

# RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated:  
February 2011



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## 1. PROPERTY

1a. 1. BUYER: Anthony & Linda Hollars  
BUYER'S NAME(S)

2. SELLER: \_\_\_\_\_ 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: 2092 N. Whispering Bells DR. Assessor's #: 116-04-2400

6. City: Tulson County: Pima AZ, Zip Code: 85745

7. Legal Description: Los Arroyos Del Oeste Lot 0076

1c. 8. \$ 450,000 Full Purchase Price, paid as outlined below

9. \$ 10,000 Earnest money

10. \$ 440,000 cash @ close

11. \$ \_\_\_\_\_

12. \_\_\_\_\_

13. \_\_\_\_\_

14. \_\_\_\_\_

1d. 15. 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 Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to occur on

18. 5/19/11, 2011 ("COE Date"). If Escrow Company or recorder's office is closed on COE Date,

19. COE shall occur on the next day that both are open for business.

20. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.

1e. 23. Possession: Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security system/alarms, and all common area facilities to Buyer at COE or

25. Broker(s) recommend that the parties seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of the Premises.

1f. 27. Addenda Incorporated:  AS IS  Additional Clause  Assumption and Carryback  Buyer Contingency  Domestic Water Well

28.  H.O.A.  Lead-Based Paint Disclosure  On-site Wastewater Treatment Facility  Short Sale

29.  Other: \_\_\_\_\_

1g. 30. Fixtures and Personal Property: Seller agrees that all existing fixtures on the Premises, and any existing personal property specified herein, shall be included in this sale, including the following:

- 32. • free-standing range/oven
- 33. • ceiling fans
- 34. • attached floor coverings
- 35. • window and door screens, sun screens
- 36. • garage door openers and controls
- 37. • outdoor landscaping, fountains, and lighting
- 38. • pellet, wood-burning or gas-log stoves
- 39. • storage sheds
- light fixtures
- towel, curtain and drapery rods
- flush-mounted speakers
- storm windows and doors
- attached media antennas/satellite dishes
- attached fireplace equipment
- timers
- draperies and other window coverings
- shutters and awnings
- water-misting systems
- solar systems
- mailbox
- central vacuum, hose, and attachments
- built-in appliances

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- 40. If owned by the Seller, the following items also are included in this sale:
- 41. • pool and spa equipment (including any mechanical or other cleaning systems)
- 42. • security and/or fire systems and/or alarms
- 43. • water softeners
- 44. • water purification systems
- 45. Additional existing personal property included in this sale (if checked):  refrigerator  washer  dryer as described:
- 46. \_\_\_\_\_
- 47. \_\_\_\_\_
- 48.  Other: \_\_\_\_\_
- 49. \_\_\_\_\_
- 50. Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary
- 51. value, and free and clear of all liens or encumbrances.
- 52. Fixtures and leased items NOT included: \_\_\_\_\_
- 53. IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.

