's

1 the case Allen v. Wens I think is very instructive in this
2 case. And the defendants have taken the position that it was
3 an unrecorded deed that should have put the Allens on notice
4 of their claim, but it wasn't the unrecorded deed that was at
5 issue in that case. Yes, the Allens' deed didn't get
6 recorded. When they realized it wasn't recorded, they went
7 and recorded it. But ten days prior to that, that the third
8 party purchaser of the ranch had recorded their own deed.

9 Now, going forward when the Allens decided to sue,
10 yet defendant argued that third party purchaser's deed was
11 the deed that should have put the Allens on notice. And I
12 just wanted to clarify that for the Court, because, you know,
13 this idea that the constructive notice bars the claims is
14 completely rejected by the Nevada Supreme Court. So I just
15 wanted to clarify that one issue. And on that we'll submit,
16 your Honor.

17 THE COURT: Thank you, Ms. Winston. Mr. Simons,
18 your reply.

19 MR. SIMONS: Yes, your Honor. The Nevada Supreme
20 Court doesn't completely reject the recording statute and the
21 caselaw Bemis and the recognition of the case across the
22 United States including United States Supreme Court that does
23 say recordation of public deeds provides constructive notice,
24 because they're public, they're recorded in a county

1 recorder's office, they're contained on an index. And even
2 if you lose a deed or you give it to a landscaper or it burns
3 or disappears, it's always, always, always a public record.
4 That's why that rule applies.

5 Now, there is no exception to the rule for fraud.
6 I'll say this again, there is not an exception to the
7 constructive notice rule of recorded deeds for contemplation
8 or theories of fraud under Nevada law. It is an absolute.
9 That's why I called it a bright line rule.

10 And, in fact, it's been recognized that it is
11 well-recognized and the other cases didn't have the
12 implication, the bright line rule did not apply. So when you
13 hear these arguments that there's not a bright line rule,
14 there's no recognition by Ms. Winston under Nevada's
15 recording statute, 111.320, that specifically says this
16 provides notice to the world.

17 They haven't addressed that at all in any of their
18 briefing. You know why? Because it's fatal. So they think,
19 we'll just ignore it. You know, it -- they're desperately
20 trying to salvage what they've got and they have nothing.
21 When I say they have nothing, Ms. Johnson does not have a
22 claim that will be upheld in this case.

23 I'm going to walk you through some of what was
24 said, because there was some really flamboyant comments such

1 as somebody doesn't give \$650,000 as a gift. Well, you don't
2 know the underlying facts, but that's actually what happened.
3 The structure that is -- we're dealing with now in this
4 litigation was because Ms. Johnson was trying to perpetrate a
5 fraud on the IRS. So we'll get to that at the appropriate
6 time, but this isn't the appropriate time.

7 So what we look at is actually what is before you
8 and what was before you is a complaint. That's it. That's
9 all we look at in terms of a lis pendens, because a lis
10 pendens is a very drastic, draconian element of relief where
11 you jump ahead of everybody in line, you slap a prejudgment
12 writ of attachment on somebody's property. And the Waddell
13 cases and all the cases say that is abusive and attorneys
14 abuse this all the time.

15 And you just don't get to shoehorn yourself in
16 saying, I'm going to assert an equitable lien and that
17 magically transmutes my case into a case asserting a legally
18 cognizable right to the ownership of the property. We don't
19 have a right here. We have breach of contract claims and a
20 fraud claim. They're all barred.

21 Now, the breach of the note, which is the, we'll
22 pay you back some money, that's an installment contract.
23 That doesn't even achieve the standard of the subject matter
24 of jurisdiction of the Court.

1 So let's go to the first claim for relief, which
2 Ms. Winston says, well, it's a breach of the purchase
3 agreement and my client had an obligation to put the name on
4 the title. There is no -- did you see any allegation in the
5 complaint, in the verified complaint or in the affidavit,
6 what provision of the contract provides that? There is isn't
7 one.

8 The seller had the duty to transfer title. If the
9 seller did not transfer title appropriately, then the proper
10 party is sue the seller. If the escrow company didn't
11 document the transaction appropriately and perpetrated a
12 fraud, sue the escrow company.

13 Ms. Johnson signed a document endorsing saying,
14 I'm not going to hold title to this property. That is
15 binding. And they even attach it. They try to explain it,
16 but as you see facially, you have to accept that as true,
17 because they say that's there. That's attached to the deed.
18 They haven't asked for a reformation of the deed. They
19 haven't put any of these claims in, because they don't exist.

20 So as of today's date, the claim for -- there's
21 only four claims. Well, at least they put a new one in. I
22 lost track of some their claims when they were jumping
23 around. Just one second, I'll get my list. I gave you a
24 list of the claims in my brief, your Honor. They added a

1 declaratory relief claim at the end. So fraud, unjust
2 enrichment, a breach of a confidential relationship, that's
3 three years. Breach of the note, installment note, that's
4 not even pertaining to the subject matter. Breach of the
5 contract, the PSA, there's no obligation in there that binds
6 my client.

7 And guess what else? They put it in the record --
8 do you have access to that agreement, your Honor?

9 THE COURT: Yes.

10 MR. SIMONS: Going to have you turn to page 3 of 8
11 and you go down to paragraph nine and C; A, B, C and D; C and
12 D are on the next page.

13 THE COURT: Yes.

14 MR. SIMONS: Assuming there's such a claim that
15 would exist, it is subject to binding arbitration under the
16 federal arbitration act. They can't even bring it here.
17 They're going to be subject to a motion to compel arbitration
18 and dismiss this action if that claim even survives.

19 So why are we here? Why are we here is solely for
20 the motion on a lis pendens to expunge. Did they satisfy
21 their legal obligations? No. They want you to exercise an
22 equitable remedy during the pendency of a lawsuit over money,
23 which the Nevada Supreme Court said is absolutely wrong. And
24 while they skirt around the issue, they never come out and

1 address that and say, look, we recognize we're only asking
2 for remedies and there's a distinction under the law between
3 remedies and claims and that's what the law says across the
4 country.

5 I feel, as you can tell, extremely confident on
6 this one. So is there any questions you have of me, because
7 I'm more than happy to address what is concerning you rather
8 than what I would like to talk about.

9 THE COURT: I appreciate that. No, I don't have
10 any questions, Mr. Simons. I'm prepared to rule on the
11 motion to expunge the lis pendens. A lis pendens is a
12 creature of statute in Nevada. The applicable statute is NRS
13 14.015, not notably NRS 14.010, not a mortgage instrument,
14 it's a simple note.

15 The reason to my eye the Nevada Supreme Court has
16 confirmed that lis pendens is not appropriate when equitable
17 remedies are implicated is not so much the distinction
18 between a remedy and a cause of action as it is this: For
19 example, the plaintiff seeks a constructive trust, claiming,
20 I was defrauded, and so I should color this -- be able to
21 color this title so that my security is perfected.

22 That is the problem. A grant of this lis pendens
23 or the, said differently, allowing this lis pendens to remain
24 would be to give the plaintiffs the remedy of constructive

1 trust without a trial.

2 What plaintiffs want is security. Plaintiff
3 claims she loaned money to the defendants. She loaned money
4 to the defendants, and Ms. Winston eloquently argues, who
5 loans \$600,000 to people without security? Well, I don't
6 know.

7 In fact, in the plaintiff's own documents are
8 this: Exhibit 5 to the complaint and the amended first
9 verified complaint is a document entitled endorsement to
10 agreement of sale, which is purportedly signed by the
11 plaintiff on July 29th, 2015, which removes her from the
12 agreement at closing so that she will be removed and not
13 referenced in any conveyance document provided by any of them
14 for any reason, apparently. After that, the deed was
15 recorded on August 6th.

16 The plaintiff's own affidavit indicates she asked
17 for a copy of the deed, never got it for reasons that she
18 will no doubt have an explanation for.

19 On those facts, I cannot say the plaintiff is
20 likely to prevail or has a fair chance of success given my
21 understanding of the additional legal clouds related to
22 statute of limitations, jurisdiction, et cetera.

23 To be clear, my ruling is narrowly on NRS 14.015,
24 subsection three. I do not find the plaintiff is likely to

1 prevail or even has a fair chance of success coupled with the
2 hardship that she didn't know of or understand.

3 Mr. Simons, I'm going to ask you to craft the
4 order expunging the lien. Do you have any questions for
5 purposes of drafting that order?

6 MR. SIMONS: No. You were very clear. Thank you.

7 THE COURT: Ms. Winston, is there anything you
8 would like to place into the record?

9 MS. WINSTON: I would just like the order to
10 reflect that Mr. Simons did not present any counter
11 affidavits or actual evidence for this Court's consideration.

12 THE COURT: I'm not going to place that in the
13 order. If that is the status of the record, it is. In the
14 end, of course, you bear the burden of proof and using your
15 own evidence is appropriate in the ruling. So thank you for
16 that.

17 It appears to me, counsel, that you're all
18 healthy. I'm fond of all of you. I hope it is true. I hope
19 your extended families are likewise healthy. These are
20 remarkable times. Please take good care. I look forward to
21 being of assistance to this case as the case proceeds in
22 whatever manner it does.

23 --oOo--
24

1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on March 22, 2021, at the hour of 1:30
8 p.m. and took verbatim stenotype notes of the proceedings had
9 upon the hearing in the matter of KARI A. JOHNSON, Plaintiff,
10 vs. MICHAEL EDWARD HATCH and ALISHA SUZANNE HATCH,
11 Defendants, Case No. CV21-00246, and thereafter, by means of
12 computer-aided transcription, transcribed them into
13 typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 27, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 24th day of March 2021.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

2490
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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.

MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

Plaintiff Kari Anne Johnson ("Plaintiff") hereby moves this Court for leave to file her Second Amended Complaint. The proposed Second Amended Complaint is attached hereto as **Exhibit "1"**. This Motion is made pursuant to Nevada Rule of Civil Procedure ("NRC") 15 and is based upon the attached Memorandum of Points and Authorities, any supplemental briefing which may be filed in support hereof, and the pleadings and papers on file herein and any argument of
./././

1 counsel at any hearing on this matter with this Court.

2 DATED this 25th day of March 2021.

3 ROBISON, SHARP, SULLIVAN & BRUST
4 71 Washington Street
5 Reno, Nevada 89503

6 By: /s/ Stefanie T. Sharp
7 STEFANIE T. SHARP
8 CLAYTON P. BRUST
HANNAH E. WINSTON
Attorneys for Plaintiff

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION.**

11 Plaintiff seeks this Court's permission to file a Verified Second Amended Complaint¹ that
12 clarifies her claims and adds additional claims for breach of the implied covenant of good faith and
13 fair dealing, intentional interference with contractual relations and reformation, as well as a request
14 for rescission of the Fraudulent Endorsement (as defined in the SAC). Plaintiff filed her original
15 Verified Complaint on February 10, 2021. Defendants moved to dismiss the original Verified
16 Complaint on March 5, 2021; however, Defendants' motion was mooted by Plaintiff's Verified First
17 Amended Complaint² filed March 16, 2021.

18 Defendants have indicated they intend to file a second motion to dismiss. While the language
19 and claims in the First Amended Complaint are appropriate and do not justify dismissal, the
20 additional information and additional claims for relief in the attached proposed Second Amended
21 Complaint clarifies much of the confusion brought to this proceeding by the Defendants' recent
22 baseless and inaccurate arguments and assertions. Therefore, Plaintiff hopes to avoid an
23 unnecessary round of motion practice by filing this Motion prior to the time Defendants' responsive
24 pleading to the First Amended Complaint is due as the Defendants' will likely maintain their
25 position that the SAC is also subject to dismissal based on the same arguments they have already
26 presented in their first motion to dismiss.

27
28

¹ Referred to herein as the "Second Amended Complaint" or the "SAC."

² Referred to herein as the "First Amended Complaint" of the "FAC."

1 This motion is timely, made in good faith, and will cause no undue delay or unfairly
2 prejudice any party. For these reasons, this Motion for Leave to File an Amended Complaint should
3 be granted.

4 **II. LEGAL ARGUMENT.**

5 After an amended pleading has been filed, “a party may amend the party’s pleading only by
6 leave of court.” NRCP 15(a). When considering a motion to amend, the Court has discretion,
7 however “[l]eave to amend should be ‘freely given.’ *Burnett v. C.B.A. Sec. Serv., Inc.*, 107 Nev.
8 787, 789, 820 P.2d 750, 752 (1991), *Holcomb Condo. Homeowner’s Ass’n, Inc. v. Stewart Venture,*
9 *LLC*, 129 Nev. 181, 191, 300 P.3d 124, 130 (2013) (quoting *Kantor v. Kantor*, 116 Nev. 886, 891,
10 8 P.3d 825, 828 (2000)).

11 Only if a Court finds prejudice, delay, futility or bad faith may a Court deny a motion to
12 amend. *See Burnett*, 107 Nev. at 789, 820 P.2d at 752 (“Delay, bad faith or a dilatory motive are
13 all sufficient reasons to deny a motion to amend a pleading.”). Of these factors, “it is the
14 consideration of prejudice to the opposing party that carries the greatest weight.” *Eminence Capital,*
15 *LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003). However, “[a]bsent prejudice, or a strong
16 showing of any other relevant factor, there exists a presumption under Rule 15(a) in favor of granting
17 leave to amend.” *Enos v. Holder*, 855 F. Supp. 2d 1088, 1092 (E.D. Cal. 2012) (internal quotations
18 and alterations omitted) (interpreting FRCP 15(a), NRCP 15(a)’s federal counterpart).

19 Plaintiff’s Motion should be granted because her SAC will not prejudice Defendants, will
20 not delay trial as a trial date has not yet been set, is not submitted in bad faith, and is not futile.
21 Leave to amend will not prejudice Defendants because Defendants have not filed an answer,
22 discovery has not commenced, the NRCP 16.1 early case conference has not yet been scheduled,
23 and a trial date has not been scheduled. Therefore, Defendants will have ample time to conduct
24 discovery regarding the more detailed and clarified SAC and the additional claims for breach of the
25 implied covenant of good faith and fair dealing, intentional interference with contractual relations
26 and reformation. Additionally, because the parties have not started discovery, there will be no
27 undue delay. Rather, the SAC should make discovery more efficient as it more clearly identifies
28 the background and issues in this case. Moreover, because Defendants intend to file a motion to

1 dismiss the First Amended Complaint, allowing the Second Amended Complaint to be filed will
2 avoid an unnecessary round of motion practice as Defendants have already demonstrated a penchant
3 for significant (if not unwarranted) motion practice.

4 Amending the First Amended Complaint is necessary to proceed with litigation in an
5 efficient manner, based on the relevant facts, claims, and circumstances of this litigation. Finally,
6 Plaintiff has not been dilatory in filing this Motion as Defendants have not even filed an answer.
7 Accordingly, this Court should grant Plaintiff's Motion because it is made in good faith, without
8 dilatory motive, will not prejudice Defendants, nor cause undue delay, and it is not futile.

9 **CONCLUSION**

10 Based on the foregoing, Plaintiff respectfully requests that this Court grant leave to file the
11 Second Amended Complaint.

12 **AFFIRMATION**

13 **Pursuant to NRS 239B.030**

14 The undersigned does hereby affirm that this document does not contain the social security
15 number of any person.

16 DATED this 25th day of March 2021.

17 ROBISON, SHARP, SULLIVAN & BRUST
18 71 Washington Street
19 Reno, Nevada 89503

20 By: /s/ Stefanie T. Sharp
21 STEFANIE T. SHARP
22 CLAYTON P. BRUST
23 HANNAH E. WINSTON
24 *Attorneys for Plaintiff*
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP,
3 SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **MOTION FOR**
4 **LEAVE TO FILE SECOND AMENDED COMPLAINT** on all parties to this action by the
5 method(s) indicated below:
6

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

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

10 Mark G. Simons, Esq.
11 Anthony L. Hall, Esq.
12 SIMONS HALL JOHNSTON PC
13 Email: MSimons@SHJNevada.com
AHall@SHJNevada.com
Attorneys for Defendants

14 _____ by personal delivery/hand delivery addressed to:

15 _____ by facsimile (fax) addressed to:

16 _____ by Federal Express/UPS or other overnight delivery addressed to:

17
18 DATED: This 25th day of March 2021.

