

Avalar Advantage Realty

# RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document update  
May 2005



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## 1. PROPERTY

- 1a. 1. BUYER: Jane T. Casus BUYER'S NAME(S)
- 2. SELLER: Landmark Capital Investment or  as identified in section 9c. SELLER'S NAME(S)
- 3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereo
- 4. or incidental thereto, plus the personal property described herein (collectively the "Premises").
- 1b. 5. Premises Address: 01900 N. Shannon Road Assessor's #: 224-42-606
- 6. City: Tucson County: Pima AZ, Zip Code: 85742
- 7. Legal Description: long legal on file
- 1c. 8. \$ 635,000.00 Full Purchase Price, paid as outlined below
- 9. \$ 25,400.00 Earnest money To be applied towards down payment
- 10. \$ 38,100.00 Additional down payment @ closing totaling 90%
- 11. \$ 571,500.00 To be financed @ closing
- 12.
- 1d. 13. Close of Escrow: Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's
- 14. office. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to
- 15. Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to
- 16. occur on March 4, 2010 ("COE Date"). If Escrow Company or recorder's office
- 17. is closed on COE Date, COE shall occur on the next day that both are open for business.
- 18. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down
- 19. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds
- 20. to Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.
- 1e. 21. Possession: Seller shall deliver possession, occupancy, access to keys and/or means to operate all locks, mailbox, security
- 22. system/alarms, and all common area facilities to Buyer at COE or
- 23. Broker(s) recommend that the parties seek appropriate counsel from insurance, legal, tax, and accounting professionals
- 24. regarding the risks of pre-possession or post-possession of the Premises.
- 1f. 25. Addenda Incorporated:  Assumption and Carryback  Buyer Contingency  Domestic Water Well  HUD forms
- 26.  H.O.A.  Lead-Based Paint Disclosure  Additional Clause  On-site Wastewater Treatment Facility
- 27.  Other: \_\_\_\_\_
- 1g. 28. Fixtures and Personal Property: Seller agrees that all existing fixtures on the Premises, and any existing personal property
- 29. specified herein, shall be included in this sale, including the following:
  - 30. • free-standing range/oven
  - 31. • built-in appliances
  - 32. • light fixtures
  - 33. • ceiling fans
  - 34. • towel, curtain and drapery rods
  - 35. • draperies and other window coverings
  - 36. • attached floor coverings
  - flush-mounted speakers
  - attached fireplace equipment
  - window and door screens, sun screens
  - storm windows and doors
  - shutters and awnings
  - garage door openers and controls
  - attached TV/media antennas/satellite dishes
  - outdoor landscaping, fountains, and lighting
  - water-misting systems
  - solar systems
  - pellet, wood-burning or gas-log stoves
  - timers
  - mailbox
  - storage sheds

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SELLER      Initials: \_\_\_\_\_  
 BUYER      Initials: JM  
 BUYER      Initials: \_\_\_\_\_

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Exhibit "2"

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- 37. If owned by the Seller, the following items also are included in this sale:
- 38. • pool and spa equipment (including any
- 39. mechanical or other cleaning systems) • security and/or fire systems and/or alarms • water softeners • water purification systems
- 40. Additional existing personal property included in this sale (if checked):  refrigerator  washer  dryer
- 41. As described: \_\_\_\_\_
- 42. \_\_\_\_\_
- 43.  Other: \_\_\_\_\_
- 44. \_\_\_\_\_
- 45. \_\_\_\_\_
- 46. Additional existing personal property included shall not be considered part of the Premises and shall be transferred with monetary value, and free and clear of all liens or encumbrances.
- 47. Fixtures and leased items NOT included: \_\_\_\_\_
- 48. IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.

2. FINANCING

- 2a. 50. Loan Contingency: Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval for the loan described in the AAR Loan Status Report without conditions no later than COE Date. If Buyer is unable to obtain loan approval without conditions by COE Date, Buyer shall deliver a notice of the inability to obtain loan approval without conditions to Seller or Escrow Company no later than COE Date.
- ~~2b. 54. Unfulfilled Loan Contingency: This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money after diligent and good faith effort, Buyer is unable to obtain loan approval without conditions by COE Date. Buyer is aware that failure to have the down payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan contingency. Buyer acknowledges that prepaid items paid separately from earnest money are not refundable.~~
- 2c. 59. Appraisal Contingency: Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises by an appraisal acceptable to lender for at least the sales price. If the Premises fails to appraise for the sales price, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a refund of the Earnest Money or the appraisal contingency shall be waived.
- 2d. 62. Loan Status Report: The AAR Loan Status Report ("LSR") with, at a minimum, the Buyer's Loan Information section complete describing the current status of the Buyer's proposed loan, is attached hereto and incorporated herein by reference.
- 2e. 64. Loan Application: Unless previously completed, within five (5) days after Contract acceptance, Buyer shall (i) complete, sign and deliver to the lender a loan application with requested disclosures and documentation; (ii) grant lender permission to access Buyer's Trimerged Residential Credit Report; and (iii) pay all required loan application fees.
- 2f. 67. Loan Processing During Escrow: Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with additional documentation required. Buyer instructs the lender to provide loan status updates to Broker(s) and Seller. Buyer shall sign all loan documents no later than three (3) days prior to the COE Date.
- 2g. 70. Type of Financing:  Conventional  FHA  VA  Assumption  Seller Carryback  \_\_\_\_\_ (If financing is to be other than new financing, see attached addendum.)
- 2h. 72. Loan Costs: Private Mortgage Insurance is required for certain types of loans and shall be paid by Buyer at COE in a manner acceptable to lender. The following may be paid by either party:
  - 74. Discount points shall be paid by:  Buyer  Seller  Other \_\_\_\_\_
  - 75. Discount points shall not exceed: \_\_\_\_\_ total points (Does not include loan origination fee)
  - 76. A.L.T.A. Lender Title Insurance Policy shall be paid by  Buyer  Seller
  - 77. Loan Origination Fee (Not to exceed \_\_\_\_\_ % of loan amount) shall be paid by  Buyer  Seller
  - 78. Appraisal Fee, when required by lender, shall be paid by  Buyer  Seller  Other \_\_\_\_\_
- 2i. 79. Other Loan Costs: In the event of an FHA or VA loan, Seller agrees to pay up to \$ \_\_\_\_\_ of loan costs not permitted to be paid by the Buyer, in addition to the other costs Seller has agreed to pay herein. In addition, for VA loans, Seller agrees to pay the escrow fee. All other costs of obtaining the loan shall be paid by the Buyer.

