

Form 10
[Rule 3.25]

CLERK OF THE COURT
FILED

AUG 09 2017

Clerk's stamp JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER

1701 - 10545

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFF

ALBERTA TREASURY BRANCHES

DEFENDANTS

LENACO HOMES MASTERBUILDER INC., LENACO
PROPERTIES INC., ANGELO'S BUILDING
SUPPLIES 2015 INC., 1847443 ALBERTA LTD.,
1860808 ALBERTA LTD., 1901902 ALBERTA LTD.,
1909479 ALBERTA LTD., I&G HOLDINGS LTD.,
CONTE HOLDINGS INC., ISMAIL ALI NABOULSI,
also known as ISMAIL NABOULSI, also known as
ISH NABOULSI, GRACE MARIA NABOULSI, also
known as GRACE NABOULSI, and JOHN LUIGI
CONTESSA, also known as JOHN CONTESSA

DOCUMENT

STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

Dentons Canada LLP
Bankers Court
15th Floor, 850 - 2nd Street S.W.
Calgary, Alberta T2P 0R8

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File No.: 016026-1329

NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

The Parties

1. The Plaintiff, Alberta Treasury Branches ("**ATB**" or the "**Lender**") is a corporation established pursuant to the *Alberta Treasury Branches Act*, RSA 2000 c A-37, with offices throughout the province of Alberta.
2. The Defendant, Lenaco Homes Masterbuilder Inc. ("**LHMI**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
3. The Defendant, Lenaco Properties Inc. ("**LPI**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
4. The Defendant, Angelo's Building Supplies 2015 Inc. ("**Angelo's**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
5. The Defendant, 1847443 Alberta Ltd. ("**184**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta. 184 operates the Vivo restaurant located in Edmonton, Alberta.
6. The Defendant, 1860808 Alberta Ltd. ("**186**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
7. The Defendant, 1901902 Alberta Ltd. ("**902**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
8. The Defendant, 1909479 Alberta Ltd. ("**190**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
9. The Defendant, I&G Holdings Ltd. ("**I&G**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
10. The Defendant, Conte Holdings Inc. ("**Conte**"), is a corporation incorporated pursuant to the laws of the province of Alberta, and carries on the business of homebuilding in the province of Alberta.
11. The Defendant, Ismail Ali Naboulsi, also known as Ismail Naboulsi, also known as Ish Naboulsi ("**Ismail**"), is an individual ordinarily resident in the province of Alberta, and has provided guarantees of the obligations of some of the Defendants to the Lender and related security.
12. The Defendant, Grace Maria Naboulsi, also known as Grace Naboulsi ("**Grace**"), is an individual ordinarily resident in the province of Alberta, and has provided guarantees of the obligations of some of the Defendants to the Lender and related security.
13. The Defendant, John Luigi Contessa, also known as John Contessa ("**John**"), is an individual ordinarily resident in the province of Alberta, and has provided guarantees of the obligations of some of the Defendants to the Lender and related security.

The Commitment Letters and Guarantees

(a) LHMI

14. The Lender extended credit facilities and related services to LHMI pursuant to a Commitment Letter dated November 4, 2015, as amended from time to time (the "**LHMI Commitment Letter**").
15. LHMI borrowed funds pursuant to the terms of the LHMI Commitment Letter, and also as an overdraft of the facilities provided by the LHMI Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$22,483,761.89 in respect of funds borrowed under the LHMI Commitment Letter and overdraft thereof (the "**LHMI Loan Indebtedness**").
16. Several of the Defendants provided the Lender with guarantees of the indebtedness of LHMI to the Lender:
 - (a) Conte provided an unlimited continuing guarantee of the indebtedness of LHMI to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated June 16, 2014 and assigned to the Lender any indebtedness owing to Conte by LHMI and postponed any obligations of LHMI owing to Conte to the obligations of LHMI to the Lender (the "**Conte Guarantee**");
 - (b) I&G provided an unlimited continuing guarantee of the indebtedness of LHMI to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated June 17, 2014 and assigned to the Lender any indebtedness owing to I&G by LHMI and postponed any obligations of LHMI owing to I&G to the obligations of LHMI to the Lender (the "**I&G Guarantee**"); and
 - (c) Ismail, Grace, and John have, jointly and severally, provided an unlimited continuing guarantee of the indebtedness of LHMI to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated June 16, 2014 and assigned to the Lender any indebtedness owing to each of them by LHMI and postponed any obligations of LHMI owing to each of them to the obligations of LHMI to the Lender (the "**LHMI Personal Guarantee**").

