

HANSON LAW FIRM, PC

MEMORANDUM

Date: 2 April 2020
Fr: Christopher Hanson
Re: California Association of Realtors - Residential RE Transactions - New Forms [v4]

In response to the COVID 19 pandemic, as you might guess, real estate transactions (especially residential ones) have been turned upside down and sideways.

The California Association of Realtors (CAR) - an association of which I am a 40 year (or so) member - has been nimble, and prepared forms and Q&As for its real estate licensee constituency, in an effort to offer uniform guidance. As with all things, understanding the impact of what the "Forms" do - is important.

While I am a fan of CAR, and recommend use of its Forms as often as practicable, especially in the residential real estate context, I am *not* always a fan of the positions those Forms put a Buyer or Seller in.

The first of the new Forms is the CVA (Corona Virus Addendum or Amendment).

CVA

Some will ask "Why is it called an Addendum or Amendment"? It's an astute question.

An Addendum to a contract is a supplement or an addition to a contract that is added, before the contract is entered into. It's like tacking on an extra page that you didn't have room for in the original contract's template form.

An Amendment is a supplement that is added AFTER you've already reached a deal and signed the original contract. Why is that difference important? Because to have an Amendment to a contract, you have to have "consideration" different and apart from the "consideration" that was given for having entered into the original contract in the first place.

The question you'd need to ask is: "If you are going to Amend the contract, what do you get for doing so?" This is really important in the context of a real estate contract that has a "Liquidated Damages" clause.

Imagine this scenario:

On Feb 1, Buyer and Seller enter into an agreement where Buyer puts \$30,000 as a down-payment on a \$1,000,000 house. The Liquidated Damage provision is signed off on by both parties. The escrow was to close April 1. On March 22, the Buyer signs off the Release of

All Contingencies, including the loan contingency. On March 26, the Federal, State and Local governments all issue Stay at Home Orders. Confusion reigns. The loan does not timely fund, the escrow does not timely close on April 1.

The Buyer didn't do a darn thing wrong.

Neither did the Seller.

But the fact remains that the Buyer did not timely close, and the contract has a "time is of the essence" provision. The contract also does NOT have a "force majeure" or other clause that allows for unexpected delays to act as a continuance or termination of the contract.

(Even if there was a "force majeure" clause, it might not apply in the current context of COVID 19.)

So, what happens next?

Can the Seller keep the \$30,000, and put the property back on the market in 30 or 60 days?

Technically . . . yes.

Doesn't seem fair, right?

Well, what if that same Seller was buying a \$2,000,000 replacement house, had put up \$60,000 as their down-payment, and needed the balance of the Buyer's money to close their escrow. Just like the Buyer of the Seller's property, the Seller has a Liquidated Damages Clause in their contract, and also waived all contingencies. AND Seller #2 of the \$2MM house has a kid with cancer, needs the money for medical care and has no insurance. That Seller #2 NEEDS the \$2,000,000. Now. Seller #2 wants, desperately, to get that \$60,000.

Still not fair?

So, what does the CAR Form CVA do? It acknowledges that the original purchase agreement does not address the concept of "force majeure" - first thing. Why? To set up the next thing it does. Which is to state that the purpose of the CVA Form is to "reflect the Parties' (i) mutual obligation to deal fairly with each other and to act in good faith to accomplish the purpose of the Agreement."

Notice something important here ... there is no "new" consideration for the use of this CVA "Amendment." The CAR has couched this new supplement as an acknowledgment of previously agreed to term. ("It's purpose it to reflect ... the parties obligation to ...".)

Huh.

Sounds a little like trying to put toothpaste back in the tube.

Yes, there is a legal doctrine to act in "good faith" and "deal fairly" with one another - but that doesn't - necessarily - mean that you have to give up already bargained for rights - or expose

yourself to new potential liability from others. It's a lot of wiggling to get where CAR would like it's Members to be.

After all, who is going to get brought into a lawsuit (or thousands of them) when a Buyer and Seller go snipping at each other? The Brokers, of course. And what the heck did THEY do wrong? (Except, perhaps, use a Form prepared by their Trade Association that didn't include an "unforeseen circumstance" provision. Ahh, hindsight...)

NUCC

The next thing that the CAR CVA Form does is note that to use any of the three options outlined in it (delay inspection deadlines, delay post-inspection closing deadlines, or cancel the deal), one or the other of the Buyer or Seller must deliver yet another CAR Form, the NUCC (Notice of Unforeseen CoronaVirus Circumstances).