19
20 /s/ Leslie M. Lucero
21 Employee of Robison, Sharp, Sullivan & Brust
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EXHIBIT LIST

Exhibit #	Description	Pages
Exhibit "1"	(Proposed) Second Amended Complaint	74

Exhibit “1”

FILED
Electronically
CV21-00246
2021-03-25 02:03:06 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8361222 : sacordag

Exhibit “1”

1 **1090**
2 STEFANIE T. SHARP, ESQ.
3 Nevada State Bar No. 8661
4 CLAYTON P. BRUST, ESQ.
5 Nevada State Bar No. 5234
6 HANNAH E. WINSTON, ESQ.
7 Nevada State Bar No. 14520
8 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

9 *Attorneys for Plaintiff Kari Anne Johnson*

10
11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12 **IN AND FOR THE COUNTY OF WASHOE**
13

14 KARI ANNE JOHNSON, an individual,
15 Plaintiff,

16 vs.

17 MICHAEL EDWARD HATCH, an individual;
18 ALISHA SUZANNE HATCH, an individual;
and DOES I THROUGH X, inclusive;

19 Defendants.
20

CASE NO.: CV21-00246

DEPT. NO.: 7

**ARBITRATION EXEMPT: Amount in
Controversy Exceeds \$50,000 and
Declaratory and Injunctive Relief
Requested**

Jury Requested

21 **VERIFIED SECOND AMENDED COMPLAINT**

22 COMES NOW, Plaintiff KARI ANNE JOHNSON, by and through her counsel of record
23 herein, STEFANIE T. SHARP, ESQ., CLAYTON P. BRUST, ESQ. and HANNAH E. WINSTON,
24 ESQ. of the law firm of ROBISON, SHARP, SULLIVAN & BRUST, LTD., and files her Second
25 Amended Verified Complaint for Breach of Contract, Breach of the Covenant of Good Faith and
26 Fair Dealing (Contract & Tort), Breach of Note, Breach of Confidential Relationship, Unjust
27 Enrichment, Fraud, Equitable Lien, Constructive Trust, Reformation, Permanent Injunction and
28 Declaratory Judgement (the "Second Amended Complaint") complaining as follows:

1 **PARTIES**

2 1. Plaintiff KARI ANNE JOHNSON ("Plaintiff or "Kari") is an individual and is
3 married to COLIN GROVER ("Colin"). Kari and Colin are residents of Washoe County, Nevada.

4 2. Defendant MICHAEL EDWARD HATCH ("Michael") is an individual residing in
5 Washoe County, Nevada.

6 3. Defendant ALISHA SUZANNE HATCH ("Alisha") is an individual residing in
7 Washoe County, Nevada.

8 4. Alisha and Michael are husband and wife. Alisha and Michael are sometimes
9 individually referred to herein as a "Defendant" and collectively referred to herein as the
10 "Defendants."

11 5. The Plaintiff is ignorant of the true names and capacities of the defendants sued
12 herein as DOES I through X, inclusive, and therefore sues these defendants by such fictitious names.
13 The Plaintiff will amend this Second Amended Complaint to allege their true names and capacities
14 when ascertained.

15 6. The Plaintiff is informed and believes and thereon alleges that, at all times herein
16 mentioned, each of the defendants sued herein was the agent of each of the remaining defendants
17 and was at all times acting within the purpose and scope of such agency.

18 **BACKGROUND AND STATEMENT OF FACTS**

19 7. Plaintiff and Alisha met in childhood. When they reconnected in adulthood they
20 shared housing for a period of time and Plaintiff and Colin socialized with Defendants and
21 considered them friends. Additionally, Alisha began to act as a confidant and personal advisor of
22 Plaintiff by helping Plaintiff with business transactions and personal financial transactions. Plaintiff
23 came to rely on, and trust, Alisha to act in her best interest. Alisha was like as sister to Plaintiff.

24 8. In approximately November of 2014, Defendants approached Kari about loaning
25 Defendants money to buy certain real property and improvements commonly known as 9845
26 Firefoot Lane, Reno, Nevada, Washoe County, APN: 141-254-09 (the "Property") because
27 Defendants were unable to qualify for a conventional mortgage. During these conversations that
28 occurred at Plaintiff's house, Defendants promised that they would pay the loan as agreed and that

1 Kari's name would be on the title to the Property until the loan was paid in full.

2 9. Kari agreed to loan (the "Loan") the money to the Defendants based on their
3 representations that they would pay the Loan as agreed and on the condition that Kari would be on
4 the title to the property with Defendants until the Loan was paid in full.

5 10. The Property was new construction and Kari and the Defendants were identified as
6 the "buyers" in the Purchase and Sale Contract (the "PSA"). The PSA was signed on December 13,
7 2014. A true and correct copy of the PSA is attached hereto as "Exhibit 1."

8 11. Prior to the closing under the PSA, Alisha presented certain escrow documents to
9 Kari representing that the documents needed to be signed for closing. Kari trusted Alisha implicitly
10 and believed that Alisha and Michael would honor their agreement with Kari that she would be a
11 joint owner of the Property with the Defendants until the Loan was paid in full.

12 12. Kari paid the full amount of the purchase price for the Property and all closing costs.
13 The total amount of the Loan was \$665,838.40. The Loan is evidenced by a "Promissory Note For
14 Hatch Residence 9845 Firefoot Lane, Reno, NV 89521" (the "Note"). Alisha prepared the Note.
15 The Note was signed and initialed by Michael, Alisha and Kari on September 9, 2015. A true and
16 correct copy of the Note is attached hereto as "Exhibit 2."

17 13. The Note specifically refers to the Loan as being a "home loan" and accrues interest
18 at the rate of 3% per annum. A payment schedule requiring monthly payments of principal and
19 interest was part of the Note and attached thereto. A true and correct copy of the payment schedule
20 is attached hereto as "Exhibit 3."

21 14. On or about November 13, 2020, Kari and Colin discovered that Defendants had
22 manipulated Kari into signing documents removing Kari's name from the title to the Property at
23 closing and interlineated through Kari's name on page 6 of the PSA which was recorded with the
24 deed at closing. A true and correct copy of the deed (the "Deed") recorded at closing with the
25 attached interlineated pages of the PSA is attached hereto as "Exhibit 4." At the time of closing,
26 Alisha concealed from Kari that Defendants had substantially changed the deal and had arranged
27 for Kari to be removed from the Deed. A true and correct copy of an irregular Endorsement to
28 Agreement of Sale, purporting to remove Kari from the purchase at the last minute, was either

1 obtained by manipulation/fraud or is a forgery ("Fraudulent Endorsement") is attached hereto as
2 "Exhibit 5." Kari does not recall executing the Fraudulent Endorsement and does not believe it
3 contains her signature. Even if it does contain her signature, her signature was obtained by
4 assurances from Defendants that the deal was the same and Defendants' concealed from Kari that
5 the deal had materially changed. Further, the Fraudulent Endorsement does not even contain a
6 signature line for the seller, necessary party to the Fraudulent Endorsement. See, Exhibit 5.

7 15. Upon information and belief, Defendants used the Fraudulent Endorsement to obtain
8 the Deed to the Property that did not include Kari as a grantee. See, "Exhibit 4." The Deed also
9 evidences that, but for the deception of the Defendants, Kari would have been a joint title holder on
10 the Property with the Defendants. Kari never would have loaned the money if she knew she was
11 not on title to the Property.

12 16. Shortly after the Defendants closed the purchase of the Property, Kari requested a
13 copy of the Deed for her files. Kari did not suspect any wrongdoing at this time. Defendants told
14 her they could not provide it to her because they needed it to complete landscaping the new lot on
15 which the house was built. Defendants never gave Kari a copy of the Deed. Because the Defendants
16 had gained Kari's trust and confidence, and the close friendship between the parties, and Defendants
17 statements to Kari that she would be listed on the Deed as a joint owner of the Property, Kari was
18 justified in relying on the statements of the Defendants and their reason for not providing her with
19 a copy of the Deed.

20 17. For the next several years, Defendants acted as if everything was according to the
21 agreement and made regular payments on the Note, and concealed their wrongdoing.

22 18. Kari had no notice that she was not an owner of the Property until she discovered in
23 on or about November 13, 2020, when the friendship between the parties ended, and Kari sought
24 counsel regarding the outstanding Loan to the Defendants. All of the property tax bills for the
25 Property were sent to the Property address and no other notices are given to owners of real property
26 which would have put Kari on notice that she was not a joint owner of the Property. Furthermore,
27 as the Defendants commenced making payments under the Loan (as agreed), Kari had no reason to
28 believe that the Defendants had not honored the other portion of their agreement, that Kari would

1 be a joint owner of the Property. The mere fact that the “record notice” of the recording of the Deed
2 did not provide sufficient basis for Kari to have had notice because she had no reason to check the
3 real estate records until November of 2020.

4 19. On or about November 13, 2020, Kari and Colin also discovered that on or about
5 December 9, 2019, Defendants’ obtained a loan in the original principal amount of \$259,000 from
6 Guild Mortgage Company secured by the Property. A true and correct copy of the Deed of Trust
7 securing the Guild Mortgage Company loan is attached hereto as “Exhibit 6.” Defendants never
8 asked permission from Plaintiff to place a Deed of Trust on the Property, never gave Plaintiff notice
9 that they encumbered the Property in this manner, and concealed the Deed of Trust from Plaintiff.

10 20. Kari would never have extended the Loan to the Defendants without their agreement
11 that Kari’s name would be on the title to the Property until the Loan was paid in full. Defendants
12 used their relationship with Kari to exert influence over Kari to manipulate and convince Kari to
13 make the Loan.

14 21. Plaintiff is informed and believes that when Defendants represented to her that
15 Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the Property
16 until the Loan was paid in full that (i) Defendants knew the representations were false; (ii)
17 Defendants made the representations for the purposes of, and with the intent to, induce Kari to make
18 the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan
19 as agreed.

20 22. The Note lacks terms that would typically be found in a home loan promissory note,
21 including but not limited to, a late fee or default interest rate, an acceleration provision, and a
22 provision allowing the lender to recover costs and attorneys’ fees associated with collection of the
23 amount owed in the event of a default. The Plaintiff is informed and believes that the Defendants
24 drafted the Note to be favorable to their interests to her detriment.

25 23. Plaintiff had trust and confidence in Defendants, and the Defendants, through
26 deception, intimidation, and/or undue influence, obtained the Loan from her with the intention of
27 depriving her of the ownership, use, benefit, and possession of her money.

28 24. Plaintiff trusted and relied on the Defendants and the Defendants wrongfully asserted

1 undue influence over her to obtain the Loan without Plaintiff being a joint owner of the Property
2 and to obtain an advantage over her by allowing the Defendants to still retain title to the Property
3 even if they defaulted under the Loan.

4 25. The Defendants defaulted under the Loan by failing and refusing to pay the monthly
5 payment due under the Loan on January 1, 2021, and for failing and refusing to pay any amounts
6 thereafter despite demand that they do so. Defendants have also refused to provide any assurances
7 that they will repay the Loan in full and/or begin making payments again. Plaintiff is informed and
8 believes that Defendants have no intention of making any further payments under the Note and that
9 they do not intend to pay off the Loan

10 **PLAINTIFF'S CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 **Breach of Contract**

13 26. The Plaintiff incorporates by reference all prior allegations of this Second Amended
14 Complaint as though fully set forth herein.

15 26. Pursuant to the PSA, and the agreement of the parties, Kari was to be a co-buyer in
16 all of the documents and instruments evidencing the purchase and sale transaction and Kari was to
17 be a joint owner of the Property with the Defendants after closing.

18 27. The Defendants' breached the PSA by failing to ensure that Kari was included on the
19 deed to the Property which was recorded at closing and knowingly and intentionally using their
20 relationship with Kari and her trust in Defendants to conceal that their removal of Kari's name from
21 the Deed prior to closing. Indeed, Defendants actively prevented and interfered with Plaintiff being
22 placed on the Deed and thereby being a co-owner/co-buyer.

23 28. As alleged herein above, Kari did not discover Defendant's breach until on or about
24 November 13, 2020.

25 29. Due to the Defendants' breach under the PSA, the Plaintiff has sustained and
26 continues to sustain damages in an amount in excess of \$15,000 to be proven at trial.

27 30. As a further consequence of the Defendants' breach, the Plaintiff was required to
28 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

1 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and
2 severally, as set forth below.

3 **SECOND CLAIM FOR RELIEF**

4 **Breach of the Covenant of Good Faith and Fair Dealing**

5 **(Contract & Tortious)**

6 31. Plaintiff incorporates by reference all prior allegations of this Second Amended
7 Complaint as though fully set forth herein.

8 32. Plaintiff and Defendants entered into the PSA which was a valid agreement pursuant
9 to which Plaintiff was to be a joint owner of the Property with Defendants.

10 33. The covenant of good faith and fair dealing is implied in every contract.

11 34. Defendants owed Plaintiff a duty of good faith to perform in accordance with the
12 intent and spirit of the PSA.

13 35. Defendants also had a confidential relationship with the Plaintiff and Kari placed a
14 special trust and confidence in Defendants. Due to the confidential relationship between the parties
15 Defendants' owed a duty to Kari similar to the duty of a fiduciary, requiring the Defendants to act
16 in good faith and with due regard to Kari's interests. Defendants had a duty to act with the utmost
17 good faith, based on their confidential relationship with Kari. This duty requires affirmative
18 disclosure and avoidance of self-dealing.

19 36. By failing to take the steps necessary to ensure that Kari was a co-owner of the
20 Property at closing, Defendants denied Plaintiff of her justified expectations that Defendants would
21 perform under the PSA in good faith and deal fairly with Plaintiff.

22 37. Due to this breach of the covenant of good faith and fair dealing, Plaintiff has
23 sustained and continues to sustain damages in an amount in excess of \$15,000 to be proven at trial.

24 38. As a further consequence of the Defendants' breach, the Plaintiff was required to
25 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

26 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and
27 severally, as set forth below.

28 ./././

1 **THIRD CLAIM FOR RELIEF**

2 **Breach of Contract/Note**

3 39. Plaintiff incorporates by reference all prior allegations of this Second Amended
4 Complaint as though fully set forth herein.

5 40. On September 9, 2015, the Defendants made, executed, and delivered the Note for
6 the Loan to the Decedent in Washoe County, Nevada.

7 41. The Defendants breached the Note by refusing and failing to pay the Plaintiff the
8 amounts due under the Note.

9 42. Due to the defaults of the Defendants and their breach of the Note, the Plaintiff has
10 sustained and continues to sustain damages. As a result of the Defendants' breach, as of the date of
11 filing of this Second Amended Complaint, the current amount of arrearages under the Note are
12 \$8,421.60, plus interest accruing at the rate of 3 percent per annum from and after January 1, 2021
13 until paid in full, plus costs due the Plaintiff.

14 43. Defendants have made clear they no longer intend to pay the Loan. Such anticipatory
15 repudiation would renders the Defendants liable for the entire amount of the debt. *LeTarte v. W.*
16 *Side Dev., LLC*, 151 N.H. 291, 294, 855 A.2d 505, 508 (2004) ("Successive breaches of a continuing
17 contract, while generally viewed as a series of partial breaches, can result in a total breach when
18 there is a repudiation or a material failure of performance.") and Restatement (Second) of Contracts
19 § 253 (1981). As of the date of the filing of this Second Amended Complaint, the amount due under
20 the Loan is \$588,110.19, plus interest accruing at the rate of 3 percent per annum from and after
21 January 1, 2021 until paid in full, plus costs, plus attorneys' fees and costs of court.