SELLER  
SELLER

BUYER  
BUYER

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- 2j. 82 **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in th  
83 LSR and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affe  
84 Buyer's ability to obtain loan approval without conditions, increase Seller's closing costs, or delay COE.
- 2k. 85 **FHA Notice (FHA Buyer Initials Required):** HUD does not warrant the condition of the property. By initialing below, Buyer acknow  
86 edges receipt of Form HUD-92584-CN, "For Your Protection: Get a Home Inspection." Buyer further acknowledges that suc  
87 form was signed at or before the Contract date. Signed HUD-92584-CN is attached and made a part of this Purchase Contract.  
88

(FHA BUYER'S INITIALS REQUIRED) \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER

**3. TITLE AND ESCROW**

- 3a. 89 **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out th  
90 terms of this Contract shall be:
- 91 *Facility National Title* / *Murray* *England* *B-2052* / *9022* / *520 5297024*  
ESCROW/TITLE COMPANY PHONE/FAX
- 3b. 92 **Title and Vesting:** Buyer will take title as determined before COE. Taking title may have significant legal, estate planning and ta  
93 consequences. Buyer should obtain legal and tax advice.
- 3c. 94 **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Selle  
95 directly, addressed pursuant to 8t and 9c or as otherwise provided, a Commitment for Title Insurance together with  
96 complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Titl  
97 Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; an  
98 easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of an  
99 subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by general warrant  
100 deed. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Titl  
101 Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if no  
102 available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage  
103 at Buyer's own additional expense.
- 3d. 104 **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and  
105 address of the Buyer to any homeowner's association in which the Premises is located. (ii) If the Escrow Company is  
106 also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall delive  
107 to the Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying the Buye  
108 and Seller for any losses due to fraudulent acts or breach of escrow instructions by the Escrow Company. (iii) Al  
109 documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form use  
110 by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this  
111 Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and  
112 Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to  
113 Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and informatio  
114 regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.
- 3e. 115 **Tax Prorations:** Real property taxes payable by the Seller shall be prorated to COE based upon the latest tax information available.
- 3f. 116 **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with  
117 Escrow Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions  
118 of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company  
119 against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees,  
120 arising from or relating in any way to the release of Earnest Money.
- 3g. 121 **Prorations of Assessments and Fees:** All assessments and fees that are not à lien as of the COE, including homeowner's  
122 association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances,  
123 and service contracts, shall be prorated as of COE or  Other \_\_\_\_\_
- 3h. 124 **Assessment Liens:** The amount of any assessment, other than homeowner's association assessments, that is a lien as of the  
125 COE, shall be  paid in full by Seller  prorated and assumed by Buyer. Any assessment that becomes a lien after COE is  
126 the Buyer's responsibility.
- 3i. 127 **IRS and FIRPTA Reporting:** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete,  
128 sign, and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to  
129 the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller acknowledge that if the Seller is a foreign person,  
130 the Buyer must withhold a tax equal to 10% of the purchase price, unless an exemption applies.

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SELLER | SELLER

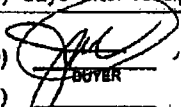
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BUYER | BUYER

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4. DISCLOSURES

- 4a. 131. **Seller Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR SPDS form to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 134. **Insurance Claims History:** Seller shall deliver to Buyer a written five-year insurance claims history regarding Premises (or claims history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract acceptance. (Seller may obscure any reference to date of birth or social security number from the document). Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.
- 4c. 140. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, the Seller shall: (i) notify the Buyer of any known lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspection of the Premises in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.
  - 146.  LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during Inspection Period.
  - 148.  Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days or \_\_\_\_\_ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premise for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five (5) days after expiration of the Assessment Period cancel this Contract.
- 152. If Premises were constructed prior to 1978, (BUYER'S INITIALS REQUIRED)  BUYER BUYER
- 153. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED) BUYER BUYER
- 4d. 154. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of property other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the form required by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4e. 159. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 6a, or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

- 5a. 163. **Seller Warranties:** Seller warrants and shall maintain and repair the Premises so that, at the earlier of possession or COE: (i) all heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, cleaning systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon repairs and corrections will be completed pursuant to Section 6; (iii) the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property not included in the sale and all debris will be removed from the Premises.
- 5b. 169. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor, professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of Seller's knowledge.

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5c. 176. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE, Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises. Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:  
181.

