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6
7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

8 IN AND FOR THE COUNTY OF MARICOPA

9 STATE OF ARIZONA ex rel. LAUREN
KINGRY, Superintendent of the Arizona
Department of Financial Institutions,

10 Plaintiff,

11 v.

12 LANDMARC CAPITAL &
INVESTMENT COMPANY,

13 Defendant.

Cause No. CV2009-020595

PETITION NO. 17

PETITION TO CONFIRM SALE OF
REAL PROPERTY LOCATED AT 363
NORTH OCEAN DRIVE, GILBERT,
ARIZONA AND PAYMENT ON
SECURED CLAIM

(Assigned to the Honorable Sam Myers)

14
15
16 Lauren Kingry, as the court appointed Receiver, respectfully petitions the Court as
17 follows:

18 1. On June 24, 2009, this Court entered its *Order Appointing Receiver and Order*
19 *to Show Cause*, which appointed the Superintendent of the Arizona Department of Financial
20 Institutions as Receiver of Landmarc Capital & Investment Company ("Landmarc"). On July
21 10, 2009, this Court entered its *Order Appointing Permanent Receiver and Injunction*. On

1 February 27, 2010, the Court entered its *Order placing Hayden Investments, LLC Desert*
2 *Trails Holdings, LLC and Arizona Valuation Company, LLC in Receivership*. On May 12,
3 2010, the Court entered its *Amended Order Appointing Permanent Receiver and Injunction*
4 (collectively "Receivership Order"). The Receivership Order appointed Thomas Giallanza as
5 Deputy Receiver and authorized the Receiver to engage and employ Special Deputy
6 Receivers to carry on the day to day business of Landmarc.

7 2. In accordance with the Receivership Order, the Receiver has located and taken
8 possession of certain real property, located at 363 North Ocean Drive, Gilbert, Arizona
9 ("Property"). This Property is legally described in Exhibit "1" attached hereto and is
10 currently titled in the name of Landmarc. Landmarc acquired title to the Property pursuant to
11 a Trustee's Deed Upon Sale recorded on March 6, 2007.

12 3. The Property is encumbered by real estate taxes and by a deed of trust for the
13 benefit of Landmarc's former legal counsel, as more full described below.

14 4. Because the Property is a single family residence that necessitates the
15 expenditures of time and funds to provide security and insurance for the Property, and the
16 Receiver is without knowledge of anyone asserting an interest in the Property other than in
17 connection with real estate taxes owed on the Property and under the deed of trust more fully
18 described below, the continued holding of the Property is not necessary or appropriate to
19 protect the interests of any of the persons interested in this receivership. Accordingly, the
20 Receiver commenced efforts to market and sell the Property.

1 5. On February 25, 2010, Robert D. Green of Sunstate Appraisals AZ submitted
2 an appraisal of the Property which indicates a fair market value for the Property of \$127,000.
3 Robert D. Green has been issued Certificate No. 11439 by the State of Arizona as a
4 Residential Real Estate Appraiser. The Receiver has agreed to pay this appraiser a fee of
5 \$225.00 for this appraisal and the appraiser has no known interest in any of the parties or in
6 the sale of the Property.

7 6. In addition, the Receiver engaged the services of Anthony Kurth and Squaw
8 Peak Realty, to market the Property, under which the Receiver agreed to pay a 6% sales
9 commission, subject to the approval of this Court. Mr. Kurth subsequently changes his
10 brokerage firm to Homesmart.

11 7. On May 5, 2010, the Receiver received an offer from Kristen Playford Splichal
12 to purchase the Property for \$137,000 under terms that were not acceptable to the Receiver.
13 The Receiver thereafter submitted to Buyer a counter offer which has been accepted. These
14 documents constitute the Purchase Agreement and are attached hereto as Exhibit "2". The
15 Purchase Agreement provides for the sale of the Property for \$137,000 in cash and is
16 conditioned upon approval by this Court.

