

10125269  
 6/7/2007 4:04:00 PM \$386.00  
 Book - 9475 Pg - 2842-2853  
 Gary W. Ott  
 Recorder, Salt Lake County, UT  
 TALON GROUP  
 BY: eCASH, DEPUTY - EF 12 P.

WHEN RECORDED, RETURN TO:

Kennecott Land Company  
 5295 South 300 West, Suite 475  
 Murray, Utah 84107  
 Attention: Senior Contracts and Revenue Analyst

**AMENDMENT NO. 1  
 TO  
 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
 RESTRICTIONS FOR DAYBREAK TOWNHOME 1 PROJECT**

**THIS AMENDMENT NO. 1 TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DAYBREAK TOWNHOME 1 PROJECT** (this "Amendment") is made this June 4, 2007 by **KENNECOTT LAND COMPANY**, a Delaware corporation, as declarant ("**Declarant**") under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Townhome 1 Project, and is consented to by Holmes Homes, Inc., a Utah corporation ("**Holmes Homes**") and Hamlet Homes II, L.L.C., a Utah limited liability company ("**Hamlet Homes**").

**RECITALS**

- A. Declarant has previously established the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Townhome 1 Project, recorded on October 19, 2005, as Entry No. 9528106, in Book 9205, beginning at Page 4779 (as amended from time to time, the "**Declaration**") establishing the Daybreak Townhome 1 Project (the "**Project**"), which initially consisted of 64 lots as more particularly described on Exhibit A attached hereto. The Declaration now encumbers, and the Project now includes, the real property described on Exhibit B attached hereto. The Project is located within the community commonly known as "Daybreak" located in South Jordan, Utah.
- B. Pursuant to Article 15 of the Declaration, Declarant has the right to amend the Declaration during the "Owner Control Period" (as such term is defined in the Declaration).
- C. In order to facilitate the orderly expansion of the Project, the need has arisen to amend the Declaration as set forth herein.

NOW, THEREFORE, Declarant hereby declares the following:

1. **Amendment Regarding Description of Project.**

Section 3.1 of the Declaration is hereby amended and restated in its entirety to read:

**3.1 Description of Project.** The Project initially consists of 64 Lots as shown on the Plat. Each of the Lots shall, when improved, contain one single family Dwelling. Holmes Homes intends to initially build 16 Buildings, each containing 4 Dwellings in the Project. Each Owner acknowledges that the design and construction of the Dwellings, the Buildings and all other initial improvements within the Project, as it may be expanded from time to time, and the marketing and sales of Lots and Dwellings within the Project, as it may be expanded from time to time, have been and/or will be performed by individuals and/or companies other than Declarant or its affiliates, and not by Declarant or its affiliates, and Owner has relied and will rely solely on such individuals and/or companies with respect to any issues related thereto, and each Owner further acknowledges that it shall have no rights or remedies with respect to any such issues against Declarant or its affiliates.

2. **Amendment Regarding Assessments.**

Section 10.2(a)(3) of the Declaration is hereby amended and restated in its entirety to read:

(3) **Annual Assessments.** The Association shall establish a regular, equal monthly assessment to be paid by each Owner into the Common Expense Fund, provided however that if the Common Expenses associated with certain Lots are greater than for the remainder of the Lots, then such Lots associated with higher Common Expenses may be assessed a proportionately higher assessment (including any assessment under Section 10.3 hereof). The dates and manner of payment shall be determined by the Association. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Owner be equal, provided however that if the Common Expenses associated with certain Lots are greater than for the remainder of the Lots, then such Lots associated with higher Common Expenses may be assessed a proportionately higher assessment. Each monthly installment of the regular assessment shall bear interest at the rate of ten percent (10%) per annum (or such higher rate as the Board may establish, subject to the limitations of Utah law) from the date it becomes due and payable until paid. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Lot for such assessment.

3. **Full Force and Effect.**

The Declaration, as amended hereby, shall remain in full force and effect.

4. **Incorporation by Reference.**


The Recitals and Exhibits to this Amendment are hereby incorporated into the Amendment by this reference.

[Signatures on Next Page]

IN WITNESS WHEREOF, as of this June 4, 2007, Declarant has executed this Amendment, and Holmes Homes and Hamlet Homes have consented to the same.

**Declarant:**

**KENNECOTT LAND COMPANY,**  
a Delaware corporation

By:   
M. Bruce Snyder  
Its: Vice President, Residential and  
Commercial Development


**Holmes Homes:**

**HOLMES HOMES, INC.,** a Utah corporation

By: \_\_\_\_\_  
Patrick Holmes  
Its: President

**Hamlet Homes:**

**HAMLET HOMES II, L.L.C.,** a Utah limited liability company

By:   
Michael Brodsky, Chairman  
Managing Member, Hamlet Homes Corp.

