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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 30 2013

C. LUNA

7 Attorneys for Defendants and Cross-Complainants,
8 CAPITIS, INC.; CAPITIS SOTHEBY'S INTERNATIONAL
9 REALTY; SOTHEBY'S INTERNATIONAL REALTY
10 AFFILIATES, LLC; BRIDGE APPEAL, INC.; ERIC BENNETT;
11 DEAN SIPE; ROB SEVERE; and KEVIN BLESSING

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF RIVERSIDE

14 AMY COX,

15 Plaintiff,

16 vs.

17 CAPITIS, INC., CAPITIS SOTHEBY'S
18 INTERNATIONAL REALTY, SOTHEBY'S
19 INTERNATIONAL REALTY AFFILIATES,
20 LLC, ERIC BENNETT, DEAN SIPE, KEVIN
21 BLESSING, AND DOES 1-100,

22 Defendants.

23 CAPITIS, INC., CAPITIS SOTHEBY'S
24 INTERNATIONAL REALTY, SOTHEBY'S
25 INTERNATIONAL REALTY AFFILIATES,
26 LLC, ERIC BENNETT, DEAN SIPE, KEVIN
27 BLESSING,

28 Cross-Complainants,

vs.

WINDERMERE REAL ESTATE, CHRIS
ANDERSON, TONY OTTEN, STEPHEN A.
LOCASCIO, MICHAEL RUSSEL, and ROES
1 through 50, Inclusive,

Cross-Defendants.

Case No.: INC 1205192
Assigned to
(Complaint Filed on July 24, 2012)

SECOND AMENDED CROSS-COMPLAINT

Defendants and Cross-complainants, Capitis, Inc., Capitis Sotheby's International Realty,

179
OCT 31 2013

1 Sotheby's International Realty Affiliates, LLC, Bridge Appeal, Inc., Eric Bennett, Dean Sipe, Rob
2 Severe, and Kevin Blessing (hereinafter "Cross-complainant") alleges against Cross-defendants as
3 follows:

4 **GENERAL ALLEGATIONS**

5 1. Cross-complainant is informed and believes that Cross-defendants, and each of them,
6 are individuals, corporations, partnerships, associations, or other business entities doing business in the
7 State of California, the County of Riverside, and this judicial district.

8 2. Cross-complainant does not know the true names and capacities of the Cross-defendants
9 who are sued as Roes.

10 3. Cross-complainant is informed and believes that Cross-defendants, and each of them,
11 were, and now are, the agents, employees, co-venturers, partners, or in some manner agents or
12 principals, or both, of each other and were acting in the course and scope of their agency or
13 employment. Cross-defendants, and each of them, were and now are residents of and doing business in
14 and by virtue of the laws of the State of California, the County of Riverside, and this judicial district.

15 4. Plaintiff, Amy Cox, ("Plaintiff") alleges in her Second Amended Complaint ("SAC") that
16 between on or about June 6, 2011, until on or about April 5, 2012, Stephen LoCascio and Michael
17 Russell lived together as legally married spouses at 660 Palisades Drive, Palm Springs, California
18 92262, ("Russell House"). The Russell House was owned by Mr. Russell. Plaintiff also alleges that Mr.
19 LoCascio was the co-owner of this property, or as the spouse of Russell made payments on the mortgage
20 of the Russell House. Plaintiff alleges that the Russell House was a well-known house in Palm Springs
21 and was designed by the acclaimed architect, Albert Frey.

22 5. On or about March 27, 2012, Plaintiff, the owner of a property located at 319 Westlake
23 Terrace, Palm Springs, California ("Subject Property") signed an offer to sell the Subject Property to
24 Stephen LoCascio. A copy of the California Residential Purchase Agreement and Joint Escrow
25 Instructions is attached hereto as Exhibit "A" and incorporated by this reference herein. Under the
26 Purchase Agreement, the escrow under which Mr. LoCascio would buy the Subject Property was
27 supposed to close on or about June 26, 2012.

28 6. The Purchase Agreement, Exhibit "A" hereto, includes three Addendums. Two of the

1 Addendums were executed by Plaintiff on March 27, 2012, and the third was executed by Plaintiff on
2 April 5, 2012. A copy of the Addendums are attached hereto as Exhibit "B" and incorporated by
3 reference herein. The Addendums allowed the buyer, Mr. LoCascio to rent the Subject Property and to
4 take possession of the Subject Property, under the Addendums, on April 5, 2012 as a tenant, three
5 months before the close of escrow on June 26, 2012. The Addendums further provide that a portion of
6 the rent that Mr. LoCascio was obligated to pay would go towards the purchase of the Subject Property.

7 7. It is alleged by Plaintiff that Dean Sipe, Plaintiff's real estate agent, and Mr. LoCascio
8 represented to Plaintiff that Mr. LoCascio and Mr. Russell owned an expensive, famous Albert Frey
9 house which was also known as the Russell House. Plaintiff further alleges that the truth was that Mr.
10 LoCascio and Mr. Russell did not own the Russell House but instead that home had been foreclosed
11 upon and Mr. LoCascio and Mr. Russell had no place to live. Plaintiff alleges that Mr. Sipe, Mr.
12 LoCascio, and Mr. Russell misrepresented to Plaintiff and her real estate agents that Mr. LoCascio and
13 Mr. Russell had the funds to purchase the Subject Property.

14 8. Plaintiff alleges that Mr. LoCascio and Mr. Russell moved into the Subject Property with
15 two large dogs on or about April 5, 2012, at which time Plaintiff vacated the Subject Property. After
16 moving in, Plaintiff asserts that Mr. LoCascio never paid rent; Mr. LoCascio and Mr. Russell were sued
17 by Plaintiff for unlawful detainer, and Mr. LoCascio and Mr. Russell vacated the Subject Property on
18 June 16, 2012, a few days before the date set for the unlawful detainer trial.

19 9. Plaintiff also alleges that before surrendering possession of the Subject Property on June
20 16, 2012, and between April 5, 2012 and June 16, 2012, while in sole possession of the Subject
21 Property, Mr. LoCascio and Mr. Russell committed waste, in that *inter alia* they ripped large holes in
22 the walls and ceiling, took down a wall, removed all the landscaping, including mature trees, either
23 urinated or allowed their two dogs to urinate throughout the house on the carpeting, changed and
24 damaged electrical wiring, damaged wallpaper, damaged the ceiling and custom made drapery, damaged
25 the plumbing system, and otherwise committed acts of destruction and waste to the Subject Property,
26 physically rendering the house uninhabitable, and substantially lowering the fair market value of the
27 Subject Property.

28 10. Escrow for the sale of the Subject Property to Mr. LoCascio did not close on June 26,

1 2012, or at anytime before or after that date, because Mr. LoCascio did not deposit the necessary funds
2 into escrow.

3 11. Windermere Real Estate ("Windermere") is a realtor company with offices in Palm
4 Springs, California, Riverside County. Chris Anderson is an individual who is the Branch Manager of
5 Windermere's South Palm Springs office. Plaintiff asserts that Mr. Anderson is a real estate broker.
6 Tony Otten is an individual who is a real estate salesperson who works in Windermere's South Palm
7 Springs office. Plaintiff alleges that Mr. Anderson was the real estate broker and Mr. Otten the real
8 estate agent for Mr. LoCascio and Mr. Russell in the real estate transaction involving the Plaintiff and
9 the Subject Property.

10 12. As the real estate broker and agent for Mr. LoCascio and Mr. Russell, Windemere, Mr.
11 Anderson, and Mr. Otten owed a duty of care to Plaintiff to disclose facts which were known or should
12 have been known to Plaintiff which would affect her decision to enter or continue the real estate
13 transaction even if they had not undertaken to act as her agent pursuant to *Easton v. Strassburger* (1984)
14 152 Cal.App.3d 90. Further, Windemere, Mr. Anderson, and Mr. Otten owed a duty of honest dealing
15 to Plaintiff pursuant to *Civil Code* section 2079(b) and *Business and Professions Code* section 10176(i).