**6. DUE DILIGENCE**

6a. 182. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or 15 days after Contract acceptance. During the Inspection Period, Buyer, at Buyer's expense, shall (i) conduct all desired physical, environmental, and other types of inspections and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards, violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is a material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer shall keep the Premises free and clear of liens, shall indemnify and hold Seller harmless from a liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate Buyer Advisory provided by AAR to assist in Buyer's due diligence inspections and investigations.

6b. 195. **Square Footage:** BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.

6c. 198. **Wood-Destroying Organism or Insect Inspection:** IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OF INSECTS (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE INSPECTION PERIOD. The Buyer shall order and pay for all wood-destroying organism or insect inspection: performed during the Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be performed at Buyer's expense.

6d. 203. **Flood Hazard:** Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to encumber or improve the Premises.

6e. 207. **Insurance:** IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any homeowner's, fire, casualty, or other insurance desired by Buyer or required by lender should be in place at COE.

6f. 211. **Sewer or On-site Wastewater Treatment System:** The Premises are connected to a:  
212.  sewer system;  septic system;  alternative system.  
213. IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment Facility Addendum is incorporated herein by reference.  
216. (BUYER'S INITIALS REQUIRED) [Signature] BUYER BUYER

6g. 217. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice.  
221. (BUYER'S INITIALS REQUIRED) [Signature] BUYER BUYER

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6h. 222. BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT  
223. QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE  
224. SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO  
225. ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE  
226. PREMISES AND THE SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKER'S EXPERTISE AND LICENSING  
227. BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR  
228. CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.

229

(BUYER'S INITIALS REQUIRED)

*[Handwritten signature]*  
BUYER

6i. 230. Inspection Period Notice: Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any item  
231. disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct a  
232. desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall  
233. be provided in a single notice.

6j. 234. Buyer Disapproval: If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller  
235. notice of the items disapproved and state in the notice that Buyer elects to either:

- 236. (1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or
- 237. (2) provide the Seller an opportunity to correct the items disapproved, in which case:
  - 238. (a) Seller shall respond in writing within five (5) days or \_\_\_\_\_ days after delivery to Seller of Buyer's notice of  
239. items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall  
240. conclusively be deemed Seller's refusal to correct any of the items disapproved.
  - 241. (b) If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any  
242. repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repair  
243. to Buyer three (3) days or \_\_\_\_\_ days prior to COE Date.
  - 244. (c) ~~If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this~~  
245. ~~Contract within five (5) days after delivery of Seller's response or after expiration of the time for Seller's~~  
246. ~~response, whichever occurs first, and all Earnest Money shall be released to Buyer. If Buyer does not cancel~~  
247. ~~this Contract within the five (5) days as provided, Buyer shall close escrow without correction of those items that~~  
248. ~~Seller has not agreed in writing to correct.~~

249. VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will  
250. extend response times or cancellation rights.

251. BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE  
252. SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE  
253. TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.

6k. 254. Notice of Non-Working Warranted Items: Buyer shall provide Seller with notice of any non-working warranted item(s) of which  
255. Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice  
256. shall not affect Seller's obligation to maintain or repair the warranted item(s).

6l. 257. Home Warranty Plan: Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The  
258. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and  
259. most plans exclude pre-existing conditions.

260.  A Home Warranty Plan will be ordered by  Buyer or  Seller with the following optional coverage

261. \_\_\_\_\_, to be issued by \_\_\_\_\_ at a cost not to exceed

262. \$ \_\_\_\_\_, to be paid for by  Buyer  Seller

263.  Buyer declines the purchase of a Home Warranty Plan.

6m. 264. Walkthrough(s): Seller grants Buyer and Buyer's Inspector(s) reasonable access to conduct walkthrough(s) of the Premises for the  
265. purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in  
266. working condition and that the Premises is in substantially the same condition as of the date of Contract acceptance. If Buyer does  
267. not conduct such walkthrough(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.

6n. 268. Seller's Responsibility Regarding Inspections and Walkthrough(s): Seller shall make the Premises available for all  
269. inspections and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including  
270. any propane, until COE to enable Buyer to conduct these inspections and walkthrough(s).

*[Handwritten signature]*  
SELLER

<Initials

Initials>

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BUYER BUYER

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7. REMEDIES

- 7a. 271 **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with an  
272 provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If th  
273 non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall becom  
274 a breach of Contract.
- 7b. 275 **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against th  
276 breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Disput  
277 Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event c  
278 Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, acce  
279 the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver th  
280 notice required by Section 2a, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuar  
281 to Section 2c, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfill  
282 contingency is not a breach of Contract.
- 7c. 283 **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating t  
284 this Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs sha  
285 be paid equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes c  
286 claims shall be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in th  
287 scheduling of an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to th  
288 American Arbitration Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. Th  
289 decision of the arbitrator shall be final and nonappealable. Judgment on the award rendered by the arbitrator may be entered i  
290 any court of competent jurisdiction. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirt  
291 (30) days after the conclusion of the mediation conference by notice to the other and in such event either party shall have th  
292 right to resort to court action.
- 7d. 293 **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought i  
294 the Small Claims Division of an Arizona Justice Court (up to \$2,500) so long as the matter is not thereafter transferred o  
295 removed from the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed o  
296 trust, mortgage, or agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic'  
297 lien; or (v) any matter that is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable th  
298 recording of a notice of pending action ("lis pendens"), or order of attachment, receivership, injunction, or other provisions  
299 remedies shall not constitute a waiver of the obligation to submit the claim to ADR, nor shall such action constitute a breach o  
300 the duty to mediate or arbitrate.
- 7e. 301 **Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this  
302 Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, exper  
303 witness fees, fees paid to investigators, and arbitration costs.