## 2. FINANCING

- 2a. 54. **Pre-Qualification:** A completed AAR Pre-Qualification Form  is  is not attached hereto and incorporated herein by reference.
- 2b. 55. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval for the loan described
- 56. in the AAR Loan Status Update ("LSU") form without Prior to Document ("PTD") conditions no later than three (3) days prior to the
- 57. COE Date. If Buyer is unable to obtain loan approval without PTD conditions, Buyer shall deliver a notice of the inability to obtain
- 58. loan approval without PTD conditions to Seller or Escrow Company no later than three (3) days prior to the COE Date.
- 2c. 59. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money if after
- 60. diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions no later than three (3) days prior to the
- 61. COE Date. Buyer acknowledges that prepaid items paid separately from earnest money are not refundable.
- 2d. 62. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest
- 63. rate and "points" by separate written agreement with the lender during the Inspection Period or (ii) the failure to have the down
- 64. payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not
- 65. an unfulfilled loan contingency.
- 2e. 66. **Loan Status Update:** Buyer shall deliver to Seller the LSU with at a minimum lines 1-40 completed describing the current status
- 67. of the Buyer's proposed loan within five (5) days after Contract acceptance and instruct lender to provide an updated LSU to
- 68. Broker(s) and Seller upon request.
- 2f. 69. **Loan Application:** Unless previously completed, during the Inspection Period, Buyer shall (i) complete, sign and deliver to the
- 70. lender a loan application and grant lender permission to access Buyer's Trimerged Residential Credit Report; and (ii) provide
- 71. to lender all initial requested signed disclosures and Initial Requested Documentation listed in the LSU on lines 32-35.
- 2g. 72. **Loan Processing During Escrow:** Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all
- 73. additional documentation required. Buyer shall sign all loan documents no later than three (3) days prior to the COE Date.
- 2h. 74. **Type of Financing:**  Conventional  FHA  VA  USDA  Assumption  Seller Carryback  \_\_\_\_\_
- 75. (If financing is to be other than new financing, see attached addendum.)
- 2i. 76. **Loan Costs:** All costs of obtaining the loan shall be paid by the Buyer, unless otherwise provided for herein.
- 2j. 77. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller agrees to pay up to \_\_\_\_\_ %
- 78. of the Purchase Price or \$ \_\_\_\_\_ for Buyer's loan costs including pre-pays, impounds and Buyer's title / escrow closing costs.
- 2k. 79. **VA Loan Costs:** In the event of a VA loan, Seller agrees to pay the escrow fee and up to \$ \_\_\_\_\_ of loan costs not
- 80. permitted to be paid by the Buyer, in addition to the other costs Seller has agreed to pay herein, including Seller's concessions.
- 2l. 81. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the
- 82. Pre-Qualification form if attached hereto or LSU provided within five (5) days after Contract acceptance and shall only make any
- 83. such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan
- 84. approval without PTD conditions, increase Seller's closing costs, or delay COE.
- 2m. 85. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to
- 86. lender for at least the purchase price. If the Premises fails to appraise for the purchase price in any appraisal required by lender,
- 87. 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
- 88. appraisal contingency shall be waived.
- 2n. 89. **Appraisal Fee(s):** Appraisal Fee(s), when required by lender, shall be paid by  Buyer  Seller  Other \_\_\_\_\_
- 90. Appraisal Fee(s)  are  are not included in Seller's Concessions, if applicable.

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3. TITLE AND ESCROW

3a. 91. Escrow: This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the 92. terms of this Contract shall be:

93. FATCO Cathy Kelege

ESCROW/TITLE COMPANY

94. ADDRESS CITY STATE ZIP

95. ckerege@Firstam.com 575-1900

EMAIL

PHONE

FAX

3b. 96. Title and Vesting: Buyer will take title as determined before COE. Taking title may have significant legal, estate planning and tax 97. consequences. Buyer should obtain legal and tax advice.

3c. 98. Title Commitment and Title Insurance: Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, 99. addressed pursuant to 8t and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies 100. of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to 101. Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the 102. Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller 103. shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements 104. and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's 105. Title Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if not available, a 106. Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional 107. expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.

3d. 108. Additional Instructions: (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of the 109. Buyer to any homeowner's association in which the Premises is located. (ii) If the Escrow Company is also acting as the title agency 110. but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to the Buyer and Seller, upon deposit of 111. funds, a closing protection letter from the title insurer indemnifying the Buyer and Seller for any losses due to fraudulent acts or breach 112. of escrow instructions by the Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by 113. Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent 114. necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally 115. between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications 116. directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information 117. regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.

3e. 118. Tax Prorations: Real property taxes payable by the Seller shall be prorated to COE based upon the latest tax information available.

3f. 119. Release of Earnest Money: In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with 120. Escrow Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions of 121. this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against 122. any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or 123. relating in any way to the release of Earnest Money.

3g. 124. Prorations of Assessments and Fees: All assessments and fees that are not a lien as of the COE, including homeowner's 125. association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, 126. and service contracts, shall be prorated as of COE or  Other:

3h. 127. Assessment Liens: The amount of any assessment, other than homeowner's association assessments, that is a lien as of the 128. COE, shall be  paid in full by Seller  prorated and assumed by Buyer. Any assessment that becomes a lien after COE is 129. the Buyer's responsibility.

