

Escrow No. 23303242

A.P.N. : 1121-05-513-015

REQUESTED BY
MARQUIS TITLE & ESCROW
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2004 JAN -6 PM 2:00

WERNER CHRISTEN
RECORDER

\$ 23⁰⁰ PAID *AD* DEPUTY

SUBLEASE

This Sublease, hereinafter referred to as "Lease", made and entered into this 5th day of January, 2004, by and between **JOHNSON DEVELOPMENT, LLC., a Nevada Limited Liability Co.** hereinafter called "Lessor", and **MELVIN O. SCHMIDT and PEARL K. SCHMIDT, husband and wife as joint tenants**, hereinafter called "Lessee" and referred to in the singular number and masculine gender (regardless of the actual number and gender),

WITNESSETH:

WHEREAS, Lessor has leased the real property of which the premises sublet hereunder are a part, under written lease dated April 28, 1997, as modified on June 9, 1997, between Leon Mark Kizer (hereinafter called "Kizer"), as Lessor, and Lessor herein, as Lessee, which lease was recorded on May 15, 1997, as document no. 672-007-97 of the Land Titles and Records bureau of Indian Affairs, Albuquerque, New Mexico and the modification recorded on June 13, 1997, as document no. 672-011-97 Of the Land Titles and Records Bureau of Indian Affairs, Albuquerque, New Mexico, which lease is hereinafter referred to as "the Master Lease", and to which reference is hereby made for the full particulars thereof:

NOW, THEREFORE, for and in consideration of the payment of any rentals, taxes and other charges to be paid by Lessee and the performance of the covenants and conditions to be observed and performed by Lessee, all as hereinafter provided, Lessor hereby leases unto Lessee for the term, at the rentals, for the uses and purposes, and upon and subject to the reservations, restrictions, easements and rights of way of record and the covenants, conditions, and restrictions recorded on April 28, 1997, as document no. 672-007-97 Of the Land Titles and Records Bureau of Indian Affairs, Albuquerque, New Mexico, and on October 13, 1997, as document no. 423883 in the office of the County Recorder of Douglas County, Nevada, the following described land in the County of Douglas, State of Nevada, to-wit:

Leasehold estate as created by that certain lease dated October 8, 1997, made between Leon Mark Kizer, as lessor, and PTP, Inc., as lessee, for the term and upon the terms and conditions contained in said lease recorded October 13, 1997, in Book 1097, Page 2349, as Document No. 423882 in the following:

Lot 107, as set forth on Record of Survey for PINEVIEW DEVELOPMENT UNIT NO. 4, filed for record in the office of the Douglas County Recorder on August 28, 2002, in Book 0802, page 9714, as Document No. 550737 and amended by record of survey recorded December 23, 2002, in Book 1202, at Page 10400, as Document 561783, Official Records.

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The above described land is referred to hereinafter as "the leased premises".

1. TERM. The term of this lease shall be for a period commencing on the 5th day of January, 2004, and ending on the 10th day of October, 2096, subject, however, to earlier termination as hereinafter provided.

2. USE OF PREMISES. During the term of this lease, Lessee shall use the leased premises solely for private residential purposes. Lessee shall not erect or maintain thereon suffer or permit to be erected or maintained thereon any structures other than family dwellings with necessary appurtenances in compliance with the Covenants, Conditions and Restrictions. Lessee shall not use or suffer or permit any person to use said premises, or any portion thereof, for any purpose tending to injure the reputation thereof, or to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance, or in violation of any public law, ordinance, or regulation in anywise applicable thereto.

3. RENTAL. Lessee agrees to pay Lessor as rental for the use and occupancy of the leased premises the sum of ONE HUNDRED NINETY EIGHT THOUSAND SEVEN HUNDRED FIFTY Dollars \$198,750.00 payable as follows: ALL CASH.

4. TAXES AND OTHER CHARGES. In addition to the rents hereinabove provided, Lessee shall pay, when and as the same become due and payable, but not later than thirty (30) days prior to the delinquency date thereof, any taxes, general and special assessments and other charges of every description which may be levied or assessed during the term of this lease upon or against the leased premises and all interests therein and improvements and other property thereon, whether belonging to Kizer, Lessor or Lessee, or to which any of them may become liable in relation thereto; and Lessee agrees to protect and hold harmless Lessor, Kizer and the leased premises from any and all such taxes, assessments and other charges, including any interest, penalties and other expenses which may be thereby imposed, and from and lien therefor or sale or other proceedings to enforce payment thereof.