8. ADDITIONAL TERMS AND CONDITIONS

- 8a. 304. *Seller to contribute 3% of total*
- 305. *purchase price towards Buyer's total*
- 306. *closing cost including Recursion*
- 307. *recursion cost; including but not limited*
- 308. *to title, escrow, loan cost, insurance,*
- 309. *etc.*
- 310.
- 311.
- 312.
- 313.
- 314.
- 315.

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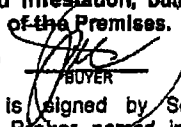
SELLER (initials)
 BUYER BUYER (initials)

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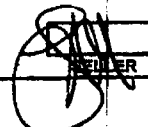

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**Residential Resale Real Estate Purchase Contract >>**

- 8b. 316. **Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession  
317. whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on the Seller, provided  
318. however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller c  
319. Buyer may elect to cancel the Contract.
- 8c. 320. **Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.
- 8d. 321. **Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.
- 8e. 322. **Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligation  
323. described herein.
- 8f. 324. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed b  
325. separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid  
326. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer i  
327. obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. COMMISSIONS PAYABLE FOR THE  
328. SALE, LEASING, OR MANAGEMENT OF PROPERTY ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS®, O  
329. MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER THAN BETWEEN THE BROKER AND CLIENT.
- 8g. 330. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract. This Contra  
331. and any other documents required by this Contract may be executed by facsimile or other electronic means and in any number  
332. counterparts, which shall become effective upon delivery as provided for herein, except that the Lead-Based Paint Disclosure Statement ma  
333. not be signed in counterpart. All counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original.
- 8h. 334. **Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and end at 11:59 p.m.  
8i. 335. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event fo  
336. which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs o  
337. the date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Act  
338. that must be performed three days prior to the COE Date must be performed three full days prior (i.e., if COE Date is Friday th  
339. act must be performed by 11:59 p.m. on Monday).
- 8j. 340. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller an  
341. Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing  
342. signed by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.
- 8k. 343. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands the  
344. any subsequent offer accepted by the Seller must be a backup offer contingent on the cancellation of this Contract.
- 8l. 345. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by deliverin  
346. notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become effectiv  
347. immediately upon delivery of the cancellation notice.
- 8m. 348. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing  
349. and deemed delivered and received when (i) hand-delivered, (ii) sent via facsimile transmission, (iii) sent via electronic mail, i  
350. email addresses are provided herein, or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in  
351. Section 8r, to Seller as indicated in Section 9a and to the Escrow Company indicated in Section 3a.
- 8n. 352. **Earnest Money:** Earnest Money is in the form of:  Personal Check  Other;  
353. If applicable, Earnest Money has been received by Broker named in Section 8r and upon acceptance of this offer will be  
354. deposited with:  Escrow Company  Broker's Trust Account
- 8o. 355. **Release of Broker(s):** Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this  
356. transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines  
357. boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes  
358. governmental regulations, insurance or any other matter relating to the value or condition of the Premises.  
359. (BUYER'S INITIALS REQUIRED)  BUYER BUYER
- 8p. 360. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a  
361. signed copy delivered in person, by mail, facsimile or electronically, and received by Broker named in Section 8r  
362. by January 27, 2010 at 4  a.m.  p.m., Mountain Standard Time. Buyer  
363. may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by  
364. this date and time, this offer shall be deemed withdrawn and the Buyer's Earnest Money shall be returned.
- 8q. 365. THIS CONTRACT CONTAINS NINE PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT  
366. YOU HAVE RECEIVED AND READ ALL NINE PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS. >>

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	Initials	
SELLER	BUYER	BUYER

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Residential Resale Real Estate Purchase Contract >>

8r. 367. Broker on behalf of Buyer:

368. Kellie Pillora 22833 Avalar Advantage Realty 3926
369. 1630 E River Rd Tucson AZ 85718
370. (520) 301-8969 (520) 300-8202 kpillora@aaraz.biz

8s. 371. Agency Confirmation: The Broker named in Section 8r above is the agent of (check one):

372. [X] the Buyer, [ ] the Seller, or [ ] both the Buyer and Seller

8t. 373. The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of a copy hereof including the Buyer Attachment.

375. [Signature] 01/25/2010 BUYER'S SIGNATURE MO/DAY/YR BUYER'S SIGNATURE MO/DAY/YR

376. ADDRESS ADDRESS
377. CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

9. SELLER ACCEPTANCE

9a. 378. Broker on behalf of Seller:

379. PRINT SALESPERSON'S NAME AGENT CODE PRINT FIRM NAME FIRM CODE
380. FIRM ADDRESS STATE ZIP CODE
381. TELEPHONE FAX EMAIL

9b. 382. Agency Confirmation: The Broker named in Section 9a above is the agent of (check one):

383. [ ] the Seller, or [ ] both the Buyer and Seller

9c. 384. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.

386. [X] Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer.
387. [X] If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

388. [Signature] MO/DAY/YR SELLER'S SIGNATURE MO/DAY/YR
389. SELLER'S NAME PRINTED SELLER'S NAME PRINTED
390. ADDRESS ADDRESS
391. CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

392. [ ] OFFER REJECTED BY SELLER: MONTH DAY YEAR (SELLER'S INITIALS)

For Broker Use Only:
Brokerage File/Log No. Manager's Initials Broker's Initials Date MO/DAY/YR

JAN-31-10 04:26 PM WARFIELD & CO

9922189

P. 12

01/25/2010 MON 0:48 FAX 520 844 8375 AVALAR ADVANTAGE REALTY

018/018



# On-Site Wastewater Treatment Facility Addendum

The Arizona portion of this contract has been approved by the Arizona Association of Realtors' AAR®.