3i. 130. IRS and FIRPTA Reporting: Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign, 131. and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the 132. Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller acknowledge that if the Seller is a foreign person, the 133. Buyer must withhold a tax equal to 10% of the purchase price, unless an exemption applies.

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4. DISCLOSURE

- 4a. 134. Seller Property Disclosure Statement ("SPDS"); Seller shall deliver a completed AAR Residential SPDS form to the Buyer within 135. five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or 136. five (5) days after receipt of the SPDS, whichever is later.
4b. 137. Insurance Claims History: Seller shall deliver to Buyer a written five-year insurance claims history regarding Premises (or a claims 138. history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or an insurance 139. support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract 140. acceptance. (Seller may obscure any reference to date of birth or social security number from the document). Buyer shall provide 141. notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.
4c. 142. Lead-Based Paint Disclosure: If the Premises were built prior to 1978, the Seller shall: (i) notify the Buyer of any known lead-based 143. paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspections of the Premises in 144. the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and Lead-based Paint 145. Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family 146. from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead- 147. Based Paint and Lead-Based Paint Hazards to Seller prior to COE.
148. [ ] LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk 149. assessments or inspections during Inspection Period.
150. [ ] Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days 151. or \_\_\_\_\_ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the 152. presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five 153. (5) days after expiration of the Assessment Period cancel this Contract.
154. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in 155. residential properties built before 1978 and to follow specific work practices to prevent lead contamination.
156. If Premises were constructed prior to 1978, (BUYER'S INITIALS REQUIRED) BUYER BUYER
157. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED) BUYER BUYER

5. WARRANTIES

- 5a. 166. Seller Warranties: Seller warrants and shall maintain and repair the Premises so that at the earlier of possession or COE: (i) all 167. heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, cleaning 168. systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon 169. repairs and corrections will be completed pursuant to Section 6j; (iii) the Premises, including all additional existing personal property 170. included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property 171. not included in the sale and all debris will be removed from the Premises.
5b. 172. Warranties that Survive Closing: Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and 173. any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the 174. consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor, 175. professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in 176. connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the 177. information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is 178. correct to the best of Seller's knowledge.
5c. 179. Buyer Warranties: Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the 180. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE, 181. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises. 182. Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows: 183. 184.

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6. DUE DILIGENCE

6a. 185. Inspection Period: Buyer's Inspection Period shall be ten (10) days or 25 days after Contract acceptance. During the 186. Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections 187. and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies, 188. lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and the 189. surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards, 190. violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of sex 191. offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is a 192. material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer shall keep the Premises free 193. and clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair 194. all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection 195. reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate Buyer 196. Advisory provided by AAR to assist in Buyer's due diligence inspections and investigations.

6b. 197. Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE 198. REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL 199. MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.

6c. 200. Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS 201. (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE 202. INSPECTION PERIOD. The Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the 203. Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be 204. performed at Buyer's expense.

6d. 205. Flood Hazard: Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the 206. Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental 207. entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to 208. encumber or improve the Premises.

6e. 209. Insurance: IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR AND 210. OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE 211. PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any 212. homeowner's, fire, casualty, or other insurance desired by Buyer or required by lender should be in place at COE.

6f. 213. Sewer or On-site Wastewater Treatment System: The Premises are connected to a: 214.  sewer system  septic system  alternative system permit approved - not installed 215. IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE 216. INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment 217. Facility Addendum is incorporated herein by reference. 218. (BUYER'S INITIALS REQUIRED)

BUYER BUYER

6g. 219. Swimming Pool Barrier Regulations: During the Inspection Period, Buyer agrees to investigate all applicable state, county, and 220. municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to 221. occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt 222. of the Arizona Department of Health Services approved private pool safety notice.

(BUYER'S INITIALS REQUIRED) BUYER BUYER

6h. 224. BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT 225. QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING 226. AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE 227. DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE 228. SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY 229. RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD 230. HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.