16 13. Windemere, Mr. Anderson, and Mr. Otten breached the duties owed to Plaintiff when
17 they failed to disclose to Plaintiff that LoCascio/Russell's property has been foreclosed upon and that
18 they did not have the finances to purchase the Plaintiff's home. Windemere, Mr. Anderson, and Mr.
19 Otten knew or should have known that LoCascio/Russell's had been foreclosed upon and that
20 LoCascio//Russell lacked the necessary funds to purchase the house and escrow would not close and
21 should have disclosed this information to Plaintiff or Cross-Complainants.

22 14. Plaintiff alleges that as a result of the waste committed by Mr. LoCascio and Mr. Russell,
23 Plaintiff cannot now sell the Subject Property, as she lacks the funds necessary to repair the damages
24 that Mr. LoCascio and Mr. Russell inflicted on the property, and further now needs but does not have
25 the funds that she would have received for her equity in the Subject Property, to make the mortgage
26 payments for the Subject Property, and to avoid foreclosure of the Subject Property. Without the funds
27 to pay her mortgage on the Subject Property, Plaintiff faces foreclosure.

28 15. Plaintiff also alleges that she suffers from chronic encephalitis and all of the foregoing

1 events have exacerbated that condition.

2 16. As a result of the above conduct, Plaintiff asserts that she has been damaged in an amount
3 according to proof, but no less than \$200,000. Moreover, as a consequence of the above conduct,
4 Plaintiff was left without a place to live, and had no assets with which to pay for both alternative living
5 space and to pay the mortgage, homeowner's dues, and a monthly land payment, and other expenses, to
6 maintain ownership of the Subject Property.

7 **FIRST CAUSE OF ACTION**

8 (Comparative Indemnity and Apportionment of Fault)

9 17. Cross-complainant realleges each and every allegation contained in the preceding
10 paragraphs of this Cross-complaint and incorporates them as though fully set forth.

11 18. Plaintiff, Amy Cox, ("Plaintiff") alleges in her Second Amended Complaint ("SAC") that
12 between on or about June 6, 2011, until on or about April 5, 2012, Stephen LoCascio and Michael
13 Russell lived together as legally married spouses at 660 Palisades Drive, Palm Springs, California
14 92262, ("Russell House"). The Russell House was owned by Mr. Russell. Plaintiff also alleges that Mr.
15 LoCascio was the co-owner of this property, or as the spouse of Russell made payments on the mortgage
16 of the Russell House. Plaintiff alleges that the Russell House was a well-known house in Palm Springs
17 and was designed by the acclaimed architect, Albert Frey.

18 19. On or about March 27, 2012, Plaintiff, the owner of a property located at 319 Westlake
19 Terrace, Palm Springs, California ("Subject Property") signed an offer to sell the Subject Property to
20 Stephen LoCascio. A copy of the California Residential Purchase Agreement and Joint Escrow
21 Instructions is attached hereto as Exhibit "A" and incorporated by this reference herein. Under the
22 Purchase Agreement, the escrow under which Mr. LoCascio would buy the Subject Property was
23 supposed to close on or about June 26, 2012.

24 20. The Purchase Agreement, Exhibit "A" hereto, includes three Addendums. Two of the
25 Addendums were executed by Plaintiff on March 27, 2012, and the third was executed by Plaintiff on
26 April 5, 2012. A copy of the Addendums are attached hereto as Exhibit "B" and incorporated by
27 reference herein. The Addendums allowed the buyer, Mr. LoCascio to rent the Subject Property and to
28 take possession of the Subject Property, under the Addendums, on April 5, 2012 as a tenant, three

1 months before the close of escrow on June 26, 2012. The Addendums further provide that a portion of
2 the rent that Mr. LoCascio was obligated to pay would go towards the purchase of the Subject Property.

3 21. It is alleged by Plaintiff that Dean Sipe, Plaintiff's real estate agent, and Mr. LoCascio
4 represented to Plaintiff that Mr. LoCascio and Mr. Russell owned an expensive, famous Albert Frey
5 house which was also known as the Russell House. Plaintiff further alleges that the truth was that Mr.
6 LoCascio and Mr. Russell did not own the Russell House but instead that home had been foreclosed
7 upon and Mr. LoCascio and Mr. Russell had no place to live. Plaintiff alleges that Mr. Sipe, Mr.
8 LoCascio, and Mr. Russell misrepresented to Plaintiff and her real estate agents that Mr. LoCascio and
9 Mr. Russell had the funds to purchase the Subject Property.

10 22. Plaintiff alleges that Mr. LoCascio and Mr. Russell moved into the Subject Property with
11 two large dogs on or about April 5, 2012, at which time Plaintiff vacated the Subject Property. After
12 moving in, Plaintiff asserts that Mr. LoCascio never paid rent; Mr. LoCascio and Mr. Russell were sued
13 by Plaintiff for unlawful detainer, and Mr. LoCascio and Mr. Russell vacated the Subject Property on
14 June 16, 2012, a few days before the date set for the unlawful detainer trial.

15 23. Plaintiff also alleges that before surrendering possession of the Subject Property on June
16 16, 2012, and between April 5, 2012 and June 16, 2012, while in sole possession of the Subject
17 Property, Mr. LoCascio and Mr. Russell committed waste, in that *inter alia* they ripped large holes in
18 the walls and ceiling, took down a wall, removed all the landscaping, including mature trees, either
19 urinated or allowed their two dogs to urinate throughout the house on the carpeting, changed and
20 damaged electrical wiring, damaged wallpaper, damaged the ceiling and custom made drapery, damaged
21 the plumbing system, and otherwise committed acts of destruction and waste to the Subject Property,
22 physically rendering the house uninhabitable, and substantially lowering the fair market value of the
23 Subject Property.

24 24. Escrow for the sale of the Subject Property to Mr. LoCascio did not close on June 26,
25 2012, or at any time before or after that date, because Mr. LoCascio did not deposit the necessary funds
26 into escrow.

27 25. Windermere Real Estate ("Windermere") is a realtor company with offices in Palm
28 Springs, California, Riverside County. Chris Anderson is an individual who is the Branch Manager of

1 Windermere's South Palm Springs office. Plaintiff asserts that Mr. Anderson is a real estate broker.
2 Tony Otten is an individual who is a real estate salesperson who works in Windermere's South Palm
3 Springs office. Plaintiff alleges that Mr. Anderson was the real estate broker and Mr. Otten the real
4 estate agent for Mr. LoCascio and Mr. Russell in the real estate transaction involving the Plaintiff and
5 the Subject Property.

6 26. As the real estate broker and agent for Mr. LoCascio and Mr. Russell, Windemere, Mr.
7 Anderson, and Mr. Otten owed a duty of care to Plaintiff to disclose facts which were known or should
8 have been known to Plaintiff which would affect her decision to enter or continue the real estate
9 transaction even if they had not undertaken to act as her agent pursuant to *Easton v. Strassburger* (1984)
10 152 Cal.App.3d 90. Further, Windemere, Mr. Anderson, and Mr. Otten owed a duty of honest dealing
11 to Plaintiff pursuant to *Civil Code* section 2079(b) and *Business and Professions Code* section 10176(i).

12 27. Windemere, Mr. Anderson, and Mr. Otten breached the duties owed to Plaintiff when
13 they failed to disclose to Plaintiff that LoCascio/Russell's property has been foreclosed upon and that
14 they did not have the finances to purchase the Plaintiff's home. Windemere, Mr. Anderson, and Mr.
15 Otten knew or should have known that LoCascio/Russell's had been foreclosed upon and that
16 LoCascio//Russell lacked the necessary funds to purchase the house and escrow would not close and
17 should have disclosed this information to Plaintiff or Cross-Complainants.