5. UTILITIES. During the term hereof, Lessee shall pay all charges for water, sewage, gas, electricity, telephone, trash collection and other utility services supplied to and used on the leased premises. All such charges shall be paid before delinquency, and Lessor, Kizer and said premises shall be protected and held harmless by Lessee therefrom.

6. REPAIRS, ADDITIONS AND ALTERATIONS. During the term of this lease, neither Lessor or Kizer shall be called upon or be required to make any changes, alterations, additions, improvements or repairs in, on or about the leased premises, or any part thereof.

At all times during said term Lessee shall, without any cost or expense to Lessor or Kizer, keep and maintain, or cause to be kept and maintained, the leased premises and every part thereof in a clean, sanitary and orderly condition, and all streets, alleys, walkways and curbs and other

facilities and improvements constructed and installed on said premises in good order and repair and in safe condition, and Lessee shall cause to be constructed, maintained and repaired (except as performed by public utilities, homeowners' association and/or governmental units or agencies) all walls, sewers, drains, water system and other improvements which may be required at any time by law to be constructed, maintained and repaired upon or adjoining or in connection with or for the use of the leased premises, or any part thereof, and Lessee shall make or cause to be made any and all additions to or alterations or repairs in any structure or other facility erected or installed in, on or about said premises which may be required, and Lessee shall otherwise observe and comply with, any public law, ordinance and regulation for the time being applicable to said premises, and Lessee hereby indemnifies and agrees to save Lessor and Kizer harmless against all actions, claims and damages by reason of Lessee's failure to comply with and perform the provisions of this section as hereinabove provided.

All repairs, additions and alterations in and about said premises as hereinabove in this section provided shall conform to all applicable public laws, ordinances and regulations and all work in connection therewith shall be prosecuted and the same shall be completed with reasonable diligence, and the work thereon shall be done at the cost and expense of Lessee without any cost or expense to Lessor or Kizer.

7. INSURANCE. Lessee shall at his cost and expense, at all times during the term of this lease, maintain and carry, for the joint benefit of Lessee, Lessor, Kizer, and the United States property damage and public liability insurance, by the terms of which Lessee, Lessor, Kizer and the United States shall be indemnified against liability for any damage or injury to the property or person of any employee, guest, invitee, or licensee of Lessee, or any other person entering upon or using the leased premises, or any parts thereof. Such insurance policy or policies shall be written and maintained on the minimum basis of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for property damage, and THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for personal injury to one person, and THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for personal injury in any one accident, and shall be carried with such responsible insurance companies as Lessee shall select. Lessee shall deliver to Lessor the certificate of each insurance carrier as to each insurance policy and shall furnish Lessor with a photostat copy of each such policy if so requested by Lessor.

8. RESTORATION OF PREMISES. If during the term hereof the dwelling on the leased premises, or any part thereof, shall be damaged or destroyed by fire or other casualty, Lessee shall, at his cost and expense, either (a) repair or restore said dwelling or (b) tear down and remove the same from said premises. If Lessee shall elect to repair or restore said dwelling, the work thereon shall be commenced within ninety (90) days after the damage occurs and shall be completed with the due diligence not to exceed one (1) year after the commencement of said work. The same shall be repaired or restored according to such plans and specifications thereof as were previously approved by Lessor. Any insurance proceeds collected for such damage shall be applied to the cost of the repair or restoration of said dwelling, Lessee shall, within ninety (90) days after said damage occurs, tear down and remove all parts thereof then remaining and the debris resulting from said fire or other casualty and otherwise cleanup said premises as hereinafter provided in Section 15 and to the extent available for that purpose, the insurance proceeds collected for such damage shall be applied to the cost of such clean up and removal, and this lease shall nevertheless continue in force and effect. Should Lessee fail or refuse to repair or restore said damaged dwelling or to clean up and restore said premises as hereinabove

provided, then all insurance proceeds collected shall be forthwith paid over to Kizer or his successors in interest on his own account and may be used by Kizer either to repair or restore said damaged dwelling or to clean up and restore said premises, paying to Lessee any unexpected balance of said insurance proceeds and this lease shall continue in force and effect until terminated as elsewhere provided herein.