(BUYER'S INITIALS REQUIRED) BUYER BUYER

6i. 232. Inspection Period Notice: Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items 233. disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all 234. desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be 235. provided in a single notice.

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BUYER BUYER




- 6j. 236. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller notice  
237. of the items disapproved and state in the notice that Buyer elects to either:  
238. (1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or  
239. (2) provide the Seller an opportunity to correct the items disapproved, in which case:  
240. (a) Seller shall respond in writing within five (5) days or \_\_\_\_\_ days after delivery to Seller of Buyer's notice of items  
241. disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed  
242. Seller's refusal to correct any of the items disapproved.  
243. (b) If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a  
244. workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days  
245. or \_\_\_\_\_ days prior to COE Date.  
246. (c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five (5) days  
247. after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and all  
248. Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided,  
249. Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.  
250. VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will extend  
251. response times or cancellation rights.  
252. BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE  
253. SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE  
254. TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.
- 6k. 255. **Notice of Non-Working Warranted Items:** Buyer shall provide Seller with notice of any non-working warranted item(s) of which  
256. Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice  
257. shall not affect Seller's obligation to maintain or repair the warranted item(s).
- 6l. 258. **Home Warranty Plan:** Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The  
259. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and  
260. most plans exclude pre-existing conditions.  
261.  A Home Warranty Plan will be ordered by  Buyer or  Seller with the following optional coverage  
262. \_\_\_\_\_, to be issued by \_\_\_\_\_ at a cost not  
263. to exceed \$ \_\_\_\_\_, to be paid for by  Buyer  Seller  
264.  Buyer declines the purchase of a Home Warranty Plan.
- 6m. 265. **Walkthrough(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for the  
266. purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in  
267. working condition and that the Premises is in substantially the same condition as of the date of Contract acceptance. If Buyer does  
268. not conduct such walkthrough(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.
- 6n. 269. **Seller's Responsibility Regarding Inspections and Walkthrough(s):** Seller shall make the Premises available for all inspections  
270. and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane,  
271. until COE to enable Buyer to conduct these inspections and walkthrough(s).

### 7. REMEDIES


- 7a. 272. **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any provision  
273. of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the non-  
274. compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a  
275. breach of Contract.
- 7b. 276. **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the breaching  
277. party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute Resolution  
278. obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event of Buyer's  
279. breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept the  
280. 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 notice  
281. required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant to Section  
282. 2m, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled contingency is not  
283. a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and conditions of Section 1d  
284. to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a, will constitute a material  
285. breach of this Contract, rendering the Contract subject to cancellation.

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- 7c. 286. **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this 287. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid 288. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall be 289. submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of an 290. arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration 291. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be 292. final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. 293. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the 294. mediation conference by notice to the other and in such event either party shall have the right to resort to court action.
- 7d. 295. **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the 296. Small Claims Division of an Arizona Justice Court (up to \$2,500) so long as the matter is not thereafter transferred or removed from 297. the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or 298. agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanics lien; or (v) any matter that is 299. within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action ("lis 300. pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the 301. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.
- 7e. 302. **Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this 303. Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert 304. witness fees, fees paid to investigators, and arbitration costs.

**8. ADDITIONAL TERMS AND CONDITIONS**

8a. 305. \_\_\_\_\_  
 306. *C.O.E. is Contingent upon extension of building permit,*  
 307. *Septic permit, pool permit, any other permits needed*  
 308. *to complete build.*  
 309. \_\_\_\_\_  
 310. *Buyer Agent is related to buyer.*  
 311. \_\_\_\_\_  
 312. \_\_\_\_\_  
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 334. \_\_\_\_\_

  
 SELLER SELLER

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 BUYER BUYER

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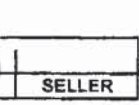