18 28. Plaintiff alleges that as a result of the waste committed by Mr. LoCascio and Mr. Russell,
19 Plaintiff cannot now sell the Subject Property, as she lacks the funds necessary to repair the damages
20 that Mr. LoCascio and Mr. Russell inflicted on the property, and further now needs but does not have
21 the funds that she would have received for her equity in the Subject Property, to make the mortgage
22 payments for the Subject Property, and to avoid foreclosure of the Subject Property. Without the funds
23 to pay her mortgage on the Subject Property, Plaintiff faces foreclosure.

24 29. Plaintiff also alleges that she suffers from chronic encephalitis and all of the foregoing
25 events have exacerbated that condition.

26 31. As a result of the above conduct, Plaintiff asserts that she has been damaged in an amount
27 according to proof, but no less than \$200,000. Moreover, as a consequence of the above conduct,
28 Plaintiff was left without a place to live, and had no assets with which to pay for both alternative living

1 space and to pay the mortgage, homeowner's dues, and a monthly land payment, and other expenses, to
2 maintain ownership of the Subject Property.

3 32. The Plaintiff's SAC action alleges, among other things, conduct entitling Plaintiff to
4 damages against Cross-complainant.

5 33. Cross-complainant contends that Cross-complainant is not liable for events and
6 occurrences described in Plaintiff's SAC.

7 34. Cross-complainant is informed and believes that each Cross-defendant was responsible,
8 in whole or in part, for the injuries, if any, suffered by Plaintiff.

9 35. If Cross-complainant is judged liable to Plaintiff, each Cross-defendant should be
10 required to pay a share of Plaintiff's judgment that is in proportion to the comparative negligence of
11 that Cross-defendant in causing Plaintiff's damages and to reimburse Cross-complainant for any
12 payment Cross-complainant makes to Plaintiff in excess of Cross-complainant's proportional share of
13 all Cross-defendants' negligence.

14 36. As a direct and proximate result of the above, Cross-complainant has been damaged by
15 reason of investigation, expenses, attorneys' fees, and costs that have been, and will be, incurred, in a
16 sum not currently known. When the true amount of damages has been ascertained, Cross-complainant
17 will amend this Cross-complaint to insert the same.

18 SECOND CAUSE OF ACTION

19 (Total Equitable Indemnity)

20 37. Cross-complainant realleges each and every allegation contained in the preceding
21 paragraphs of this Cross-Complaint and incorporates them as though fully set forth.

22 38. Plaintiff, Amy Cox, ("Plaintiff") alleges in her Second Amended Complaint ("SAC") that
23 between on or about June 6, 2011, until on or about April 5, 2012, Stephen LoCascio and Michael
24 Russell lived together as legally married spouses at 660 Palisades Drive, Palm Springs, California
25 92262, ("Russell House"). The Russell House was owned by Mr. Russell. Plaintiff also alleges that Mr.
26 LoCascio was the co-owner of this property, or as the spouse of Russell made payments on the mortgage
27 of the Russell House. Plaintiff alleges that the Russell House was a well-known house in Palm Springs
28 and was designed by the acclaimed architect, Albert Frey.

1 39. On or about March 27, 2012, Plaintiff, the owner of a property located at 319 Westlake
2 Terrace, Palm Springs, California ("Subject Property") signed an offer to sell the Subject Property to
3 Stephen LoCascio. A copy of the California Residential Purchase Agreement and Joint Escrow
4 Instructions is attached hereto as Exhibit "A" and incorporated by this reference herein. Under the
5 Purchase Agreement, the escrow under which Mr. LoCascio would buy the Subject Property was
6 supposed to close on or about June 26, 2012.

7 40. The Purchase Agreement, Exhibit "A" hereto, includes three Addendums. Two of the
8 Addendums were executed by Plaintiff on March 27, 2012, and the third was executed by Plaintiff on
9 April 5, 2012. A copy of the Addendums are attached hereto as Exhibit "B" and incorporated by
10 reference herein. The Addendums allowed the buyer, Mr. LoCascio to rent the Subject Property and to
11 take possession of the Subject Property, under the Addendums, on April 5, 2012 as a tenant, three
12 months before the close of escrow on June 26, 2012. The Addendums further provide that a portion of
13 the rent that Mr. LoCascio was obligated to pay would go towards the purchase of the Subject Property.

14 41. It is alleged by Plaintiff that Dean Sipe, Plaintiff's real estate agent, and Mr. LoCascio
15 represented to Plaintiff that Mr. LoCascio and Mr. Russell owned an expensive, famous Albert Frey
16 house which was also known as the Russell House. Plaintiff further alleges that the truth was that Mr.
17 LoCascio and Mr. Russell did not own the Russell House but instead that home had been foreclosed
18 upon and Mr. LoCascio and Mr. Russell had no place to live. Plaintiff alleges that Mr. Sipe, Mr.
19 LoCascio, and Mr. Russell misrepresented to Plaintiff and her real estate agents that Mr. LoCascio and
20 Mr. Russell had the funds to purchase the Subject Property.

21 42. Plaintiff alleges that Mr. LoCascio and Mr. Russell moved into the Subject Property with
22 two large dogs on or about April 5, 2012, at which time Plaintiff vacated the Subject Property. After
23 moving in, Plaintiff asserts that Mr. LoCascio never paid rent; Mr. LoCascio and Mr. Russell were sued
24 by Plaintiff for unlawful detainer, and Mr. LoCascio and Mr. Russell vacated the Subject Property on
25 June 16, 2012, a few days before the date set for the unlawful detainer trial.

26 43. Plaintiff also alleges that before surrendering possession of the Subject Property on June
27 16, 2012, and between April 5, 2012 and June 16, 2012, while in sole possession of the Subject
28 Property, Mr. LoCascio and Mr. Russell committed waste, in that *inter alia* they ripped large holes in

1 the walls and ceiling, took down a wall, removed all the landscaping, including mature trees, either
2 urinated or allowed their two dogs to urinate throughout the house on the carpeting, changed and
3 damaged electrical wiring, damaged wallpaper, damaged the ceiling and custom made drapery, damaged
4 the plumbing system, and otherwise committed acts of destruction and waste to the Subject Property,
5 physically rendering the house uninhabitable, and substantially lowering the fair market value of the
6 Subject Property.

7 44. Escrow for the sale of the Subject Property to Mr. LoCascio did not close on June 26,
8 2012, or at any time before or after that date, because Mr. LoCascio did not deposit the necessary funds
9 into escrow.

10 45. Windermere Real Estate ("Windermere") is a realtor company with offices in Palm
11 Springs, California, Riverside County. Chris Anderson is an individual who is the Branch Manager of
12 Windermere's South Palm Springs office. Plaintiff asserts that Mr. Anderson is a real estate broker.
13 Tony Otten is an individual who is a real estate salesperson who works in Windermere's South Palm
14 Springs office. Plaintiff alleges that Mr. Anderson was the real estate broker and Mr. Otten the real
15 estate agent for Mr. LoCascio and Mr. Russell in the real estate transaction involving the Plaintiff and
16 the Subject Property.

17 46. As the real estate broker and agent for Mr. LoCascio and Mr. Russell, Windemere, Mr.
18 Anderson, and Mr. Otten owed a duty of care to Plaintiff to disclose facts which were known or should
19 have been known to Plaintiff which would affect her decision to enter or continue the real estate
20 transaction even if they had not undertaken to act as her agent pursuant to *Easton v. Strassburger* (1984)
21 152 Cal.App.3d 90. Further, Windemere, Mr. Anderson, and Mr. Otten owed a duty of honest dealing
22 to Plaintiff pursuant to *Civil Code* section 2079(b) and *Business and Professions Code* section 10176(i).