9. LIENS AND CLAIMS. Lessee shall not suffer or permit to be enforced against the leased premises, or any part thereof, any mechanics', laborers', materialmens', contractors', subcontractors' or other liens arising from or any claim for damages growing out of any work of construction, repair, restoration, replacement or improvement as in this lease authorized or provided, or any other claim or demand howsoever the same may arise, but Lessee shall pay or cause to be paid all of said liens, claims and demands before any action is brought to enforce the same against the said premises; and Lessee hereby indemnifies and agrees to hold Lessor, Kizer, the United States and the leased premises free and harmless from all liability for any and all such liens, claims and demands, together with all costs and expenses in connection therewith; provided that if Lessee shall in good faith contest the validity of any such lien, claim or demand, than Lessee shall, at his expense, defend himself and Lessor, Kizer and the United States against the same and shall pay and satisfy any adverse judgement that may be rendered before the enforcement thereof against Lessor or Kizer or the leased premises, and if Lessor and/or Kizer a surety bond satisfactory to them in an amount equal to the contested lien, claim or demand indemnifying Lessor, Kizer and the United States against liability for the same.

Before the commencement of any work of construction of any building, structure or other improvement on the leased premises, or of any substantial repairs, alterations, additions, or replacements or restorations in and about said premises as in this lease provided, Lessee shall give or cause to be given to Lessor written notice thereof, specifying the nature and location of intended work and the expected date of commencement thereof; and Lessee shall furnish to Lessor and/or Kizer if they or either of them so request, a surety bond or other security, in such form and in such amount as shall be approved by Lessor and Kizer, guaranteeing the completion of any such work free and clear of any of the liens, claims and demands hereinabove specified; and Lessor and Kizer shall have the right at any time and from time to time to post and maintain on said premises, or any part thereof, such notices of non-responsibility as may be permitted by law.

10. LESSOR'S NON-LIABILITY. Neither Lessor, Kizer nor the United States shall be reliable for any loss, damage or injury of any kind or character to any person or property, arising from any use of the leased premises, or any part thereof, or caused by any defect in or disrepair or unsafe condition of any building, structure or improvement thereon or in any other facility therein or caused by or arising from any act or omission of Lessee, or any member of Lessee's family, or any of his employee's, guests, licensees or invites, or by or from any accident on the leased premises or any fire or casualty thereon, or by any nuisance made or suffered thereon, or arising from any other cause whatsoever; and Lessee, as a material part of the consideration of this lease, hereby waives on his behalf all claims and demands against Lessor, Kizer and the United States for, and hereby indemnifies and agrees to hold Lessor, Kizer and the United States entirely free and harmless from all liability for claims of other persons for any such loss, damage or injury, together with all costs and expenses arising therefrom.

11. LESSOR OR KIZER PAYING CLAIMS. Should Lessee fail to pay and discharge or cause to be paid and discharged, when due and payable as herein provided, any tax, assessment or other charge upon or in connection with the leased premises, or any insurance premium or other charge in connection therewith as herein provided, or any claim or lien for labor or material employed or used in or any claim or damages arising out of the construction, repair, replacement, maintenance or use of said premises and the buildings, structures, facilities and other improvements thereon, or to satisfy any judgement rendered on any such contested lien or claim as herein provided, and if Lessee, after (30) days has written notice from Lessor, shall fail to pay and discharge the same, then Lessor or Kizer may, at their option, pay any such tax, assessment, insurance premium or expense, lien, claim or demand, or settle or discharge any action therefor or satisfy any judgement thereon, and all costs, expenses and other sums incurred or paid by Lessor or Kizer in connection therewith shall be paid to Lessor or Kizer by Lessee upon written demand, together with interest thereon at the rate of twelve percent (12%) per annum from the date incurred or paid until repaid, and any default in any such repayment shall constitute a breach of the covenants and conditions of this lease.