22 44. As a further consequence of the Defendants' breach, the Plaintiff was required to
23 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

24 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and
25 severally, as set forth below.

26 **FOURTH CLAIM FOR RELIEF**

27 **Breach of Confidential Relationship**

28 45. Plaintiff incorporates by reference all prior allegations of this Second Amended

1 Complaint as though fully set forth herein.

2 46. At all times relevant herein, a confidential relationship existed between Kari and
3 Defendants and Kari placed a special trust and confidence in Defendants.

4 47. Defendants gained Kari's confidence and purported to act or advise in Kari's interest
5 in mind by representing that they would ensure that Kari was a joint owner of the Property until the
6 Loan was paid in full.

7 48. Due the confidential relationship between Kari and Defendants, Defendants' owed a
8 duty to Kari similar to the duty of a fiduciary, requiring the Defendants to act in good faith and with
9 due regard to Kari's interests. Defendants had a duty to act with the utmost good faith, based on
10 their confidential relationship with Kari. This duty requires affirmative disclosure and avoidance of
11 self-dealing.

12 49. Defendants' breached their duty to Kari by manipulating and using their confidential
13 relationship with Kari to cause her name not to be included on the deed at closing. Furthermore,
14 due to this confidential relationship, and Kari's trust in Defendants she did not discover this breach
15 until on or about November 13, 2020.

16 50. Plaintiff has incurred and continues to incur damages based on the breaches by
17 Defendants of the duties which they owed Plaintiff. Plaintiff was deprived of her ownership interest
18 in the Property and also has sustained monetary damages. As of the date of the filing of this Plaintiff
19 has incurred damages in the amount of \$588,110.19, plus interest accruing at the rate of 3 percent
20 per annum from and after January 1, 2021 until paid in full, plus costs, plus attorneys' fees and costs
21 of court.

22 51. As a further consequence of the Defendants' breach, the Plaintiff was required to
23 obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

24 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and
25 severally, as set forth below.

26 **FIFTH CLAIM FOR RELIEF**

27 **Unjust Enrichment**

28 52. The Plaintiff incorporates by reference all prior allegations of this Second Amended

1 Complaint as though fully set forth herein.

2 53. The Defendants unjustly deprived Plaintiff of her ownership interest in the Property
3 and retained Plaintiff's money in the amount of \$588,110.19, plus interest accruing at the rate of 3
4 percent per annum from and after January 1, 2021 until paid in full, plus costs, plus attorneys' fees
5 and costs of court, against fundamental principles of justice or equity and good conscience.

6 54. The Plaintiff suffered damages as a result of the acts of the Defendants which
7 deprived Plaintiff of her ownership interest in the Property and by Defendants' improper retention
8 of Plaintiff's money in the amount of amount of \$588,110.19, plus interest accruing at the rate of 3
9 percent per annum from and after January 1, 2021 until paid in full, plus costs, plus attorneys' fees
10 and costs of court.

11 55. As a further consequence of the Defendants' unjust actions the Plaintiff was required
12 to 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 **SIXTH CLAIM FOR RELIEF**

16 **Fraud in the Inducement**

17 56. The Plaintiff incorporates by reference all prior allegations of this Second Amended
18 Complaint as though fully set forth herein.

19 57. Plaintiff is informed and believes that when Defendants represented to her and Colin
20 that Defendants would pay the Loan in full as agreed and that Kari would be a joint owner of the
21 Property until the Loan was paid in full that (i) Defendants knew the representations were false; (ii)
22 Defendants made the representations for the purposes of, and with the intent to, induce Kari to make
23 the Loan and getting Kari to enter into the Note; and (iii) Defendants never intended to pay the Loan
24 as agreed.

25 58. On or about August 6, 2015, Plaintiff, in justifiable reliance upon the representations
26 made by Defendants, made the Loan to the Defendants, which funds were fully disbursed by
27 Plaintiff to the Defendants on or around that same date, and on September 9, 2015, executed the
28 Note prepared by Alisha.

59. Defendants also obtained the Fraudulent Endorsement by either forging Plaintiff's signature or omitting material facts. As discussed herein, Plaintiff does not recall executing the Fraudulent Endorsement and was never told by Defendants that the Fraudulent Endorsement materially altered the parties' agreement by authorizing exclusion of Plaintiff from the conveyance documents for the Property. Plaintiff justifiably relied up the close relationship of trust between Plaintiff and Defendants. Defendants likewise preyed on their relationship with Plaintiff to either forge Plaintiffs' signature or trick Plaintiff into signing the Fraudulent Endorsement.

60. Plaintiff has incurred and continues to incur damages based on the misrepresentations made by Defendants which deprived Plaintiff of her ownership interest in the Property and also caused her to incur monetary damages. As of the date of the filing of this Second Amended Complaint 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. Defendants' procured the Fraudulent Endorsement approximately 7 months after the PSA was signed. Plaintiff did not realize that Defendants had obtained her signature on the Fraudulent Endorsement until on or about November 13, 2020.

60. 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.

61. As a further consequence of the Defendants' fraud, the Plaintiff was required to obtain and hire counsel and has sustained additional damages of attorneys' fees and costs.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, as set forth below.

SEVENTH CLAIM FOR RELIEF

Intentional Interference with Contractual Relations

62. Plaintiff incorporates by reference all prior allegations of this Second Amended Complaint as though fully set forth herein.

63. The PSA was a valid and existing contract between Kari and the seller of the Property. Pursuant to the PSA, Kari was to be an owner of the Property.

64. Defendants had knowledge of the PSA.

65. Defendants intentionally took actions to ensure that Kari was not included on the deed to the Property which was recorded at closing and knowingly and intentionally used their relationship with Kari and her trust in Defendants to conceal that their removal of Kari's name from the Deed prior to closing. Indeed, Defendants actively prevented and interfered with Plaintiff being placed on the Deed and thereby being a co-owner/co-buyer. As discussed herein above, Kari did not know, nor did she have reason to know, of Defendants' wrongful conduct until November 13, 2020.

66. The Defendants actions were intended and designed to disrupt the contractual relationship between Kari and the seller of the Property and actual disruption of the contract (the PSA) occurred as alleged herein above.

67. Plaintiff has incurred and continues to incur damages based on the intentional interference by Defendants and the disruption of the contractual relations between Plaintiff and the seller of the Property. Plaintiff was deprived of her ownership interest in the Property and also has sustained monetary damages. 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.

68. As a further consequence of the Defendants' intentional interference with her contractual relationship with the seller of the Property, the Plaintiff was required to obtain and hire counsel and has sustained additional damages of attorneys' fees and costs as discussed herein.

EIGHTH CLAIM FOR RELIEF

Equitable Lien

69. Plaintiff incorporates by reference all prior allegations of this Second Amended Complaint as though fully set forth herein.

70. The Defendants have a debt, duty, and obligation owing to the Plaintiff.

71. The debt, duty, and obligation fasten to the Property which is described with certainty.

72. The Defendants have used the Loan proceeds, that they obtained through

1 misrepresentation and undue influence, to enhance and augment the Property, which Property
2 should have been encumbered to secure the Loan. Therefore, the Plaintiff is entitled to an equitable
3 lien against the Property.

4 73. The Plaintiff has suffered damages in excess of \$10,000.00 as a result of the
5 Defendants' exploitation of Plaintiff.

6 74. Plaintiff has been required to obtain the services of an attorney to assist in the
7 prosecution of this matter and is entitled to payment of her attorney's fees and costs incurred herein.

8 WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and
9 severally, as set forth below.

10 **NINETH CLAIM FOR RELIEF**

11 **Constructive Trust**

12 75. The Plaintiff incorporates by reference all prior allegations of this Second Amended
13 Complaint as though fully set forth herein.

14 76. A confidential relationship existed between Plaintiff and the Defendants.

15 77. The Defendants used this confidential relationship to obtain the Loan and took
16 advantage of Plaintiff's trust in the Defendants to induce her to make the Loan without seeking
17 counsel to ensure that her rights to re-payment were properly protected.

18 78. Retention of unencumbered legal title to the Property would be inequitable under
19 these circumstances and it is essential to the effectuation of justice that a constructive trust be
20 imposed on the Property for the benefit of the Plaintiff. Plaintiff should be reinstated on the Deed
21 and be granted joint title to the Property.

22 79. Plaintiff has been required to obtain the services of an attorney to assist in the
23 prosecution of this matter and is entitled to payment of her attorney's fees and costs incurred herein.

24 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as set
25 forth below.

26 **TENTH CLAIM FOR RELIEF**

27 **Reformation**

28 80. The Plaintiff incorporates by reference all prior allegations of this Second Amended

1 Complaint as though fully set forth herein.

2 81. Defendants represented to Plaintiff that her name would be on the title to the Property
3 and that Plaintiff would be a joint owner of the Property until the Loan was paid in full and that
4 Defendants would pay the Loan as agreed. Plaintiff would never have made the Loan to Defendants
5 had she not relied upon these representations and agreements by the Defendants. Plaintiff was
6 induced to act to her prejudice by the false representations of Defendant.

7 82. At the time the closing of the acquisition of the Property occurred, Defendants knew
8 that Kari's name was not included on the Deed which was recorded at closing and Kari was not
9 aware that Defendants had caused her name to be removed and/or not included on the Deed recorded
10 at closing.

11 83. As a result of Defendants' actions, Plaintiff has been damaged and the Deed should
12 be reformed and corrected according to the real intent of the parties; such that, when so reformed
13 the Deed should convey the Property to Plaintiff and Defendants as co-owners. *Holman v. Vieira*,
14 53 Nev. 337, 300 P. 946 (1931)

15 84. Plaintiff has been required to obtain the services of an attorney to assist in the
16 prosecution of this matter and is entitled to payment of her attorney's fees and costs incurred herein.

17 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as set
18 forth below.

19 **ELEVENTH CLAIM FOR RELIEF**

20 **Permanent Injunction**

21 85. Plaintiff incorporates by reference all prior allegations of this Second Amended
22 Complaint as though fully set forth herein.

23 86. The Property is believed to be the only possible source of repayment of the Loan.

24 87. If Defendants sell or further encumber or record a homestead exemption against the
25 Property, Plaintiff will be left without a remedy. Defendants will not be damaged by the granting
26 of the injunctive relief requested by Plaintiff and Plaintiff will be irreparably harmed. Defendants
27 took advantage of Plaintiff and fraudulently obtained the Loan for the purchase of the Property and
28 the equities require that Defendants be prohibited from cashing out, and spending, the equity in the

1 Property and from recording a homestead exemption against it. A person who fraudulently obtains
2 funds to purchase or improve real property cannot be protected by a homestead exemption. *Maki v.*
3 *Chong*, 119 Nev. 390, 75 P.3d 376 (2003).

4 88. Plaintiff enjoys a reasonable probability of success on the merits with respect to its
5 claims asserted herein.

6 89. Plaintiff is entitled to a permanent injunction pursuant to NRS 33.010 ordering that
7 the Defendants:

- 8 a. Are prohibited from selling the Property;
9 b. Are prohibited from recording a homestead against the Property; and
10 c. Are prohibited from further encumbering the Property and/or securing
11 additional loans secured by the Property.
12 d. Requiring Defendants to add Plaintiff to the Deed for the Property.

13 90. Plaintiff has been required to obtain the services of an attorney to assist in the
14 prosecution of this matter and is entitled to payment of her attorney's fees and costs incurred herein.

15 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as set
16 forth below.

17 **TWELFTH CLAIM FOR RELIEF**

18 **DECLARATORY JUDGEMENT**

19 91. Plaintiff incorporates by reference all prior allegations of this Second Amended
20 Complaint as though fully set forth herein.

21 92. An actual and justiciable controversy exists between Plaintiff and Defendants with
22 respect to the ownership of the Property.

23 93. Pursuant to the PSA and the agreement between Plaintiff and the Defendants,
24 Plaintiff was to be a joint owner of the Property until the Loan was paid in full.

25 94. Under NRS 30.040(1) and NRS 30.070, Plaintiff is entitled to a declaration that she
26 is to be added to the deed as a joint owner of the Property until the Loan is paid in full.

27 95. Under NRS 30.040(1) and NRS 30.070, Plaintiff is entitled to a declaration that
28 Defendants have anticipatorily repudiated their payment obligations under the Note.

96. Under NRS 30.040(1) and NRS 30.070, Plaintiff is entitled to a declaration that due to the repudiation by Defendants of their payment obligations under the Note that the Loan is accelerated and due and payable in full.

97. Plaintiff has been required to obtain the services of an attorney to assist in the prosecution of this matter and is entitled to payment of her attorney's fees and costs incurred herein.

WHEREFORE, Plaintiff prays for relief as set forth below.

PRAYER

WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, as follows:

A. For general and special damages in an amount in excess of \$15,000, to be determined at the time of trial;

B. For interest according to the Note;

C. For interest as allowed by law;

D. For an award of punitive damages against Defendants;

E. For imposition of an equitable lien on the Property in favor of the Plaintiff;

F. For a declaration that the Defendants hold the Property as constructive trustees for the benefit of the Plaintiff;

G. For reformation and correction of the Deed, such that, when so reformed the Deed conveys the Property to Plaintiff and Defendants as co-owners.

H. For the injunctive relief requested herein;

I. For the declaratory relief requested herein;

J. For and award of attorney's fees and costs of suit;

K. For attorney's fees as special damages according to proof;

L. For an order exempting this case from Arbitration;

M. For rescission of the Fraudulent Endorsement; and

N. Such other and further relief as this Court deems just and proper.

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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 ____ day of March 2021.

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

BY _____
STEFANIE T. SHARP, ESQ.
CLAYTON P. BRUST, ESQ.
HANNAH E. WINSTON, ESQ.
Attorneys for Plaintiff Kari Anne Johnson

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 SECOND AMENDED VERIFIED COMPLAINT; and

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 ____ day of March 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”

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

\$0

Note for balance of 10% down is \$24,500.

Cash due at Closing (exclusive of closing costs)

\$465,495

TOTAL

\$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 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.

MEU [Signature] [Signature]

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: WZ/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. 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 KQ*

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 KQ*

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 KQ*

(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.

Leshbhatch@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.

AOS-NV-3458, 3560, 3588.dot
Revised 01/30/14

Buyer's Initials: *MEH/STH/fq*

(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/STH/fq*

(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/STH/fq*

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 criticize 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/STH/fq*

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

AOS-NV-3458, 3560, 3589.dot
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 ABH *kg*

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 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: MEH ABH *kg*

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, 20 14

[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.

MEH ASA KJ

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.

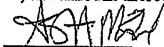
Notwithstanding the fact that Escrow Agent may have been provided with a copy of the Purchase Contract in relation to subject property for information purposes, Escrow Agent's liability to the undersigned is limited solely to Escrow Agent's compliance with these instructions, and any modifications hereto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

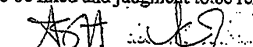
These instructions are executed for the sole purpose of enabling escrow holder to complete this transaction but are in no way intended to modify, amend, supersede or in any way change that certain agreement executed by and between the parties hereto prior to these instructions. The undersigned acknowledge 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.


Initials


Initials

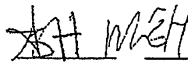
Time is of the essence in this agreement and each party hereto requires that the other party comply with all requirements necessary to place this escrow in a condition to close as provided in said Purchase Contract, however, that if the closing date; or any other compliance date specified herein, falls 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.