23 47. Windemere, Mr. Anderson, and Mr. Otten breached the duties owed to Plaintiff when
24 they failed to disclose to Plaintiff that LoCascio/Russell's property has been foreclosed upon and that
25 they did not have the finances to purchase the Plaintiff's home. Windemere, Mr. Anderson, and Mr.
26 Otten knew or should have known that LoCascio/Russell's had been foreclosed upon and that
27 LoCascio//Russell lacked the necessary funds to purchase the house and escrow would not close and
28 should have disclosed this information to Plaintiff or Cross-Complainants.

1 48. Plaintiff alleges that as a result of the waste committed by Mr. LoCascio and Mr. Russell,
2 Plaintiff cannot now sell the Subject Property, as she lacks the funds necessary to repair the damages
3 that Mr. LoCascio and Mr. Russell inflicted on the property, and further now needs but does not have
4 the funds that she would have received for her equity in the Subject Property, to make the mortgage
5 payments for the Subject Property, and to avoid foreclosure of the Subject Property. Without the funds
6 to pay her mortgage on the Subject Property, Plaintiff faces foreclosure.

7 49. Plaintiff also alleges that she suffers from chronic encephalitis and all of the foregoing
8 events have exacerbated that condition.

9 50. As a result of the above conduct, Plaintiff asserts that she has been damaged in an amount
10 according to proof, but no less than \$200,000. Moreover, as a consequence of the above conduct,
11 Plaintiff was left without a place to live, and had no assets with which to pay for both alternative living
12 space and to pay the mortgage, homeowner's dues, and a monthly land payment, and other expenses, to
13 maintain ownership of the Subject Property.

14 51. If Cross-complainant is found in some manner responsible to Plaintiff or to anyone else as
15 a result of the incidents and occurrences described in Plaintiff's SAC, any liability would be based solely
16 upon a derivative form of liability resulting not from Cross-complainant's conduct, but only from an
17 obligation imposed upon Cross-complainant by law; therefore, Cross-complainant would be entitled to
18 complete indemnity from each Cross-defendants.

19 WHEREFORE, Cross-complainants, Capitis, Inc., Capitis Sotheby's International Realty,
20 Sotheby's International Realty Affiliates, LLC, Bridge Appeal, Inc., Eric Bennett, Dean Sipe, Rob
21 Severe, and Kevin Blessing pray for judgment as follows:

- 22 1. For compensatory damages according to proof;
- 23 2. For total and complete indemnity for any judgment rendered against Cross-
24 complainants, Capitis, Inc., Capitis Sotheby's International Realty, Sotheby's International Realty
25 Affiliates, LLC, Bridge Appeal, Inc., Eric Bennett, Dean Sipe, Rob Severe, and Kevin Blessing;
- 26 3. For judgment in a proportionate share from each Cross-defendant;

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4. For costs and expenses incurred in the defense of this matter and in bringing this Cross-complaint, including reasonable attorneys' fees;

5. For such other and further relief as is just and proper.

Dated: October 30, 2013

MORRIS POLICH & PURDY LLP

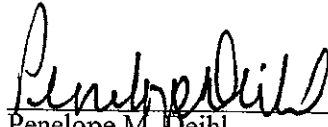
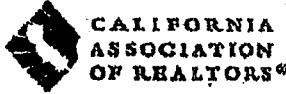
By: 
Penelope M. Deihl
Attorneys for Defendants and Cross-Complainants,
CAPITIS, INC.; CAPITIS SOTHEBY'S
INTERNATIONAL REALTY; SOTHEBY'S
INTERNATIONAL REALTY AFFILIATES, LLC;
BRIDGE APPEAL, INC., ERIC BENNETT; DEAN
SIPE; ROB SEVERE, and KEVIN
BLESSING

EXHIBIT “A”



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS For Use With Single Family Residential Property - Attached or Detached (C.A.R. Form RPA-CA, Revised 4/10)

Date March 23, 2012

1. OFFER:

- A. THIS IS AN OFFER FROM Stephen A. Tocaccio (Buyer)
B. THE REAL PROPERTY TO BE ACQUIRED is described as 318 MacLake Dr, Palm Springs, CA 92264
C. THE PURCHASE PRICE offered is Two Hundred Ninety Thousand (Dollars \$ 290,000.00)
D. CLOSE OF ESCROW shall occur on Refer to addendum #1 (date) (or) Days After Acceptance.

2. AGENCY:

- A. DISCLOSURE: Buyer and Seller each acknowledge prior receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal.
C. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent Capital's Brokerage International Realty (Print Firm Name) is the agent of (check one): [X] the Seller exclusively; or [] both the Buyer and Seller.

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 10,000.00
(1) Buyer shall deliver deposit directly to Escrow Holder by personal check, [] electronic funds transfer, [] Other
OR (2) (if checked) [] Buyer has given the deposit by personal check (or [] to the agent submitting the offer (or to [] made payable to Windermere Real Estate. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder (or [] into Broker's trust account) within 3 business days after Acceptance (or [] Other).
B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ 2,400.00 within 3 Days After Acceptance, or [] 3 months rent toward purchase (\$800 mo) if a liquidated damages clause is incorporated into this Agreement. Buyer and Seller shall sign a separate liquidated damages clause (C.A.R. Form RID) for any increased deposit at the time it is deposited.

C. LOANS:

- (1) FIRST LOAN: In the amount of \$
This loan will be conventional financing or, if checked, [] FHA, [] VA, [] Seller (C.A.R. Form SFA), [] assumed financing (C.A.R. Form FAA), [] Other. This loan shall be at a fixed rate not to exceed % or, [] an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(2) [] SECOND LOAN: In the amount of \$
This loan will be conventional financing or, if checked, [] Seller (C.A.R. Form SFA), [] assumed financing (C.A.R. Form FAA), [] Other. This loan shall be at a fixed rate not to exceed % or, [] an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(3) PHANVA: For any FHA or VA loan specified above, Buyer has 17 (or) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or repair. Seller has no obligation to pay for repairs or satisfy lender requirements unless otherwise agreed in writing.

D. ADDITIONAL FINANCING TERMS:

E. BALANCE OF PURCHASE PRICE OR DOWN PAYMENT: In the amount of \$ 277,600.00 to be deposited with Escrow Holder within sufficient time to close escrow.

F. PURCHASE PRICE (TOTAL): \$ 290,000.00

Buyer's Initials: [Signature]

Seller's Initials: [Signature]

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Reviewed by Date

Agent: Tony Otten Phone: 760.333.9902 Fax: 760.333.9992 Prepared using zipForm® software
Broker: Windermere Real Estate 2485 E Palm Canyon Dr Ste 606 Palm Springs, CA 92264