(b) 186

17. The Lender extended credit facilities and related services to 186 pursuant to a Commitment Letter dated February 10, 2015, as amended from time to time (the "**186 Commitment Letter**").
18. 186 borrowed funds pursuant to the terms of the 186 Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$2,425,685.87 in respect of funds borrowed under the 186 Commitment Letter (the "**186 Loan Indebtedness**").
19. Several of the Defendants provided the Lender with guarantees of the indebtedness of 186 to the Lender:
 - (a) LHMI provided an unlimited continuing guarantee of the indebtedness of 186 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated February 27, 2015 and assigned to the Lender any indebtedness owing to

LHMI by 186 and postponed any obligations of 186 owing to LHMI to the obligations of 186 to the Lender (the "**LHMI 186 Guarantee**"); and

- (b) Angelo's provided an unlimited continuing guarantee of the indebtedness of 186 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated February 27, 2015 and assigned to the Lender any indebtedness owing to Angelo's by 186 and postponed any obligations of 186 owing to Angelo's to the obligations of 186 to the Lender (the "**Angelo's 186 Guarantee**").

(c) Angelo's

- 20. The Lender extended credit facilities and related services to Angelo's pursuant to a Commitment Letter dated June 22, 2015, as amended from time to time (the "**Angelo's Commitment Letter**").
- 21. Angelo's borrowed funds pursuant to the terms of the Angelo's Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$873.73 in respect of funds borrowed under the Angelo's Commitment Letter (the "**Angelo's Loan Indebtedness**").

(d) 190

- 22. The Lender extended credit facilities and related services to 190 pursuant to a Commitment Letter dated March 15, 2016, as amended from time to time (the "**190 Commitment Letter**").
- 23. 190 borrowed funds pursuant to the terms of the 190 Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$1,494,045.72 in respect of funds borrowed under the 190 Commitment Letter (the "**190 Loan Indebtedness**").
- 24. Several of the Defendants provided the Lender with guarantees of the indebtedness of 190 to the Lender:
 - (a) LHMI provided a continuing guarantee of the indebtedness of 190 to the Lender, to a maximum of \$8,000,000.00 plus interest and costs as set out in the guarantee, pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated April 28, 2016 and assigned to the Lender any indebtedness owing to LHMI by 190 and postponed any obligations of 190 owing to LHMI to the obligations of 190 to the Lender (the "**LHMI 190 Guarantee**");
 - (b) Ismail and Grace have, jointly and severally, provided a continuing guarantee to a maximum of \$8,000,000.00 plus interest and costs as set out in the guarantee, of the indebtedness of 190 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated April 28, 2016 and assigned to the Lender any indebtedness owing to each of them by 190 and postponed any obligations of 190 owing to each of them to the obligations of 190 to the Lender (the "**190 Personal Guarantee**"); and
 - (c) LHMI, Ismail, and Grace have, jointly and severally, by agreement dated April 28, 2016, undertaken and agreed to make payments to the Lender if it should appear that expense or cost overruns will occur in respect of the development of the lands having legal description:

Firstly:

PLAN B3

LOT FIFTEEN (15)

LOT ONE HUNDRED AND EIGHT (108)

EXCEPTING THEREOUT: ALL THAT PORTION LYING WEST OF A STRAIGHT LINE DRAWN FROM A POINT ON THE SOUTHERN BOUNDARY OF THE SAID LOT DISTANT TEN (10) FEET EASTERLY FROM THE SOUTH WESTERN CORNER THEREOF TO A POINT ON THE NORTHER BOUNDARY OF THE SAID LOT DISTANT FIFTEEN (15) FEET EASTERLY FROM THE NORTH WESTERN CORNER THEREOF

EXCEPTING THEREOUT ALL MINES AND MINERALS

Secondly:

PLAN B3

LOT FIFTEEN (15)

LOT ONE HUNDRED AND NINE (109)

EXCEPTING THEREOUT:

ALL THAT PORTION LYING WEST OF A STRAIGHT LINE DRAWN FROM A POINT ON THE SOUTHERN BOUNDARY OF THE SAID LOT DISTANT FIFTEEN (15) FEET EASTERLY FROM THE SOUTH WESTERN CORNER THEREOF, TO A POINT ON THE NORTHERN BOUNDARY OF THE SAID LOT DISTANT TWENTY (20) FEET EASTERLY FROM THE NORTH WESTERN CORNER THEREOF
EXCEPTING THEREOUT ALL MINES AND MINERALS;

(the "190 Cost Undertaking").

(e) 184

25. The Lender extended credit facilities and related services to 184 pursuant to a Commitment Letter dated August 31, 2016, as amended from time to time (the "**184 Commitment Letter**").
26. 184 borrowed funds pursuant to the terms of the 184 Commitment Letter, and also as an overdraft of the facilities provided by the 184 Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$3,147,609.77 in respect of funds borrowed under the 184 Commitment Letter and overdraft thereof (the "**184 Loan Indebtedness**").
27. Several of the Defendants provided the Lender with guarantees of the indebtedness of 184 to the Lender:
 - (a) 902 provided a continuing guarantee to a maximum of \$3,100,000.00 plus interest and costs as set out in the guarantee, of the indebtedness of 184 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated September 7, 2016 and assigned to the Lender any indebtedness owing to 902 by 184 and postponed any obligations of 184 owing to 902 to the obligations of 184 to the Lender (the "**902 Guarantee**");