17 8. In accordance with this Court's *Order Re: Petition Number 2*, the Receiver:

18 a. Has mailed a copy of this Petition, the proposed order, and the Notice of
19 Hearing, to all persons on the Master Service List as indicated in the Proof of Mailing
20 filed herewith;

1 b. Intends to publish notice of this sale in a newspaper of general
2 circulation within the county in which this action is pending and the Property is
3 located.

4 9. The Receiver recommends that the Property be sold for the price and under the
5 terms set forth in the Purchase Agreement attached as Exhibit "2", which the Receiver
6 believes are in the best interests of the receivership estate.

7 **Satisfaction of the Deed of Trust**

8 10. The Property is encumbered by a Deed of Trust recorded on November 19,
9 2008, which purports to secure the payment of fees for legal services rendered by Landmarc's
10 legal counsel, Burch & Cracchiolo to Landmarc prior to the Receivership.

11 11. Burch & Cracchiolo has presented to the Receiver invoices for such fees
12 totaling \$79,863.47. These fees are for work on matters such as litigation involving
13 Landmarc, advice on loan transactions, and the foreclosure deeds of trust. These fees do not
14 include services rendered by Burch & Cracchiolo in representing Landmarc in connection
15 with the defense of this action on behalf of Landmarc's prior management.

16 12. Burch & Cracchiolo has agreed to accept the sum of \$69,001.00 in full
17 satisfaction of its Deed of Trust.

18 13. The Receiver believes that the fees to be paid to Burch & Cracchiolo from the
19 net sale proceeds are fair and reasonable and constitute a secured claim against the
20 receivership estate.

21 WHEREFORE, the Receiver respectfully requests that the Court enter an order:

Exhibit "1"

LOT 102, TOWNE PARK AT NORTH SHORE, ACCORDING TO THE PLAT
OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF
MARICOPA COUNTY, ARIZONA, IN BOOK 407 OF MAPS, PAGE 27,
CERTIFICATE OF CHANGE RECORDED IN RECORDING NO. 96-074365.

Exhibit "1"

RESIDENTIAL RESALE REAL ESTATE

PURCHASE CONTRACT

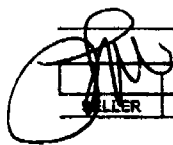
Document updated:
May 2005

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1. PROPERTY

- 1a. 1. BUYER: Kristen Playford Splichal BUYER'S NAME(S)
2. SELLER: Land Marc Capital, et al 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 thereon
4. or incidental thereto, plus the personal property described herein (collectively the "Premises").
- 1b. 5. Premises Address: 363 N Ocean Dr Assessor's #: 310-09-102
6. City: Gilbert County: Maricopa AZ, Zip Code: 85233
7. Legal Description: refer to tax record
- 1c. 8. \$ 137,000.00 Full Purchase Price, paid as outlined below
9. \$ 4,795.00 Earnest money certified funds
10. \$ 132,205.00 New FHA Loan
11. \$ _____
12. _____
- 1d. 13. Close of Escrow: Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to 14. Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to 15. occur on May 21, 2010 ("COE Date"). If Escrow Company or recorder's office 16. is closed on COE Date, COE shall occur on the next day that both are open for business.
17. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down 18. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds 19. 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: as is addendum
- 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 | • flush-mounted speakers | • outdoor landscaping, fountains, and lighting |
| 31. • built-in appliances | • attached fireplace equipment | • water-misting systems |
| 32. • light fixtures | • window and door screens, sun screens | • solar systems |
| 33. • ceiling fans | • storm windows and doors | • pellet, wood-burning or gas-log stoves |
| 34. • towel, curtain and drapery rods | • shutters and awnings | • timers |
| 35. • draperies and other window coverings | • garage door openers and controls | • mailbox |
| 36. • attached floor coverings | • attached TV/media antennas/satellite dishes | • storage sheds |


SELLER SELLER

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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 no monetary value, and free and clear of all liens or encumbrances.
47. _____
48. Fixtures and leased items NOT included: _____
49. 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 if 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 appraiser 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 completed, 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 all 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 ☐ _____
71. (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: 1.00 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 1.000 % 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 \$ 500.00 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.