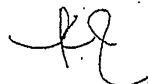
Either party hereunder claiming right of cancellation of this escrow shall file written notice and demand for cancellation in the office of the Escrow Agent in writing. Escrow Agent shall, within three (3) business days following receipt of such written notice, notify the party against whom said cancellation 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 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.





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.

ASH
Initials

MEH
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KZ

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.

ASH MEH
Initials Initials

KZ

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 12/18/14
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 ASAP (initials)

Alisha Hatch 12/13/14
Buyer Date

12/13/14 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
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Buyer:
Buyer:

Seller: _____

Date Offered: 12/13/14
 12/13/14

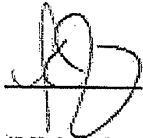
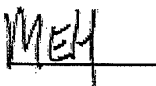
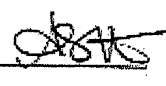
Date Accepted: _____

Exhibit “2”

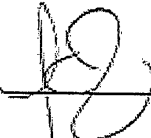


Exhibit “2”

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).

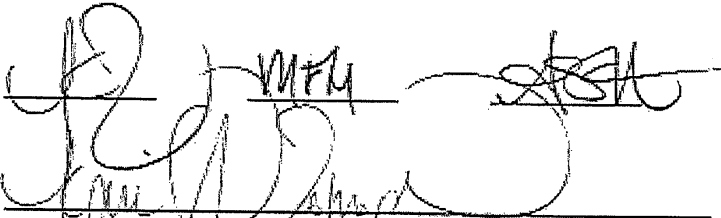
*Michael and Alisha Hatch agree to repay Kari Johnson the total amount borrowed in the amount of \$665,838.40.

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

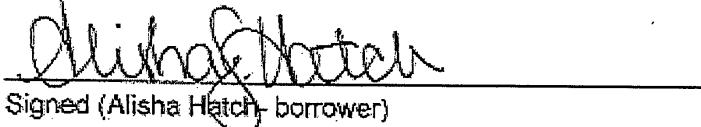
  

*A payment schedule/loan amortization has been established and is attached.



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”

Exhibit “3”

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 #1325 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	\$1,584.91	\$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	\$1,512.66	\$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	\$525,865.96
\$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	\$453,201.80
\$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
\$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	\$388,388.09
\$2,807.20	\$1,838.23	\$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	\$381,013.66
\$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	\$292,794.36
\$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
\$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	\$2,388.60	\$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	\$57,381.41
\$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”

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_00670

Toll South Reno, LLC, a Nevada limited liability company

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

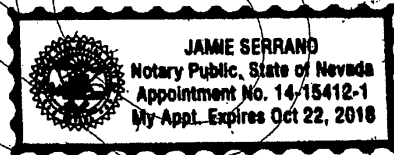
STATE OF NEVADA
COUNTY OF WASHOE

} ss:

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

August 3rd 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_00672

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.

MAH ASH KJ
Initials

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.

MAH ASH KJ
Initials

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 ASH Initials JF

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 ASH Initials JF

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 ASH JF

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] 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.

BUYER: *[Signature]* *Tisha Hatch* DATE 12/13/14

BUYER: *[Signature]* *Mitch Hatch* DATE 12/13/14

SELLER: *[Signature]* *Jake Lucero* DATE 12/13/14



WASHOE COUNTY RECORDER

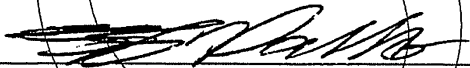
OFFICE OF THE COUNTY RECORDER
LAWRENCE R. BURTNESS, RECORDER

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 “5”

Exhibit “5”

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 sales 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”

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
©2005-2015, The Compliance Source, Inc.



JA_00680

(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. \$252,000.00) 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] of [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



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]

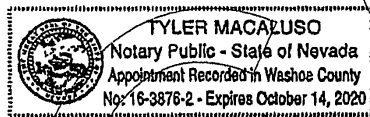
(Seal)
-Borrower
[Printed Name]

(Seal)
-Borrower
[Printed Name]

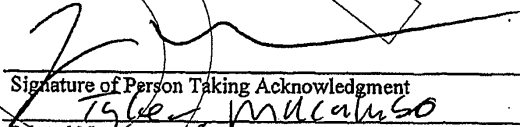
ACKNOWLEDGMENT

State of Nevada
County of Washoe

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



Signature of Person Taking Acknowledgment


Printed Name

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.



(Seal)

Signature of Person Taking Acknowledgment

Printed Name

Title or Rank

Serial Number, if any:

My Commission Expires:

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]



SIMONS HALL JOHNSTON PC
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Phone: (775) 785-0088

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Clerk of the Court
Transaction # 8368951 : sacordag

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Attorneys for Defendants

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

KARI ANNE JOHNSON, an individual;

Plaintiffs,

v.

MICHAEL EDWARD HATCH, an
individual; ALISHA SUZANNE HATCH,
an individual; and DOES I to X, inclusive,

Defendants.

CASE NO.: CV21-00246

DEPT. NO.: 7

**MOTION TO DISMISS
VERIFIED FIRST AMENDED
COMPLAINT**

Pursuant to the provisions of NRCP 12(b)(1), (5), and (h)(3), Defendants Michael Edward Hatch and Alisha Suzanne Hatch (the "Hatches"), by and through their attorney Mark G. Simons of SIMONS HALL JOHNSTON PC, hereby submit the following Motion to Dismiss Verified First Amended Complaint filed by Kari Anne Johnson ("Johnson").

This Motion is based upon the following memorandum of points and authorities, the pleadings and papers on file in this matter and anything further the Court wishes to consider.

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

DATED this 30th day of March, 2021.

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509

By: 

MARK G. SIMONS
ANTHONY L. HALL
Attorneys for Defendants

MEMORANDUM OF POINTS AND AUTHORITIES

I. BASIS OF MOTION.

The Verified First Amended Complaint ("Amended Complaint") must be dismissed because all claims are barred by the statute of limitations or assert claims over which this court has no subject matter jurisdiction. *See e.g. Bemis v. Bemis*, 114 Nev. 1021, 967 P.2d 437, 439 (1998) ("A court can dismiss a complaint for failure to state a claim upon which relief can be granted if the action is barred by the statute of limitations.").

The original Verified Complaint ("Complaint") was the subject of a previous motion to dismiss. All claims in the Complaint were invalid as a matter of law either because of the applicable statute of limitations and/or because the single installment contract claim did not trigger this Court's subject matter jurisdiction. The Amended Complaint was filed trying to correct these fatal defects. The Amended Complaint, however, does not assert a viable claim for relief and dismissal is mandated as detailed herein.

II. BASIC FACTS.

This basic facts of this case as alleged by Johnson is that seven (7) years ago, she entered into an agreement with the Hatches in 2014 "to loan" them money to buy the property commonly known as 9845 Firefoot Lane, Reno, Nevada (the "Property").

1 **A. THE LOAN RELATIONSHIP.**

2 1. Johnson repeatedly describes herself as a lender claiming she made a
3 "loan" to the Hatches. Johnson even defined her relationship with the Hatches as the
4 "Loan" as follows:

5 Para 8: "Defendants approached Kari about loaning Defendants money to
6 buy [the Property]."

7 Para. 9: "Kari agreed to loan (the "Loan") the money to the Defendants."

8 Para. 12: "The Loan is evidenced by a 'Promissory Note'"

9 Para. 15: "Kari never would have loaned the money"

10 Para. 18: "Kari would never have extended the Loan to the Defendants"

11 Para. 21: "[Hatches] obtained the Loan from [Johnson]"

12 **B. JOHNSON CLAIMS SHE WAS SUPPOSED TO BE A SECURED**
13 **PARTY—NOT AN OWNER.**

14 2. Johnson admits that she was never to be an "owner" of the Property but
15 was only allegedly supposed to be on title to the Property merely for security for the
16 repayment of the Loan "until it was paid off". *Id.* ¶11.

17 3. Johnson claims that the alleged unwritten agreement with the Hatches is
18 that there was an "agreement that Kari's name would be on the title to the Property until
19 the Loan was paid in full." *Id.* ¶18:13-14.

20 4. Johnson contends that the Hatches changed some unwritten "deal" when
21 her name was not included on title to the Property. *Id.* ¶14.

1 5. Johnson admits that the deed in this action clearly and unambiguously does
2 not include her name as an alleged co-owner. *Id.*, ¶¶14-15.¹

3 6. Johnson admits that the Note also does not make any reference to including
4 Johnson as an alleged secured party. *Id.* ¶15. As the Court is aware, if the Note was
5 intended to be secured, it would have said so, it did not, which clearly and unambiguously
6 means that the Note was not intended to be secured and was merely an alleged
7 unsecured obligation. *Davis v. Beling*, 128 Nev. 301, 278 P.3d 501, 515 (2012) ("the
8 initial focus is on whether the language of the contract is clear and unambiguous; if it is,
9 the contract will be enforced as written.").

11 **C. JOHNSON'S ACTION IS FOR A SIMPLE BREACH OF AN UNSECURED**
12 **NOTE.**

13 7. Johnson brought this action attempting to obtain her name on the Property
14 solely as security for the repayment of her Loan. **Exhibit 1**, Transcript of Mot. To
15 Expunge Lis Pendens, p. 25:2 ("What plaintiffs want is security.").

16 8. Johnson alleges Hatches entered into an unsecured "Note" payable to
17 Johnson dated September 9, 2015. Am. Comp., ¶12.

18 9. The Loan is allegedly evidenced by the written Note. *Id.*, ¶12.
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23 ¹ Johnson's house of cards for her poorly crafted Complaint is built upon the faulty
24 premise that Johnson did not know what she was signing when she voluntarily took her
25 name off of the PSA and that Johnson does not know she signed a multitude of other
26 documents disavowing any ownership in the Property, *i.e.*, the Note. Nevada law is also
27 abundantly clear that parties are not allowed to disavow their signatures on documents
28 even if they do not read or remember the documents. *See e.g., Pentax Corp. v. Boyd*,
111 Nev. 1296, 1299, 904 P.2d 1024, 1026 (1995) ("Boyd's failure to read the guarantee
is not relevant in determining its validity.").

1 10. Johnson attached a copy of the Note to her Amended Complaint as Exhibit
2 2 and states under the penalty of perjury that the Note attached to the complaint is a "true
3 and correct copy" of the Note. *Id.*, ¶12.²

4 11. The Note is unsecured. *Id.*, ¶22.

5 12. Johnson contends that the Note's terms are clear and unambiguous. *Id.*,
6 ¶¶31-32.

7
8 **D. THE PSA: NO OBLIGATION TO PUT JOHNSON ON TITLE.**

9 13. Johnson claims that she entered into a Purchase and Sale Contract ("PSA")
10 with the seller Toll South Reno LLC (the "Seller"). *Id.*, ¶10. Johnson then claims that the
11 Hatches wrongfully took her name off the PSA so that her name would not be on the deed
12 to the property. *Id.*, ¶¶11, 14, 15.

13 14. Johnson admits that the deed in this action clearly and unambiguously does
14 not include her name as an alleged co-owner. *Id.*, ¶¶14-15.

15 15. Johnson alleges that the Hatches breached the PSA by not including her
16 name on the deed. *Id.*, ¶26.

17 16. Under the PSA, it was solely and exclusively the Seller's obligation to
18 transfer ownership of the Property by deed. **Exhibit 2**, ¶6.

19 17. There is nothing contained in the PSA that contractually obligated the
20 Hatches to include Johnson on title to the Property. *Id.*

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27 ² Am. Comp., p. 13, Verification ("KARI ANNE JOHNSON, being first duly sworn, deposes
28 and says under the penalty of perjury . . .").

1 **G. THE COMPLAINT: FILED ON FEBRUARY 10, 2021.**

2 24. Johnson filed her original Complaint on February 10, 2021. The Complaint
3 was filed 5 years, 6 months and 4 days after the recordation of the Deed.⁴

4 **III. OVERVIEW OF CLAIMS AND FATAL DEFECTS MANDATING DISMISSAL.**

5 The Amended Complaint in this matter continues to be poorly crafted and facially
6 does not appear to even come close to satisfying NRCP 11's requirements. As will be
7 described in further detail below, this motion must be granted in its entirety because of the
8 following fatal defects:

9 1. **1st Claim:** breach of contract—the PSA.

- 10 **Fatal Defect:**
- 11 a. No contractual obligation to put Johnson
- 12 on deed exists.
- 13 b. alleged claim of a security interest
- 14 agreement in the PSA is barred by
- 15 waiver clause in PSA
- 16 c. alleged claim of a security interest
- 17 agreement in the PSA is barred by
- 18 integration/merger clause in PSA
- 19 d. alleged claim of a security interest
- 20 agreement in the PSA is barred by
- 21 unambiguous terms the Note.
- 22 e. alleged claim of a security interest
- 23 barred by parol evidence rule
- 24 f. alleged claim of a security interest
- 25 barred by statute of frauds.
- 26 g. oral agreement for a security interest is
- 27 barred by statute of limitations.

28 2. **2nd Claim:** breach of contract on the Note.

- Fatal Defect:**
- a. Damage amount does not trigger this
- Court's subject matter jurisdiction. Claim
- asserts damages in the amount of

⁴ The Court can take judicial notice of this calculation. NRS 47.130(2)(b) ("A judicially noticed fact must be . . . capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned so that the fact is not subject to reasonable dispute.").

\$8,421.60 plus interest which amount is not within the subject matter jurisdiction of this Court and this claim must be dismissed.⁵

3. **3rd Claim:** breach of confidential relationship:

Fatal Defects: a. Barred by 3-year statute of limitations.

4. **4th Claim:** Unjust Enrichment:

Fatal Defects: a. Barred by 4-year statute of limitations.
b. Barred by breach of contract claim on alleged Note.

5. **5th Claim:** Fraud in the Inducement:

Fatal Defects: a. Barred by 3-year statute of limitations.

6. **6th Claim:** Equitable Lien:

Fatal Defects: a. Barred by 4-year statute of limitations.
b. Barred because an equitable lien is a remedy—not a claim.

7. **7th Claim:** Constructive Trust:

Fatal Defects: a. Barred by 4-year statute of limitations.
b. Barred because a constructive trust is a remedy—not a claim.

8. **8th Claim:** Injunctive Relief:

Fatal Defects: a. Barred by 4-year statute of limitations.
b. Barred because an injunction is a remedy—not a claim.

9. **9th Claim:** declaratory relief:

Fatal Defects: a. limited to breach of contract claims.
b. contract claims do not survive dismissal.

Each of the fatal defects mandating dismissal of this action are described in more detail

⁵ See NRCP 12(b)(1) ("lack of subject matter jurisdiction" may be brought by motion).

1 below.

2 **IV. STANDARD OF REVIEW.**

3 In ruling on a motion to dismiss, "the court may take into account matters of public
4 record, orders, items present in the record of the case, and any exhibits attached to the
5 complaint." See 5A Charles A. Wright & Arthur R. Miller, FEDERAL PRACTICE AND
6 PROCEDURE, Civil 2D § 1356-57 (2d ed. 1990). The Court may further "consider
7 documents on which the complaint 'necessarily relies' and whose 'authenticity . . . is not
8 contested.'" *Lee v. City of Los Angeles*, 250 F.3d 1136, 1141 (9th Cir. 2003) (same).
9 Finally, a "[a] court may also treat certain documents as incorporated by reference into
10 the plaintiff's complaint if . . . the document forms the basis of the plaintiff's claim." See
11 *Committee for Reasonable Regulation of Lake Tahoe v. Tahoe Regional Planning*
12 *Agency*, 365 F. Supp. 2d 1146, 1153 (D. Nev. 2005).