- (b) Ismail provided a continuing guarantee to a maximum of \$3,100,000.00 plus interest and costs as set out in the guarantee, of the indebtedness of 184 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated September, 2016 and assigned to the Lender any indebtedness owing to Ismail by 184 and postponed any obligations of 184 owing to Ismail to the obligations of 184 to the Lender (the "**Ismail Guarantee**"); and
- (c) Grace provided a continuing guarantee to a maximum of \$3,100,000.00 plus interest and costs as set out in the guarantee, of the indebtedness of 184 to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated September 7, 2016 and assigned to the Lender any indebtedness owing to Grace by 184 and postponed any obligations of 184 owing to Grace to the obligations of 184 to the Lender (the "**Grace Guarantee**").

(f) LPI

- 28. The Lender extended credit facilities and related services to LPI pursuant to a Commitment Letter dated September 30, 2016, as amended from time to time (the "**LPI Commitment Letter**", together with the LHMI Commitment Letter, 186 Commitment Letter, Angelo's Commitment Letter, 190 Commitment Letter, and 184 Commitment Letter, the "**Commitment Letters**").
- 29. LPI borrowed funds pursuant to the terms of the LPI Commitment Letter, and as of August 8, 2017 was indebted to the Lender in the amount of \$6,615,137.68 in respect of funds borrowed under the LPI Commitment Letter (the "**LPI Loan Indebtedness**").
- 30. Several of the Defendants provided the Lender with guarantees of the indebtedness of LPI to the Lender:
 - (a) Ismail and Grace have, jointly and severally, provided a continuing guarantee to a maximum of \$3,000,000.00 plus interest and costs as set out in the guarantee, of the indebtedness of LPI to the Lender pursuant to a Continuing Guarantee (Including Postponement and Assignment of Claims) dated October 25, 2016 and assigned to the Lender any indebtedness owing to each of them by LPI and postponed any obligations of LPI owing to each of them to the obligations of LPI to the Lender (the "**LPI Personal Guarantee**"); and
 - (b) Ismail, and Grace have, jointly and severally, by agreement dated October 25, 2016, undertaken and agreed to make payments to the Lender if it should appear that expense or cost overruns will occur in respect of the development of the lands having legal description:

First: Plan 616AO

Block 6

Lot 17

Secondly: Plan 616AO

Block 6

ALL THAT PORTION OF THE NORTH EAST, SOUTH WEST LANE
WHICH LIES SOUTH WEST OF THE PRODUCTION SOUTH
EASTERLY OF THE NORTH EAST BOUNDARY OF LOT 17

CONTAINING 0.024 HECTARES, MORE OR LESS EXCEPTING
THEREOUT ALL MINES AND MINERALS

(the "**LPI Cost Undertaking**" with the Conte Guarantee, I&G Guarantee, LHMI Personal Guarantee, LHMI 186 Guarantee, Angelo's 186 Guarantee, LHMI 190 Guarantee, 190 Personal Guarantee, 190 Cost Undertaking, 902 Guarantee, Ismail Guarantee, Grace Guarantee, and LPI Personal Guarantee the "**Guarantees**").

The Security

(a) LHMI

31. LHMI granted security to the Lender in respect of its obligations to the Lender, including under the LHMI Commitment Letter, LHMI 186 Guarantee, LHMI 190 Guarantee, and 190 Cost Undertaking (the "**LHMI Obligations**"), which as of August 8, 2017 equals \$26,403,493.48, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the LHMI Obligations, including:

- (a) A collateral mortgage dated June 16, 2014 in principal amount \$6,500,000.00, as amended from time to time (the "**First LHMI Mortgage**") over the lands legally described as:

PLAN 6483KS
BLOCK 3
LOT 9
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.547 HECTARES (1.35 ACRES) MORE OR LESS

(the "**First LHMI Mortgage Lands**");

- (b) A supplemental mortgage dated June 28, 2014, as amended from time to time (the "**LHMI Supplemental Mortgage**") over the lands legally described as:

PLAN 0226694
BLOCK 54
LOT 25
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**LHMI Supplemental Mortgage Lands**");

- (c) A collateral mortgage dated June 16, 2014 in principal amount \$5,215,000.00, as amended from time to time (the "**Second LHMI Mortgage**") over the lands legally described as:

PLAN 1523879
BLOCK 88
LOT 31

EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.847 HECTARES (2.09 ACRES) MORE OR LESS;

And

PLAN 1523879
BLOCK 94
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS

And

FIRST:
PLAN 6158AN
BLOCK SIX (6)
LOT (A)
EXCEPTING THEREOUT ALL MINES AND MINERALS

SECONDLY:
ALL OF THE NORTH-SOUTH AND EAST-WEST THIRTY THREE (33) FOOT
STREETS (NOW CLOSED) IN THE SAID PROVINCE, AS SHOWN ON SAID
SUBDIVISION PLAN 6158AN WHICH ADJOIN THE EAST AND SOUTH
BOUNDARIES RESPECTIVELY OF LOT (A) AS SHOWN ON SAID PLAN.