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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 the 83. LSR and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect 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 acknowl- 86. edges receipt of Form HUD-92564-CN, "For Your Protection: Get a Home Inspection." Buyer further acknowledges that such 87. form was signed at or before the Contract date. Signed HUD-92564-CN is attached and made a part of this Purchase Contract.
88. (FHA BUYER'S INITIALS REQUIRED) KS 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 the 90. terms of this Contract shall be:
91. To Be Determined 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 tax 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 Seller 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 ("Title 97. Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and 98. easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any 99. subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by general warranty 100. deed. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title 101. Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if not 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 deliver 107. to the Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying the Buyer 108. and Seller for any losses due to fraudulent acts or breach of escrow instructions by the Escrow Company. (iii) All 109. documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used 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 information 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 a 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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- 4a. 131. **Seller Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR SPDS form to the Buyer within five 132. (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or 133. 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 a 135. claims history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or 136. an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five 137. (5) days after Contract acceptance. (Seller may obscure any reference to date of birth or social security number from the 138. document). Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the 139. 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 141. lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspections 142. of the Premises in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and 143. Lead-based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the 144. pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of 145. 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 147. 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 149. _____ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises 150. for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP 151. 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)
153. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED)
- 4d. 154. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of 155. property other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in 156. the form required by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any 157. Affidavit of Disclosure items disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of 158. 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 160. the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 161. 5a. or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be 162. 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 164. heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, 165. cleaning systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other 166. agreed upon repairs and corrections will be completed pursuant to Section 6j; (iii) the Premises, including all additional existing 167. personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) 168. 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 170. any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the 171. consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor, 172. professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in 173. connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the 174. information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is 175. 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 178. COE, Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the 179. Premises. Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except 180. disclosed as follows:

181.

6. DUE DILIGENCE

- 6a. 182. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or 10 days after Contract 183. acceptance. During the Inspection Period, Buyer, at Buyer's expense, shall (i) conduct all desired physical, environmental, and 184. other types of inspections and investigations to determine the value and condition of the Premises; (ii) make inquiries and 185. consult government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the 186. suitability of the Premises and the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to 187. determine any potential hazards, violations or defects in the Premises; and (iv) verify any material multiple listing service 188. ("MLS") information. If the presence of sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, 189. 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 190. Inspection Period. Buyer shall keep the Premises free and clear of liens, shall indemnify and hold Seller harmless from all 191. liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections. Buyer shall provide 192. Seller and Broker(s) upon receipt, at no cost, copies of all inspection reports concerning the Premises obtained by Buyer. Buyer 193. is advised to consult the Arizona Department of Real Estate Buyer Advisory provided by AAR to assist in Buyer's due diligence 194. inspections and investigations.
- 6b. 195. **Square Footage:** BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH 196. THE REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE, IF SQUARE FOOTAGE IS A 197. 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 OR 199. INSECTS (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED 200. DURING THE INSPECTION PERIOD. The Buyer shall order and pay for all wood-destroying organism or insect inspections 201. performed during the Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report 202. 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 204. Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental 205. entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to 206. encumber or improve the Premises.
- 6e. 207. **Insurance:** IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR AND 208. OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE 209. PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any 210. 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 214. INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment 215. Facility Addendum is incorporated herein by reference. 216.
- (BUYER'S INITIALS REQUIRED) BS BUYER BUYER
- 6g. 217. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and 218. municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations 219. prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer 220. acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice. 221.
- (BUYER'S INITIALS REQUIRED) BS BUYER BUYER

[Signature]
 SELLER

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 BUYER BUYER

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Residential Resale Real Estate Purchase Contract >>

- 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)

K
BUYER

BUYER

- 6i. 230. **Inspection Period Notice:** Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items
 231. disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all
 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 repairs
 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).