- 8b. 335. **Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession, 336. whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on the Seller, provided, 337. however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller or 338. Buyer may elect to cancel the Contract.
- 8c. 339. **Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.
- 8d. 340. **Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.
- 8e. 341. **Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligations described herein.
- 8f. 342. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by 343. separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid. 344. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer is 345. obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. COMMISSIONS PAYABLE FOR THE 346. SALE, LEASING, OR MANAGEMENT OF PROPERTY ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS®, OR 347. MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER THAN BETWEEN THE BROKER AND CLIENT.
- 8g. 348. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract This 349. Contract and any other documents required by this Contract may be executed by facsimile or other electronic means and in any 350. number of counterparts, which shall become effective upon delivery as provided for herein, except that the Lead-Based Paint 351. Disclosure Statement may not be signed in counterpart. All counterparts shall be deemed to constitute one instrument, and each 352. counterpart shall be deemed an original.
- 8h. 353. **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 354. end at 11:59 p.m.
- 8i. 355. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event from 356. which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on the 357. date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts that 358. 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 act must 359. be performed by 11:59 p.m. on Monday).
- 8j. 360. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and 361. Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing signed 362. by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.
- 8k. 363. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that 364. any subsequent offer accepted by the Seller must be a backup offer contingent on the cancellation of this Contract.
- 8l. 365. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by delivering 366. notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become effective 367. immediately upon delivery of the cancellation notice.
- 8m. 368. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing and 369. deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail, if email 370. addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in Section 371. 8r, to Seller as indicated in Section 9a and to the Escrow Company indicated in Section 3a.
- 8n. 372. **Earnest Money:** Earnest Money is in the form of:  Personal Check  Other: \_\_\_\_\_ 373. If applicable, Earnest Money has been received by Broker named in Section 8r and upon acceptance of this offer will be deposited 374. with:  Escrow Company  Broker's Trust Account. Buyer acknowledges that failure to pay the required closing funds by the 375. scheduled Close of Escrow, if not cured after a cure notice is delivered pursuant to Section 7a, shall be construed as a material 376. breach of this contract and all earnest money shall be subject to forfeiture.
- 8o. 377. **Release of Broker(s):** Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this transaction 378. from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, boundaries, value, 379. rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, governmental regulations, 380. insurance, price and terms of sale, return on investment or any other matter relating to the value or condition of the 381. Premises. The parties understand and agree that the Broker(s) do not provide advice on property as an investment and are 382. not qualified to provide financial, legal, or tax advice regarding this real estate transaction.

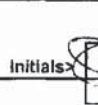
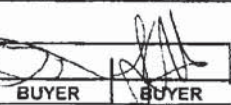
383. (SELLER'S INITIALS REQUIRED) \_\_\_\_\_ (BUYER'S INITIALS REQUIRED) \_\_\_\_\_  
SELLER SELLER BUYER BUYER

- 8p. 384. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered 385. in person, by mail, facsimile or electronically, and received by Broker named in Section 8r 386. by April 22 at 6:00  a.m.  p.m., Mountain Standard Time. 387. Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by this 388. date and time, this offer shall be deemed withdrawn and the Buyer's Earnest Money shall be returned.

>>

   
SELLER SELLER

<Initials

   
BUYER BUYER

Initials>





Residential Resale Real Estate Purchase Contract >>

8q. 389. THIS CONTRACT CONTAINS NINE PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT 390. YOU HAVE RECEIVED AND READ ALL NINE PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS.

8r. 391. Broker on behalf of Buyer:

392. for Marsee Wilhems 16298 RE/MAX Majestic 4044
393. 5405 N Oracle Rd. Suite 165 Tucson AZ 85704
394. (520) 885-9000 (520) 885-9020 @wiselisting.com

8s. 395. Agency Confirmation: The Broker named in Section 8r above is the agent of (check one):

396. [X] the Buyer; [ ] the Seller; or [ ] both the Buyer and Seller

8t. 397. The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of 398. a copy hereof including the Buyer Attachment.