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Second LHMI Mortgage Lands**");

- (d) A collateral mortgage dated June 16, 2014 in principal amount \$475,000.00, as amended from time to time (the "**Third LHMI Mortgage**") over the lands legally described as:

CONDOMINIUM PLAN 7922472
UNIT 10
AND 1106 UNDIVIDED ONE THEN THOUSANDTH SHARES IN THE COMMON
PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Third LHMI Mortgage Lands**", together with the First LHMI Mortgage
Lands, LHMI Supplemental Mortgage Lands, and Second LHMI Mortgage Lands,
the "**LHMI Mortgage Lands**");

- (e) A security interest charging all present and after-acquired personal property and all real property of LHMI, pursuant to a General Security Agreement dated June 16, 2014 (the "**LHMI GSA**");
- (f) An Assignment of Construction Contracts, Development Agreements, Permits, Approvals and Insurance Proceeds dated June 16, 2014 (the "**LHMI Assignment of Construction Contracts**");

- (g) An Assignment of Sale Agreements dated June 16, 2014 (the "**LHMI Assignment of Sale Agreements**");
 - (h) The assignments and postponements contained in the LHMI 186 Guarantee and LHMI 190 Guarantee; and
 - (i) Certain insurance policies, the proceeds of which are payable to the Lender;
- (the "**LHMI Security**").

(b) LPI

32. LPI granted security to the Lender in respect of its obligations to the Lender, including under the LPI Commitment Letter (the "**LPI Obligations**"), which as of August 8, 2017 equals \$6,615,137.68, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the LPI Obligations, including:

- (a) A collateral mortgage dated October 25, 2016 in principal amount \$8,000,000.00, as amended from time to time (the "**LPI Mortgage**") over the lands legally described as:

FIRST: PLAN 616AO
BLOCK 6
LOT 17

SECONDLY: PLAN 616AO
BLOCK 6
ALL THAT PORTION OF THE NORTH EAST, SOUTH WEST LANE WHICH
LIES SOUTH WEST OF THE PRODUCTION SOUTH EASTERLY OF THE
NORTH EAST BOUNDARY OF LOT 17 CONTAINING 0.024 HECTARES,
MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**LPI Mortgage Lands**");

- (b) A General Assignment of Rents and Leases dated October 25, 2016 (the "**LPI Assignment of Rents**");
- (c) A security interest charging all present and after-acquired personal property of LPI pursuant to a Security Agreement dated October 25, 2016 (the "**LPI GSA**");
- (d) An Assignment of Construction Contracts, Development Agreements, Permits, Approvals and Insurance Proceeds dated October 25, 2016 (the "**LPI Assignment of Construction Contracts**");
- (e) An Assignment of Sale Agreements dated October 25, 2016 (the "**LPI Assignment of Sale Agreements**"); and
- (f) An Assignment of Construction Insurance Policies dated October 25, 2016 (the "**LPI Assignment of Construction Insurance**");

(the "**LPI Security**").

(c) 184

33. 184 granted security to the Lender in respect of its obligations to the Lender, including pursuant to the 184 Commitment Letter (the "**184 Obligations**"), which as of August 8, 2017 equals \$3,147,609.77, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the 184 Obligations, including a security interest in all of its present and after acquired personal property pursuant to a Security Agreement dated September, 2016 (the "**184 GSA**", or the "**184 Security**").

(d) 186

34. 186 granted security to the Lender in respect of its obligations to the Lender, including under the 186 Commitment Letter (the "**186 Obligations**"), which as of August 8, 2017 equals \$2,425,685.87, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the 186 Obligations, including:

- (a) A collateral mortgage dated February 22, 2015 in principal amount \$2,750,000.00, as amended from time to time (the "**186 Mortgage**") over the lands legally described as

PLAN RN51A (LIA)
BLOCK 15
LOT 2
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**186 Mortgage Lands**"); and

- (b) A security interest charging all present and after-acquired personal property of 186 relating to the property legally described as Plan51A, Block 15, Lot 2 pursuant to a General Security Agreement dated February 27, 2015 (the "**186 GSA**");

(the "**186 Security**").

(e) 902

35. 902 granted security to the Lender in respect of its obligations to the Lender, including pursuant to the 902 Guarantee (the "**902 Obligations**"), which as of August 8, 2017 equals \$3,100,000.00, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the 902 Obligations, including the assignment and postponement contained in the 902 Guarantee (the "**902 Security**").

