

part, by the Parol Evidence Rule.

3. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the Statute of Frauds.

4. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the failure of a condition precedent.

5. While Defendant denies that Plaintiff suffered any injury, any injury sustained by Plaintiff is the result of the acts or omissions of third parties, over which Defendant exercised no control.

6. Plaintiff's damages, if any, were proximately caused by the acts, omissions, or breaches of other persons and entities, including Plaintiff, and said acts, omissions, or breaches were intervening and superseding causes of Plaintiff's damages, if any. Defendants assert their right to comparative responsibility as provided in Chapter 33 of the Texas Civil Practice and Remedies Code and requests that the fact finder apportion responsibility as provided in Chapter 33.

7. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the "one satisfaction" doctrine.

8. Some or all of Plaintiff's claims and causes of action are barred, in whole or in part, by the "economic loss" doctrine.

9. Any allegedly wrongful acts or omissions of Defendant, if and to the extent such acts and omissions occurred, were legally excused or justified.

10. Defendants would show their conduct or activity conformed at all times to any and all applicable state and federal statutes, codes, and regulations.

11. Defendants assert the defense of bona fide error.

12. Some or all of Plaintiff's claims are barred, in whole or in part, by the doctrines of judicial estoppel, collateral estoppel, quasi estoppel, contractual estoppel, equitable estoppel and res judicata.

13. Plaintiff failed to mitigate and/or minimize its purported damages.

14. Plaintiff lacks clean hands to bring an action in equity.

15. Plaintiff lacks standing to bring its claims.

16. Plaintiff has failed to state a claim upon which relief may be granted.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing on its claims; that Defendant be awarded their attorney's fees and costs, and that Defendant receive all other relief to which they may be entitled.

Respectfully submitted,

By: /s/ Nicholas M. Frame

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CERTIFICATE OF SERVICE

The undersigned certifies that on May 31, 2024, a true and correct copy of the foregoing document was delivered via electronic case notification to the counsel of record listed below:

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