



First American Title

Guarantee

CLTA Guarantee Form No. 28 -
Condition of Title

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

5026900-5495617

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE GUARANTEE CONDITIONS ATTACHED HERETO AND MADE A PART OF THIS GUARANTEE.

FIRST AMERICAN TITLE INSURANCE COMPANY

a Nebraska corporation, herein called the Company

GUARANTEES

against loss or damage not exceeding the Amount of Liability stated in Schedule A sustained by the Assured by reason of any incorrectness in the Assurances set forth in Schedule A

First American Title Insurance Company

Dennis J. Gilmore
President

Jeffrey S. Robinson
Secretary

By:

Authorized Countersignature

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EXCLUSIONS FROM COVERAGE

Except as expressly provided by the assurances in Schedule A, the Company assumes no liability for loss or damage by reason of the following:

- (a) Defects, liens, encumbrances, adverse claims or other matters against the title to any property beyond the lines of the Land.
- (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the Public Records (1) that are created, suffered, assumed or agreed to by one or more of the Assureds; or, (2) that result in no loss to the Assured.
- (c) Defects, liens, encumbrances, adverse claims or other matters not shown by the Public Records.
- (d) The identity of any party shown or referred to in any of the schedules of this Guarantee.
- (e) The validity, legal effect or priority of any matter shown or referred to in any of the schedules of this Guarantee.
- (f) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the Public Records.
- (g) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the Public Records.

GUARANTEE CONDITIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

- a. the "Assured": the party or parties named as the Assured in Schedule A, or on a supplemental writing executed by the Company.
- b. "Land": the Land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "Land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- c. "Mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- d. "Public Records": those records established under California statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- e. "Date of Guarantee": the Date of Guarantee set forth in Schedule A.
- f. "Amount of Liability": the Amount of Liability as stated in Schedule A.

2. Notice of Claim to be Given by Assured.

The Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured of any assertion of facts, or claim of title or interest that is contrary to the assurances set forth in Schedule A and that might cause loss or damage for which the Company may be liable under this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice by the failure and then only to the extent of the prejudice.

3. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. Company's Option to Defend or Prosecute Actions; Duty of Assured to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- a. The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in Paragraph 4 (b), or to do any other act which in its opinion may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- b. If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of the Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- c. Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- d. In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, the Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by

GUARANTEE CONDITIONS (Continued)

the Company, the Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A to prevent or reduce loss or damage to the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. Proof of Loss or Damage.

- a. In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Assured furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.
- b. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this paragraph shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonable necessary information from third parties, as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. Options to Pay or Otherwise Settle Claims:

Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

- a. To pay or tender payment of the Amount of Liability together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

- b. To pay or otherwise settle with the Assured any claim assured against under this Guarantee. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or
- c. To pay or otherwise settle with other parties for the loss or damage provided for under this Guarantee, together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in 6 (a), (b) or (c) of this paragraph the Company's obligations to the Assured under this Guarantee for the claimed loss or damage, other than the payments required to be made, shall terminate, including any duty to continue any and all litigation initiated by the Company pursuant to Paragraph 4.

7. Limitation Liability.

- a. This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in Schedule A and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.
- b. If the Company, or the Assured under the direction of the Company at the Company's expense, removes the alleged defect, lien, or encumbrance or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- c. In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom.
- d. The Company shall not be liable for loss or damage to the Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

8. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the Amount of Liability under this Guarantee pro tanto.

9. Payment of Loss.

- a. No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- b. When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions, the loss or damage shall be payable within thirty (30) days thereafter.

GUARANTEE CONDITIONS (Continued)

10. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

11. Arbitration.

Either the Company or the Assured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision, or to any other controversy or claim arising out of the transaction giving rise to this Guarantee. All arbitrable matters when the amount of liability is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. Arbitration pursuant to this Guarantee and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

12. Liability Limited to This Guarantee; Guarantee Entire Contract.

- a. This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- b. Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- c. No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

13. Severability.

In the event any provision of this Guarantee, in whole or in part, is held invalid or unenforceable under applicable law, the Guarantee shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

14. Choice of Law; Forum.

- a. Choice of Law: The Assured acknowledges the Company has underwritten the risks covered by this Guarantee and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of Guaranties of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims that are adverse to the Assured and to interpret and enforce the terms of this Guarantee. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

- b. Choice of Forum: Any litigation or other proceeding brought by the Assured against the Company must be filed only in a state or federal court within the United State of America or its territories having appropriate jurisdiction.

15. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at **First American Title Insurance Company, Attn: Claims National Intake Center, 5 First American Way, Santa Ana, California 92707. Phone: 888-632-1642 (claims.nic@firstam.com).**



First American Title

Schedule A

CLTA Guarantee Form No. 28 - Condition of Title

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

5026900-5495617

File No.: 5495617

Guarantee No. 5495617

Amount of Liability: \$2,500.00

Date of Guarantee: July 11, 2017 at 7:30 A.M.