Seller: Owner of Record  
 Buyer: JANE A. CASES  
 Premises Address: 29 RD N. SHARON ROAD  
 Date: 12-30-09

An On-Site Wastewater Treatment Facility (conventional septic or alternative system) ("Facility") has been installed on the Premises/Property. The Arizona Department of Environmental Quality ("ADEQ") rules require a pre-transfer inspection and transfer of ownership of the Facility whenever a Premise/Property is sold or otherwise transferred.

- A. **Facility Documents:** Seller shall deliver to Buyer copies of all documents pertaining to the Facility in Seller's possession within five (5) days after Contract acceptance. Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the documents, whichever is later.
- B. **Facility Inspection:** Seller shall have the Facility inspected at Seller's expense within six (6) months prior to Close of Escrow, but in no event later than three (3) days prior to Close of Escrow, by an inspector recognized by the applicable governmental authority as qualified to inspect the type of Facility installed on the Premises. Seller shall deliver the completed report of inspection to the Buyer upon receipt.
- C. **Repair Costs:** Seller shall pay for repairs to correct physical or operational deficiencies in the Facility identified by the Facility Inspector, provided that such repairs do not exceed one percent (1%) of the purchase price or \$ 5,000. If repair costs exceed the amount that the Seller agrees to pay: (i) Buyer may immediately cancel this Contract or (ii) Seller may cancel this Contract unless Buyer agrees in writing to pay such costs in excess of the amount that the Seller is obligated to pay.
- D. **Notice of Transfer:** Buyer shall deliver to Escrow Company a completed Arizona Department of Environmental Quality Notice of Transfer of Ownership of an On-Site Wastewater Treatment Facility form ("Notice of Transfer") prior to Close of Escrow. Escrow Company is instructed to file the Notice of Transfer and the filing fee(s) with the applicable governmental authority at Close of Escrow.
- E. **Notice of Transfer Filing Fee:** The Notice of Transfer Filing Fee and any other Facility transfer of ownership fees shall be paid by:  Buyer  Seller
- F. **Additional Terms:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Jane A. Cases 2/10/10  
 Buyer's signature  
 \_\_\_\_\_  
 MO/DA/YR

[Signature] 1/31/2010  
 Seller's signature  
 \_\_\_\_\_  
 MO/DA/YR



**MOLD DISCLOSURE**

Address of Premises: 9980 Shannon Road Tucson AZ 85742  
STREET CITY STATE ZIP

Recently, substantial attention has been given to the possible health effects of mold in homes, apartments and commercial buildings. Mold found inside such buildings is referred to as indoor mold and is categorized as being either toxic or nontoxic. Certain toxic indoor molds may cause health problems in some people while triggering only common allergic responses in others. Not all indoor molds are ordinary or no more than a common nuisance.

The existence of indoor mold is often not detectable by a visual inspection and therefore can go undetected by Real Estate Sellers/Landlords and even Professional Home Inspectors. The only certain way to determine if the premises you are purchasing contains harmful or toxic indoor mold or other airborne health hazards is to retain an environmental expert to perform an indoor air quality test. If past or present existence of any toxic or non-toxic mold, water intrusion or moisture has been disclosed to you, or discovered by you, you should have that condition professionally evaluated.

The Broker(s) recommends that every Buyer/Tenant should consider having an indoor air quality test and/or other health hazard performed by an environmental expert as part of their inspection rights under their Purchase Contract/ or prior to signing their Lease. This is particularly important if any of the inspection reports or disclosure documents indicate the existence of past or present moisture, standing water, visible water stains, or water intrusion in the Premises.

All inspections, including those to detect the existence of indoor mold or other health hazards, should be completed within the time provided for inspections in the Purchase Contract/ or prior to signing the Lease. Any waiver or failure on the part of the Buyer/ Tenant to complete all desired inspections and tests within the time provided in the Contract/Lease, including those for indoor mold or other health hazards, is contrary to the advice and recommendations of the Broker(s) and Agent(s).

The Broker(s) and Agent(s) have no knowledge of whether the Premises may have either toxic or non-toxic indoor mold and hereby acknowledge that they have not been informed of the existence of any indoor mold problems by the Seller/Landlord or other individual. Also, the Broker(s) and Agent(s) have not and cannot verify, unless the existence of mold is plainly visible, whether or not there is now or ever has been any indication of indoor mold in the Premises. If mold is visible inside the Premises, it is hereby acknowledged by Buyer/Tenant that Broker(s) and Agent(s) are not qualified to verify or identify whether the visible mold is toxic or non-toxic or whether or not there is any existing health risk that may be associated with such mold in or on the Premises.

If you have any questions about indoor mold in or about the Premises, or about potential health problems which may result from indoor mold, the Broker(s) and Agent(s) strongly recommend seeking advice from an environmental expert.

Buyer/Tenant acknowledges having received and read a copy of the foregoing information pertaining to mold. Buyer/Tenant acknowledges that if there are any questions pertaining to same, the Buyer/Tenant will seek professional advice in a timely manner. Buyer/Tenant has not and will not rely on the Broker(s) and/or Agent(s) to furnish such advice. The Buyer/Tenant acknowledges that Buyer/Tenant has received no advice and/or information other than this form, pertaining to mold from either the Broker(s), Agent(s) and/or Seller/Landlord.