IN WITNESS WHEREOF, as of this June 4, 2007, Declarant has executed this Amendment, and Holmes Homes and Hamlet Homes have consented to the same.

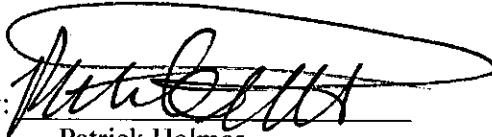
**Declarant:**

**KENNECOTT LAND COMPANY,**  
a Delaware corporation

By: \_\_\_\_\_  
M. Bruce Snyder  
Its: Vice President, Residential and  
Commercial Development

**Holmes Homes:**

**HOLMES HOMES, INC.,** a Utah corporation

By:   
Patrick Holmes  
Its: President

**Hamlet Homes:**

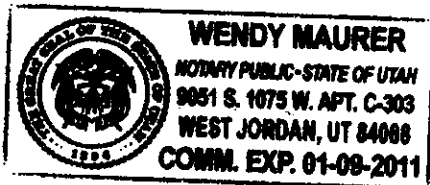
**HAMLET HOMES II, L.L.C.,** a Utah limited liability company

By: \_\_\_\_\_  
Michael Brodsky  
Managing Member

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On June 4, 2007, personally appeared before me, a Notary Public, M. Bruce Snyder, the Vice President Residential and Commercial Development of **KENNECOTT LAND COMPANY** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **KENNECOTT LAND COMPANY**.

WITNESS my hand and official Seal.



Wendy Maurer  
Notary Public in and for said State

My commission expires: 1-9-11

[SEAL]

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On \_\_\_\_\_, personally appeared before me, a Notary Public, \_\_\_\_\_, the \_\_\_\_\_ of **HOLMES HOMES** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **HOLMES HOMES**.

WITNESS my hand and official Seal.

\_\_\_\_\_  
Notary Public in and for said State

My commission expires: \_\_\_\_\_

[SEAL]

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On \_\_\_\_\_, personally appeared before me, a Notary Public, M. Bruce Snyder, the Vice President Residential and Commercial Development of **KENNECOTT LAND COMPANY** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **KENNECOTT LAND COMPANY**.

WITNESS my hand and official Seal.

\_\_\_\_\_  
Notary Public in and for said State

My commission expires: \_\_\_\_\_

[SEAL]

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On 6/4/07, personally appeared before me, a Notary Public, Patrick Holmes, the President of **HOLMES HOMES** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **HOLMES HOMES**.

WITNESS my hand and official Seal.



Melanie O Maxfield  
Notary Public in and for said State

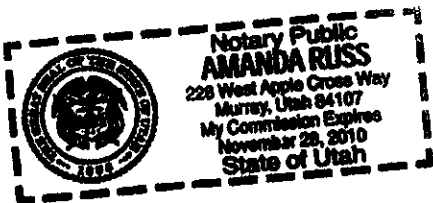
My commission expires: 11-1-07

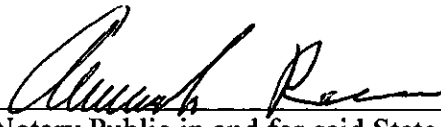
[SEAL]

STATE OF UTAH )  
 ) SS.  
COUNTY OF SALT LAKE )

On May 31, 2007, personally appeared before me, a Notary Public, Michael Brodsky, the Chairman of Hamlet Homes Corporation, the Managing Member of HAMLET HOMES II, LLC personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of HAMLET HOMES II, LLC.

WITNESS my hand and official Seal.



  
\_\_\_\_\_  
Notary Public in and for said State

My commission expires: Nov. 28, 2010

[SEAL]

**EXHIBIT A**

**INITIAL PROJECT LEGAL DESCRIPTION**

Lots 1-64, inclusive, depicted on the "DAYBREAK TOWNHOME 1 SUBDIVISION", according to the official plat recorded July 21, 2004, as Entry No. 9125568 in Book 2004P beginning at Page 198 in the Official Records of Salt Lake County, Utah.



**EXHIBIT B**

**PROJECT LEGAL DESCRIPTION**

Lots 1-64, inclusive, depicted on the "DAYBREAK TOWNHOME 1 SUBDIVISION", according to the official plat recorded July 21, 2004, as Entry No. 9125568 in Book 2004P beginning at Page 198 in the Official Records of Salt Lake County, Utah.