399. [Signature] 4-21-11 [Signature] 4-21-11
400. 4445 W Lost Canyon Dr Tucson Az Same
401. 85745

9. SELLER ACCEPTANCE

9a. 402. Broker on behalf of Seller:

403. Henry Zipf 6313 Henry Zipf Realty 3196
404.
405. 444-5672 344-9936 henryzipf@cox.net

9b. 406. Agency Confirmation: The Broker named in Section 9a above is the agent of (check one):

407. [X] the Seller; or [ ] both the Buyer and Seller

9c. 408. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a 409. copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.

410. [ ] Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer. 411. [ ] If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

412. [Signature] 5/16/11 [Signature]
413. FOR LANDMARK CAPITAL & INVESTMENT CO
414. 14555 N. SCOTTSDALE RD, #340
415. SCOTTSDALE, AZ 85254

416. [ ] 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



"AS IS" ADDENDUM

Document 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: \_\_\_\_\_
- 2. Buyer: Anthony + Linda Hollars
- 3. Premises Address: 2092 N. Whispering Bells
- 4. Date: 4/21/11

- 5. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the
- 6. above referenced Premises. All terms and conditions of the Contract are hereby included herein and delivery of all notices
- 7. 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
- 9. to Buyer, either express or implied, as to the (1) condition of the Premises, including, but not limited to, Seller's Warranties
- 10. in Lines 163-166 of Section 5a, which Buyer hereby waives; (2) zoning of the Premises; or (3) Premises' fitness for any
- 11. particular use or purpose. However, Seller warrants and shall maintain and repair the Premises so that, pursuant to lines
- 12. 167-168, at the earlier of possession or COE, the Premises, including all additional existing personal property included
- 13. in the sale, will be in substantially the same condition as on the date of Contract acceptance and all personal property
- 14. 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
- 16. Inspection Period as specified in Section 6a. Buyer retains the rights pursuant to Section 6j. Seller shall not
- 17. be obligated to correct any defects that may be discovered during Buyer's inspection(s) and
- 18. investigations or otherwise.
- 19. C. Notwithstanding the foregoing, if an On-Site Wastewater Treatment Facility (conventional septic or alternative
- 20. system) ("Facility") has been installed on the Premises, Seller and Buyer agree to complete and execute the AAR
- 21. On-Site Wastewater Treatment Facility Addendum and Seller agrees to pay for the Facility inspections, fees or
- 22. 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
- 24. 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
- 26. contained in the Contract, the provisions of this Addendum shall prevail and the conflicting terms are hereby
- 27. considered deleted and expressly waived by both Buyer and Seller.
- 28. F. Other Terms and Conditions:
- 29. \_\_\_\_\_
- 30. \_\_\_\_\_

31. BUYER ACKNOWLEDGES THAT BUYER IS HEREBY ADVISED TO SEEK APPROPRIATE COUNSEL REGARDING

32. 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

34. to the premises or the surrounding area. Buyer is instructed to consult with qualified licensed professionals to assist in Buyer's due

35. diligence efforts. Because conducting due diligence with respect to the premises and the surrounding area is beyond the scope of

36. the Broker's expertise and licensing, Buyer expressly releases and holds harmless Broker(s) from liability for any defects or conditions

37. that could have been discovered by inspection or investigation. Seller and Buyer hereby expressly release, hold harmless and

38. indemnify Broker(s) in this transaction from any and all liability and responsibility regarding financing, the condition,

39. square footage, lot lines, boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation,

40. building codes, governmental regulations, insurance or any other matter relating to the value or condition of the Premises.

41. [Signature] 4-21-11 [Signature] 4-21-11  
 ^ BUYER'S SIGNATURE MO/DA/YR ^ BUYER'S SIGNATURE MO/DA/YR