Fee: \$400.00

1. Name of Assured:

Robin Smith

2. ASSURANCES:

According to the Public Records as of the Date of Guarantee,

a. Title to the estate or interest in the Land is vested in:

ROBIN R. SMITH, ALSO KNOWN AS ROBIN RICE SMITH, AND LYNNE K. SMITH, ALSO KNOWN AS LYNNE KUHL SMITH, TRUSTEES OF THE SMITH FAMILY TRUST DATED MAY 8, 1996

b. Title to the estate or interest is subject to defects, liens, or encumbrances shown in Schedule B which are not necessarily shown in the order of their priority.

3. The estate or interest in the Land which is covered by this Guarantee is:

A FEE AS TO PARCEL(S) ONE, AN EASEMENT AS TO PARCEL(S) TWO, THREE, FOUR AND FIVE

4. The Land referred to in this Guarantee is described as follows:

Real property in the City of MARIN, County of Marin, State of California, described as follows:

PARCEL ONE:

PARCEL 1, AS SHOWN UPON THAT CERTAIN PARCEL MAP ENTITLED, "PARCEL MAP, BEING A LAND DIVISION OF THE LANDS OF DE TERRA 2864 OR 237, BEING A PORTION OF LOT 13, 1 RM 125 AND A PORTION OF BLOCK 20, 3 RM 85, HOMESTEAD VALLEY, MARIN COUNTY, CALIFORNIA", FILED FOR RECORD DECEMBER 21, 1977 IN [VOLUME 14 OF PARCEL MAPS, AT PAGE 70](#), MARIN COUNTY RECORDS.

PARCEL TWO:

AN EASEMENT FOR INGRESS AND EGRESS OVER AND ALONG A STRIP OF LAND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF LAVERNE AVENUE, DISTANT THEREON SOUTH 16° 12' EAST 183.29 FEET AND NORTH 78° 43' EAST 91.65 FEET FROM THE MOST NORTHERLY CORNER OF LOT 13, AS SAID AVENUE AND LOT ARE SHOWN ON THE MAP HEREINAFTER MENTIONED; THENCE LEAVING SAID AVENUE AND RUNNING SOUTH 19° 11' WEST 154.34 FEET; THENCE SOUTH 12° 34' EAST 182.64 FEET; THENCE SOUTH 8° 59' WEST 72 FEET; THENCE SOUTH 71° 59' WEST 106.33 FEET; THENCE SOUTH 53° 01' EAST 103.71 FEET; THENCE NORTH 8° 59' EAST 96.8 FEET; THENCE NORTH 12° 54' WEST 179.82 FEET AND NORTH 19° 11' EAST 163.48 FEET TO THE SOUTHERLY LINE OF LAVERNE AVENUE; THENCE ALONG SAID LINE SOUTH 78° 43' WEST 36.62 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF LOT 13, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "TAMALPAIS LAND AND WATER COMPANY MAP NO. 6", FILED FOR RECORD IN [VOLUME 1 OF MAPS, AT PAGE 125](#), MARIN COUNTY RECORDS.

PARCEL THREE:

AN EASEMENT FOR SEWER AND UTILITY PURPOSES OVER THE GENERAL SOUTHERN AND SOUTHWESTERN 5.00 FEET OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO WALTER GLASER AND WIFE, RECORDED DECEMBER 7, 1954 IN [BOOK 906 OF OFFICIAL RECORDS, AT PAGE 51](#), MARIN COUNTY RECORDS.

PARCEL FOUR:

AN EASEMENT FOR INGRESS AND EGRESS AND UTILITY PURPOSES OVER AND ACROSS A STRIP OF LAND 20 FEET IN WIDTH THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERN CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO ALVIN L. LONG, RECORDED NOVEMBER 7, 1955 IN [BOOK 984 OF OFFICIAL RECORDS, AT PAGE 314](#); THENCE NORTH 9° 02' WEST 119.50 FEET; NORTH 31° 08' WEST 62 FEET; NORTH 49° 33' WEST 37.40 FEET AND NORTH 61° 42' WEST 81.63 FEET TO THE INTERSECTION OF THE EXTENSION OF ROAD STREET.