Tax Parcel No. 27-19-382-004-0000	27-19-383-012-0000	27-18-382-044-0000
27-19-382-005-0000	27-19-383-013-0000	27-18-382-043-0000
27-19-382-006-0000	27-19-383-014-0000	27-18-382-042-0000
27-19-382-007-0000	27-19-383-015-0000	27-18-382-041-0000
27-19-382-008-0000	27-19-383-016-0000	27-18-382-040-0000
27-19-382-009-0000	27-19-383-017-0000	27-18-382-039-0000
27-19-382-010-0000	27-19-383-018-0000	27-18-382-038-0000
27-19-382-011-0000	27-19-383-019-0000	27-18-382-037-0000
27-19-382-012-0000	27-19-383-020-0000	27-18-382-036-0000
27-19-382-013-0000	27-19-383-021-0000	27-18-382-035-0000
27-19-382-014-0000	27-19-383-033-0000	27-18-382-034-0000
27-19-382-015-0000	27-19-383-032-0000	27-18-382-033-0000
27-19-382-016-0000	27-18-383-031-0000	27-18-382-032-0000
27-19-382-017-0000	27-18-383-030-0000	27-18-382-031-0000
27-19-382-018-0000	27-18-383-029-0000	27-18-382-030-0000
27-19-382-019-0000	27-18-383-028-0000	27-18-382-029-0000
27-19-382-020-0000	27-18-383-027-0000	27-18-382-028-0000
27-19-382-021-0000	27-18-383-026-0000	27-18-382-027-0000
27-19-382-022-0000	27-18-383-025-0000	27-18-382-026-0000
27-19-382-023-0000	27-18-383-024-0000	27-18-382-025-0000
27-19-383-010-0000	27-18-383-023-0000	
27-19-383-011-0000	27-18-383-022-0000	

Lots 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, and 648 of that certain map entitled "KENNECOTT DAYBREAK PHASE II PLAT 3 SUBDIVISION", according to the official plat recorded March 25, 2005, as Entry No. 9331480 in Book 2005P beginning at Page 83 in the Official Records of Salt Lake County, Utah.

Tax Parcel No. 26-24-480-001-0000	26-24-480-028-0000	26-24-480-042-0000	26-24-480-025-0000
26-24-480-002-0000	26-24-480-029-0000	26-24-480-041-0000	26-24-480-026-0000
26-24-480-003-0000	26-24-480-030-0000	26-24-480-040-0000	26-24-480-018-0000
26-24-480-004-0000	26-24-480-031-0000	26-24-480-039-0000	26-24-480-017-0000
26-24-480-005-0000	26-24-480-032-0000	26-24-480-038-0000	26-24-480-016-0000
26-24-480-006-0000	26-24-480-033-0000	26-24-480-037-0000	26-24-480-015-0000
26-24-480-007-0000	26-24-480-034-0000	26-24-480-036-0000	26-24-480-014-0000
26-24-480-008-0000	26-24-480-035-0000	26-24-480-020-0000	26-24-480-013-0000
26-24-480-009-0000	26-24-480-046-0000	26-24-480-021-0000	26-24-480-012-0000
26-24-480-010-0000	26-24-480-045-0000	26-24-480-022-0000	
26-24-480-011-0000	26-24-480-044-0000	26-24-480-023-0000	
26-24-480-027-0000	26-24-480-043-0000	26-24-480-024-0000	

Lots 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, and 300 of that certain map entitled "KENNECOTT DAYBREAK PLAT 4 SUBDIVISION AMENDING LOTS T4 AND V4A OF THE KENNECOTT MASTER SUBDIVISION #1", according to the official plat recorded on May 25, 2005 as Entry No. 9383110 in Book 2005P beginning at Page 160 in the Official Records of Salt Lake County, Utah.

Tax Parcel No.	26-24-451-013-0000	26-24-401-010-0000	26-24-428-002-0000
	26-24-451-012-0000	26-24-401-009-0000	26-24-428-001-0000
	26-24-451-011-0000	26-24-401-008-0000	26-24-429-001-0000
	26-24-451-010-0000	26-24-401-007-0000	26-24-429-002-0000
	26-24-451-009-0000	26-24-401-006-0000	26-24-429-003-0000
	26-24-451-008-0000	26-24-401-005-0000	26-24-429-004-0000
	26-24-451-007-0000	26-24-401-004-0000	26-24-429-005-0000
	26-24-451-006-0000	26-24-401-003-0000	26-24-429-006-0000
	26-24-451-005-0000	26-24-401-002-0000	26-24-429-007-0000
	26-24-451-004-0000	26-24-401-001-0000	26-24-429-008-0000
	26-24-451-003-0000	26-24-428-009-0000	26-24-429-009-0000
	26-24-451-002-0000	26-24-428-008-0000	
	26-24-451-001-0000	26-24-428-007-0000	
	26-24-401-014-0000	26-24-428-006-0000	
	26-24-401-013-0000	26-24-428-005-0000	
	26-24-401-012-0000	26-24-428-004-0000	
	26-24-401-011-0000	26-24-428-003-0000	