(f) 190

36. 190 granted security to the Lender in respect of its obligations to the Lender, including pursuant to the 190 Commitment Letter (the "**190 Obligations**"), which as of August 8, 2017 equals \$1,494,045.72, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the 190 Obligations, including:

- (a) A collateral mortgage dated April 28, 2016 in principal amount \$2,750,000.00, as amended from time to time (the "**190 Mortgage**") over the lands legally described as

DESCRIPTIVE PLAN 1622681
BLOCK 15
LOT 108A
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**190 Mortgage Lands**");

- (b) A security interest charging all present and after-acquired personal property of 190 pursuant to a Security Agreement dated April 28, 2016 (the "**190 GSA**");
- (c) An Assignment of Major Construction and Development Agreements dated April 28, 2016 (the "**190 Assignment of Construction Contracts**"); and
- (d) An Assignment of Sales Agreements dated April 28, 2016 (the "**190 Assignment of Sale Agreements**");

(the "**190 Security**").

(g) Angelo's

37. Angelo's has granted security to the Lender in respect of its obligations to the Lender, including pursuant to the Angelo's Commitment Letter and Angelo's 186 Guarantee (the "**Angelo's Obligations**"), which as of August 8, 2017 equals \$2,426,559.60, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the Angelo's Obligations, including an assignment and postponement contained in the Angelo's 186 Guarantee (the "**Angelo's Security**").

(h) Ismail

38. Ismail has granted security to the Lender in respect of his obligations to the Lender, including pursuant to the LHMI Personal Guarantee, 190 Personal Guarantee, 190 Cost Undertaking, LPI Personal Guarantee, LPI Cost Undertaking, and Ismail Guarantee (the "**Ismail Obligations**"), which as of August 8, 2017 equals \$33,692,945.29, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the Ismail Obligations, including:

- (a) The assignments and postponements contained in the LMHI Personal Guarantee, 190 Personal Guarantee, LPI Personal Guarantee, and Ismail Guarantee (the "**Ismail Assignments**"); and
- (b) A collateral mortgage dated September 14, 2016 in principal amount \$3,100,000.00 (the "**Personal Mortgage**") over the lands legally described as:

PLAN 0740479
BLOCK 42
LOT 17
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Personal Mortgage Lands**" together with the LHMI Mortgage Lands, LPI Mortgage Lands, 186 Mortgage Lands, and 190 Mortgage Lands, the "**Borrower Party Mortgaged Lands**");

(the "**Ismail Security**").

(i) Grace

39. Grace has granted security to the Lender in respect of her obligations to the Lender, including pursuant to the LHMI Personal Guarantee, 190 Personal Guarantee, 190 Cost Undertaking, LPI Personal Guarantee, LPI Cost Undertaking, and Grace Guarantee (the "**Grace Obligations**"), which as of August 8, 2017 equals \$33,692,945.29, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the Grace Obligations, including:

- (a) The assignments and postponements contained in the LMHI Personal Guarantee, 190 Personal Guarantee, LPI Personal Guarantee, and Grace Guarantee (the "**Grace Assignments**");
 - (b) A postponement and assignment of claims in respect of the indebtedness of LHMI owing to Grace pursuant to a Postponement and Assignment of Claims dated June 17, 2014 (the "**Grace P&A**"); and
 - (c) The Personal Mortgage;
- (the "**Grace Security**").

(j) John

40. John has granted security to the Lender in respect of his obligations to the Lender, including pursuant to the LHMI Personal Guarantee (the "**John Obligations**"), which as of August 8, 2017 equals \$22,483,761.89, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the John Obligations, including the assignment and postponement contained in the LHMI Personal Guarantee and a postponement and assignment of claims in respect of the indebtedness of LHMI owing to John pursuant to a Postponement and Assignment of Claims dated June 17, 2014 (the "**John P&A**", together the "**John Security**").

(k) Conte

41. Conte has granted security to the Lender in respect of its obligations to the Lender, including pursuant to the Conte Guarantee (the "**Conte Obligations**"), which as of August 8, 2017 equals, \$22,483,761.89 plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the Conte Obligations, including the assignment and postponement contained in the Conte Guarantee (the "**Conte Security**").

(l) I&G

42. I&G has granted security to the Lender in respect of its obligations to the Lender, including pursuant to the I&G Guarantee (the "**I&G Obligations**"), which as of August 8, 2017 equals

\$22,483,761.89, plus interest, costs, including legal costs on a solicitor-client basis, and related fees, which continue to accrue, as set out in the I&G Obligations, including the assignment and postponement contained in the I&G Guarantee (the "**I&G Security**", together with the LHMI Security, LPI Security, 184 Security, 186 Security, 902 Security, 190 Security, Angelo's Security, Ismail Security, Grace Security, John Security, and Conte Security, the "**Security**").

Defaults under Commitment Letters

43. All amounts owing under all of the Commitment Letters are payable on demand. In addition, each of LHMI, 186, Angelo's, 190, 184, and LPI (together, the "**Borrowers**") are in default of their obligations to the Lender under their respective Commitment Letters, as more particularly set out below.