42. [Signature] 5/16/11 \_\_\_\_\_  
 ^ SELLER'S SIGNATURE MO/DA/YR ^ SELLER'S SIGNATURE MO/DA/YR

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# ADDENDUM 1

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 \_\_\_\_\_ between the following Parties:  
MO/DA/YR
3. Seller/Landlord: \_\_\_\_\_
4. Buyer/Tenant: Anthony Hollars, Linda Hollars
5. Premises: 2092 Whispering Bells, Tucson, Az
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:
7. Seller to be responsible for payment and release of all claims, liens & encumbrances
8. against the property to include claims that may survive close of escrow that are
9. dated prior to close of escrow. Seller will indemnify and hold buyer harmless from any
10. liability for such claims, liens & encumbrances. Proof of payment will be furnished to
11. buyer at close of escrow.
12. \_\_\_\_\_
13. Seller to pay 1/2 of the following permits with Pima County:
14. Pool, building & septic
15. \_\_\_\_\_
16. Seller to reimburse buyers 1/2 of the cost of the permits if close of escrow does not
17. occur through no fault of the buyer and is contingent on the buyer obtaining such
18. permits from Pima Co.
19. \_\_\_\_\_
20. Seller to repair the roofs to make them water tight by completely replacing all dry in
21. components.
22. \_\_\_\_\_
23. Seller to provide proof of insurance thereof with a copy of the declarations page 2
24. days after acceptance of this addendum. Insurance to cover property not limited to
25. fire/theft, vandalism and acts of God.
26. \_\_\_\_\_
27. Seller to assure property is in same condition at close of escrow as date of purchase
28. contract.
29. \_\_\_\_\_
30. Seller or listing agent to secure materials, windows and doors that are not yet
31. installed but remain on the property.
32. \_\_\_\_\_
33. Buyer agrees to make earnest money hard after permits are acquired.
34. \_\_\_\_\_
35. Seller agrees to release earnest money within 24 hrs. if disapproved by Receivership
36. Court
37. \_\_\_\_\_
38. \_\_\_\_\_
39. \_\_\_\_\_
40. \_\_\_\_\_
41. \_\_\_\_\_

42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. [Signature] 05/10/2011  
 44.  Seller  Buyer  
 45.  Landlord  Tenant

[Signature] 05/10/2011  
 Seller  Buyer  
 Landlord  Tenant

46. [Signature] 5/16/11  
 47.  Seller  Buyer  
 48.  Landlord  Tenant

Seller  Buyer  
 Landlord  Tenant

49. For Broker Use Only:  
 Brokerage File/Log No. \_\_\_\_\_ Manager's Initials \_\_\_\_\_ Broker's Initials \_\_\_\_\_ Date \_\_\_\_\_  
 MO/DA/YR

## Counter Offer No. 1

This is a Counter Offer by the Seller, Lauren Kingry, Receiver by Thomas J. Giallanza, in his capacity as Deputy Receiver, to the Proposal to purchase a residential property by the Buyer, ("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 No.1 ("Counter Offer"), and to the extent not inconsistent herewith, the terms and conditions set forth in the Purchase Agreement and Addendum 1; hereinabove:

1. Property. The real property, which is the subject of this Counter Offer, is located at **2092 Whispering Bells, Tucson, AZ**, ("Property").

2. Seller. The Seller is Lauren Kingry, Receiver by either Lawrence J. Warfield, in his capacity as the Special Deputy Receiver or Thomas J. Giallanza in his capacity as Deputy Receiver, appointed by the Superior Court of Arizona in the action entitled State of Arizona v. Landmarc Capital, et al **CY2009-020595** ("Receivership Court"). The Taxpayer Identification Number for the Seller is **86-0959744**.

3. Buyer. The Buyer is Anthony and Linda Hollars.

4. Purchase Price. The Purchase Price, which Buyer agrees to pay for the Property is \$ **450,000**. 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 Purchase Agreement, Addendum No. 1 and this Counter Offer a total of **\$10,000.00** cash earnest money deposit (the "Earnest Money") which **\$5000.00** 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



1

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 Buyer's 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 are to be paid for by Buyer.
- (b) Buyer agrees to provide Seller evidence of funds sufficient to close escrow within 7 days following the Seller's and Buyer's acceptance of the Purchase Agreement, Addendum No. 1 and this Counter Offer.
- (c) The Buyers shall make their Earnest Money deposit payable to the following title company (**Escrow Agent**):