13 **A. NRCP 12(b)(1) and 12(h)(3).**

14 NRCP 12(b)(1) provides that the Court must dismiss an action when it is shown the
15 Court lacks "subject-matter jurisdiction." Similarly, NRCP 12(h)(3) provides that "[i]f the
16 court determines at any time that it lacks subject-matter jurisdiction, the court must
17 dismiss the action."
18

19 **B. NRCP 12(b)(5).**

20 Nevada Rule of Civil Procedure 12(b)(5) requires the dismissal of any complaint
21 that "fails to state a claim upon which relief can be granted." *Hale v. Burkhardt*, 104 Nev.
22 632, 636, 764 P.2d 866, 869 (1988). When presented with a Rule 12(b)(5) motion, the
23 court must accept all factual allegations as true and draw all inferences in favor of the
24 plaintiff. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672
25 (2008).
26
27
28

1 However, dismissal is mandated when the complaint **"shows on its face that the**
2 **cause of action is barred."** *Keller v. Snowden*, 87 Nev. 488, 491, 489 P.2d 90, 92 (1971)
3 (emphasis added). Dismissal of an action when claims are barred by the applicable
4 statute of limitations is a well-known and well-established component of Nevada law. See
5 *e.g., Shupe & Yost, Inc. v. Fallon Nat. Bank of Nevada*, 109 Nev. 99, 102, 847 P.2d 720,
6 721 (1993) (affirming NRCP 12(b)(5) dismissal because plaintiff's "causes of action for
7 conversion on all the checks are time barred, as it did not bring suit within three years of
8 the date of which any of the checks were issued."); *Bemis v. Estate of Bemis*, 114 Nev.
9 1021, 1024, 967 P.2d 437, 439 (1998) ("A court can dismiss a complaint for failure to state
10 a claim upon which relief can be granted if the action is barred by the statute of
11 limitations."); *Bank of Nevada v. Friedman*, 82 Nev. 417, 422, 420 P.2d 1, 4 (1966) ("the
12 complaint shows on its face that the cause of action is barred . . .").

13
14
15 **V. WHAT IS CONSTRUCTIVE NOTICE.**

16 In *Allison Steel Mfg. Co. v. Bentonite, Inc.*, 86 Nev. 494, 498, 471 P.2d 666, 669
17 (1970) the Nevada Supreme Court affirmed that "constructive notice" is a strict legal
18 inference charged against a party for "matters which he necessarily ought to know, or
19 which, by the exercise of ordinary diligence, he might know." *Id.* (citation omitted).
20 Accordingly, a "duty of inquiry" to undertake such easily accomplished things as review
21 recorded documents imposes "constructive notice" upon a party as a matter of law. *Id.*
22 Whether a party undertakes any investigation is actually irrelevant because under the law
23 **"[h]e is said to have constructive notice of their existence whether he does or does**
24 **not make the investigation."** *Id.* at 498, 471 P.2d at 668 (emphasis added).

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1 **A. RECORDATION OF THE DEED STARTS THE RUNNING OF THE**
2 **STATUTE OF LIMITATIONS ON ALL JOHNSON'S CLAIMS AS A**
3 **MATTER OF LAW.**

4 As this Court is already aware, Johnson is desperately trying to argue that the
5 statutes of limitations do not apply because she argues she did not discover the alleged
6 breaches by the Hatches until recently. While Nevada does recognize the discovery rule
7 may toll the triggering of a statute of limitation, the discovery rule does not come into play
8 when a party is charged with "constructive notice" of an event. This is because, the rule
9 of constructive notice mandates that in certain circumstances, the law deems a party has
10 knowledge of an event triggering the commencement of the statutes of limitation.

11 **1. HOW THE DISCOVERY RULE WORKS.**

12 The Nevada Supreme Court examined the discovery rule's evolution under
13 Nevada law in *Siragusa v. Brown*, 114 Nev. 1384, 1391, 971 P.2d 801, 806 (1998) and
14 stated:

15 The general rule concerning statutes of limitation is that a cause of action
16 accrues when the wrong occurs and a party sustains injuries for which relief could
17 be sought. An exception to the general rule has been recognized by this court and
18 many others in the form of the so-called "discovery rule." Under the discovery rule,
19 the statutory period of limitations is tolled until the injured party discovers or
20 reasonably should have discovered facts supporting a cause of action.

21 *The rationale behind the discovery rule is that the policies served by*
22 *statutes of limitation do not outweigh the equities reflected in the proposition that*
plaintiffs should not be foreclosed from judicial remedies before they know that
*they have been injured and can discover the cause of their **807 injuries*

23 *Id.* (emphasis in original) (citing *Petersen v. Bruen*, 106 Nev. 271, 274, 792 P.2d 18, 20
24 (1990)). Accordingly, under the discovery rule, a cause of action does not accrue until a
25 party actually knew or should have known of the injury.

26 In expanding the concept of the discovery rule, the Nevada Supreme Court
27 emphasized that when a party "reasonably should have discovered facts supporting a
28

1 cause of action" carries with it the concomitant burden that a party must exercise
2 reasonable diligence:

3 "the expansion of the discovery rule carries with it the requirement that the
4 plaintiff exercise reasonable diligence Plaintiffs may not close their eyes to
5 means of information reasonably accessible to them and must in good faith apply
6 their attention to those particulars within their reach."

7 *Id.* at 1394, 971 P.2d at 807 (citation omitted).

8 The Nevada Supreme Court then went on to explain that the discovery of a cause
9 of action is typically a question of fact, however the issue becomes one of law "**where**
10 **uncontroverted evidence proves that the plaintiff discovered or should have**
11 **discovered the fraudulent conduct.**" *Id.* at 1401, 971 P.2d at 812 (emphasis added)
12 (citing *Nevada Power Co. v. Monsanto Co.*, 955 F.2d 1304, 1307 (9th Cir.1992)). In the
13 instances of a recorded deed, a party is deemed to have constructive notice because the
14 deed is readily and easily accessible by anyone and everyone and is not being
15 "concealed" from anyone. This case presents the classic example of the application of
16 the bright line constructive notice rule of recorded deeds.

17
18 **2. RECORDATION OF THE DEED WAS CONSTRUCTIVE NOTICE**
19 **TO JOHNSON.**

20 The recordation of the Deed started the statute of limitations on all of Johnson's
21 claims. As stated by the United States Supreme Court in 1834, when a deed is recorded
22 the existence and content of the deed is disclosed to the world and is deemed as a matter
23 of law to impart notice to the entire world of the existence and contents of the deed. In
24 *Dick v. Balch*, 33 U.S. 30, 38, 8 L. Ed. 856 (1834), the United States Supreme Court held:

25 **The mortgage deed was recorded, and this is considered in law, as**
26 **notice to all the world, and dispenses with the necessity of personal**
27 **notice to purchasers. A deed cannot with any propriety be said to be**
28 **concealed, which is placed upon the public record**

1 *Id.* (emphasis added).

2 Nevada law, along with the entire law of the United States, is clear, that as a
3 matter of law, the recordation of a deed starts the statute of limitations relating to all
4 Johnson's claims arising out of or relating to the transaction involving the Deed. Again,
5 this is because, as a matter of law, the recordation of a deed places the entire world,
6 including Johnson, on notice of the existence and contents of the Deed.⁶

7
8 In *Bemis v. Bemis*, 114 Nev. 1021, 1026, fn.2, 967 P.2d 437, 441 fn. 2 (1998) the
9 Nevada Supreme Court reiterated the "**well-known principal that the public recording**
10 **of real estate deeds constitutes constructive notice of the transaction**". (Emphasis
11 added).⁷ As a matter of law, Johnson had constructive notice of this "transaction"
12 whereby the Deed was recorded.

13
14 More recently, in *Edelstein v. Bank of New York Mellon*, 128 Nev. 505, 519, 286
15 P.3d 249, 259 (2012), the Nevada Supreme Court reiterated: "In Nevada, the purpose of

16
17 ⁶ This rule of law is well-known and has been established for over a hundred and fifty
18 years. Given the applicability and dispositive nature of this rule of law, and even though
19 string-cites are commonly disfavored, the following string cite is provided demonstrating
20 the obvious baseless nature of Johnson's Complaint. See e.g., *United States v. Owens*,
21 2018 WL 7075599, at *3 (W.D. Tenn. Sept. 21, 2018) ("A recorded deed is indeed notice
22 to the world as to the true owner of a piece of property."); *Bushlow v. MTC Fin.*, 2018 WL
23 3744022, at *6 (N.D. Cal. Aug. 7, 2018) ("the recordation of a deed operates as
24 constructive notice to the world."); *Smith v. Jones*, 37 Kan. 292, 15 P. 185, 187 (1887)
(when deed was recorded it was "thereafter being notice to all the world . . ."); *Vaughan*
v. Greer, 38 Tex. 530, 530 (1873) ("Any deed duly recorded is notice to the world of
whatever it contains . . ."); *Ott v. Ott's Adm'r*, 1867 WL 3569, at *1 (Ky. Nov. 21, 1867)
(recordation of deed "was constructive notice to the whole world in whom the legal title
was vested . . .").

25 ⁷ This well-known bright line rule of law that the recording of a real estate deed constitutes
26 constructive notice of the transaction was previously articulated in *Allen v. Webb*, 87 Nev.
27 261, 270, 485 P.2d 677, 682 (1971). Consequently, this rule of law has been "well-
known" in Nevada jurisprudence for at least fifty years.

1 recording a beneficial interest under a deed of trust is to provide 'constructive notice . . .
2 to all persons.'" (citation omitted). The reason Nevada imposes a bright line rule that
3 holds a party is deemed to have discovered a cause of action relates to Nevada's
4 recording statute NRS 111.320 which states that every recorded deed "**impart[s] notice**
5 **to all persons of the contents thereof**" relating to and/or arising out of that specific
6 transaction. (Emphasis added).
7

8 As a matter of law, the recordation of the Deed on **August 6, 2015**, imposed
9 constructive notice upon Johnson of the contents of the Deed and triggered the
10 commencement of all applicable statutes of limitations. See e.g. *Cumming v. San*
11 *Bernardino Redev. Agency*, 101 Cal.App.4th 1229, 125 Cal.Rptr.2d 42, 46 (Cal. Ct. App.
12 2002) (if the facts giving rise to the cause of action are matters of public record then "[t]he
13 public record gave notice sufficient to start the statute of limitations running.").⁸
14

15 ⁸Johnson has misconstrued prior Nevada cases seeking to argue Nevada does not have
16 a bright line rule and cites to *Bemis v. Bemis*, 114 Nev. 1021, 1026, 967 P.2d 437, 441
17 (1998) arguing that this case demonstrates there is no bright line rule. However, contrary
18 to Johnson's statement, the *Bemis* case did not trigger the application of the rule because
19 the document at issue was the "parents' divorce agreement". *Id.* The bright line rule did
20 not apply "simply because [parents' divorce agreement] was public record." *Id.* However,
21 when the recorded document is a **deed**, then the bright line rule does in fact apply.
22 *Bemis v. Bemis*, 114 Nev. 1021, 1026, fn.2, 967 P.2d 437, 441 fn. 2 (1998) (Nevada
23 Supreme Court reiterating the "**well-known principal that the public recording of real**
24 **estate deeds constitutes constructive notice of the transaction**". (Emphasis added)).
25

26 Similarly, Johnson also attempts to find solace in the case *Allen v. Webb*, 87 Nev.
27 261, 270, 485 P.2d 677, 682 (1971) for the proposition that the recordation of a deed is
28 not a bright line trigger for the running of a statute of limitations. Again, *Allen* does not
support Johnson's arguments in any fashion. In *Allen*, the document at issue was an
"unrecorded" deed of trust. Because the document was "unrecorded", it did not trigger
the bright line rule. *Id.* (plaintiffs "had no notice of the earlier unrecorded trust deed . . .
."). Lastly, Johnson will likely try to rely upon other unrelated or irrelevant case law to
avoid the application of Nevada's bright line rule, however, cases not addressing
Nevada's bright line rule are irrelevant. See e.g. *Webster v. Fall*, 266 U.S. 507, 511, 45
S. Ct. 148, 149, 69 L. Ed. 411 (1925) ("Questions which merely lurk in the record, neither

3. **CONSTRUCTIVE NOTICE MANDATES A PARTY SHOULD HAVE DISCOVERED A CAUSE OF ACTION AS A MATTER OF LAW.**

It is well-established hornbook law that constructive notice is equivalent to actual knowledge. This concept was discussed in *Parsons v. Tickner*, 31 Cal. App. 4th 1513, 1525, 37 Cal. Rptr. 2d 810, 816 (1995), a case where the plaintiff alleged fraud and tolling based on the discovery rule. The *Parson* court discussed why constructive notice applies in a fraud case as follows:

Under this rule **constructive and presumed notice or knowledge are equivalent to knowledge**. So, **when the plaintiff** has notice or information of circumstances to put a reasonable person on inquiry, or **has the opportunity to obtain knowledge from sources open to [her] investigation (such as public records or corporation books), the statute commences to run.**" (3 Witkin, Cal. Procedure (3d ed. 1985) Actions, § 454, pp. 484–485.)

Id. (emphasis added)); *Communities for a Better Env't v. Bay Area Air Quality Mgmt. Dist.*, 1 Cal. App. 5th 715, 724, 205 Cal. Rptr. 3d 12, 19 (2016) (discovery rule does not apply if "the plaintiff has actual or constructive notice of an injury . . ."). Accordingly, in the situation of a recorded deed, a party has constructive notice of the transaction as a matter of law because the party may easily look at the publicly recorded deeds.

Recordation of the Deed in this action placed Johnson on constructive notice of the contents of the Deed since she claims she was supposed to be on title to the Property. See *Pincay v. Andrews*, 238 F.3d 1106, 1109-110 (9th Cir. 2001) ("constructive notice begins to run the statute of limitations regardless of any fiduciary relationship between the injured and the injurer."); *Fahmy v. Jay-Z*, 835 F. Supp. 2d 783, 790 (C.D. Cal. 2011) ("The plaintiff is deemed to have had constructive knowledge if it had enough information to warrant an investigation which, if reasonably diligent, would have led to discovery of
brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents.")

1 the [claim.]"); *Alspach v. Swartzmiller*, 2020 WL 610799, *2 (Ohio Ct. App. 2020) ("the
2 statute put everyone on notice . . . all deeds were now constructive notice for purposes of
3 the discovery rule.").

4 **VI. DISMISSAL OF ALL CLAIMS IS MANDATORY.**

5 Claim 1 must be dismissed because of any and all of the following reasons: (i) no
6 contractual obligation upon Hatches to put Johnson on Deed as a secured party; (ii)
7 Johnson's alleged claim of a security interest agreement in the PSA is barred by the
8 waiver clause in the PSA; (iii) Johnson's alleged claim of a security interest agreement in
9 the PSA is barred by the integration/merger clause in the PSA; (iv) Johnson's alleged
10 claim of a security interest agreement in the PSA is barred by unambiguous terms of the
11 Note; (v) Johnson's alleged claim of a security interest is barred by the parol evidence
12 rule; (vi) Johnson's alleged claim of a security interest is barred by the statute of frauds;
13 and (vii) any alleged oral agreement for a security interest is barred by the statute of
14 limitations.
15

16 Claim 2 fails to trigger this Court's subject matter jurisdiction and must be
17 dismissed as a matter of law.
18

19 Claims 3 through 9 must be dismissed as a matter of law because the date of
20 recordation of the Deed is undisputed. Constructive notice is applied as a matter of law
21 against Johnson. Merely because Johnson now claims ignorance of the contents of the
22 Deed is irrelevant and immaterial to the application of the statutes of limitations against
23 her. *Pincay v. Andrews*, 238 F.3d 1106, 1110 (9th Cir. 2001) ("[plaintiffs] had constructive
24 notice of their injuries prior to 1985 as a matter of law. Thus, they cannot prevail on their
25 fraudulent concealment claim."). As discussed below, claims 3 through 9 (and also 1 to
26 the extent Johnson alleges some non-existent oral agreement) are barred because of the
27

1 applicable statute of limitations and must be dismissed. *Bemis v. Bemis*, 114 Nev. 1021,
2 967 P.2d 437, 439 (1998) ("A court can dismiss a complaint for failure to state a claim
3 upon which relief can be granted if the action is barred by the statute of limitations.");
4 *Kellar v. Snowden*, 87 Nev. 488, 491, 489 P.2d 90, 92 (1971) ("When the defense of the
5 statute of limitations appears from the complaint itself a motion to dismiss is proper.").