319 Westlake Dr
Property Address: Palm Springs, CA 92264

Date: March 23, 2012

- G. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to 3H(1)) shall, within 7 (or) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (If checked, verification attached.)
- H. LOAN TERMS:**
- (1) **LOAN APPLICATIONS:** Within 7 (or) Days After Acceptance, Buyer shall Deliver to Seller a letter from lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in 3C above. (If checked, letter attached.)
- (2) **LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Obtaining the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. Buyer's contractual obligations to obtain and provide deposit, balance of down payment and closing costs are not contingencies of this Agreement.
- (3) **LOAN CONTINGENCY REMOVAL:**
 (i) Within 17 (or) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing remove the loan contingency or cancel this Agreement;
 OR (ii) (If checked) the loan contingency shall remain in effect until the designated loan is funded.
- (4) **NO LOAN CONTINGENCY** (If checked): Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
- I. APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or, if checked, is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the specified purchase price. If there is a loan contingency, Buyer's removal of the loan contingency shall be deemed removal of this appraisal contingency (or, if checked, Buyer shall, as specified in paragraph 14B(3), in writing remove the appraisal contingency or cancel this Agreement within 17 (or) Days After Acceptance). If there is no loan contingency, Buyer shall, as specified in paragraph 14B(3), in writing remove the appraisal contingency or cancel this Agreement within 17 (or) Days After Acceptance.
- J. ALL CASH OFFER** (If checked): Buyer shall, within 7 (or) Days After Acceptance, Deliver to Seller written verification of sufficient funds to close this transaction. (If checked, verification attached.)
- K. BUYER STATED FINANCING:** Seller has relied on Buyer's representation of the type of financing specified (including but not limited to, an applicable, amount of down payment, contingent or non contingent loan, or all cash). If Buyer seeks alternate financing, (i) Seller has no obligation to cooperate with Buyer's efforts to obtain such financing, and (ii) Buyer shall also pursue the financing method specified in this Agreement. Buyer's failure to secure alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.
- 4. ALLOCATION OF COSTS** (If checked): Unless otherwise specified in writing, this paragraph only determines who is to pay for the inspection, test or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.
- A. INSPECTIONS AND REPORTS:**
- (1) Buyer Seller shall pay for an inspection and report for wood destroying pests and organisms ("Wood Pest Report") prepared by Seller's choice a registered structural pest control company.
- (2) Buyer Seller shall pay to have septic or private sewage disposal systems pumped and inspected _____
- (3) Buyer Seller shall pay to have domestic wells tested for water potability and productivity _____
- (4) Buyer Seller shall pay for a natural hazard zone disclosure report prepared by Seller's choice _____
- (5) Buyer Seller shall pay for the following inspection or report None Inspection _____
- (6) Buyer Seller shall pay for the following inspection or report _____
- B. GOVERNMENT REQUIREMENTS AND RETROFIT:**
- (1) Buyer Seller shall pay for smoke detector installation and/or water heater bracing, if required by Law. Prior to Close Of Escrow, Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless exempt.
- (2) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards, inspections and reports if required as a condition of closing escrow under any Law.
- C. ESCROW AND TITLE:**
- (1) Buyer Seller shall pay escrow fee each to pay own fee _____
Escrow Holder shall be Seller's choice _____
- (2) Buyer Seller shall pay for owner's life insurance policy specified in paragraph 12E _____
Owner's life policy to be issued by Granger Casual Title (Danville) _____
(Buyer shall pay for any life insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)
- D. OTHER COSTS:**
- (1) Buyer Seller shall pay County transfer tax or fee _____
- (2) Buyer Seller shall pay City transfer tax or fee _____
- (3) Buyer Seller shall pay Homeowner's Association ("HOA") transfer fee _____
- (4) Buyer Seller shall pay HOA document preparation fees _____
- (5) Buyer Seller shall pay for any private transfer fee _____
- (6) Buyer Seller shall pay the cost, not to exceed \$ 432.00 _____ of a one-year home warranty plan, issued by Wishard by MacLennan Home Warranty _____, with the following optional coverages:
 Air-Conditioner Pools/Spas Code and Permit Upgrade Other: Comprehensive Plus w/ water/sewer/septic/sewer
 Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.
- (7) Buyer Seller shall pay for _____
- (8) Buyer Seller shall pay for _____

Buyer's Initials () ()
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Seller's Initials (AL) ()
Reviewed by _____ Date _____



Property Address: 319 Westlake Dr Palm Springs, CA 92264

Date: March 23, 2012

5. CLOSING AND POSSESSION:

- A. Buyer intends (or does not intend) to occupy the Property as Buyer's primary residence.
- B. Seller-occupied or vacant property: Possession shall be delivered to Buyer at 5 PM or (AM PM), on the date of Close Of Escrow; on _____; or no later than _____ Days After Close Of Escrow. If transfer of title and possession do not occur at the same time, Buyer and Seller are advised to: (i) enter into a written occupancy agreement (C.A.R. Form FAA, paragraph 2); and (ii) consult with their insurance and legal advisors.

C. Tenant-occupied property:
 (i) Property shall be vacant at least 5 (or _____) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.
 OR (ii) (if checked) Tenant to remain in possession. (C.A.R. Form FAA, paragraph 3)

- D. At Close Of Escrow, (i) Seller assigns to Buyer any applicable warranty rights for items included in the sale, and (ii) Seller shall Deliver to Buyer available Copies of warranties. Brokers cannot and will not determine the applicability of any warranties.
- E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or access to operate all locks, mailboxes, security systems, alarms and garage door openers. If Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to access HOA facilities.

6. STATUTORY DISCLOSURES (INCLUDING PHOENIX LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer, if required by Law: (i) Federal Lead-Based Paint Disclosure (C.A.R. Form FLD) and pamphlet ("Lead Disclosure"); and (ii) disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Multi-Flex Community Facilities Act and Improvement Bond Act of 1976) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or SPQ).
- (2) Buyer shall, within the time specified in paragraph 14B(1), return signed Copies of the Statutory and Lead Disclosures to Seller.
- (3) In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.
- (4) If any disclosure or notice specified in 6A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After Delivery in person, or 5 Days After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- (5) Note to Buyer and Seller: Waiver of Statutory and Lead Disclosures is prohibited by Law.

B. NATURAL AND ENVIRONMENTAL HAZARDS: Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; (ii) even if exempt from the obligation to provide a NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.

- C. WITHHOLDING TAXES: Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law, (C.A.R. Form AS or QD).
- D. MEGAN'S LAW DATABASE DISCLOSURE: Notice: Pursuant to Section 260.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)

7. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:

- A. SELLER HAS: 7 (or _____) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or SPQ).
- B. If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or _____) Days After Acceptance to request from the HOA (C.A.R. Form HOA): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3).

8. ITEMS INCLUDED IN AND EXCLUDED FROM PURCHASE PRICE:

- A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in 8B or C.
- B. ITEMS INCLUDED IN SALE:
 - (1) ALL EXISTING fixtures and things that are attached to the Property;
 - (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, private integrated telephone systems, air coolers/conditioners, pool/spa equipment, garage door openers/remotes controls, mailbox, in-ground landscaping, trees/shrubs, water softeners, water purifiers, security systems/alarms; (if checked stove(s), refrigerator(s); and
 - (3) The following additional items: ~~water/clean, dishwasher, furnishings as per inventory~~
 - (4) Seller represents that all items included in the purchase price, unless otherwise specified, are owned by Seller.
 - (5) All items included shall be transferred free of liens and without Seller warranty.
- C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, audio and video components (such as flat screen TVs and speakers) are excluded if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component is attached to the Property; and

Buyer's Initials () ()
 Seller's Initials () ()
 Reviewed by _____ Date _____
 CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT [RPA-CA PAGE 3 OF 8]
 319WEST

319 Westlake Dr

Property Address: Pain Springs, CA 92264

Date: March 23, 2012

9. **CONDITION OF PROPERTY:** Unless otherwise agreed: (i) the Property is sold (a) in its PRESENT physical ("as-is") condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Seller by Close Of Escrow.

- A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
- B. Buyer has the right to inspect the Property and, as specified in paragraph 14B, based upon information discovered in those inspections: (i) cancel this Agreement; or (ii) request that Seller make repairs or take other action.
- C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property Improvements may not be built according to code, in compliance with current Law, or have had permits issued.

10. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**

- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms; (iii) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property; and (v) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations; or (ii) inspections by any governmental building or zoning inspector or governmental employee, unless required by Law.
- B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and, either remove the contingency or cancel this Agreement; and (ii) give Seller, at no cost, complete Copies of all investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
- C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
- D. Buyer indemnify and Seller protection for entry upon property: Buyer shall (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs of Buyer's Investigations. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination or cancellation of this Agreement and Close of Escrow.