(a) LHMI

44. The LHMI Loan Indebtedness is payable to the Lender by LHMI on demand pursuant to the terms of the LHMI Commitment Letter. The Lender has demanded repayment of the amounts owing to it by LHMI and LHMI has failed or neglected, and continues to fail or neglect, to repay the LHMI Loan Indebtedness, and is in default of its obligations under the LHMI Commitment Letter.
45. Further, LHMI is in default of its obligations to the Lender under the LHMI Commitment Letter, including but not limited to, by reason of the following, which are continuing:
- (a) LHMI's most recent financial statements do not fairly present its financial position as of the date thereof as required by section 6(e) of the LHMI Commitment Letter;
 - (b) LHMI does not have good and marketable title to all of its properties, including its Morinville and Fort Saskatchewan developments, as required by section 6(f) of the LHMI Commitment Letter;
 - (c) LHMI has failed to pay to the Lender when due all amounts owing to the Lender from time to time as required by section 7(a) of the LHMI Commitment Letter;
 - (d) LHMI has not used the proceeds of loans for the purposes approved by the Lender, being the purchase of lots and the construction of single-family and semi-detached homes in new residential subdivisions located in the greater Edmonton area, as required by section 7(d) of the LHMI Commitment Letter;
 - (e) LHMI has provided financial assistance to other entities, other than loans permitted by section 8(b) of the LHMI Commitment Letter, in violation of section 8(d) the LHMI Commitment Letter;
 - (f) LHMI did not provide financial statements prepared on a review engagement basis, or quarterly 3-statement projections within 120 days of its year-end as required by section 10(a) of the LHMI Commitment Letter;
 - (g) LHMI has provided margin calculations contrary to the LHMI Commitment Letter up to July 2017 and did not confirm that no other entity was financing the purchase of lots and constructed homes, as required by sections 10(c)(i) and (ii) of the LHMI Commitment Letter;

- (h) LHMI has not provided a compliance certificate detailing its Total Debt to Equity ratio and Sales to Equity ratio in violation of section 11 of the LHMI Commitment Letter;
- (i) LHMI, Conte, I&G, Ismail, Grace, and John have not provided all financial statements required by the Lender, as required by section 12(b) of the LHMI Commitment Letter;
- (j) the Lender is not satisfied as to the value of the assets of LHMI, Conte, I&G, Ismail, Grace, and John and their ability to carry on business and repay amounts owing to the Lender, as required by section 12(d) of the LHMI Commitment Letter;
- (k) the Lender has not received and found satisfactory evidence of \$2,595,000 in unconditional arms-length presales of the Project Lands supported by non-refundable deposits of 10% (5% for CMHC approved deals) with copies of pre-sale agreements, as required by section 12(g) of the LHMI Commitment Letter;
- (l) the Lender has not received and found satisfactory evidence of \$1,965,000 in unconditional arms-length presales of the Project Lands supported by non-refundable deposits of 10% (5% for CMHC approved deals) with copies of pre-sale agreements as required by section 12(k) of the LHMI Commitment Letter;
- (m) the equity requirement for Facility #4 is not met; and
- (n) such further and other defaults as may be proven at trial.

(b) 186

- 46. The 186 Loan Indebtedness is payable to the Lender by 186 on demand pursuant to the terms of the 186 Commitment Letter. The Lender has demanded repayment of the amounts owing to it by 186 and 186 has failed or neglected, and continues to fail or neglect, to repay the 186 Loan Indebtedness, and is in default of its obligations under the 186 Commitment Letter.
- 47. Further, 186 is in default of its obligations to the Lender under the 186 Commitment Letter, including but not limited to, by reason of the following which are continuing:
 - (a) failing to provide financial statements required by section 8(h) of the 186 Commitment Letter;
 - (b) failing to provide a Debt Service Coverage Ratio calculation as required by section 9(f) of the 186 Commitment Letter; and
 - (c) such further and other defaults as may be proven at trial.

(c) Angelo's

- 48. The Angelo's Loan Indebtedness is payable to the Lender by Angelo's on demand pursuant to the terms of the Angelo's Commitment Letter. The Lender has demanded repayment of the amounts owing to it by Angelo's and Angelo's has failed or neglected, and continues to fail or neglect, to repay the Angelo's Loan Indebtedness, and is in default of its obligations under the Angelo's Commitment Letter.

49. Further, Angelo's is in default of its obligations to the Lender under the Angelo's Commitment Letter, including but not limited to, by reason of the following which are continuing:
- (a) failing to provide the financial reporting required by section 9 of the Angelo's Commitment Letter; and
 - (b) such further and other defaults as may be proven at trial.