PARCEL FIVE:

A NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY PURPOSES OVER AND ACROSS A STRIP OF LAND 40 FEET IN WIDTH, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT DISTANT SOUTH 53° 01' EAST 20.71 FEET FROM THE NORTHEASTERN CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO WILLIAM S. MILLER, A SINGLE MAN, RECORDED AUGUST 23, 1960 IN BOOK 1392 OF OFFICIAL RECORDS, AT PAGE 339; THENCE FROM SAID POINT OF BEGINNING, SOUTH 52° 00' WEST 60.868 FEET; THENCE SOUTH 12° 00' EAST 114.766 FEET; THENCE SOUTH 49° 30' WEST 36.82 FEET; NORTH 44° 00' WEST 37.00 FEET; THENCE NORTH 24° 10' WEST 49.60 FEET; THENCE NORTH 45° 50' WEST 48.20 FEET; THENCE 83° 39' WEST 49.70 FEET THENCE SOUTH 63° 50' WEST 89.60 FEET; THENCE NORTH 64° 15' WEST 47.37; THENCE NORTH 21° 02' WEST 142.27 FEET TO THE POINT OF TERMINATION OF SAID EASEMENT.

EXCEPTING FROM SAID 40 FOOT EASEMENT ALL THAT PORTION THEREOF LYING WITHIN THE LINES OF PARCEL ONE HEREINABOVE DESCRIBED.

APN: 048-101-23



First American Title

Schedule B

CLTA Guarantee Form No. 28 - Condition of Title

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

5026900-5495617

File No.: 5495617

1. General and special taxes and assessments for the fiscal year 2017-2018, a lien not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. Covenants, conditions, restrictions and easements in the document recorded September 01, 1904 in [Book 89 of Deeds, Page 57](#), but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, marital status, ancestry, disability, handicap, familial status, national origin or source of income (as defined in California Government Code §12955(p)), to the extent such covenants, conditions or restrictions violate 42 U.S.C. §3604(c) or California Government Code §12955. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
4. An easement for ROADWAY AND UTILITY and incidental purposes in the document recorded December 29, 1966 as [BOOK 2100, PAGE 553](#) of Official Records.
5. An easement for RIGHT OF WAY FOR PIPELINE OR PIPELINES AN ACCESS PURPOSES and incidental purposes in the document recorded February 23, 1977 as [BOOK 3157, PAGE 529](#) of Official Records.
6. Any and all offers of dedications, conditions, restrictions, easements, notes and/or provisions shown or disclosed by the filed or recorded map referred to in the legal description including but not limited to: VEHICULAR NON-ACCESS and incidental purposes affecting said land.
7. Abutter's rights of ingress and egress to or from FERNDALE AVE, have been dedicated or relinquished on the filed Map.
8. An easement for A NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY and incidental purposes in the document recorded July 08, 1986 as INSTRUMENT NO. [1986-35072](#) of Official Records.
9. An easement for A NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY and incidental purposes in the document recorded December 29, 1986 as INSTRUMENT NO. [1986-73800](#) of Official Records.

10. A deed of trust to secure an original indebtedness of \$85,000.00 recorded July 01, 2009 as INSTRUMENT NO. [2009-37487](#) OF OFFICIAL RECORDS.

Dated: June 24, 2009
Trustor: ROBIN R. SMITH, ALSO KNOWN AS ROBIN RICE SMITH, AND
LYNNE K. SMITH, ALSO KNOWN AS LYNNE KUHL SMITH,
TRUSTEES OF THE SMITH FAMILY TRUST DATED MAY 8, 1996
Trustee: AMERICAN SECURITIES COMPANY
Beneficiary: WELLS FARGO BANK, N.A.

The above deed of trust states that it secures an equity line/revolving line of credit. Prior to the payment and suspension of the equity line/revolving line of credit, an instruction to suspend and close the equity line/revolving line of credit pursuant to CA Civil Code Section 2943.1 must be executed by the borrower.

A document recorded August 18, 2016 as INSTRUMENT NO. [2016-37130](#) OF OFFICIAL RECORDS provides that the lien or charge of the deed of trust was subordinated to the lien or charge of the deed of trust recorded August 18, 2016 as INSTRUMENT NO. [2016-37129](#) OF OFFICIAL RECORDS.

11. A deed of trust to secure an original indebtedness of \$395,000.00 recorded August 18, 2016 as INSTRUMENT NO. [2016-37129](#) OF OFFICIAL RECORDS.

Dated: August 12, 2016
Trustor: ROBIN R. SMITH, ALSO KNOWN AS ROBIN RICE SMITH, AND
LYNNE K. SMITH, ALSO KNOWN AS LYNNE KUHL SMITH,
TRUSTEES OF THE SMITH FAMILY TRUST DATED MAY 8, 1996
Trustee: FREMONT BANK
Beneficiary: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
LENDER: FREMONT BANK

12. Any easements and/or servitudes affecting easement parcel(s) TWO, THREE, FOUR AND FIVE herein described.
13. Any defects, liens, encumbrances or other matters which name parties with the same or similar names as ROBIN R. SMITH. The name search necessary to ascertain the existence of such matters has not been completed. In order to complete this preliminary report or commitment, we will require a statement of information.
14. Water rights, claims or title to water, whether or not shown by the public records.
15. Rights of the public in and to that portion of the land lying within any Road, Street, Alley or Highway.