11. **SELLER DISCLOSURES; ADDENDA; ADVISORIES; OTHER TERMS:**

- A. Seller Disclosures (if checked): Seller shall, within the time specified in paragraph 14A, complete and provide Buyer with a:

<input checked="" type="checkbox"/> Seller Property Questionnaire (C.A.R. Form SPQ)	OR	<input type="checkbox"/> Supplemental Contractual and Statutory Disclosure (C.A.R. Form SSD)
---	----	--
- B. Addenda (if checked):

<input checked="" type="checkbox"/> Wood Destroying Pest Inspection and Allocation of Cost Addendum (C.A.R. Form WPA)	<input type="checkbox"/> Addendum # 2 (C.A.R. Form ADM)
<input type="checkbox"/> Purchase Agreement Addendum (C.A.R. Form PAA)	<input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWP)
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)	<input type="checkbox"/> Other
- C. Advisories (if checked):

<input type="checkbox"/> Probate Advisory (C.A.R. Form PAK)	<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
- D. Other Terms:

12. **TITLE AND VESTING:**

- A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report, which shall include a search of the General Index. Seller shall within 7 Days After Acceptance give Escrow Holder a completed Statement of Information. The preliminary report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the preliminary report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B.
- B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except: (i) monetary liens of record unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
- C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.
- E. Buyer shall receive a CALIFORNIA Homeowner's Policy of Title Insurance. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, survey requirements, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and pay any increase in cost.

13. **SALE OF BUYER'S PROPERTY:**

- A. This Agreement is NOT contingent upon the sale of any property owned by Buyer.
- OR B. (if checked): The attached addendum (C.A.R. Form COP) regarding the contingency for the sale of property owned by Buyer is incorporated into this Agreement.

Buyer's Initials (_____) (_____)

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Seller's Initials (_____) (_____)

Reviewed by _____ Date _____



319 Westlake Dr

Property Address: Palm Springs, CA 92264

Date: March 23, 2012

14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

- A. SELLER HAS: 7 (or 3) Days After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 4, 6A, B and C, 7A, 8A, 11A and B, and 12. Buyer may give Seller a Notice to Seller to Perform (C.A.R. Form NSP) if Seller has not Delivered the items within the time specified.
B. (1) BUYER HAS: 17 (or 5) Days After Acceptance, unless otherwise agreed in writing, to:
(i) complete all Buyer Investigations; approve all disclosures, reports and other applicable information, which Buyer receives from Seller; and approve all other matters affecting the Property; and
(ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures Delivered by Seller in accordance with paragraph 6A.
(2) Within the time specified in 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RF). Seller has no obligation to agree to or respond to Buyer's requests.
(3) Within the time specified in 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller either (i) a removal of the applicable contingency (C.A.R. Form CR), or (ii) a cancellation (C.A.R. Form CC) of this Agreement based upon a contingency or Seller's failure to Deliver the specified items. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in 14A, then Buyer has 5 (or) Days After Delivery of any such items, or the time specified in 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
(4) Continuation of Contingency: Even after the end of the time specified in 14B(1) and before Seller cancels this Agreement, if at all, pursuant to 14C, Buyer retains the right to either (i) in writing remove remaining contingencies, or (ii) cancel this Agreement based upon a remaining contingency or Seller's failure to Deliver the specified items. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to 14C(1).

- C. SELLER'S RIGHT TO CANCEL:
(1) Seller right to Cancel; Buyer Contingencies: If, within time specified in this Agreement, Buyer does not, in writing, Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NSP) may cancel this Agreement. In such event, Seller shall authorize return of Buyer's deposit.
(2) Seller right to Cancel; Buyer Contract Obligations: Seller, after first Delivering to Buyer a NBP may cancel this Agreement for any of the following reasons: (i) if Buyer fails to deposit funds as required by 3A or 3B; (ii) if the funds deposited pursuant to 3A or 3B are not good when deposited; (iii) if Buyer fails to Deliver a notice of FHA or VA costs or terms as required by 3C(3) (C.A.R. Form FVA); (iv) if Buyer fails to Deliver a letter as required by 3d; (v) if Buyer fails to Deliver verification as required by 3E or 3f; (vi) if Seller reasonably disapproves of the verification provided by 3G or 3h; (vii) if Buyer fails to return Statutory and Lead Disclosures as required by paragraph 6A(2); or (viii) if Buyer fails to sign or initial a separate liquidated damage form for an increased deposit as required by paragraphs 3B and 25. In such event, Seller shall authorize return of Buyer's deposit.
(3) Notice To Buyer To Perform: The NBP shall: (i) be in writing; (ii) be signed by Seller; and (iii) give Buyer at least 2 (or) Days After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP may not be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for Buyer to remove a contingency or cancel this Agreement or meet an obligation specified in 14C(2).

D. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES: If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall with regard to that contingency or cancellation right conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for repairs or corrections or for inability to obtain financing.

E. CLOSE OF ESCROW: Before Seller or Buyer may cancel this Agreement for failure of the other party to close escrow pursuant to this Agreement, Seller or Buyer must first give the other a demand to close escrow (C.A.R. Form DCE).

F. EFFECT OF CANCELLATION ON DEPOSITS: If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, Buyer and Seller agree to sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Release of funds will require mutual signed release instructions from Buyer and Seller, judicial decision or arbitration award. A Buyer or Seller may be subject to a civil penalty of up to \$1,000 for refusal to sign such instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1037.3).

15. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all repairs may not be possible. Seller shall (i) obtain receipts for repairs performed by others; (ii) prepare a written statement indicating the repairs performed by Seller and the date of such repairs; and (iii) provide Copies of receipts and statements to Buyer prior to final verification of condition.

16. FINAL VERIFICATION OF CONDITION: Buyer shall have the right to make a final inspection of the Property within 5 (or) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 9c (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

17. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are a current lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are a current lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

Buyer's Initials () ()

Seller's Initials () ()

Reviewed by _____ Date _____



319 Westlake Dr
Property Address: Palm Springs, CA 92264

Date: March 23, 2012

18. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
19. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
20. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination laws.
21. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 26A.
22. **DEFINITIONS:** As used in this Agreement:
- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a party and is delivered to and personally received by the other party or that party's authorized agent in accordance with the terms of this offer or a final counter offer.
 - B. "C.A.R. Form" means the specific form referenced or another comparable form agreed to by the parties.
 - C. "Close Of Escrow" means the date the grant deed, or other evidence of transfer of title, is recorded.
 - D. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
 - E. "Days" means calendar days. However, After Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
 - F. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59PM on the final day.
 - G. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
 - H. "Deliver", "Delivered" or "Delivery", regardless of the method used (i.e. messenger, mail, email, fax, other), means and shall be effective upon (i) personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in paragraph D of the section titled Real Estate Brokers on page 8; OR (ii) if checked, per the attached addendum (C.A.R. Form RDN).
 - I. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other party.
 - J. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
 - K. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
 - L. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
23. **BROKER COMPENSATION:** Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
24. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
- A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: 1, 3, 4, 6C, 11B and D, 12, 13B, 14F, 17, 22, 23, 24, 28, 30, and paragraph D of the section titled Real Estate Brokers on page 8. If a Copy of the separate compensation agreement(s) provided for in paragraph 23, or paragraph D of the section titled Real Estate Brokers on page 8 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out of Buyer's or Seller's funds, or both, as applicable, the respective Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not specifically referenced above, in the specified paragraphs and additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provisions upon Escrow Holder's request. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow.
 - B. A Copy of this Agreement shall be delivered to Escrow Holder within 3 business days after Acceptance (or), Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement.
 - C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraphs 23 and paragraph D of the section titled Real Estate Brokers on page 8. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraphs 23, respectively, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement. Escrow Holder shall immediately notify Brokers: (i) if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if either Buyer or Seller instruct Escrow Holder to cancel escrow.
 - D. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 2 business days after mutual execution of the amendment.