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Residential Resale Real Estate Purchase Contract >>**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 any 272. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the 273. non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become 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 the 276. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute 277. Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event of 278. Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept 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 the 280. notice required by Section 2a, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant 281. to Section 2c, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled 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 to 284. this Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall 285. be paid equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or 286. claims shall be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the 287. scheduling of an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the 288. American Arbitration Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The 289. decision of the arbitrator shall be final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in 290. any court of competent jurisdiction. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty 291. (30) days after the conclusion of the mediation conference by notice to the other and in such event either party shall have the 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 in 294. the Small Claims Division of an Arizona Justice Court (up to \$2,500) so long as the matter is not thereafter transferred or 295. removed from the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of 296. trust, mortgage, or agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's 297. lien; or (v) any matter that is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the 298. recording of a notice of pending action ("lis pendens"), or order of attachment, receivership, injunction, or other provisional 299. remedies shall not constitute a waiver of the obligation to submit the claim to ADR, nor shall such action constitute a breach of 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, expert 303. witness fees, fees paid to investigators, and arbitration costs.

8. ADDITIONAL TERMS AND CONDITIONS

- 8a. 304. Buyer understands that property is sold as is. Buyer will not ask for repairs
 305. to the property. Buyer also understands that seller will not provide SFDS or
 306. CLUE reports.
 307. _____
 308. _____
 309. Seller to contribute \$3500 to buyers closing costs.
 310. _____
 311. _____
 312. _____
 313. _____
 314. _____
 315. _____

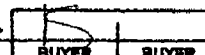
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Residential Resale Real Estate Purchase Contract >>

- 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 or 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 obligations 323. described herein.
- 8f. 324. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by 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 is 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®, OR 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 Contract 331. and any other documents required by this Contract may be executed by facsimile or other electronic means and in any number of 332. counterparts, which shall become effective upon delivery as provided for herein, except that the Lead-Based Paint Disclosure Statement may 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 from 336. which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on 337. the date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts 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 the 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 and 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 that 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 delivering 346. notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become effective 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, if 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: certified funds 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)
- 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 _____ at _____ ☐ 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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Untitled

Residential Resale Real Estate Purchase Contract >>**8r. 367. Broker on behalf of Buyer:**

368. Jeremiah Hancock 1h767 West USA Realty WUSA06
PRINT SALESPERSON'S NAME AGENT CODE PRINT FIRM NAME FIRM CODE
 369. 4505 E Chandler Blvd Ste 200 Phoenix AZ 85048
FIRM ADDRESS STATE ZIP CODE
 370. (480) 593-0420 Jeremiah.hancock@gmail.com
TELEPHONE FAX EMAIL

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

372. ☒ 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 374. a copy hereof including the Buyer Attachment.

375. Kristen Playford Splichal 5/5/10 MO DAYR MO DAYR
BUYER'S SIGNATURE BUYER'S SIGNATURE
 376. 1075 N. Hamilton St #28 ADDRESS
ADDRESS
 377. Chandler AZ 85225 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
PRINT SALESPERSON'S NAME AGENT CODE PRINT FIRM NAME FIRM CODE
 380. FIRM ADDRESS STATE ZIP CODE
FIRM ADDRESS STATE ZIP CODE
 381. TELEPHONE FAX EMAIL
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 385. copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.

386. ☒ Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer.
 387. ☒ If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.
 388. [Signature] 5/6/2010 MO DAYR MO DAYR
SELLER'S SIGNATURE SELLER'S SIGNATURE
 389. [Signature] SELLER'S NAME PRINTED SELLER'S NAME PRINTED
SELLER'S NAME PRINTED SELLER'S NAME PRINTED
 390. Audence J. Warfield ADDRESS
ADDRESS
 391. Spec. As. Deputy Receiver 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 DAYR



LOAN STATUS REPORT ("LSR")

The printed portion of this form has been approved by the Arizona Association of REALTORS®.