12. ASSIGNMENT AND SUBLETTING. Lessee shall not encumber, assign or otherwise transfer this lease, or any right or interest herein, or in or into any of the buildings and improvements on the leased premises, nor shall Lessee sublet said premises or any part thereof, without the written consent and approval of Lessor first had and obtained unless said sublease complies with Paragraph 18 of the Master Lease. No such encumbrance, assignment or transfer, whether voluntary or involuntary, by operation of law, under legal process or proceedings, by assignment for benefit of creditors, by receivership, in bankruptcy or otherwise and no such subletting, except as provided above, shall be valid or effective without such prior written consent and approval. Should Lessee attempt to make or suffer to be made any such encumbrance, assignment, transfer or subletting, except as aforesaid, or should any right or interest of Lessee under this lease be attached, levied upon or seized under legal process and the same shall not have been released therefrom within thirty (30) days or should a receiver or liquidator be appointed to take possession of the leased premises, or should Lessee be adjudged bankrupt or insolvent, and such appointment or adjudication shall not have been discharged within thirty (30) days, then any of the foregoing events shall be deemed a breach of the conditions and restrictions of this lease, and thereupon Lessor may, at its option, terminate this lease in accordance with the provisions set forth in Section 14 and upon such termination this lease shall cease and end and thenceforth be of no further force or effect, except as in hereinafter otherwise provided. Should Lessor consent to any such encumbrance, assignment, transfer or subletting, none of the restrictions of this Section shall be thereby waived but the same shall apply to each successive encumbrance, assignment, transfer or subletting hereunder and shall be severally binding upon each and every encumbrancer, assignee, transferee, subtenants and other successor in interest of Lessee by the operation of his will or the laws of interstate succession or in the event Lessor has been paid in full by Lessee under the terms of their sublease agreement.

13. HYPOTHECATION. Notwithstanding anything to the contrary hereinabove contained in Section 12, Lessor shall, at the written request of Lessee, execute its written consent and approval to the assignment of this lease by deed of trust (hereinafter referred to in this section as the "trust deed") for the purpose of financing or refinancing the construction or purchase of the dwelling on the leased premises upon and subject to the covenants and conditions

hereinafter set forth, and upon the further condition that Lessee and the holder of said trust deed, for themselves and their respective successors and assigns in interest, shall execute in writing with and for the benefit of Lessor, their acceptance and approval of said consent and their agreement to be bound by each and all of the covenants and conditions thereof, to-wit: (a) that except as hereinafter otherwise provided in this Section, the trust deed and all rights thereunder shall be subject to each and all of the recorded covenants, conditions, and restrictions affecting the leased premises, the terms and conditions of the Master Lease and to all rights and interest of Kizer thereunder, and to each and all of the covenants, conditions and restrictions of this lease and to all rights and interest of Lessor hereunder; (b) that should there be any conflict between the provisions of said Master Lease and/or this lease and of the trust deed, either or both of the formal shall control; (c) that except as hereinafter otherwise provided in this Section, if the leasehold estate of Lessee hereunder shall be foreclosed or otherwise acquired under the trust deed, the transferee or transferees thereof shall thereupon and thereby assume the performance of all and shall be bound by each and all of the covenants, conditioned and restrictions provided in this lease to be kept and performed by Lessee during the period such transferee or transferees shall hold title to said leasehold; (d) that Lessor will not terminate this lease because of any default or breach hereunder on the part of Lessee if the holder of the trust deed, within thirty (30) days after service of written notice from Lessor of its intentions to terminate this lease for such default or breach, shall (1) cure such default or commence and thereafter diligently pursue to completion proceedings for foreclosure and sale under and pursuant to the trust deed, and (2) shall keep and perform all of the covenants and conditions of this lease herein provided to be kept and performed by Lessee until such time as the leasehold hereunder shall be sold upon foreclosure pursuant to the trust deed or shall fail or refuse to comply with any and all of the conditions of this subparagraph (d), then and thereupon Lessor shall be released from the covenant of forbearance herein contained; and (e) that upon and immediately after the recording of the trust deed, said Lessee, at his expense, shall cause to be recorded in the official records of Douglas County, a written request executed and acknowledged by said Lessor for a copy of the notice of default and of any notice of sale under the trust deed as provided by the statutes of the State of Nevada relating thereto. Any notice to be given hereunder to the holder of said trust deed shall be delivered or directed to its address as last shown on the records of Lessor.