**BUYER/TENANT SPECIFICALLY RELEASES, HOLDS HARMLESS AND INDEMNIFIES BROKER(S) AND AGENT(S) FROM ANY LIABILITY FOR ANY MOLD FOUND ON THE PREMISES WHICH COULD BE DISCOVERED BY SUCH INSPECTIONS.**

Initials Required: [Signature]  
BUYER/TENANT BUYER/TENANT

[Signature]  
BUYER/TENANT SIGNATURE

01/25/2010  
MO/DA/YR

BUYER/TENANT SIGNATURE MO/DA/YR

01/25/2010 MON 0:48 FAX 520 844 8375 AVATAR ADVANTAGE REALTY

015/018

Avalar Advantage Realty  
"AS IS" ADDENDUM

Document updated:  
October 2005



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



- 1. Seller: Handmarc Capital
- 2. Buyer: Jane A. Caser
- 3. Premises Address: 4980 E. Sharino Road 85742
- 4. Date: Jan. 25, 2010

5. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises. All terms and conditions of the Contract are hereby included herein and delivery of all notices and documentation shall be deemed delivered and received when sent as required by Section 8m of the Contract.

8. A. Seller and Buyer agree that the Premises is being sold in its existing condition ("AS IS") and Seller makes no warranty to Buyer, either express or implied, as to the (1) condition of the Premises, including, but not limited to, Seller's Warranties in Lines 163-166 of Section 5a, which Buyer hereby waives; (2) zoning of the Premises; or (3) Premises' fitness for any particular use or purpose. However, Seller warrants and shall maintain and repair the Premises so that, pursuant to lines 167-168, at the earlier of possession or COE, the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance and all personal property not included in the sale and all debris will be removed from the Premises.

13. B. Buyer is advised to conduct independent inspection(s) and investigations regarding the Premises within the inspection period as specified in Section 6a. Buyer retains the right to cancel the Contract pursuant to Section 6. Seller shall not be obligated to correct any defects that may be discovered during Buyer's inspection(s) and investigations or otherwise.

19. C. Notwithstanding the foregoing, if an On-Site Wastewater Treatment Facility (conventional septic or alternative system) ("Facility") has been installed on the Premises, Seller and Buyer agree to complete and execute the AAR On-Site Wastewater Treatment Facility Addendum and Seller agrees to pay for the Facility inspections, fees or repairs as set forth therein.

23. D. Seller acknowledges that selling the Premises "AS IS" does not relieve Seller of the legal obligation to disclose all known material latent defects to Buyer.

25. E. In the event that any provision contained in this Addendum conflicts in whole or in part with any of the terms contained in the Contract, the provisions of this Addendum shall prevail and the conflicting terms are hereby considered deleted and expressly waived by both Buyer and Seller.

28. F. Other Terms and Conditions:

29. \_\_\_\_\_  
30. \_\_\_\_\_

31. BUYER ACKNOWLEDGES THAT BUYER HAS BEEN ADVISED TO SEEK APPROPRIATE COUNSEL REGARDING THE RISKS OF BUYING A PROPERTY IN "AS IS" CONDITION.

33. Buyer recognizes, acknowledges, and agrees that Broker(s) are not qualified, nor licensed, to conduct due diligence with respect to the premises or the surrounding area. Buyer is instructed to consult with qualified licensed professionals to assist in Buyer's due diligence efforts. Because conducting due diligence with respect to the premises and the surrounding area is beyond the scope of the Broker's expertise and licensing, Buyer expressly releases and holds harmless Broker(s) from liability for any defects or conditions that could have been discovered by inspection or investigation. Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, governmental regulations, insurance or any other matter relating to the value or condition of the Premises.

41. Jane A. Caser 01/25/2010  
BUYER'S SIGNATURE M/D/Y/Y BUYER'S SIGNATURE M/D/Y/Y

42. [Signature] 1/31/2010  
SELLER'S SIGNATURE M/D/Y/Y SELLER'S SIGNATURE M/D/Y/Y

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Avalar Advantage Realty 1630 E River Road #212 Tucson, AZ 85718  
Phone: 520.310.3737 Fax: 520.844.8375

Jonas Gilmer

ZIP FORM

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## Counter Offer No. 1

This is a Counter Offer by the Seller, Lawrence J. Warfield, Special Deputy Receiver, to the Offer by the Buyer dated January 25, 2010 ("Buyer's Offer"). In consideration of the mutual promises and covenants set forth in this Counter Offer, Seller agrees to sell and Buyer agrees to buy the Property described below on the terms and conditions set forth in this Counter Offer, and to the extent not inconsistent herewith, the terms and conditions set forth in the Buyer's Offer.

1. Property. The real property, which is the subject of this Counter Offer, is located at 9980 N. Shannon Rd, Tucson, AZ 85742, ("Property").

2. Seller. The Seller is Lawrence J. Warfield, in his capacity as the Special Deputy Receiver appointed by the Maricopa County Superior Court in the action entitled Landmarc Capital & Investment, Case #CV 2009-020595 ("Superior Court"). The Taxpayer Identification Number for the Seller is 86-0959744. The Seller was appointed as the Special Deputy Receiver of the Property.

3. Buyer. The Buyer is Jane A. Cases.

4. Purchase Price. The Purchase Price, which Buyer agrees to pay for the Property is \$635,000. The Purchase Price shall not be adjusted by any overage or shortage in area of the Property. The Purchase Price shall be paid as follows:

(a) Buyer shall deposit with Escrow Agent within two (2) days of the Buyer's acceptance of this Counter Offer a total of \$25,400 cash earnest money deposit (the "Earnest Money") which shall become non-refundable, except as otherwise provided in Paragraphs 8, 9, and 10 below. If Buyer does not so cancel this Agreement, and if Seller does not so cancel this Agreement, and, provided further, if Seller does not otherwise default hereunder, the Earnest Money shall be credited towards the Sales Price if Buyer purchases the Property.