6
7 **A. 1ST CLAIM "BREACH OF PSA" MUST BE DISMISSED.**

8 When faced with the original Motion to Dismiss, Johnson redrafted her Complaint
9 trying to find a way to avoid dismissal on a statute of limitations basis. Johnson now
10 asserts a breach of the PSA because a written contract claim has a six-year statute of
11 limitations. Of critical note, Johnson alleges there are supposedly two (2) different
12 agreements working in tandem to under which Johnson was supposed to be a "joint
13 owner" of the Property as follows: "Pursuant to the PSA, **and** the agreement of the
14 parties, Kari was to be a joint owner of the Property" Am. Compl., ¶25 (emphasis
15 added); ¶67 (same). Accordingly, Johnson's own pleading recognizes that the PSA does
16 not contain any contractual provision requiring Hatches to put Johnson on the Deed as a
17 secured party. Instead, as alleged by Johnson, there is some other alleged oral
18 agreement that allegedly contains that contractual duty.
19

20
21 However, Johnson's 1st claim asserts a specific breach of the PSA. There exists
22 no claim for breach of the PSA as discussed below. Johnson's rudimentary attempt to
23 avoid dismissal by generically alleging a breach of the PSA, in conjunction with some
24 other oral agreement, should be rejected by this Court and not rewarded. As shown
25 herein, because the 1st claim is so factually and legally unsound, there are a multitude of
26 reasons dismissal of the claim is mandatory.
27

1 **1. The PSA Does Not Contain A Contractual Obligation Requiring**
2 **Hatches To Put Johnson On The Deed.**

3 There is no contractual obligation in the PSA requiring Hatches to put Johnson on
4 the Deed. Under the PSA, it was solely and exclusively the Seller's obligation to transfer
5 ownership of the Property by deed. Ex. 2, ¶6. There is nothing contained in the PSA that
6 contractually obligating the Hatches to include Johnson on title to the Property. *Id.*
7 Dismissal of this claim is mandatory because no claim for breach of contract exists. *Alam*
8 *v. Reno Hilton Corp.*, 819 F.Supp. 905, 909 (D. Nev. 1993) ("Where there is a complete
9 failure of proof concerning an essential element of the nonmoving party's case, all other
10 facts are rendered immaterial, and the moving party is entitled to judgment as a matter of
11 law."). Because no contractual duty exists by and between Hatches and Johnson under
12 the PSA, *a fortiori* there can be no breach and this claim fails as a matter of law.
13

14 **2. Johnson's Claim Is Barred By The Express Waiver Of The PSA.**

15 The PSA contains an express waiver and consent that no other agreement relating
16 to the Property exists as follows:
17

18 **The entire Agreement between Buyer and Seller must be expressed in**
19 **writing. Therefor, Buyer shall write in below any representations or**
20 **promises which are not set out in this Agreement . . . and upon which Buyer**
21 **is relying in making this purchase, and if there are none Buyer shall so**
22 **indicate.**

23 **NONE.**

24 Ex. 2, ¶10(a) (bold). Johnson personally initialed this clause. *Id.* Johnson is bound by
25 her admission that there is no agreement for her to be on title as security for her Loan
26 contained in the PSA. Again the 1st claim fails as a matter of law.
27

28 ///

///

1 **3. Johnson's Claim Is Barred By The Express Integration/Merger**
2 **Clause In The PSA.**

3 The PSA also contains an integration/merger clause which states that there is no
4 agreement by and between Hatches and Johnson to include her on title to the Property as
5 security for repayment of the Note as follows:

6 BUYER ACKNOWLEDGES THAT THERE ARE NO UNDERSTANDINGS,
7 REPRESENTATIONS OR PROMISES OF ANY KIND THAT HAVE BEEN MADE
8 TO INDUCE THE EXECUTION OF THIS AGREEMENT AND THAT AGREEMENT
9 SETS FORTH IN FULL THE ENTIRE AGREEMENT BETWEEN THE PARTIES.
10 BUYER FURTHER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY
11 ORAL AGREEMENT, STATEMENT, REPRESENTATION OR OTHER PROMISE
12 THAT IS NOT EXPRESSED IN WRITING IN THIS CONTRACT.

13 *Id.* ¶10(b). This clause expressly states there are no other agreements relating to the
14 Property not contained in the PSA. This clause expressly states that it contains the entire
15 agreement of the parties.

16 Under Nevada law, an integration clause such as contained in paragraph 10(b)
17 holds "all prior negotiations and agreements are deemed merged in the written contract,
18 and parol evidence is not admissible to vary or contradict its terms." *Tallman v. First Nat.*
19 *Bank of Nev.*, 66 Nev. 248, 256-57, 208 P.2d 302, 306 (1949); see also *In re University*
20 *Place/Idaho Water Center Project*, 199 P.3d 102, 111 (Idaho 2008) ("extrinsic evidence of
21 prior or contemporaneous negotiations or conversations is not admissible to contradict,
22 vary, alter, add to, or detract from the terms of the contract. A written contract that
23 contains a merger clause is complete upon its face." (citation omitted)). Johnson is
24 bound by the integration/merger clause confirming there is no agreement for her to be on
25 title as security for her Loan contained in the PSA. Again the 1st claim fails as a matter of
26 law.

1 In addition, this claim fails because Johnson executed the Endorsement expressly
2 removing herself as a buyer under the PSA. Am. Compl., Ex. 5. Johnson claims that the
3 Endorsement should not be enforced against her because (i) she does not remember
4 signing it; (ii) does not "believe" it contains her signature; (iii) does not have the Seller's
5 signature on it; and (iv) even though the Endorsement is valid "the deal" remained the
6 same. Am. Comp., ¶14. Each of these contentions fail as a matter of law.

7
8 First, whether Johnson remembers signing the Endorsement is irrelevant to its
9 validity. *Pentax Corp. v. Boyd*, 111 Nev. 1296, 1299, 904 P.2d 1024,1026 (1995)
10 ("Boyd's failure to read the guarantee is not relevant in determining its validity."). Second,
11 Johnson's "belief" is nothing more than a conclusory statement and is not a factual
12 statement that can defeat a motion to dismiss.⁹ Third, the PSA states any Endorsement
13 signed by any one buyer "is deemed to be authorized and accepted by all signatories to
14 the Agreement who have signed as Buyer." Ex. 2, ¶18(m). Accordingly, the Seller does
15 not sign the Endorsement and any single signature on the Endorsement makes is valid
16 and enforceable. *Id.* In this case, the Hatches and Johnson all signed the Endorsement
17 even though any one (1) signature was all that was required. Lastly, Johnson admits that
18 even though the Endorsement is valid, "the deal" that she was supposed to be a secured
19 party under the Note "remained the same." This unknown "deal" is not contained in any
20 written form and is barred by all the same reasons stated herein.

21
22
23
24
25 ⁹ See e.g., *King v. United Parcel Serv., Inc.*, 152 Cal. App. 4th 426, 433, 60 Cal. Rptr. 3d
26 359, 366 (2007) ("plaintiff's subjective beliefs . . . do not create a genuine issue of fact; nor
27 do uncorroborated and self-serving declarations."); *Humana of Kentucky, Inc. v. Seitz*, 796
28 S.W.2d 1, 3 (Ky. 1990) ("Belief is not evidence and does not create an issue of material
fact.").

4. Any Claim Of A Security Interest Under The PSA Is Barred By The Clear And Unambiguous Terms Of The Note.

Independent of the terms of the PSA, Johnson ignores that the terms of the Note are clear and unambiguous. The Note is unsecured. Regardless of what the PSA may say, there cannot be any breach of a contractual duty to put Johnson on title as security when the Note is expressly unsecured. *Davis v. Beling*, 128 Nev. 301, 278 P.3d 501, 515 (2012) ("the initial focus is on whether the language of the contract is clear and unambiguous; if it is, the contract will be enforced as written."). The Court cannot blue pencil the Note under the guise of interpreting the PSA to make Johnson a secured party. *Golden Rd. Motor Inn, Inc. v. Islam*, 132 Nev. 476, 483, 376 P.3d 151, 156 (2016) ("[w]e are not free to modify or vary the terms of an unambiguous agreement."). Again the 1st claim fails as a matter of law.

5. The Parol Evidence Rule Bars Johnson's Claim.

The terms of the Note are clear and unambiguous and it is unsecured. The parol evidence rule bars Johnson's attempt to rewrite the terms of the Note to make it a secured note. *Sandy Valley Associates v. Sky Ranch Estate Owners Ass'n*, 117 Nev. 948, 953-954, 35 P.3d 964, 967-968 (2001) ("When a contract is clear on its face, it will be construed from *954 the written language and enforced as written. Parol evidence is not admissible to vary or contradict the clear and unambiguous terms of a written agreement."). Again the 1st claim fails as a matter of law.

6. Nevada's Statute of Frauds Bars Johnson's claim.

Nevada's statute of fraud states that an agreement that will last longer than one (1) year is void unless it is in writing. NRS 111.220(1) (contract void "that, by the terms, is not to be performed within 1 year from the making thereof."). There is no written

1 agreement that purports to give Johnson a temporary ownership in the Property as
2 security for repayment of the Note. The Note's amortization schedule lasts for almost 26
3 years! Am. Comp., Ex. 3. As a matter of law, because there is no written agreement that
4 complies with Nevada's statute of frauds, any alleged agreement to make Johnson a joint
5 owner as security for the repayment of the Loan for a 26-year time period is void and
6 unenforceable as a matter of law. Again the 1st claim fails as a matter of law.
7

8 **7. Any Alleged Oral Agreement is Barred by the Four-Year Statute**
9 **of Limitations.**

10 Johnson alleges there is some undefined "other agreement" wherein she claims
11 she was supposed to be a temporary owner as security while the Note was being paid.
12 However, any such oral agreement is barred by the four-year statute of limitations. NRS
13 11.190(1)(b) (setting a four-year statute of limitations for "[a]n action upon a contract,
14 obligation or liability founded upon an instrument in writing . . ."). Again the 1st claim
15 fails as a matter of law.
16

17 **B. 2ND CLAIM "BREACH OF NOTE" BARRED.**

18 Johnson's 2nd claim asserts a claim for breach of contract of the Note.¹⁰ Because
19 the Note is a written document, this claim has a six-year statute of limitations. NRS
20 11.190(1)(a)). However, even though this breach of contract claim has been brought
21 within the statute of limitation, this Court lacks subject matter jurisdiction due to the failure
22 to satisfy this Court's monetary threshold.
23

24 ///

25 ///

26 _____
27 ¹⁰ Johnson withdrew her previous 2nd Claim clearly recognizing the law does not
28 recognize a claim for "demand on loan documents". This behavior merely emphasizes
the meritless nature of this action and the multitude of defects mandating dismissal.

1 an installment contract. Further, the case law cited by Johnson is facially inapplicable to
2 established Nevada law.

3 In *Cain v. Price*, 134 Nev. 193, 198, 415 P.3d 25, 30 (2018), the Nevada Supreme
4 Court adopted section 243 of the Restatement (Second) of Contracts Section 243 (Am.
5 Law. Inst. 1981).¹¹ Section 243(3) states that a breach of an installment contract whether
6 or not followed by repudiation, "does not give rise to a claim for damages for total breach"
7 as follows:
8

9 (3) Where at the time of the breach the only remaining duties of
10 performance are those of the party in breach and are for the payment of money in
11 installments not related to one another, his **breach by non-performance as to
less than the whole, whether or not accompanied or followed by a
repudiation, does not give rise to a claim for damages for total breach.**

12 *Id.* (emphasis added). Comment c then goes on to explain that "a breach as to any
13 number less than the whole of such installments gives rise to a claim merely for damages
14 for partial breach." *Id.* As this language makes clear, anticipatory repudiation does not
15 apply to payment of an installment note.
16

17 Dispositively, the Restatement (Second) of Contracts even provides useful
18 illustrations for lawyers to follow when trying to determine if an anticipatory repudiation
19
20
21

22 ¹¹ In addition to the adoption of Section 243, Nevada has adopted a multitude of other
23 Restatement (Second) of Contracts provisions. *Cain v. Price*, 134 Nev. 193, 197, 415
24 P.3d 25, 30 (2018) (citing to Restatement (Second) of Contracts §§ 237, 309, 347);
25 *Dynalectric Co. of Nevada v. Clark & Sullivan Constructors, Inc.*, 127 Nev. 480, 483-485,
26 255 P.3d 286, 288-289 (2011) (citing Restatement (Second) of Contracts §§ 90, 351,
27 352); *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 378, 283 P.3d 250, 255
(2012) (citing Restatement (Second) of Contracts § 131); *A.C. Shaw Const., Inc. v.*
28 *Washoe Cty.*, 105 Nev. 913, 914, 784 P.2d 9, 9 (1989) (citing Restatement (Second) of
Contracts §205). For most attorneys, it appears well-known Nevada typically follows the
Restatement (Second) of Contracts.

1 applies to installment contracts in Nevada. When one reads the illustrations, it is clear
2 that *anticipatory repudiation does not apply to installment contracts*:

3 4. A borrows \$10,000 from B and promises to repay with interest in ten
4 monthly installments. A unjustifiably fails to pay the first four installments. B has a
5 claim against A merely for damages for partial breach for non-payment of the four
6 unpaid installments. The result is the same even if A repudiates by telling B that
7 he will not make the payments.

8 5. A, an insurer, issues a policy of disability insurance to B under which
9 monthly payments are to be made to B and the payment of additional premiums
10 waived if B is totally and permanently disabled. B suffers total and permanent
11 disability. A makes monthly payments for a year and then unjustifiably fails to
12 make further payments. After A has been in default for a year, B sues A. B has a
13 claim against A merely for damages for partial breach for non-payment during the
14 second year. The result is the same even if A repudiates by telling B that he will
15 not make the payments.

16 Restatement (Second) of Contracts §243, Illustrations 4 and 5. Accordingly, Nevada
17 applies section 243 which clearly and unmistakably states that anticipatory repudiation
18 does not apply to an installment contract. Accordingly, Johnson's 2nd claim fails to trigger
19 this Court's subject matter jurisdiction as a matter of law and must be dismissed.

20 **3. Johnson Relies On Inapplicable Law Which**
21 **Contravenes Precedential Controlling Law Of**
22 **Nevada.**

23 As stated above, Johnson also relies upon the case *LeTarte v. W. Side Dev., LLC*,
24 855 A.2d 505, 509 (2004) for the proposition that a party can anticipatorily repudiate a
25 contract. While there is controlling Nevada law demonstrating Johnson's position is
26 facially incorrect, *LeTarte* also demonstrates it is not applicable to Nevada because the
27 *Le Tarte* court held: "we declined to follow the Restatement [(Second of Contracts)] since
28 it did not meet "the practical realities of such cases as this one." *Le Tarte* does not follow
the Restatement (Second) of Contracts §243—Nevada does. Johnson's arguments are
baseless.