BUYER'S LOAN INFORMATION

Kristen Splichal ("Buyer") submits the following LSR.

Property Address: 363 N Ocean Drive Gilbert AZ 85233

Buyer intends to obtain a loan on the following terms:

Purchase Price \$ 137,000.00

Loan amount requested 1st \$ 132,205.00

Loan to value ("LTV") 96.50%

Combined loan to value ("CLTV") 96.50%

Term of Loan 360 ☒ Fixed Rate ☐ Adjustable Rate. Interest Rate shall not exceed: MKT % as an annual rate for a fixed rate loan or an initial rate for an adjustable rate loan.

Loan amount requested 2nd \$ _____

Loan to value ("LTV") 0.00%

Combined loan to value ("CLTV") 0.00%

Term of Loan _____ ☐ Fixed Rate ☐ Adjustable Rate. Interest Rate shall not exceed: _____ % as an annual rate for a fixed rate loan or an initial rate for an adjustable rate loan.

Loan Program: ☐ Conventional ☒ FHA ☐ VA ☐ Other: _____

Buyer agrees to establish the interest rate and "points" by separate written agreement with the Lender during the Inspection Period or the interest rate provision of the Loan Contingency shall be waived.

Property Type: ☒ Single Family Residence ☐ Condominium ☐ Planned Unit Development ☐ Other: _____

Occupancy: ☒ Primary ☐ Secondary ☐ Non-Owner Occupied

Buyer ☐ Is ☒ Is not relying on the sale or lease of a property to qualify for this loan.

☐ Buyer has not yet had the opportunity to consult with a lender.

☒ Buyer has consulted with a lender and submits the loan information below or attached.

Buyer instructs lender to provide loan status updates to Seller and Broker(s) upon request.

BUYER'S SIGNATURE

MO/DAY/YR

BUYER'S SIGNATURE

MO/DAY/YR

LENDER PRE-QUALIFICATION

The undersigned Mortgage Banker/Broker ("Lender") has discussed the loan strategy listed above with the Buyer(s) and has completed the following action points noted.

- | YES | NO | | DATE |
|-------------------------------------|--------------------------|--|-------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Lender has completed a verbal discussion with Buyer for the above loan strategy including a discussion of income, assets & debts. Based on information provided and a Trimerged Residential Credit Report ("TMRCR"), the Buyer is pre-qualified. | <u>05/05/2010</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Lender has received a completed written signed Application/1003. Based on the information provided and a TMRCR, the Buyer is pre-qualified. | <u>05/05/2010</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Lender has received and reviewed a written signed Application/1003 with all requested disclosures and supporting documentation. Based on information provided and a TMRCR, the Buyer is pre-qualified. | <u>05/05/2010</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Lender has provided Buyer with a Good Faith Estimate. | <u>05/05/2010</u> |

Additional comments: _____

Lender agrees to provide loan status updates to Seller and Broker(s) in this transaction. 05/05/2010

Lender Name: Academy Mortgage Corp. Loan Officer: Russell Fisher

Street Address: 840 E. McKellips Rd Suite 110 City: Mesa State: AZ Zip Code: 85203

Phone: 480-452-3313 Fax: 480-907-2387

Email: russell.fisher@academy.cc Mortgage License #: BK 0115286

LENDER'S SIGNATURE

05/05/2010
MO/DAY/YR

"AS IS" ADDENDUMDocument updated:
August 2009

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: ANKURARC CAPITAL et al.
2. Buyer: Kristen Playford Splichal
3. Premises Address: 363 N Ocean Dr., Gilbert, 85233
4. Date: May 5, 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.