Buyer's Initials () ()

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RPA-CA REVISED 4/10 (PAGE 8 OF 9) Print Date

Seller's Initials () ()

Reviewed by Date

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 9)



319 Westlake Dr
Property Address: Palm Springs, CA 92264

Date: March 23, 2012

25. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Release of funds will require mutual, signed release instructions from both Buyer and Seller, judicial decision or arbitration award. **AT TIME OF THE INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION FOR ANY INCREASED DEPOSIT. (C.A.R. FORM 10D)**

Buyer's Initials _____ Seller's Initials _____

25. DISPUTE RESOLUTION:

A. MEDIATION: Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Buyer and Seller also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. **THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.** Exclusions from this mediation agreement are specified in paragraph 26C.

B. ARBITRATION OF DISPUTES:

Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. Buyer and Seller also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate law experience, unless the parties mutually agree to a different arbitrator. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 26C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials _____ Seller's Initials _____

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

(1) **EXCLUSIONS:** The following matters shall be excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver or violation of the mediation and arbitration provisions.

(2) **BROKERS:** Brokers shall not be obligated or compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.

27. TERMS AND CONDITIONS OF OFFER:

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all parties initial such paragraph(s), a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Broker's compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

28. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:

Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the laws of the State of California. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing signed by Buyer and Seller.

Buyer's Initials _____

Seller's Initials _____

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RPA-CA REVISED 4/10 (PAGE 7 OF 8)

Reviewed by _____ Date _____



319 Westlake Dr

Property Address: Palm Springs, CA 92264

Date: March 23, 2012

29. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit shall be returned unless the offer is signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or, if checked, AM PM, on (date).

Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the above confirmation of agency relationships.

Date _____ Date _____
BUYER [Signature] BUYER _____
(Print name) (Print name)
(Address) _____

Additional Signature Addendum attached (C.A.R. Form ASA).

30. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

(If checked) SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form CO) DATED: _____

Date _____ Discussed by: 7/2012 Date _____
SELLER [Signature] SELLER _____
(Print name) (Print name)
(Address) _____

Additional Signature Addendum attached (C.A.R. Form ASA).

(Initials) _____ CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ AM PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement. It is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
- B. Agency relationships are confirmed as stated in paragraph 2.
- C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.
- D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept out of Listing Broker's proceeds in escrow: (i) the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS; or (ii) (If checked) the amount specified in a separate written agreement (C.A.R. Form CBC) between Listing Broker and Cooperating Broker. Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) Wenderson Real Estate DRE Lic. # 00297914
 By [Signature] Date 3/23/2012
 Address 17601 325-9092 City Palm Springs State CA Zip 92264
 Telephone [Number] Fax [Number] E-mail [Email]

Real Estate Broker (Listing Firm) Capitol Sotheby's International Realty DRE Lic. # 02699191
 By [Signature] Date _____
 Address 17601 325-9092 City Palm Springs State CA Zip 92262
 Telephone [Number] Fax [Number] E-mail [Email]

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ _____, counter offer numbered _____, Seller's Statement of Information and Other _____, and agrees to act as Escrow Holder subject to paragraph 24 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions if any.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder _____ Escrow # _____
 By _____ Date _____
 Address _____
 Phone/Fax/E-mail _____

Escrow Holder is licensed by the California Department of Corporations, Insurance, Real Estate License # _____

PRESENTATION OF OFFER: (_____) Listing Broker presented this offer to Seller on _____ (date).
Broker or Designee Initials _____

REJECTION OF OFFER: (_____) (_____) No counter offer is being made. This offer was rejected by Seller on _____ (date).
Seller's Initials _____

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS (CAR) NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISIONS IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL. This form is designed for use by the real estate industry. It is not intended to identify the user as a REALTOR. REALTOR is a registered collective membership mark which may be used only by members of the NATIONAL ASSOCIATION OF REALTORS who subscribe to its Code of Ethics.

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Reviewed by _____
Broker or Designee _____ Date _____



REVISION DATE 4/10

EXHIBIT “B”



CALIFORNIA ASSOCIATION OF REALTORS®

ADDENDUM (C.A.R. Form ADM, Revised 11/11)

No. One

The following terms and conditions are hereby incorporated in and made a part of the: Residential Purchase Agreement, Manufactured Home Purchase Agreement, Business Purchase Agreement, Residential Lease or Month-to-Month Rental Agreement, Vacant Land Purchase Agreement, Residential Income Property Purchase Agreement, Commercial Property Purchase Agreement, Residential Listing Agreement, Buyer Representation Agreement, Other

dated March 23, 2012, on property known as 115 Westlake Dr

in which Stephen A LoCasale is referred to as ("Buyer/Tenant/Broker") and Amy Cox is referred to as ("Seller/Landlord/Broker").

Buyer to pay seller a deposit of \$10,000. The \$10,000 will be used toward the purchase of the property and is non-refundable if Buyer doesn't exercise option to purchase the property within 180 days or sooner. The \$10,000 will be released to the seller within 5 days of acceptance.

Buyer leases property for 90 days starting April 5, 2012 at a rate of \$2500 a month of which \$200 goes toward the purchase of the property. Buyer pays \$7500 (\$2400 goes toward purchase of property) within 5 days of acceptance. Buyer has option to extend 90 additional days if needed. Buyer will pay an additional \$2400 up front (\$2400 goes toward purchase of property) for the next 90 days.

Close of escrow will occur no later than 180 days from April 5, 2012.

All contingencies to be removed within 5 days of acceptance.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date 3/22/2012

Buyer/Tenant Stephen A LoCasale

Buyer/Tenant

Broker WINDERMERE REAL ESTATE

By Roxy Otten

Date 3/27/2012

Seller/Landlord Amy Cox

Seller/Landlord

Broker Capitis Sotheby's Realty

By Dean Sipe

Dean Sipe

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1. Additional Data Only
2. REAL ESTATE SERVICES, INC.
3. A Member of the California Association of REALTORS®
4. 605 South Third Avenue, Los Angeles, CA 90058

ADM REVISED 11/11 (PAGE 1 OF 1)

Reviewed by _____ Date _____



Agent: Tony Otten Phone: 760.333.9002 Fax: 760.333.9002 Prepared using iipForm® software
Broker: Windermere Real Estate 2485 E Palm Canyon Dr Ste 605 Palm Springs, CA 92284



ADDENDUM
(C.A.R. Form ADM, Revised 11/11)

No. TWO

The following terms and conditions are hereby incorporated in and made a part of the: Residential Purchase Agreement, Manufactured Home Purchase Agreement, Business Purchase Agreement, Residential Lease or Month-to-Month Rental Agreement, Vacant Land Purchase Agreement, Residential Income Property Purchase Agreement, Commercial Property Purchase Agreement, Residential Listing Agreement, Buyer Representation Agreement, Other _____

dated March 23, 2012, on property known as 319 Westlake Terrace

in which Stephen Locasolo, is referred to as ("Buyer/Tenant/Broker")
and Rory Cox, is referred to as ("Seller/Landlord/Broker").

