

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT



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Document updated:
February 2011



1. PROPERTY

- a. 1. BUYER: Brain Cullinan, BUYER'S NAME(S)
2. SELLER: Gerald L. Homewood & Marlyn K. Homewood Family LP, SELLER'S NAME(S) or as identified in section 9c.
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").
- b. 5. Premises Address: 6934 E. Sandra Terrace Assessor's #: 215-43-235
6. City: Scottsdale County: Maricopa AZ, Zip Code: 85254
7. Legal Description: Greenbrier East Unit Eleven MCR 261-9
- c. 8. \$ 218,000.00 Full Purchase Price, paid as outlined below
9. \$ 4,000.00 Earnest money
10. \$ 3,630.00 Additional Down Payment
11. \$ 210,370.00 To be Financed
12. _____
13. _____
14. _____
- d. 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. February 5, 2012 ("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.
- e. 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.
- f. 27. Addenda Incorporated: AS IS Additional Clause Assumption and Carryback Buyer Contingency Domestic Water Well
 H.O.A. Lead-Based Paint Disclosure On-site Wastewater Treatment Facility Short Sale
 Other: _____

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

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SELLER

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BUYER

BUYER

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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 value, and free and clear of all liens or encumbrances.
52. Fixtures and leased items NOT included: none
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 in the AAR Loan Status Update ("LSU") form without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date. If Buyer is unable to obtain loan approval without PTD conditions, Buyer shall deliver a notice of the inability to obtain 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 diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions no later than three (3) days prior to the 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 rate and "points" by separate written agreement with the lender during the Inspection Period or (ii) the 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.
- 2e. 66. Loan Status Update: Buyer shall deliver to Seller the LSU with at a minimum lines 1-40 completed describing the current status of the Buyer's proposed loan within five (5) days after Contract acceptance and instruct lender to provide an updated LSU to 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 lender a loan application and grant lender permission to access Buyer's Trimerged Residential Credit Report; and (ii) provide 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 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 _____ (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 _____ % of the Purchase Price or \$ 4,000.0 for Buyer's loan costs including pre-paids, 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 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 Pre-Qualification Form if attached hereto or LSU provided within five (5) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan 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 lender for at least the purchase price. If the Premises fails to appraise for the purchase price in any appraisal required by lender, 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.
- 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. First American Title -Jennifer Pope
"ESCROW/TITLE COMPANY"
94. ADDRESS _____ CITY _____ STATE _____ ZIP _____
95. 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 _____
 157. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED) DC BUYER _____ BUYER _____
- 4d. 158. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of property 159. other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the form required 160. by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items 161. disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4e. 162. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, in 163. the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 5a 164. or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed 165. five (5) days after delivery of such notice to provide notice of disapproval to Seller.

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. none
 184. _____

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6. DUE DILIGENCE

- 6a. 185. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or _____ 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:
 sewer system septic system alternative system
 214. IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE 215. INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment 216. Facility Addendum is incorporated herein by reference.
 218. (BUYER'S INITIALS REQUIRED)
PC
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- 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.
 223. (BUYER'S INITIALS REQUIRED)
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- 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.
 231. (BUYER'S INITIALS REQUIRED)
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- 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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- 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. This contract is subject to the successful cancellation of the existing
 306. contract.
- 307.
308. Seller is a licensed real estate agent in the state of Arizona.
- 309.
310. All screens and the misting system shall convey as-is.
- 311.
312. Seller has not occupied the home and will not provide buyer a Seller Disclosure
 313. Statement or Clue Report.
- 314.
- 315.
- 316.
317. Seller will transfer existing home warranty to buyer. Existing warranty is good
 318. until August 2012.
- 319.
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SELLER	SELLER

<Initials>

Initials:>

	BUYER
BUYER	BUYER



Cullinan,

- 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 359. must 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.
- 8p. 383. (SELLER'S INITIALS REQUIRED) MM (BUYER'S INITIALS REQUIRED) BC
 SELLER SELLER BUYER BUYER
 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 MM.
 386. by January 13, 2012 at 9 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.