**TOWN HOME LOTS:**

Lots 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487 and 488 inclusive of that certain map entitled "Amended Kennecott Daybreak Plat 5 Subdivision Amending Lots C-101, 197, 421, 422, 428 thru 437, 440 thru 489, Parcel A thru Parcel I, O-101 thru O-107 and adding lots 496 thru 545 and P-110 thru P-117" recorded on August 4, 2006 as Entry No. 9802256, Book 2006P, at Page 217 of the Official Records of Salt Lake County.

Tax Parcel No.	27-18-454-006-0000	27-18-453-011-0000	27-18-453-023-0000	27-19-206-003-0000
	27-18-454-005-0000	27-18-453-012-0000	27-19-201-004-0000	27-19-206-002-0000
	27-18-454-004-0000	27-18-453-013-0000	27-19-201-005-0000	27-19-206-001-0000
	27-18-454-003-0000	27-18-453-014-0000	27-19-201-006-0000	27-19-205-008-0000
	27-18-454-002-0000	27-18-453-015-0000	27-19-201-007-0000	27-19-205-007-0000
	27-18-454-001-0000	27-18-453-016-0000	27-19-201-008-0000	27-19-205-006-0000
	27-18-453-009-0000	27-18-453-017-0000	27-19-201-009-0000	27-19-205-005-0000
	27-18-453-008-0000	27-18-453-018-0000	27-19-202-001-0000	27-19-205-004-0000
	27-18-453-007-0000	27-18-453-019-0000	27-19-202-002-0000	
	27-18-453-006-0000	27-18-453-020-0000	27-19-202-003-0000	
	27-18-453-005-0000	27-18-453-021-0000	27-19-202-004-0000	
	27-18-453-004-0000	27-18-453-022-0000	27-19-206-004-0000	

**MANSION TOWN HOME LOTS:**

Lots 440, 441, 454, 468, 469, 489, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 538, 539, 540, 541, 542, 543, 544, and 545 inclusive of that certain map entitled "Amended Kennecott Daybreak Plat 5 Subdivision Amending Lots C-101, 197, 421, 422, 428 thru 437, 440 thru 489, Parcel A thru Parcel I, O-101 thru O-107 and adding lots 496 thru 545 and P-110 thru P-117" recorded on August 4, 2006 as Entry No. 9802256, Book 2006P, at Page 217 of the Official Records of Salt Lake County.

Tax Parcel No.	27-18-454-008-0000	27-19-202-005-0000	27-18-376-017-0000
	27-18-454-007-0000	27-19-202-006-0000	27-18-376-016-0000
	27-18-453-003-0000	27-19-202-007-0000	27-18-376-015-0000
	27-19-201-001-0000	27-19-201-003-0000	27-18-376-014-0000
	27-19-201-002-0000	27-18-453-002-0000	27-18-376-013-0000
	27-19-205-003-0000	27-18-453-001-0000	
	27-19-205-001-0000	27-18-454-009-0000	
	27-19-205-002-0000	27-18-454-009-0000	
	27-19-206-007-0000	27-19-204-005-0000	
	27-19-206-006-0000	27-19-204-004-0000	
	27-19-206-005-0000	27-19-204-003-0000	

**TOWN HOME 2 LOTS:**

Lots 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 281, 282, 283, 284, 285, 286, 331, 332, 333, 334, 335, 346, 347, 348, 349, 350, and 351 inclusive of that certain map entitled "Kennecott Daybreak Plat 7 Subdivision Amending OS2 and V1 of the Kennecott Master Subdivision #1 and adding a portion of Quitclaim Deed Book 9277 Page 2603 thru 2605" recorded on October 9, 2006, as Entry No. 9869942, Book 2006P, at Page 294 of the Official Records of Salt Lake County.