Concurrently with the execution of said consent, Lessee shall furnish to Lessor a complete copy of the trust deed and the note secured thereby, together with the name and address of the holder thereof.

14. **TERMINATION.** If Lessee defaults in the performance of or breaches any covenant, condition, or restriction provided in this lease to be kept or performed by Lessee, and if any such default or breach continues uncured or unrectified for ninety (90) days from and after service upon Lessee and any mortgagees of record of written notice thereof by Lessor, in which notice Lessor shall specify the nature of the claimed default or breach, then Lessor may, at its opinion, terminate this lease by giving Lessee written notice of such termination.

Upon the termination of this lease as provided in this Section, this lease shall cease and terminate and Lessee's rights in and to the leased premises and all structures, improvements, and facilities constructed and installed thereon shall cease and end, and Lessor may, without further notice or demand or legal process, re-enter and take possession of said premises and all structures, improvements, and facilities thereon and oust Lessee and all persons claiming under Lessee therefrom, and Lessee and all such persons shall quit and surrender possession of said premises and all buildings and other improvements thereon to Lessor, and is so requested by

Lessor, Lessee shall deliver to Lessor a recordable quitclaim of all his rights, title, and interest in and to the leased premises and all structures, improvements, and facilities thereupon. Provided, however, that such termination shall not relieve Lessee from any of his obligations hereunder which shall have accrued prior to such termination, including but not limited to Lessee's indemnity obligation as to liens, claims, demands, damages, causes of action and/or liabilities arising out of Lessee's operations on and use and possession of the leased premises prior to said termination and such termination shall be in addition to any and all damages to which Lessor may be entitled for and on account of Lessee's said default or breach.

15. REMOVAL. Upon the expiration of the term of this lease, any buildings and other improvements on the leased premises shall become and thereafter remain the property of Kizer without the payment of any consideration therefor. Upon the expiration of the term hereof, Lessee shall execute, acknowledge, and deliver to Kizer a proper instrument in writing releasing and quitclaiming to Kizer all right, title, and interest, to Kizer in and to the leased premises by virtue of this lease or otherwise.

16. HOMEOWNERS' ASSOCIATION. As part of the consideration of this lease, Lessee covenants and agrees to become and remain a member in good standing of that certain Homeowners' Association formed within the subdivision of which the leased premises are a part and to abide by the articles, by-laws, rules and regulations of said Homeowners' Association and to pay without delinquency all taxes, charges, fees and assessments duly and regularly levied by said Homeowners' Association. Any breach of this covenant shall constitute grounds for termination of this lease under Section 14 hereof.

17. ADDRESSES. The addresses of the parties hereto for all purposes of this lease shall be as follows:

JOHNSON DEVELOPMENT, LLC
KIRK JOHNSON, Managing Member
PO BOX 1848
GARDNERVILLE, NEVADA 89410

MELVIN O. and PEARL K. SCHMIDT
27 CONNER WAY
GARDNERVILLE, NEVADA 89410

Either party hereto may change its address from time to time by giving the other party written notice of such change.

18. REMEDIES. All rights, options and remedies of Lessor contained in this lease shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease. No waiver by Lessor of a breach of any of the terms, covenants, or conditions of this lease by Lessee shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. Should Lessor institute any action to enforce or protect or establish any of its rights and remedies hereunder, then Lessee agrees to pay to Lessor all costs incurred in said action, including a reasonable sum as attorney fees, whether or not such action is

prosecuted to judgement or not.