(d) 190

50. The 190 Loan Indebtedness is payable to the Lender by 190 on demand pursuant to the terms of the 190 Commitment Letter. The Lender has demanded repayment of the amounts owing to it by 190 and 190 has failed or neglected, and continues to fail or neglect, to repay the 190 Loan Indebtedness, and is in default of its obligations under the 190 Commitment Letter.
51. Further, 190 is in default of its obligations to the Lender under the 190 Commitment Letter, including but not limited to, by reason of the following which are continuing:
- (a) the equity requirements for Facility #1 are not met;
 - (b) failing to pay to the Lender when due all amounts owing to it by the Lender, including failing to make required payments since May as required by section 8(a) of the 190 Commitment Letter;
 - (c) failing to proceed with development of the Project in accordance with the project schedule as required by section 8(g) of the 190 Commitment Letter;
 - (d) failing to provide the financial reporting required by section 8(j) of the 190 Commitment Letter; failing to provide the financial reporting required by section 9 of the Angelo's Commitment Letter; and
 - (e) such further and other defaults as may be proven at trial.

(e) 184

52. The 184 Loan Indebtedness is payable to the Lender by 184 on demand pursuant to the terms of the 184 Commitment Letter. The Lender has demanded repayment of the amounts owing to it by 184 and 184 has failed or neglected, and continues to fail or neglect, to repay the 184 Loan Indebtedness, and is in default of its obligations under the 184 Commitment Letter.
53. Further, 184 is in default of its obligations to the Lender under the 184 Commitment Letter, including but not limited to, by reason of the following which are continuing:
- (a) having a Debt Service Coverage Ratio that exceeds 1.40:1 in contravention of section 1(d)(ii) of the 184 Commitment Letter;
 - (b) failing to repay amounts owing at the end of June 2017 as required by section 8(a) of the 184 Commitment Letter;

- (c) failing to provide the financial statements and compliance certificate required by sections 8(i)(I), (II), and (III) of the 184 Commitment Letter;
- (d) failing to fund cost overruns as required by section 8(n) of the 184 Commitment Letter and failing to advise the Lender of the existence of cost overruns;
- (e) obtaining additional credit facilities without the approval of the Lender in contravention of section 9(g) of the 184 Commitment Letter;
- (f) using Facility #3 to fund losses from operations in contravention of section 9(h) of the 184 Commitment Letter;
- (g) failing to detail its Current Ratio and Debt Service Coverage ratio in a compliance certificate as required by section 10 of the 184 Commitment Letter and failing to provide financial reporting as required by the 184 Commitment Letter generally;
- (h) defaulting in making payments of principle and interest owing to the Lender for the month of June 2017; and
- (i) such further and other defaults as may be proven at trial.

(f) LPI

- 54. The LPI Loan Indebtedness is payable to the Lender by LPI on demand pursuant to the terms of the LPI Commitment Letter. The Lender has demanded repayment of the amounts owing to it by LPI and LPI has failed or neglected, and continues to fail or neglect, to repay the LPI Loan Indebtedness, and is in default of its obligations under the LPI Commitment Letter.
- 55. Further, LPI is in default of its obligations to the Lender under the LPI Commitment Letter, including but not limited to, by reason of the following which are continuing:
 - (a) failing to maintain the Borrower's Equity Requirement contained in the LPI Commitment Letter;
 - (b) failing to make payments of amounts owing under Facility #1 from March 2017 onwards, as required by sections 4, and 8(a) of the LPI Commitment Letter;
 - (c) failing to fund cost overruns as required by section 8(n) of the LPI Commitment Letter;
 - (d) making changes to the Eligible Project Costs that result in greater than 100% of the approved contingency portion of eligible Project Costs being utilized;
 - (e) failing to appoint an independent supervisory engineer or quantity surveyor as required by section 10 of the LPI Commitment Letter; and
 - (f) such further and other defaults as may be proven at trial.

Demands

56. As set out above, all amounts owing to the Lender pursuant to the Commitment Letters are payable on demand. Further, each of the Borrowers are in default of other obligations to the Lender under their respective Commitment Letters.
57. Additionally, the obligations of each of Conte, I&G, LHMI, Angelo's, 902, Ismail, Grace, and John (collectively, the "**Guarantors**", together with the Borrowers, the "**Borrower Parties**") pursuant to their respective Guarantees are payable to the Lender on demand.
58. On July 29, 2017, the Lender demanded repayment from each Borrower Party of their obligations to the Lender.
59. The Borrower Parties have each refused or neglected, and continue to refuse or neglect, to repay the obligations owed by each of them to the Lender.
60. It is a term of the Commitment Letters, Guarantees, and Security that the obligations owed or secured thereby shall continue to accrue interest on all amounts outstanding at the rates set forth therein. In the alternative, the Lender pleads and relies on the provisions of the *Judgment Interest Act*, RSA 2000, c J-1, as amended.
61. It is a term of the Commitment Letters, Guarantees, and Security that each Borrower Party is responsible for all costs, including solicitor and client full indemnity costs, incurred by the Lender in enforcing the Commitment Letters, Guarantees, and Security.