1 **4. This Court's Monetary Subject Matter Threshold for Subject**
2 **Matter Jurisdiction is \$15,000.**

3 The district courts are granted original jurisdiction of all cases except those
4 specifically under the purview of the justices' courts. Nev. Const. art. 6, § 6(1).¹² NRS
5 4.370 states: "justice courts have jurisdiction of the following civil actions . . . in actions
6 arising on contract for the recovery of money only, if the sum claimed, exclusive of
7 interest, does not exceed \$15,000." Based upon the undisputed facts as alleged by
8 Johnson, it is a legal certainty that her breach of contract claim falls well-below the
9 subject matter threshold of \$15,000 necessitating mandatory dismissal of the 2nd claim.
10 *Morrison v. Beach City LLC*, 116 Nev. 34, 38, 991 P.2d 982, 984 (2000) (dismissal for
11 lack of subject matter jurisdiction required when it is a "legal certainty that the claim is
12 worth less than the jurisdictional amount.").

13
14 **C. 3RD CLAIM "BREACH OF CONFIDENTIAL RELATIONSHIP" BARRED.**

15 Johnson's 3rd claim asserts a claim for breach of a confidential relationship. This
16 claim is barred due to the applicable three-year statute of limitations. The existence of a
17 claim for a breach of a confidential relationship was first identified in the case *Perry v.*
18 *Jordan*, 111 Nev. 943, 947, 900 P.2d 335, 338 (1995) when the Nevada Supreme Court
19 held:
20

21 When a confidential relationship exists, the person in whom the special trust
22 is placed owes a duty to the other party similar to the duty of a fiduciary, requiring
23 the person to act in good faith and with due regard to the interests of the other
party.

24 *Id.* The *Perry* court confirmed that the claim for breach of a confidential relationship
25

26 _____
27 ¹² Nev. Const. art. 6, § 6(1) states: "The District Courts in the several Judicial Districts
28 of this State have original jurisdiction in all cases excluded by law from the original
jurisdiction of justices' courts."

1 derives from the "duty of a fiduciary".

2 Claims arising out of breach of a fiduciary duty are subject to a three-year statute
3 of limitations. *Stalk v. Mushkin*, 125 Nev. 21, 29, 199 P.3d 838, 843-44 (2009) ("Nevada
4 cases hold[] that claims for breach of fiduciary duty are akin to claims for fraud and are
5 therefore subject to the three-year limitation on actions in NRS 11.190(3)(d)."); *Nevada*
6 *State Bank v. Jamison Fam. P'ship*, 106 Nev. 792, 799, 801 P.2d 1377, 1382 (1990) ("A
7 breach of fiduciary duty is fraud and, therefore, the three-year statute of limitation set forth
8 in NRS 11.190(3)(d) is applicable."); *Golden Nugget, Inc. v. Ham*, 98 Nev. 311, 313, 646
9 P.2d 1221, 1223 (1982) ("The applicable statute of limitations for breach of fiduciary duty
10 is the three year period provided by NRS 11.190(3)(d).").
11

12 **D. 4th CLAIM "UNJUST ENRICHMENT" BARRED.**

13 Johnson's 4th claim asserts a claim for unjust enrichment for breach of the Note.
14 This claim has a four-year statute of limitations. NRS 11.190(2)(c) (setting a four-year
15 statute of limitations for "[a]n action upon a contract, obligation or liability not founded
16 upon an instrument in writing."). This claim is barred as a matter of law since the claim
17 was asserted after the four-year statute of limitations expired on August 5, 2019.
18

19 In addition, as an independent basis, a claim for unjust enrichment is also barred
20 because Johnson cannot assert a claim for unjust enrichment when there exists a
21 contract that Johnson claims is enforceable, *i.e.*, the Note. *Leasepartners Corp. v. Robert*
22 *L. Brooks Trust*, 113 Nev. 747, 755-756, 942 P.2d 182, 187 (1997) ("An action based on a
23 theory of unjust enrichment is not available when there is an express, written contract,
24 because no agreement can be implied when there is an express agreement. A party is
25 barred from seeking equitable relief such as unjust enrichment when the party has a legal
26 claim."). While Johnson claims that she can "elect" remedies at a later date, a claim for
27

1 unjust enrichment is not a remedy. It is an equitable claim that is barred by Johnson's
2 legal claim for breach of Note. Regardless, this claim fails because of the four-year
3 statute of limitations.

4 **E. 5TH CLAIM "FRAUD IN THE INDUCEMENT" BARRED.**

5
6 Johnson's 5th claim asserts a claim for fraud in the inducement. This claim has a
7 three-year statute of limitations. NRS 11.190(3)(c) (setting a three-year statute of
8 limitations for "an action for relief on the ground of fraud"). This claim is barred as a
9 matter of law since the claim was asserted after the three-year statute of limitation expired
10 on August 5, 2018. Johnson is deemed as a matter of law to have constructive notice of
11 the contents of the Deed. Therefore, in this instance, there is no tolling of any statute of
12 limitations for fraud. *Bemis v. Bemis*, 114 Nev. 1021, 1026, fn.2, 967 P.2d 437, 441 fn. 2
13 (1998) ("the public recording of real estate deeds constitutes constructive notice of the
14 transaction").
15

16 **F. 6TH CLAIM "EQUITABLE LIEN" BARRED.**

17 Johnson's 6th claim wrongfully asserts as a "claim" for the imposition of a remedy
18 of an "equitable lien". An equitable lien is not a substantive claim for relief. Instead, it is
19 merely a remedy that is applied in the absence of a legal remedy.¹³ *Maki v. Chong*, 119
20 Nev. 390, 394, 75 P.3d 376, 379 (2003) ("Equitable liens become necessary on account
21

22
23 ¹³"Equitable relief is premised upon the unavailability of an adequate legal remedy."
24 *Vercellono v. Gerber Products Co.*, No. CIVA-09-CV-2350 (DMC), 2010 WL 455388, at *9
25 (D.N.J. Feb. 3, 2010) (applying Nevada law and citing *Las Vegas Fetish & Fantasy*
26 *Halloween Ball, Inc. v. Ahern Rentals*, 182 P.3d 764, 767 n. 14 (Nev. 2008). When a
27 plaintiff asserts a breach of contract, then a claim for damages is an adequate remedy.
28 *Id.* at *10 ("Plaintiffs exclusively assert pure economic harm. Therefore, the Court
concludes that a claim for damages affords Plaintiffs an adequate remedy if Plaintiffs
prevail."). Therefore, "equitable relief is precluded where an adequate legal remedy
exists. *Id.* at *9. Because a legal remedy exists in favor of Johnson, an equitable remedy
of an "equitable lien" is barred as a matter of law.

1 of the absence of similar remedies at law.” (citation omitted)). Accordingly, a “claim” for
2 an equitable lien is defective pleading and dismissal is mandated since this remedy is not
3 a claim.¹⁴

4
5 Independently, and even if the remedy of an “equitable lien” is treated as a “claim”
6 then at best a four-year statute of limitation could be argued to apply. NRS 11.190(2)(c)
7 (setting a four-year statute of limitations for “[a]n action upon a contract, obligation or
8 liability not founded upon an instrument in writing.”). Even assuming this Court treated an
9 “equitable lien” as a legal claim, it is again barred as a matter of law by the application of
10 the statute of limitations.

11 **G. 7TH CLAIM “CONSTRUCTIVE TRUST” BARRED.**

12
13 Johnson’s 7th claim wrongfully asserts as a “claim” for the imposition of a remedy
14 of a “constructive trust”. Identical to an equitable lien, a constructive trust is not a
15 substantive claim for relief, it is instead merely a remedy that may be available in the
16 event a valid claim is successful. *Locken v. Locken*, 98 Nev. 369, 650 P.2d 803, 804-05
17 (1982) (a constructive trust is “a remedial device”). *Am. Master Lease LLC v. Idanta*
18 *Partners, Ltd.*, 225 Cal. App. 4th 1451, 1485, 171 Cal. Rptr. 3d 548, 575 (Cal. Ct. App.
19 2014), as modified (May 27, 2014) (“[i]mposition of ‘[a] constructive trust is an equitable
20 remedy”).

21
22 Requests seeking to impose a constructive trust as a remedy are subject to the
23 applicable statutes of limitations on the underlying substantive claim. *Embarcadero Mun.*
24 *Imp. Dist. v. County of Santa Barbara*, 88 Cal. App. 4th 781, 793, 107 Cal. Rptr. 2d 6, 15

25
26 ¹⁴ *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 440 F.Supp.2d 1184, 1197
27 (D. Nev. 2006) (“Where a plaintiff can maintain an action at law and the legal remedy is
adequate, resort to equity is not appropriate.”).

(Cal. Ct. App. 2001) (“an action seeking to establish a constructive trust is subject to the limitation period of the underlying substantive right.”). When the substantive right is barred by a statute of limitations, then there is no ability to obtain a constructive trust as a remedy. *Davies v. Krasna*, 14 Cal. 3d 502, 516, 535 P.2d 1161, 1170, 121 Cal. Rptr. 705, 714 (Cal. 1975) (“A constructive trust is not a substantive device but merely a Remedy’ . . . an action seeking to establish a constructive trust is subject to the limitation period of the underlying substantive right. . . . If that substantive right is barred by the statute of limitations, as here, the remedy necessarily fails.”).

Independently, and even if the remedy of a “constructive trust” is treated as a “claim” then at best a four-year statute of limitation could be argued to apply. NRS 11.190(2)(c) (setting a four-year statute of limitations for “[a]n action upon a contract, obligation or liability not founded upon an instrument in writing.”). Again, even assuming this Court treated a “constructive trust” as a stand alone claim, it is also barred as a matter of law.

H. 8TH CLAIM “INJUNCTIVE RELIEF” BARRED.

Johnson’s 8th Claim again wrongfully asserts as a “claim” the request for the remedy of “injunctive relief”.¹⁵ Identical to an equitable lien and a constructive trust, injunctive relief is exactly what it says—relief, not a legally recognized claim for relief. Independently, and even if the remedy of a “constructive trust” is treated as a “claim” then at best a four-year statute of limitation could be argued to apply. NRS 11.190(2)(c) (setting a four-year statute of limitations for “[a]n action upon a contract, obligation or

¹⁵ While local custom is to separately plead injunctive relief as a stand alone “claim”, it is not a claim. It is merely a mechanism to alert litigants that injunctive relief may be sought and functions no differently than a “Prayer for Relief” in a complaint.

1 liability not founded upon an instrument in writing.”). Again, even assuming this Court
2 treated “injunctive relief” as a claim, it is also barred as a matter of law.

3
4 **I. 9TH CLAIM “DECLARATORY RELIEF” BARRED.**

5 Johnson’s 9th Claim asserts declaratory relief as a “claim” stating: “Plaintiff is
6 entitled to a declaration that she is to be added to the deed” Am. Comp., ¶168.
7 Plaintiff provides no support for this contention. But, based upon other allegations, this
8 assertion merely seeks to reiterate that Johnson claims this should be granted as an
9 equitable remedy. However, as repeatedly stated, the Court has no authority to grant
10 equitable remedies when legal remedies exist.

11 Further, *County of Clark v. Upchurch*, 114 Nev. 749, 753, 961 P.2d 754, 757
12 (1998) held that declaratory relief “is available only if: (1) a justiciable controversy exists
13 between persons with adverse interests” The only potentially justiciable controversy,
14 that is not barred by the applicable statutes of limitations and/or the limitations of this
15 Court’s subject matter jurisdiction, is the new 1st Claim for Relief for breach of the PSA.
16 However, that breach of contract claim does not allow for recovery of any injunctive relief
17 as a matter of law. Accordingly, there is no basis in the law for declaratory relief adding
18 Johnson to the Deed and this “claim” must also be dismissed.
19

20
21 **VII. CONCLUSION.**

22 The Deed was recorded on **August 6, 2015**. As a matter of law, Johnson is
23 charged with constructive notice of the contents and existence of the Deed as of that date
24 and all statutes of limitation immediately commenced to run.

25 Claim 1 does not state a claim for which relief can be granted and must be
26 dismissed—for any of seven reasons detailed above. Claim 2 does not trigger this
27

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Reno, NV 89509
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1 Court's subject matter jurisdiction. Claims 3 through 9 are barred by the applicable
2 statutes of limitations.

3 **AFFIRMATION:** This document does not contain the social security number of any
4 person.
5

6 DATED this 30th day of March, 2021.

7 SIMONS HALL JOHNSTON PC
8 6490 S. McCarran Blvd., Ste. F-46
9 Reno, NV 89509

10 By: 

11 MARK G. SIMONS
12 ANTHONY L. HALL
13 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), 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 **MOTION TO DISMISS VERIFIED FIRST AMENDED COMPLAINT** on all parties to this action by the method(s) indicated below:

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

☒ I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Stefanie T. Sharp
Clayton P. Brust
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 30 day of March, 2021.


Employee of Simons Hall Johnston PC

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Reno, NV 89509
Phone: (775) 785-0088

EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Transcript	27
2	PSA	13

EXHIBIT 1

EXHIBIT 1

1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 KARI A. JOHNSON,)
12)
12 Plaintiff,)
13)
13 vs.) Case No. CV21-00246
14)
14 MICHAEL EDWARD HATCH and) Department 7
15 ALISHA SUZANNE HATCH,)
15)
16 Defendants.)
16

17
18
18 TRANSCRIPT OF PROCEEDINGS
19
20 HEARING
21
21 March 22, 2021
22
22 1:30 p.m.
23
23 Reno, Nevada

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

2 For the Plaintiff:

3 SIMONS HALL JOHNSTON
4 By: MARK SIMONS, ESQ.
5 6490 S. McCarran
6 Reno, Nevada

7 For the Defendant:

8 ROBISON SHARP SULLIVAN & BRUST
9 By: HANNAH WINSTON, ESQ.
10 71 Washington
11 Reno, Nevada
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RENO, NEVADA, March 22, 2021, 1:30 p.m.

--oOo--

THE COURT: Good afternoon, folks, welcome.
Please go ahead and remain seated. This is case CV21-00246,
entitled, generally, Kari Anne Johnson versus Alisha Suzanne
and Michael Edward Hatch, et al. This is the time and date
set for a hearing on a motion for emergency lis pendens.

Let me place some general issues into the record.
This session of Court is taking place a March 22nd, 2021, at
1:28 p.m. and being held remotely because the closure of the
courthouse to in person hearings at 75 Court Street due to
the national and local emergency caused by COVID 19. The
Court and all the participants are appearing through
simultaneous audio/visual transmission means.

I'm physically located in Washoe County, Nevada,
which is the site of today's court session. I'm joined by
Ms. Kim Oates, the court clerk, who is located in Washoe
County, Nevada, and Ms. Stephanie Koetting, the court
reporter, who also located in Washoe County, Nevada.

This session of Court is open to the public for
viewing and listening through a simultaneous audio/visual
link found at the Second Judicial District Court website.

Any person who seeks to make an appearance this

1 afternoon, I ask at the time of their first appearance to
2 please state their full name and the county and state from
3 which they appear. If at any time during this hearing any of
4 the parties can't see or hear other participants in the case,
5 please let me know immediately and we'll work through the
6 simultaneous audio/visual issues.

7 Counsel, as I call on each of you in turn, I'm
8 going to ask each of you if you received notice that this
9 hearing is taking place pursuant to Nevada Supreme Court
10 Rules Part Nine relating to simultaneous audio/visual
11 transmissions in civil proceedings and consistent with the
12 Second Judicial District Court Orders and Administrative
13 Orders related to the COVID-19 emergency.

14 Finally, tell me if you have any objection to
15 proceeding in this manner this afternoon. Let me go around
16 the virtual room sort of in the order that you appear on my
17 screen. Ms. Sharp, good afternoon to you, ma'am.

18 MS. SHARP: Good afternoon, your Honor. And, yes,
19 I do confirm that I acknowledge that this hearing is being
20 conducted remotely and I agree to it being conducted
21 remotely.

22 THE COURT: Are you in Washoe County, Nevada?

23 MS. SHARP: Yes, I am.

24 THE COURT: Ms. Winston, good afternoon to you,

1 ma'am.