19. CONDEMNATION. If at any time during the term hereof the leased premises, or any part thereof, are condemned by public authority under the laws of eminent domain, then and in every such case, the leasehold estate and interest of Lessee in said premises or part thereof so condemned shall forthwith terminate, and all compensation and damages awarded by reason of such condemnation shall be payable to and be the sole property of Lessor, except that awarded for the destruction of or damage to any dwelling house or its appurtenances, which shall be paid and belong to Lessee. Unless all of the leased premises shall be so taken or Lessee shall exercise the option to terminate this lease as hereinafter provided, this lease shall continue in force and effect as to the remainder of the leased premises and Lessee shall forthwith rebuild or repair the dwelling house and/or the appurtenant improvements taken or injured according to such plans and specifications therefor as were previously approved by Lessor, and the compensation received by the Lessee for such taking or injury shall be applied to the cost of such rebuilding or repairs. If only a part of the leased premises shall be taken or condemned, then this lease shall continue as to the remainder thereof; provided, however, that if such public taking or condemnation shall prevent Lessee's use and occupancy of his dwelling, then Lessee shall have the option to terminate this lease.

20. EXPIRATION AND HOLDING OVER. This lease shall terminate automatically without any action on the part of the Lessor upon the expiration of the term specified, and, subject to Section 15 hereof, Lessee shall thereupon quit and surrender to Lessor possession of the lease premises and deliver to Lessor a recordable quitclaim of his right, title and interest in and to said property. Any holding over by Lessee after the expiration of said term shall not constitute a renewal hereof or give Lessee any rights hereunder or in or to the leased premises, it being understood and agreed that this lease cannot be renewed, extended, or in any matter modified except in accordance with the master lease. The expiration of this lease shall not relieve Lessee of his indemnity obligation hereunder insofar as same pertains to liens, claims, demands, damages, causes of action, and/or liabilities arising out of Lessee's operations on and use and possession of the leased premises prior to said expiration.

21. REPRESENTATIONS. Lessee covenants and agrees that he has examined the leased premises and that the same are delivered to him in good order and condition and that no representations as to said premises have been made by Lessor or by any person or agent acting for Lessor, and subject to the provisions of Section 22 hereof, it is agreed that this document contains the entire agreement between the parties hereto and that there are no verbal agreements, representations, warranties or other understandings affecting the same, and Lessee, as a material part of the consideration hereof, hereby waives all claims against Lessor for rescission, damages or otherwise by reason of any alleged covenant, agreement, representation, or understanding not contained in this lease.

22. LEASE SUBJECT TO MASTER LEASE. It is specifically understood and agreed by the parties hereto that this lease is and shall be subject to each and all of the covenants, conditions, reservations and restrictions set forth in the Master Lease and to the rights and interests of Kizer thereunder.

23. CONSTRUCTION AND EFFECT. Time is of the essence of this lease. The section

headings herein are used only for the purpose of convenience and shall not be considered in the construction hereof. This lease and each and all of the covenants, conditions and restrictions hereof shall inure to the benefit of and shall bind the successors and assigns of Lessor (whether such assignee or successor of Lessor be the owner of the fee in the leased premises and/or the Lessor in the Master Lease) and, subject to the restrictions of Section 12 hereof, the heirs, executors, administrators, encumbrancers, assignees, successors and subtenants of Lessee. If Lessee consists of more than one party, the covenants and obligations of Lessee hereunder shall be the joint and several covenants and obligations of such parties.

IN WITNESS WHEREOF, Lessor and Lessee have executed this lease the day and year first above written.

Lessor:

Lessee:

JOHNSON DEVELOPMENT, LLC


By: KIRK JOHNSON

Managing Member


MELVIN O. SCHMIDT


PEARL K. SCHMIDT

STATE OF NEVADA)

) ss.

COUNTY OF DOUGLAS)

On January 5th, 2004, before me, the undersigned a Notary

Public in and for said County and State, Personally appeared, KIRK JOHNSON, known to me to be the person (s) whose name(s) IS subscribed to the within Instrument, and acknowledged to that HE executed the same.

WITNESS my hand and official seal.



Deborah Ortiz
Notary Public in and for said County and State

STATE OF NEVADA)

) ss.

COUNTY OF DOUGLAS)

On January 5th, 2004, before me, the undersigned a Notary

Public in and for said County and State, Personally appeared, MELVIN O. SCHMIDT and PEARL K. SCHMIDT, known to me to be the person (s) whose name(s) ARE subscribed to the within Instrument, and acknowledged to that THEY executed the same.

WITNESS my hand and official seal.



Deborah Ortiz
Notary Public in and for said County and State