Receiver and Manager

62. It is a term of each of the LHMI GSA, LPI GSA, 184 GSA, 186 GSA, and 190 GSA that if the party thereto is in default of its obligations thereunder, the Lender may apply to this Honourable Court for the appointment of a receiver and manager over the property secured under the GSA.
63. Each of LHMI, LPI, 184, 186, and 190 are in default of the obligations under their respective GSAs, and the Lender is presently entitled to apply to this Honourable Court to appoint a receiver and manager over the property set out in the LHMI GSA, LPI GSA, 184 GSA, 186 GSA, and 190 GSA.

Judicial Listing/Receiver

64. It is a term of each of the First LHMI Mortgage, LHMI Supplemental Mortgage, Second LHMI Mortgage, Third LHMI Mortgage, LPI Mortgage, 186 Mortgage, 190 Mortgage, and Personal Mortgage (the "**Mortgages**") that a failure by the mortgagor to pay amounts owing to the Lender is a default under the Mortgage.
65. Upon being in default of the Mortgages, the Lender is entitled to apply to this Honourable Court for an order setting the redemption period in respect of the Borrower Party Mortgaged Lands, with a judicial listing to follow.

66. Alternatively, it is a term of each of the Mortgages that upon failure of the mortgagor to pay amounts owing to the Lender, the Lender is presently entitled to apply to this Honourable Court to have a receiver-manager appointed over the Borrower Party Mortgaged Lands.

Service

67. The Commitment Letters, Guarantees, and Security are all Alberta contracts governed by Alberta law. The facilities at issue were created in connection with the operation of the Borrower Parties' businesses in Alberta.
68. The registered office of each corporate Borrower Party is located in Alberta, and all of the corporate Borrower Parties' personal and real property is, to the best of the Plaintiff's knowledge, located in Alberta.
69. The individual Borrower Parties have personal and real property located in Alberta.
70. Based on the foregoing, the Lender asserts a real and substantial connection of this claim to Alberta. The Lender relies on these facts as grounds for service of this Statement of Claim on the Borrower Parties.
71. The Lender proposes that the trial of this action be held at the Calgary Courts Centre, in the City of Calgary, in the Province of Alberta, and the Lender does not anticipate that the trial of this action will exceed 25 days in length.

Remedy sought:

72. With respect to each of the Borrower Parties, the Lender respectfully seeks:
- (a) an Order validating the service of this Statement of Claim on each of them;
 - (b) a declaration that each Borrower Party is in default of its obligations to the Lender under its respective Commitment Letter, Guarantees, and Security;
 - (c) a declaration as to the amount owing by each Borrower Party to the Lender under its Commitment Letter and Guarantees, as applicable, with interest according to the terms thereof, and judgment in that amount;
 - (d) a declaration that the Security held by the Lender is valid and enforceable as against each Borrower Party;
 - (e) interest on all amounts outstanding in accordance with the agreements or, in the alternative, interest as set forth in the *Judgment Interest Act* (Alberta);
 - (f) costs of this action on a solicitor and client, full indemnity basis;
 - (g) such further and other relief as this Honourable Court deems just and appropriate.

73. With respect to the Defendants LHMI, LPI, 184, 186, and 190, the Lender respectfully seeks:
- (a) An Order appointing a receiver and manager over the property subject to the LHMI GSA, LPI GSA, 184 GSA, 186 GSA, and 190 GSA.
74. With respect to the Defendants LHMI, LPI, 186, and 190:
- (a) A declaration as to the amount owing under each of their Mortgages, with interest according to the terms thereof and in default of payment, sale or foreclosure;
 - (b) In the alternative, immediate sale or foreclosure;
 - (c) An Order for the appointment of a receiver or receiver and manager over the Borrower Party Mortgaged Lands;
 - (d) An Order granting a period of redemption of one day, or such other period as the Court may direct;
 - (e) All legal costs and expenses incurred by or allowed to the Plaintiff, including those taxed as between solicitor and own client;
 - (f) Such other relief as the nature of this case may require, and the Court deems just.
75. With respect to the Defendants Ismail and Grace:
- (a) A declaration as to the amount owing under the Personal Mortgage, with interest according to the terms thereof and in default of payment, sale or foreclosure;
 - (b) In the alternative, immediate sale or foreclosure;
 - (c) Judgment against Ismail and Grace, jointly and severally, in the amount declared to be owing, together with interest at the rate set out in the Personal Mortgage until payment in full, or at such other rate as the Court orders;
 - (d) Judgment against the Defendants, jointly and severally, in the event that there is any deficiency in the amount available or deemed to be available for the satisfaction of the Plaintiff's claim herein following sale and possession of the mortgaged lands, for the amount of such deficiency, together with interest at the mortgage rate until payment in full, or at such other rate as the Court orders;
 - (e) An Order for the appointment of a receiver or receiver and manager;
 - (f) An Order granting a period of redemption of one day, or such other period as the Court may direct;
 - (g) All legal costs and expenses incurred by or allowed to the Plaintiff, including those taxed as between solicitor and own client;
 - (h) Such other relief as the nature of this case may require, and the Court deems just.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.