5. Deed. At the Close of Escrow, Seller shall convey title to the Property to Buyer by Special Warranty Deed (the "Deed"), subject to taxes and assessments not delinquent, reservations in patents, all easements, rights-of-way, covenants, conditions, restrictions, declarations, all matters that an accurate survey or a physical inspection of the Property would disclose and all matters to which Buyer has agreed.

6. Disbursements. Upon the Close of Escrow, the full amount of the Purchase Price, less any closing costs that the Seller has expressly agreed to pay, shall be disbursed to Seller.

Buyer's Initials \_\_\_\_\_

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_



7. Property Sold "As Is." The Property is being sold "AS IS" and the Seller is not providing any warranties. Buyer expressly acknowledges that there may be present on the Property asbestos in friable form, aluminum wiring, mold, or other conditions that might affect the Buyers decision to purchase the Property. Buyer further acknowledges that Buyer has not relied on any warranties, promises, projections, calculations, understandings or representations, express or implied, of Seller or of any agent or representative of Seller, relating to the Property, and, Buyer is acquiring the Property in its present condition and state of repair, "AS IS", with all defects, latent or apparent. Buyer further acknowledges that any information of any type which Buyer has received or may receive from Seller or Seller's agents is furnished on the express condition that Buyer shall make an independent verification of the accuracy (including without limitation calculations) of such information, all such information being furnished without any warranty or liability whatsoever. The Seller has acquired possession of the Property pursuant to Court order and has not occupied the Property and therefore Seller cannot and will not provide any Seller Disclosure Statements.]

8. Additional Terms.

- (a) The cost of all inspections to be performed and paid by Buyer.
- (b) Buyer to provide evidence of funds sufficient to close escrow during the inspection period
- (c) All participation in closing costs referenced in the original offer, to which the 3% closing costs are eliminated. There are NO Seller participations in this interest.

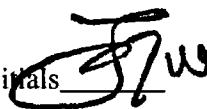
9. Receivership Court. The Buyer understands and acknowledges that the Seller was duly appointed the Special Deputy Receiver in the Receivership State of Arizona v. Landmarc Capital & Investment, et al (the "Receivership Court"); that the Property and this transaction is under the jurisdiction of the Receivership Court. The parties further understand and acknowledge that this Agreement is contingent on the approval of the Receivership Court and that the Receivership Court could decline to approve the Agreement for various reasons, including without limitation that the sale price is not fair or that a sale of the Property is not in the best interests of the estate.

10. Cancellation. In the event Seller is unable, within 90 days of the Buyer's acceptance of this Counter Offer, to obtain the approval of the Receivership Court, the Buyer or the Seller may elect in writing to cancel this Agreement and any Escrow and receive a full refund of the Earnest Money. Upon a cancellation in accordance with the provisions of this Paragraph, all documents deposited in Escrow by Seller and Buyer shall be returned to the party depositing the document, and this Agreement shall terminate.

Buyer's Initials \_\_\_\_\_

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_



11. Inspection. Buyer shall have fifteen days (15) days from the date of the Buyer's acceptance of this Counter Offer to complete the Buyer's inspection of the Property, and Seller grants Buyer reasonable access to the Property for that purpose. If Buyer does not disapprove of the condition of the property within this period, Buyer shall be deemed to have accepted the condition of the Property. If Buyer timely disapproves of the condition of the Property in writing, then, upon notice to Seller of Buyer's objections, Seller shall have until Close of Escrow to eliminate the objectionable items; or, Seller may, within five (5) days from Buyer's notice, notify Buyer that Seller does not intend to eliminate the objectionable items, and Buyer's sole and exclusive remedy shall be to either waive his objection (in which case Close of Escrow shall occur subject to such matters) or to cancel this Agreement and receive a full refund of the Earnest Money.

12. Insurance. Not applicable.

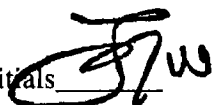
13. Possession. Possession of the Property shall be delivered to Buyer at Close of Escrow.

14. Release and Indemnity. Seller is hereby released from all responsibility and liability regarding the condition (including, without limitation, the presence of environmental hazards or substances) or valuation or utility of the Property. Buyer agrees that Buyer will not attempt to assert any claims of liability against Seller for furnishing such information, nor shall Buyer assert any claims of liability against Seller for the existence of or damages arising out of the existence of asbestos, mold or other environmental hazards, and Buyer agrees to indemnify and hold Seller free and harmless for, from and against any and all such claims of liability. Buyer agrees to indemnify Seller and hold Seller harmless for, from and against all claims, damages, costs and expenses (including attorneys' fees) attributable, directly or indirectly, to Buyer's inspection of the Property or to the breach by Buyer of any obligation hereunder or the inaccuracy of any representation or warranty made by Buyer or in any instrument delivered pursuant hereto or in connection with the transactions contemplated hereby. This indemnity shall survive the Closing.

15. Assignment and Nomination. Buyer may not assign or otherwise transfer Buyer's rights under this Agreement without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. Any such assignee shall accept in writing the terms and conditions of this Agreement and of any supplements or Escrow Instructions that may have been entered into as of the time of the assignment. In no event shall any assignment extend the Close of Escrow.