Tax Parcel No.	27-18-302-032-0000	27-18-177-025-0000	27-18-177-009-0000	27-18-178-029-0000
	27-18-302-031-0000	27-18-177-024-0000	27-18-178-004-0000	27-18-178-030-0000
	27-18-302-030-0000	27-18-177-023-0000	27-18-178-005-0000	27-18-303-009-0000
	27-18-302-029-0000	27-18-177-022-0000	27-18-178-006-0000	27-18-303-010-0000
	27-18-302-028-0000	27-18-177-021-0000	27-18-178-007-0000	27-18-303-011-0000
	27-18-302-027-0000	27-18-177-020-0000	27-18-178-008-0000	27-18-303-012-0000
	27-18-302-026-0000	27-18-177-019-0000	27-18-178-009-0000	27-18-303-013-0000
	27-18-302-025-0000	27-18-177-018-0000	27-18-178-010-0000	27-18-305-007-0000
	27-18-302-024-0000	27-18-177-017-0000	27-18-178-011-0000	27-18-305-008-0000
	27-18-302-023-0000	27-18-177-016-0000	27-18-178-012-0000	27-18-305-009-0000
	27-18-302-022-0000	27-18-177-015-0000	27-18-178-013-0000	27-18-305-010-0000
	27-18-302-021-0000	27-18-177-014-0000	27-18-178-014-0000	27-18-305-011-0000
	27-18-302-020-0000	27-18-177-013-0000	27-18-178-025-0000	27-18-305-012-0000
	27-18-177-028-0000	27-18-177-012-0000	27-18-178-026-0000	
	27-18-177-027-0000	27-18-177-011-0000	27-18-178-027-0000	
	27-18-177-026-0000	27-18-177-010-0000	27-18-178-028-0000	

**MANSION TOWN HOME LOTS:**

Lots 258, 259, 260, 261, 262, 263, 264, 265, 266, 278, 279, and 280 inclusive of that certain map entitled "Kennecott Daybreak Plat 7 Subdivision Amending OS2 and V1 of the Kennecott Master Subdivision #1 and adding a portion of Quitclaim Deed Book 9277 Page 2603 thru 2605" recorded on October 9, 2006, as Entry No. 9869942, Book 2006P, at Page 294 of the Official Records of Salt Lake County.

Tax Parcel No. 27-18-177-002-0000	27-18-177-007-0000	27-18-178-016-0000
27-18-177-003-0000	27-18-178-001-0000	27-18-178-017-0000
27-18-177-004-0000	27-18-178-002-0000	
27-18-177-005-0000	27-18-178-003-0000	
27-18-177-006-0000	27-18-178-015-0000	

**TOWN HOME 1 LOTS:**

Lots 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, and 397 inclusive of that certain map entitled "Kennecott Daybreak Plat 7 Subdivision Amending OS2 and V1 of the Kennecott Master Subdivision #1 and adding a portion of Quitclaim Deed Book 9277 Page 2603 thru 2605" recorded on October 9, 2006, as Entry No. 9869942, Book 2006P, at Page 294 of the Official Records of Salt Lake County

Tax Parcel No. 27-18-302-006-0000	27-18-301-035-0000	27-18-305-051-0000
27-18-302-007-0000	27-18-301-037-0000	27-18-305-052-0000
27-18-302-008-0000	27-18-301-038-0000	27-18-305-053-0000
27-18-302-009-0000	27-18-301-039-0000	27-18-305-054-0000
27-18-302-010-0000	27-18-301-040-0000	27-18-305-055-0000
27-18-302-011-0000	27-18-301-041-0000	27-18-406-036-0000
27-18-302-012-0000	27-18-301-042-0000	27-18-406-037-0000
27-18-302-013-0000	27-18-301-022-0000	27-18-406-038-0000
27-18-302-014-0000	27-18-301-021-0000	27-18-406-039-0000
27-18-302-015-0000	27-18-301-020-0000	27-18-406-040-0000
27-18-302-016-0000	27-18-301-019-0000	27-18-406-041-0000
27-18-302-017-0000	27-18-301-018-0000	27-18-406-042-0000
27-18-302-018-0000	27-18-301-017-0000	27-18-406-043-0000
27-18-302-019-0000	27-18-301-016-0000	
27-18-301-031-0000	27-18-301-015-0000	
27-18-301-029-0000	27-18-301-014-0000	
27-18-301-028-0000	27-18-301-013-0000	
27-18-301-027-0000	27-18-301-012-0000	
27-18-301-026-0000	27-18-301-011-0000	
27-18-301-025-0000	27-18-301-010-0000	
27-18-301-024-0000	27-18-301-009-0000	
27-18-301-032-0000	27-18-305-048-0000	
27-18-301-033-0000	27-18-305-049-0000	
27-18-301-034-0000	27-18-305-050-0000	