15. 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 rights pursuant to Section 6j. 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:

31. BUYER ACKNOWLEDGES THAT BUYER IS HEREBY 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. Kristen Splichal 5/5/10 MO/DAY/YR
 * BUYER'S SIGNATURE Kristen Playford Splichal * BUYER'S SIGNATURE MO/DAY/YR

42. [Signature] 5/6/2010 MO/DAY/YR
 * SELLER'S SIGNATURE * SELLER'S SIGNATURE MO/DAY/YR

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West USA Realty

H.O.A. CONDOMINIUM / PLANNED COMMUNITY ADDENDUM

Document updated:
February 2007



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1. Seller: Land Marc Capital et al
2. Buyer: Kristen Playford Splichal
3. Premises Address: 363 N Ocean Dr, Gilbert, 85233
4. Date: May 5, 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.
6. If the Premises are located within a homeowner's association or a condominium/planned community:
7. Dues and Fees: The current regular association dues are: \$ 34.00 monthly, or \$ _____ / _____ ;
8. Additional homeowner's association fees are: \$ _____ monthly, or \$ _____ / _____ ;
9. Any current homeowner's association assessment which is a lien as of Close of Escrow to be:
10. ☒ paid in full by Seller ☐ prorated and assumed by Buyer.
11. Any assessment that becomes a lien after the Close of Escrow is the Buyer's responsibility.
12. Any transfer fees charged by a homeowner's association(s) shall be paid by ☒ Seller ☐ Buyer ☐ Other _____ .
13. Any inspection, certification or resale disclosure statement fee charged by the HOA for the cost of providing the resale information required by law shall be paid by Seller.
14. Other Fees: A homeowner's association may require fees, deposits or other payment at COE. These charges vary and may be labeled as community reserve, asset preservation, capital reserve, working capital, community enhancement or future improvement fees, payments, deposits or otherwise. Any of these fees or deposits or similar payment required by a homeowner's association upon the conveyance of the Premises shall be paid by ☐ Seller ☐ Buyer ☒ Other 50/50
15. If the homeowner's association has less than 50 units, no later than ten (10) days after Contract acceptance, the Seller shall provide in writing to Buyer the information described below as required by Arizona law.
16. If the homeowner's association has 50 or more units, Seller shall furnish notice of pending sale that contains the name and address of the Buyer to the homeowners' association within five (5) days after Contract acceptance and pursuant to Section 3d of the Contract has instructed Escrow Company to provide such notice on Sellers behalf. The association is obligated by Arizona law to provide the information described below to Buyer within ten (10) days after receipt of Seller's notice.
17. Buyer is allowed five (5) days after receipt of the information from the Seller or homeowner's association to provide written notice to Seller of any items disapproved.

18. Kristen Splichal 5/5/10
BUYER'S SIGNATURE MODAYR
Kristen Playford Splichal
19. [Signature] 5/6/2010
SELLER'S SIGNATURE MODAYR

20. Information required by law to be provided:
21. 1. A copy of the bylaws and the rules of the association.
22. 2. A copy of the declaration of Covenants, Conditions and Restrictions ("CCSRs").
23. 3. A dated statement containing:
24. (a) The telephone number and address of a principal contact for the association, which may be an association manager, an association management company, an officer of the association or any other person designated by the board of directors.
25. (b) The amount of the common regular assessment and the unpaid common regular assessment, special assessment or other assessment, fee or charge currently due and payable from the Seller.
26. (c) A statement as to whether a portion of the unit is covered by insurance maintained by the association.
27. (d) The total amount of money held by the association as reserves.
28. (e) If the statement is being furnished by the association, a statement as to whether the records of the association reflect any alterations or improvements to the unit that violate the declaration. The association is not obligated to provide information regarding alterations or improvements that occurred more than six years before the proposed sale. Seller remains obligated to disclose alterations or improvements to the Premises that violate the declaration. The association may take action against the Buyer for violations apparent at the time of purchase that are not reflected in the association's records.
29. (f) If the statement is being furnished by the Seller, a statement as to whether the Seller has any knowledge of any alterations or improvements to the unit that violate the declaration.
30. (g) A statement of case names and case numbers for pending litigation with respect to the Premises or the association.
31. 4. A copy of the current operating budget of the association.
32. 5. A copy of the most recent annual financial report of the association. If the report is more than ten pages, the association may provide a summary of the report in lieu of the entire report.
33. 6. A copy of the most recent reserve study of the association, if any.
34. 7. Any other information required by law.
35. 8. A statement for Buyer acknowledgment and signature as required by Arizona Law.