Attention: Alix Graham,  
**North American Title Company**  
3200 E. Camelback Road, Suite 150  
Phoenix, AZ 85018  
Phone: 602.294.2200  
Fax: 866.488.1907

- (d) Title shall be conveyed to Buyer by a Special Warranty Deed.
- (e) The parties agree to delete the following sentence appearing on line 9 & 10 of Addendum 1: ***Seller will indemnify and hold buyer harmless from any liability for such claims, liens & encumbrances.***
- (f) The parties agree to delete the sentences appearing on lines 13 through 18 of Addendum 1 and insert the following sentence in their place: ***Seller shall provide buyer with a credit equal to \$1,000 at close of escrow.***
- (g) The parties agree to delete the sentence appearing on lines 20 through 21 of Addendum 1 and insert the following sentence in its place: ***Seller will prior to Close of Escrow hire and arrange to pay a licensed and bonded roofing contractor to "dry in" the existing roof. The roofing contractor so selected by Seller may be paid any balance then due contractor from Seller's proceeds at the Close of Escrow.***


Buyer's Initials   *DJ*  


Seller's Initials   *[Signature]*

- (h) The parties agree to delete the sentence appearing on lines 23 through 25 of Addendum 1 and insert the following sentence in its place: *Seller will provide Buyer with a Certificate of Insurance delineating the coverages Seller has available through close of escrow to include glass and installed window coverage. Seller has attached an unexecuted Certificate of Insurance to this Counter Offer which reflects the coverages that will appear on the Certificate when issued.*
- (i) The parties agree to delete the sentence appearing on lines 27 through 28 of Addendum 1.
- (j) The parties agree to delete the sentence appearing on lines 30 through 31 of Addendum 1 and insert the following sentence in its place: *Buyer will accept full bailment responsibility for securing the materials, uninstalled windows and uninstalled doors that presently remain on the property. Buyer shall provide Seller and its listing agent the right to access to the secure location at which Buyer relocates the property at all times prior to close of escrow. In the event that Buyer, for any reason, does not close; Buyer agrees to return to the Seller at a location designated by Seller the materials, uninstalled windows and uninstalled doors.*
- (k) The parties agree to delete the sentence appearing on line 33 of Addendum 1.
- (l) The parties agree to delete the number appearing on line 35 of Addendum 1 and replace it with the following number: 72.
- (m) The parties agree to delete the sentence appearing on lines 306 through 308 of the Purchase Agreement.

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 the Purchase Agreement and 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 the Purchase Agreement and this Counter Offer, 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 or Conduction of Feasibility Study by Buyer. Buyer shall have twenty (20) days from the date of the Buyer's acceptance of this Counter Offer to complete the Buyer's inspection or feasibility study 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.

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 Paragraphs 8 & 9 above.

Buyer's Initials



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Seller's Initials

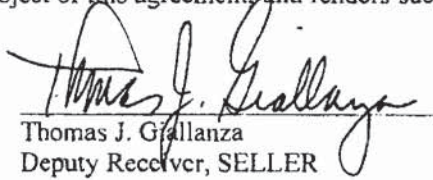


19. Time of the Essence. Time is of the essence and unless the Buyer's acceptance of the Purchase Agreement and this Counter Offer is signed by the Buyer or an authorized representative and a signed copy of the Purchase Agreement and this Counter Offer is delivered in person, by mail, or by facsimile and received by the Special Deputy Receiver or Thomas J. Giallanza, Deputy Receiver, on or before \_\_\_\_\_ at 5 PM, Mountain Standard Time, or unless the Purchase Agreement, Addendum No. 1 and this Counter Offer has been previously withdrawn by the Deputy Receiver or Special Deputy Receiver, this Purchase Agreement, Addendum No.1 and this Counter Offer shall be considered withdrawn on the date and time set forth above in this Paragraph. Until this Purchase Agreement, Addendum No. 1 and 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: 5/16/11

  
Thomas J. Giallanza  
Deputy Receiver, SELLER

### Acceptance

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

Dated: 5-13-11

  
BUYER

Buyer's Initials 

Seller's Initials 