16. No Liability. Buyer agrees that no agent of the of Seller have any personal obligation hereunder, and that such party shall not seek to assert any claim or enforce any rights against such Special Deputy Receiver, the Special Deputy Receiver or employees or agents.

Buyer's Initials \_\_\_\_\_

Seller's Initials 

Buyer's Initials \_\_\_\_\_

17. Further Documentation. Each party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

18. Exclusive Jurisdiction of the Receivership Court. The Receivership Court shall have exclusive jurisdiction to resolve any dispute arising under this Agreement.

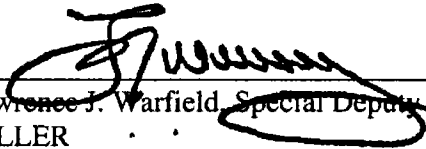
19. Close of Escrow. The sale shall close within 15 days of completion of the last of the requirements set forth in Paragraph 8 above.

20. Time of the Essence. Time is of the essence and unless the Buyer's acceptance of this Counter Offer is signed by the Buyer or an authorized representative and a signed copy of this Counter Offer delivered in person, by mail, or by facsimile and received by the Special Deputy Receiver or by Federico Astiz, Associate Broker of the Pepper Group Diversified, on or before February 5, 2010 at 5:00 PM, Mountain Standard time, or unless the Counter Offer has been previously withdrawn by the Special Deputy Receiver, this Counter Offer shall be considered withdrawn on the date and time set forth above in this Paragraph. Until this Counter Offer has been accepted as provided above, the Parties understand that the Property can be sold or leased to someone else or either Party may withdraw the offer to buy or sell the Property. The undersigned acknowledge receipt of a copy hereof.

21. Signed Original. In order to facilitate the filing of appropriate pleadings with the Receivership Court, the parties agree to execute at least one original of this Counter Offer and all other contract documents and to provide such originals to the Seller.

22. Changes. Any change made to this Counter Offer No. 1 shall render it and the Purchase Contract null and void.

Dated: \_\_\_\_\_

  
Lawrence J. Warfield, Special Deputy Receiver  
SELLER

**Acceptance**

The Buyer accepts the above Counter Offer and agrees to the modified or additional terms and conditions in the above Counter Offer and acknowledges receipt of a copy hereof.

Dated: \_\_\_\_\_

\_\_\_\_\_  
BUYER

Dated: \_\_\_\_\_

\_\_\_\_\_  
BUYER



Avalar Advantage Realty

# COUNTER OFFER 2

Document updated:  
May 1998



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



1. This is a Counter Offer originated by the:  Seller  Buyer  Landlord  Tenant. This is a Counter Offer to the  Offer
2.  Counter Offer dated 01/31/2010 between the following Parties:  
MO/DAYR
3. Seller/Landlord: Landmark Capital
4. Buyer/Tenant: Jane A. Casas
5. Premises: 9980 N. Shannon, Tucson, Az 85742
6. Acceptance of the above Offer and/or Counter Offer is contingent upon agreement to the following:
7. 1. Buyer and Seller agree that Section 2a/2b/2c of original purchase contract shall
8. remain in effect and will supersede anything contrary in Counter offer #1.
9. \_\_\_\_\_
10. 2. Buyer's acceptance is extended until 2-11-2010.
11. \_\_\_\_\_
12. 3. All other terms and conditions of original offer and counter #1 shall remain the
13. same.
14. \_\_\_\_\_
15. \_\_\_\_\_
16. \_\_\_\_\_
17. \_\_\_\_\_
18. \_\_\_\_\_
19. \_\_\_\_\_
20. \_\_\_\_\_
21. \_\_\_\_\_
22. \_\_\_\_\_
23. \_\_\_\_\_
24. \_\_\_\_\_
25. \_\_\_\_\_
26. \_\_\_\_\_
27. \_\_\_\_\_
28. \_\_\_\_\_

29. Time for acceptance: Unless acceptance of this Counter Offer is signed by all parties and a signed copy delivered in person, by mail or facsimile and received by the party originating the Counter Offer, indicated on line 1, or received by Avalar Advantage Realty-Kellie Pillora (BROKER)

30. by \_\_\_\_\_ at Any  a.m.  p.m., Mountain Standard Time or unless this Counter Offer has been previously withdrawn by the

31. (MO/DAYR)

32. originating party, this Counter Offer shall be considered withdrawn at the date and time specified on line 31. Except as otherwise provided in this Counter Offer, the Parties accept and agree to all terms and conditions of the above Offer and/or Counter Offer. Until this Counter Offer has been accepted in the manner described above, the Parties understand that the Premises can be sold or leased to someone else or either Party may withdraw the offer to buy, sell, or lease the Premises. The undersigned acknowledges receipt of a copy hereof.

36. Jane A. Casas Date: 02/10/10 Time: 1PM

37.  Seller  Buyer  Landlord  Tenant MO/DAYR

38. [Signature] Date: 2/10/10 Time: 12:00 Noon

39.  Seller  Buyer  Landlord  Tenant MO/DAYR

## ACCEPTANCE

40. The undersigned agrees to the modified or additional terms and conditions in the above Counter Offer and acknowledges receipt of a copy hereof

41.  An additional Counter Offer is attached.

42. \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

43.  Seller  Buyer  Landlord  Tenant MO/DAYR

44. \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

45.  Seller  Buyer  Landlord  Tenant MO/DAYR

46. For Broker Use Only:  
Brokerage File/Log No. \_\_\_\_\_ Manager's Initials \_\_\_\_\_ Broker's Initials \_\_\_\_\_ Date \_\_\_\_\_ (MO/DAYR)

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