2 MS. WINSTON: Good afternoon, your Honor. I did
3 receive notice and have no objection. I am appearing from
4 San Diego County, California today.

5 THE COURT: Thank you. We won't hold that against
6 you, Ms. Winston, because it's raining and threatening to
7 snow here and I doubt it's doing that in San Diego.
8 Mr. Brust, good afternoon, sir. You're on mute, Mr. Brust.
9 Every conversation nowadays has to begin with the phrase
10 you're on mute.

11 MR. BRUST: Good afternoon, your Honor. I did
12 receive notice and I have no objection. I am in Washoe
13 County, Nevada.

14 THE COURT: Thank you very much. Mr. Simons, good
15 afternoon, sir.

16 MR. SIMONS: Good afternoon, your Honor. I, too,
17 am located -- for the record, it's Mark Simons, Washoe
18 County. I did receive notice and consent to proceeding as we
19 are today.

20 THE COURT: I intend this afternoon, then, to
21 hear, Mr. Simons, your motion to expunge the lis pendens
22 lodged against your clients' property. To my eye, the motion
23 to dismiss that was filed at the same time as the lis pendens
24 has been mooted by the filing of an amended complaint on

1 March 16th. Do you agree, Mr. Simons?

2 MR. SIMONS: Yes, I do, your Honor.

3 THE COURT: So we'll focus on the motion to
4 expunge the lis pendens. It is your motion, Mr. Simons.
5 Please go ahead.

6 MR. SIMONS: Thank you. Actually, this is one of
7 the simplest motions I've had in a long time. We have a deed
8 that was recorded, that's Exhibit 5 to the verified
9 complaint, August 6th, 2015. The complaint was subsequently
10 filed February 10th, 2021, which is over five years after.

11 What the complaint states is a bunch of causes of
12 action and then a be of bunch of claims for relief. We have
13 to see that the first complaint was not very artfully crafted
14 and had some claims that were either nonexistent or were
15 captioned as claims, although they're remedies, and we all
16 know the distinctions between claims and remedies.

17 The amended complaint sought to correct some of
18 those deficiencies, but didn't do so. And what we have is at
19 the heart of this is a claim for breach of contract. They
20 want to get paid some money and then they're trying to
21 shoehorn equitable remedies, such as an equitable lien,
22 constructive trust or injunctive relief, which as a matter of
23 law, as we briefed in our reply, remedies do not support a
24 lis pendens. They just can't.

1 It's like an injunction and this Court is aware
2 when you have an adequate remedy at law and a breach of
3 contract, you don't grant injunctive relief. That's why
4 preliminary injunctions are denied all the time. That's all
5 we have in this case.

6 Under their breach of contract claim, they're
7 requesting an injunction that you slap Johnson's name on
8 title. Well, you can't really do that, because that's an
9 injunctive remedy and you're changing what would be a
10 contract. While they later if they had a claim that would
11 support some type of injunctive relief, but they don't.

12 The only other thing that really is relevant is
13 the Nevada recording statutes as well as the caselaw
14 applicable. They're on constructive notice. That runs the
15 statute of limitations. You're going to hear some arguments
16 where they try to differentiate and they try to rely on Bemis
17 or Allen.

18 Bemis was a divorce decree, not a deed. Allen was
19 an unrecorded deed. So those cases actually are not
20 applicable to the enforcement and applicability of Nevada's
21 bright line recording statute and caselaw putting them on
22 notice of when their statute of limitation ran. So that's
23 it. I mean, I stand on my motion. It's straightforward.

24 THE COURT: Thank you. In opposition, Ms. Sharp,

1 Mr. Brust, Ms. Winston, who is going to argue?

2 MS. WINSTON: I'll be arguing, your Honor. This
3 is Hannah Winston.

4 THE COURT: Please go ahead.

5 MS. WINSTON: So today plaintiff has the burden to
6 prove by affidavits or otherwise that the lis pendens was
7 properly recorded. So plaintiff will submit as evidence to
8 this Court all of their hearing exhibits identified and
9 submitted to the Court for today's hearing. That's the first
10 issue just to take care of that as we go through them.

11 The facts of the case are simple, and,
12 understandably, Mr. Simons didn't address the facts. But
13 they go like this: The defendants wanted to purchase a home.
14 They couldn't qualify for a conventional mortgage, so they
15 reach out to plaintiff, Kari Anne, their close childhood
16 friend and ask her to lend them the money to buy this new
17 construction in Damonte Ranch.

18 Plaintiff agrees, but on the condition that she be
19 named a joint owner to the property and that her name be on
20 the deed to the property. That's the agreement that's at
21 play in this case.

22 THE COURT: In fact, she asked for a copy of the
23 deed, correct?

24 MS. WINSTON: That is correct.

1 THE COURT: And she never got a copy of the deed,
2 correct?

3 MS. WINSTON: That is correct.

4 THE COURT: She never followed up to see what the
5 deed said?

6 MS. WINSTON: That is correct, your Honor. And to
7 address that issue of constructive notice, I've got sort of
8 an outline of my presentation, but if your Honor has
9 questions, obviously, interrupt me and I'll redirect to meet
10 your needs.

11 THE COURT: I appreciate that. Thank you for the
12 interruption. I'd like you to focus on this: I don't see
13 how your client is likely to prevail on her claims except
14 perhaps in equity, which is -- for which a lis pendens is a
15 tool that is barred by law, at least as I understand it.

16 And when I read her affidavit and she acknowledged
17 that the deed was important to her, that she expected to be
18 on the deed and that she'd asked for a copy of the deed,
19 would seem to me she will have a steep hill to climb to
20 prevail on any of her causes of actions that might otherwise
21 be time barred. So focus there, please.

22 MS. WINSTON: Okay. The first issue, your Honor,
23 is that this is a fraud case. So I think fraud cases are
24 always a bit of an uphill battle, as your Honor acknowledged.

1 And the difficult part about the case that will be shown in
2 discovery and in evidence at the appropriate time is that
3 there was this close, special relationship between the
4 parties where the plaintiff did trust the defendants.

5 And so when they enter this purchase contract and
6 receipt with Toll Brothers, that's what the agreement was
7 called to purchase the home, then Kari Anne, the plaintiff,
8 is named as a buyer of the property. And she's listed as a
9 buyer, because she's the only one with the money.

10 So she is undertaking all of these obligations and
11 she's, you know, making promises to Toll Brothers as part of
12 this purchase contract and receipt. And at the end of the
13 transaction, she doesn't have a reason to question whether
14 her name is on the deed, because that's the arrangement and
15 the understanding between the parties. And she trusts the
16 defendants that they're going to follow through with that.

17 THE COURT: I don't mean this -- I'm sorry to
18 interrupt again -- I don't mean this argumentatively, but I
19 mean it directly for purposes of arming you to address my
20 concerns, I understand that she alleges that, hey, I had the
21 money, I did what we all know we should never do, I loaned
22 money to my friends, and I expected to be on title.

23 And so when I read her affidavit saying, I trusted
24 my friends, I thought I was going to be on title, I even

1 asked for a copy of the deed, how is she going to overcome
2 the fact that she knew or had to know that there was a
3 question about title when she actually asked the question?

4 MS. WINSTON: Well, your Honor, asking the
5 question doesn't necessarily give rise to an inference that
6 she had a reason to suspect that the defendants didn't follow
7 through with their promises. This is at the end of the
8 transaction. She trusts them. She just wants all of the
9 documents to have in her records and they said we can't give
10 it to right now.

11 And the real issue, your Honor, is that this
12 recordation of the deed is not a per se start to the clock on
13 the statute of limitations for plaintiff. That is a question
14 of fact that needs to be determined at trial where this Court
15 has to look at the circumstances and say, is this reasonable?
16 Is it reasonable that she didn't go in and look at the deed
17 herself? But I --

18 THE COURT: I agree unequivocally there's a
19 question of fact. That's why I made clear I'm not going to
20 decide the motion to dismiss today. I just think because the
21 lens I have to view this issue through is whether or not
22 pursuant to NRS 14.0153 your clients are likely to prevail on
23 any of their claims and/or they have a fair chance of success
24 coupled with hardship.

1 And, again, without deciding the facts looking
2 through the lens of likely to prevail or a fair chance seems
3 to me very problematic for her to say, I was defrauded, which
4 may be the only claim, I'm not deciding it is, but may be the
5 only claim, that or a breach of contract, actually, is
6 perhaps the only claim that survives a statute of limitations
7 issue, it just seems very, very difficult for me to say that
8 your clients are likely to prevail. Please go ahead.

9 MS. WINSTON: Well, your Honor, I think we do have
10 to look at the full agreement, then, because, yes, it's a
11 promise to repay a loan, but it's also a promise that the
12 plaintiff is going to be a joint owner.

13 And I understand the argument that, you know, if
14 you have an adequate legal remedy, then you can't seek
15 equitable relief. But here the legal remedy is inadequate,
16 your Honor. There is no legal remedy to make our client a
17 joint owner of that property. That was the benefit of the
18 bargain that our plaintiff bargained for and she didn't get
19 it. And there isn't a legal remedy to make her an owner of
20 the property.

21 And it's interesting, because in the defendants'
22 supplement to their motion to expunge, they cite the Bank of
23 America v. Sataquoi property cases. And in that case, the
24 judge said Bank of America had a deed of trust recorded

1 against the property and a money judgment is not adequate
2 where the property was security for that deed of trust. And,
3 therefore, the judge allowed equitable claims and legal
4 claims to go forward.

5 And here it's the same type of issue. Plaintiff
6 is already owed that money. But she's also supposed to be a
7 title owner of the property. And there's no legal remedy
8 that is going to put her in that position.

9 So if plaintiff succeeds on her claims, which here
10 I think it's very obviously that there was an agreement in
11 place, the defendants have breached it, they have not
12 continued paying.

13 And the facts really are suspect, your Honor.
14 They enter this agreement in December of 2014 with Toll
15 Brothers. Kari Anne is listed as a buyer. Eight months
16 later, they have her sign this endorsement to agreement of
17 sale. The whole document is fishy.

18 First of all, an endorsement should be to the
19 purchase contract and receipt. That's what the purchase and
20 sale agreement was called. It was not called an agreement to
21 sale. So the title of this endorsement to sale is suspect.

22 It's also suspect, because the defendant, Alisha
23 Hatch, signed it as the seller. The purchase contract and
24 receipt did not allow any assignment or modification of it

1 unless all three parties, Toll, the Hatches and plaintiff
2 signed it, but here we have the defendant signing on behalf
3 of seller. And they just sort of slid it in here. Like,
4 it's okay you're going to sign this one last document that we
5 need to close.

6 And then what also needs to be acknowledged is
7 under the purchase contract and receipt, Kari Anne who has
8 the money remains liable under that purchase contract, but at
9 the very last second, Alisha Hatch removes her as a party.
10 It just doesn't make sense, your Honor.

11 THE COURT: Well, I grant to you that there are
12 factual questions. You know, the case is, of course, to my
13 eye -- I know the case less well than any of you, it likely
14 will unless and until it's tried in front of me. I grant you
15 that there are factual questions, but, again, my focus is
16 what is my sense of whether or not your clients can prevail
17 and I'm struggling there. Please go ahead.

18 MS. WINSTON: You know, your Honor, I think that
19 at this early stage in the proceedings, especially with only
20 having have filed the motion to expunge and the motion to
21 dismiss, the facts at this stage are taken as true. There
22 hasn't been a full evidentiary hearing. There hasn't been
23 discovery. And ultimately this Court may decide it's not
24 reasonable that plaintiff didn't discover her claims. But

1 here where there's this close relationship, there's this
2 implicit trust of the defendants, the transaction closes and
3 it's over and things proceed as normal.

4 And the defendants do begin making the payments on
5 the note and these -- you know, they're friends. They're
6 close. There's no reason for plaintiff to suspect that
7 something went awry, to suspect that the defendants didn't
8 uphold their promises and their agreements. There's nothing
9 to put plaintiff on inquiry notice that she needs to go check
10 the deed.

11 And I understand the Court's concern that she did
12 ask for a copy of the deed and the defendants said no. And
13 at this point, though, the allegations are plaintiff trusted
14 her friends. She trusted them that they followed through
15 with what the agreement would be.

16 And, you know, it's not common that one person
17 would give over \$650,000 to another person without any
18 security at all and that's really what having plaintiff be a
19 record owner was in this situation. It really was security
20 for repayment of the loan, because the agreement was as soon
21 as the loan is repaid, then plaintiff is taken off title to
22 the property.

23 So it makes sense. It makes sense that would be
24 the arrangement. What doesn't make sense and what means that

1 defendants will not prevail is that somebody would just give
2 someone else over \$600,000, be considered a purchaser of the
3 property, but then not be a record owner of the property.
4 That doesn't make sense.

5 And I think that just the facts and the equities
6 of the case show that plaintiff will prevail, because this is
7 not -- people don't just give other people over \$600,000 to
8 buy property without some sort of security for repayment.

9 THE COURT: Thank you. I believe I understand
10 that argument.

11 MS. WINSTON: With that, your Honor, you know, we
12 believe all the elements are satisfied for a lis pendens.
13 This action certainly affects title to real property, because
14 if this Court does grant the relief that plaintiff seeks, her
15 name will be on the title to the property. She will be a
16 record owner as originally agreed by the parties.

17 And the reason for a lis pendens is to put
18 potential purchasers on notice that somebody claims an
19 interest in the title to the property and that is what
20 plaintiff seeks by way of her complaint. She expressly asked
21 to be placed on title to the property and there's no legal
22 remedy that will give her that. And potential purchasers of
23 the property should have notice that that's what plaintiff
24 seeks in this case.

1 And she seeks it along with that money damages,
2 but that doesn't mean that the lis pendens was improperly
3 recorded. It was clearly recorded in good faith. And as I
4 mentioned, I think that plaintiff will ultimately prevail in
5 this action.

6 THE COURT: Mr. Brust, I see that you've raised
7 your hand. I'll tell you, Mr. Brust, I will not allow
8 multiple attorneys to make arguments on the same side of an
9 issue. I'll certainly give you an opportunity to correspond
10 with Ms. Winston or Ms. Sharp if you'd like for a few moments
11 before I return to Mr. Simons. Would you like that
12 opportunity?

13 MR. BRUST: Yes, your Honor, just briefly. Just
14 to address what your Honor seems to be --

15 THE COURT: But Ms. Winston needs to make the
16 argument, Mr. Brust.

17 MR. BRUST: I understand.

18 THE COURT: Go ahead.

19 Ms. Winston, please go ahead.

20 MS. WINSTON: So, your Honor, just one last thing
21 to add is that in the verified complaint and the first
22 amended complaint, which is also verified, the plaintiff did
23 allege that when she asked for the deed, the defendants
24 stated that it was given to the landscapers. And remember

1 that this was a new construction, so this isn't, you know, a
2 lawnmower. This is developing the entire property.

3 And so it was reasonable for plaintiff to think,
4 okay, the landscapers need this for maybe they're going to
5 record a lien if something goes wrong or they need to look at
6 the boundaries and that sort of thing.

7 And then just to wrap it up, the policy
8 implications here that it would take one question, can I get
9 the deed, and there's a seemingly valid explanation for why
10 the deed can't be given to her at that time, and then
11 everything else proceeds as normal under the terms of the
12 parties' agreement and where this relationship of trust
13 exists, to allow, you know, that one question to be
14 conclusive as to whether the plaintiff knew or should have
15 known of her claims really would be poor policy to set going
16 forward.

17 And I said that was the last thing, but I actually
18 have one additional comment that I would like to make.

19 THE COURT: You mean I couldn't rely on it when
20 you said you would be brief?

21 MS. WINSTON: I apologize, your Honor.

22 THE COURT: I'm teasing you, Ms. Winston. Please
23 go ahead.

24 MS. WINSTON: Just one additional note and that's