- 1) Purchase price to be \$299,000.
- 2) Close of escrow shall be 90 days after acceptance or sooner.
- 3) Furnishings & Master bedroom dresser & headboard are not included.
- 4) Title and Escrow shall be Lavyers Title Company.
- 5) Section 3(A) of RPA: Initial deposit shall be \$15,000 rather than \$10,000.
- 6) Section 3(B) of RPA shall be eliminated.
- 7) Paragraph 1 of Addendum One shall be replaced with: "Initial deposit to be released by escrow to seller within 5 days of acceptance. The initial deposit will be used towards the purchase of the property & is non-refundable should buyer not close on property."
- 8) Paragraph 2 of Addendum One shall be replaced with:
Buyer leases property for 90 days starting April 5, 2012 at a rate of \$2500 a month of which \$400 goes toward the purchase of the property. Buyer shall pay, through escrow to seller, \$2500 (\$1700 goes towards purchase of property) within 5 days of acceptance as first month's rent and prior to move-in. All future monthly rent to be paid on or before the 1st of the respective month."

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date 3/28/2012

Buyer/Tenant Stephen Locasolo

Buyer/Tenant _____

Broker Windermere Real Estate

By Rory Cox

Date 3/27/2012

Seller/Landlord Rory Cox

Seller/Landlord _____

Broker Capitis Sotheby's Realty

By Dean Sipe

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ADM REVISED 11/11 (PAGE 1 OF 1)

ADDENDUM (ADM PAGE 1 OF 1)

Reviewed by _____ Date _____





CALIFORNIA
ASSOCIATION
OF REALTORS®

ADDENDUM

(C.A.R. Form ADM, Revised 11/11)

No. THREE

The following terms and conditions are hereby incorporated in and made a part of the: Residential Purchase Agreement, Manufactured Home Purchase Agreement, Business Purchase Agreement, Residential Lease or Month-to-Month Rental Agreement, Vacant Land Purchase Agreement, Residential Income Property Purchase Agreement, Commercial Property Purchase Agreement, Residential Listing Agreement, Buyer Representation Agreement, Other _____

dated March 23, 2012, on property known as 319 Westlake Terrace

in which Stephen LoCasolo, is referred to as ("Buyer/Tenant/Broker")
and Amy Cox, is referred to as ("Seller/Landlord/Broker"),

Paragraph (8) of Addendum No. Two (2) shall be removed and replaced with:
Buyer leases property for 90 days starting April 5, 2012 at a rate of \$2500 a month of which \$800 goes toward the purchase of the property. Buyer shall pay, through escrow to seller \$2500 (\$800 goes towards purchase of property) within 5 days of acceptance as first month's rent and prior to move-in. All future monthly rent to be paid on or before the 1st of the respective month directly to the seller via cashier's check.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date April 17, 2012

Date April 5, 2012

Buyer/Tenant Stephen LoCasolo

Seller/Landlord Amy Cox
417/261521404

Buyer/Tenant _____

Seller/Landlord _____

Broker Windermere Real Estate

Broker Capitis Sotheby's Int'l Realty

By Tony Olfen

By Dean Sipe
417/261521404

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ADM REVISED 11/11 (PAGE 1 OF 1)

Reviewed by _____ Date _____



ADDENDUM (ADM PAGE 1 OF 1)

Agent: Dean Sipe Phone: 760.688.5388 Fax: 760.408.5850 Prepared using zIpForm® software
Broker: Capitis Sotheby's International Realty 515 N. Palm Canyon Drive, Bldg B Palm Springs, CA 92262

1 **PROOF OF SERVICE**

2 I am employed in Los Angeles County. I am over the age of 18 and not a party to this action.
3 My business address is 1055 W. Seventh Street, 24th Floor, Los Angeles, California 90017.

4 On October 30, 2013, I served the foregoing document, described as **SECOND AMENDED
CROSS-COMPLAINT** in this action by placing

- 5 the original of the document
6 true copies of the document

7 in separate sealed envelopes to the following addresses:

8 **SEE ATTACHED SERVICE LIST**

9 **BY U.S. MAIL** I deposited such envelope in the mail at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid.

10 I am readily familiar with Morris, Polich & Purdy's practice of collection and processing
11 correspondence for mailing. Under that practice, documents are deposited with the U.S. Postal Service
12 on the same day which is stated in the proof of service, with postage fully prepaid at Los Angeles,
13 California in the ordinary course of business. I am aware that on motion of party served, service is
14 presumed invalid if the postal cancellation date or postage meter date is more than one day after the
15 date stated in this proof of service.

16 **BY FEDERAL EXPRESS** I am familiar with the firm's practice of collecting and processing
17 correspondence for delivery via Federal Express. Under that practice, it would be picked up by
18 Federal Express on that same day at Los Angeles, California and delivered to the parties as listed on
19 this Proof of Service the following business morning.

20 **BY E-MAIL TO COUNSEL:** I caused the above-referenced document to be transmitted via e
21 mail to the parties as listed on this Proof of Service

22 **BY FACSIMILE** I caused the above-referenced document to be transmitted via facsimile to the
23 parties as listed on this Proof of Service.

24 **STATE** I declare under penalty of perjury under the laws of the state of California, that the above
25 is true and correct.

26 Executed on October 30, 2013 at Los Angeles, California.

27 
28 Carol Ann T. Nakauchi

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SERVICE LIST
Amy Cox v. Capitis, Inc., et al.
Riverside Superior Court No. INC 1205192

Morris S. Getzels, Esq.
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6047 Tampa Avenue, Suite 307
Tarzana, CA 91356-1176
morris@getzelslaw.com
(818) 881-5550 / Fax (818) 881-5558
Attorneys for Plaintiff

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Ann Marie Thompson, Esq.
Sunderland / McCutchan, LLP
11770 Bernardo Plaza Court, Suite 310
San Diego, CA 92128
(858) 675-7800 / Fax (858) 675-7807
general@sunmclaw.com
Attorneys for Cross-Defendants
Bennion & Deville Fine Homes, Inc. dba
Windermere Real Estate Coachella Valley,
Chris Anderson, Tony Otten

George G. Braunstein, Esq.
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Stephen Locascio and Michael Russell

1 **PROOF OF SERVICE**

2 I am employed in Los Angeles County. I am over the age of 18 and not a party to this action.
3 My business address is 1055 W. Seventh Street, 24th Floor, Los Angeles, California 90017.

4 On October 30, 2013, I served the foregoing document, described as **SECOND AMENDED
5 CROSS-COMPLAINT** in this action by placing

- 6 the original of the document
7 true copies of the document

8 in separate sealed envelopes to the following addresses:

9 **SEE ATTACHED SERVICE LIST**

10 **BY U.S. MAIL** I deposited such envelope in the mail at Los Angeles, California. The envelopes
11 were mailed with postage thereon fully prepaid.

12 I am readily familiar with Morris, Polich & Purdy's practice of collection and processing
13 correspondence for mailing. Under that practice, documents are deposited with the U.S. Postal Service
14 on the same day which is stated in the proof of service, with postage fully prepaid at Los Angeles,
15 California in the ordinary course of business. I am aware that on motion of party served, service is
16 presumed invalid if the postal cancellation date or postage meter date is more than one day after the
17 date stated in this proof of service.

18 **BY FEDERAL EXPRESS** I am familiar with the firm's practice of collecting and processing
19 correspondence for delivery via Federal Express. Under that practice, it would be picked up by
20 Federal Express on that same day at Los Angeles, California and delivered to the parties as listed on
21 this Proof of Service the following business morning.

22 **BY E-MAIL TO COUNSEL:** I caused the above-referenced document to be transmitted via e
23 mail to the parties as listed on this Proof of Service

24 **BY FACSIMILE** I caused the above-referenced document to be transmitted via facsimile to the
25 parties as listed on this Proof of Service.

26 **STATE** I declare under penalty of perjury under the laws of the state of California, that the above
27 is true and correct.

28 Executed on October 30, 2013 at Los Angeles, California.



Carol Ann T. Nakauchi

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SERVICE LIST
Amy Cox v. Capitis, Inc., et al.
Riverside Superior Court No. INC 1205192

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