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West USA Realty 4505 E. Chandler Blvd #200 Phoenix, AZ 85048
Jeremiah Hancock

Phone: (480)593-0420

Fax:

Produced with ZipForm® by ZipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.ziplogix.com

Unfiled



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 May 5, 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 363 N. Ocean Dr., Gilbert, AZ 85233 ("Property").

2. Seller. The Seller is Lawrence J. Warfield, in his capacity as the Special Deputy Receiver appointed by the Superior Court of Arizona in the action entitled State of Arizona v. Landmarc Capital, et al CV2009-020595 ("Receivership Court"). The Taxpayer Identification Number for the Seller is 86-0959744. The Seller is the appointed as the Receiver of the Property.

3. Buyer. The Buyer is Kristen Playford Splichal

4. Purchase Price. The Purchase Price, which Buyer agrees to pay for the Property is \$137,000. 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 \$4,795 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

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) Line 91 shall be:
 - (i) Great American Title Agency, c/o Christine Battaglia 602-773-3280

9. Court Receivership. The Buyer understands and acknowledges that the Seller was duly appointed the Receiver in the Receivership State of Arizona v. Landmarc Capital, et al CV2009-020595 (the "Receivership Court") and that the Property and this transaction are 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 60 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

Seller's Initials

11. Inspection. Buyer shall have twenty (20) 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. Possession. Possession of the Property shall be delivered to Buyer at Close of Escrow.

13. 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.

14. 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.

15. No Liability. Buyer agrees that no receivers, directors, officers, employees or agents of Seller have any personal obligation hereunder, and that such party shall not seek to assert any claim or enforce any rights against such bankruptcy trustees, directors, officers, employees or agents.

Buyer's Initials



Seller's Initials



16. 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.

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

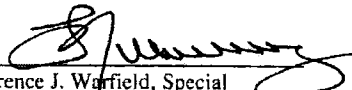
18. Close of Escrow. The sale shall close within 15 days of completion of the last of the requirements set forth in Paragraph 10 above.

19. 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 Anthony Kurth of Home Smart on or before May 10, 2010 at 5 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.

20. 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.

21. Entire Agreement. This agreement supersedes any other agreement, whether oral or in writing, between the parties regarding the subject of this agreement, and renders such other agreements between the parties null and void.

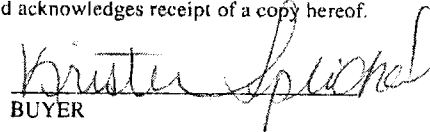
Dated: May 10, 2010


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: 5-10-10


BUYER

West USA Realty
ADDENDUM

Document updated:
June 1993



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 an addendum originated by the: ☐ Seller ☒ Buyer ☐ Landlord ☐ Tenant.
2. This is an addendum to the Contract dated May 5, 2010 between the following Parties:
MO/DA/YR
3. Seller/Landlord: _____
4. Buyer/Tenant: Kristen Playford Splichal
5. Premises: 363 N Ocean Dr, Gilbert, AZ 85233
6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
The 20 day inspections period is to begin on Thursday May 13, 2010.
7. _____
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42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. Kristen Splichal 5/11/10

44. ☐ Seller ☒ Buyer MO/DA/YR

45. ☐ Landlord ☐ Tenant

☐ Seller ☐ Buyer MO/DA/YR

☐ Landlord ☐ Tenant

46. [Signature] 5/8/10

47. ☐ Seller ☐ Buyer MO/DA/YR

48. ☐ Landlord ☐ Tenant

☐ Seller ☐ Buyer MO/DA/YR

☐ Landlord ☐ Tenant

49. For Broker Use Only:

Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
MO/DA/YR

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Phone: (480)593-0420

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Jeremiah Hancock

Untitled

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