DC 1/18/12

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Initials>

<u>MM</u>	<u>BC</u>
SELLER	BUYER



Cullinan,

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.	<u>Jeff Kalina</u> PRINT SALESPERSON'S NAME	<u>JK095</u> AGENT CODE	<u>RE/MAX Excalibur Realty</u> PRINT FIRM NAME	<u>REEX03</u> FIRM CODE
393.	<u>21803 N. Scottsdale Rd #100</u> FIRM ADDRESS		<u>Scottsdale</u> STATE	<u>AZ</u> ZIP CODE
394.	<u>(602) 625-4222</u> PREFERRED TELEPHONE	<u>(480) 850-5005</u> FAX	<u>jeffkalina@cox.net</u> EMAIL	

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

396. 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.	<u>Brain Cullinan</u> ^ BUYER'S SIGNATURE	<u>01/12/2012</u> MO/DAY/YR	<u>Brain Cullinan</u> ^ BUYER'S SIGNATURE	<u>MO/DAY/YR</u>
400.	ADDRESS		ADDRESS	
401.	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	

9. SELLER ACCEPTANCE

9a. 402. Broker on behalf of Seller:

403.	<u>MARLYN K. Homewood</u> PRINT SALESPERSON'S NAME	<u>MH050</u> AGENT CODE	<u>REALTY EXECUTIVES</u> PRINT FIRM NAME	<u>REAX20</u> FIRM CODE
404.	<u>3930 E RAY Rd</u> FIRM ADDRESS	<u>Ste 100,</u>	<u>Phoenix</u> STATE	<u>AZ</u> ZIP CODE
405.	<u>602-430-8151</u> PREFERRED TELEPHONE	<u>480-965-5737</u> FAX	<u>marlynhomewood@cox.net</u> EMAIL	<u>85044</u> ZIP CODE

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

407. 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.	<u>Gerald L. Homewood</u> ^ SELLER'S SIGNATURE	<u>1/13/2012</u> MO/DAY/YR	<u>Gerald L. Homewood & Marlyn K.</u> SELLER'S NAME PRINTED	<u>SELLER'S SIGNATURE</u>	<u>MO/DAY/YR</u>
413.	SELLER'S NAME PRINTED		SELLER'S NAME PRINTED		
414.	ADDRESS		ADDRESS		
415.	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE		

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	MO/DAY/YR
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NOTICE AND DISCLOSURE REGARDING MOLD

There has been some recent publicity regarding the existence of certain types of toxic and non-toxic mold and similar organisms in homes, apartments and commercial buildings. Current information indicates that some types of mold may cause severe health problems for certain individuals.

Real estate agents are not trained to identify mold or similar conditions. Mold is not detectable by a real estate agent – sometimes not even by a professional home inspector or pest control inspector. It is even possible that a property could have a serious but hidden mold problem unknown to the seller.

The only way to provide any reasonable assurance that a property does not have a mold or other health hazard problem is to retain the services of an environmental expert who will conduct specific tests. Normally, these tests will consist of an interior and exterior examination for airborne spores, and a carpet test, though other procedures may be necessary. Any visible mold should be professionally evaluated.

The Purchase Contract contains provisions allowing you to obtain any and all inspections you may desire during the Inspection Period. All inspections, including those to detect mold, should be completed within the Inspection Period established in the Purchase Contract. Since most varieties of mold thrive on moisture, testing is especially necessary if any of the inspection reports or disclosure documents indicate that there is evidence of past or present moisture, flooding or other water intrusion, or standing water in the property.

Your Broker advises you to have these inspections and tests, including those for mold, performed in a timely manner; delays could result in a finding of a waiver on the part of a Buyer of these inspection rights, or even worse, your purchase of a property with hazardous mold.

By signing below, Buyer acknowledges receipt of this notice.

6934 E Sandra Terrace
Scottsdale, AZ 85254

Property Address: _____

Buyer Brian Cullian Date

Buyer Date

08/07 Edition