OK, so, first the Buyer and Seller have to agree to the terms of the CVA, then one or the other has to say that they have been impacted by COVID 19 and want to trigger the provisions of the CVA by using the NUCC.

What are the NUCC "impacts" that trigger an option in the CVA?

- Loss of income (Ok, makes sense. Can't get a loan, can't do the deal...)
- Notary appointment delay (Really, that's a "thing?" I guess it could be.)
- Lender delay (Yeah, I'll bet there will be a lot of that...)

OR (and here's where it gets interesting - as a basis for use of the CVA Amendment)

- Difficulties in scheduling things because of a Stay in Place Order, like ...
- Home, Pest Control, Appraisal Inspections (Ok - but not 'roof'?)
- Governmentally required inspections (Ok)
- Movers (?)
- Final Verification of Condition (Wait, what? This isn't even a contract contingency...)

OR (and now we get up close and personal)

- A confirmed diagnosis of COVID 19 (HEPPA Violation anyone?)
- COVID 19 hospitalization (Yeah, no kidding.)
- Governmental quarantine (is anyone NOT impacted by this, at least in California?)
- Physician ordered quarantine

OR

"Other" Just, "other." Fill in the blank.

Then one is required to "verify" the Unforeseen CoronaVirus Circumstance. (Umm, how, exactly? That's not stated.)

So. If a Buyer or Seller has an “other” reason that either can “verify” - or if either desires to use a “Stay in Place” order (or merely “suggestion”?) by any Local, State or Federal source, then the contract can be delayed - or cancelled - without penalty.

But wait, there’s more.

PEAD

CAR has also put together a CoronaVirus Property Entry Advisory and Declaration (PEAD) Form. And this one, well, it’s a doozy.

The PEAD Form notes that “real estate transactions” have been deemed an “essential activity.” Cool. (If true. Other sources say, Not so.) If true, agents can still make money. (Sort of.)

Then we get to the meat of the matter. “Social Distancing.”

After acknowledging that “showing or visiting properties may be dangerous or unsafe”, the Form has a prospective Buyer or Seller acknowledge that doing either is an activity done “at your own risk.”

Then a prospective Buyer and Seller get to agree that they will take “all” reasonable and necessary precautions to protect themselves from risks. (“All” - what’s that mean?)

A Buyer and Seller agree that it is their responsibility to protect themselves.

And then they are called upon to represent that they are not (to the best of their knowledge) currently afflicted with, and have not knowingly within the last 14 days, been in contact with someone afflicted with COVID 19. (How, one wonders, when/if there is a problem, will it be determined if someone “knew”? Does “best of their knowledge” mean they should investigate first?) Practically speaking, doesn’t this mean that you fill out the form and then WAIT 14 MORE days to go inspect the house?

And then there is this: “You believe that you are not likely to transmit or contract COVID 19.”

What? No one can make that representation. No one.

Let us continue... The next “agreement” is to, when visiting a property, to the extent available, “wash your hands with soap and water or use hand sanitizer, to wear rubber gloves, a protective face mask, and protective shoe coverings.” So, is it the agent’s responsibility to provide a washing station? Gloves? Masks? Booties? “If available?”

Then, after showing a property, it is the “sellers, landlords, tenants and occupants” responsibility to “clean and disinfect the property.”

Did you see “agent’s” or “broker’s” on that list? No? Neither did I. Then again, it’s the Realtor trade association that drafted the form...

And finally, paragraph 5 of the PEAD form states that “you agree to take all recommended and reasonable actions to protect yourself and others from exposure to COVID 19, and that you assume the risk, as applicable, of entering the Property, or allowing someone to enter the Property. You understand and agree that no one, including but not limited to real estate brokers and agents, can guaranty that you will not be exposed to COVID 19.”

Well, then.

If you want to go inspect a property you might want to buy, YOU and the Seller are taking the risk that you’ll get COVID 19. The real estate people, as Trump would say, “are not responsible.”

Alright - these Forms so far make it possible to get out of or at least postpone the closing of a purchase agreement possible - where it wasn’t possible before; without tagging the broker for liability of a failed closing. They also set forth a lot of restrictions on how a Buyer and Seller go about showing a home being sold.

Now, what about a listing; how is an agent protecting themselves in the first place?

RLA-CAA

Fear not, there’s a Form for that too: RLA-CAA (Listing Agreement CoronaVirus Addendum or Amendment).

Once again, you’ll note that there is that “Amendment” language. How does CAR deal with the “consideration” issue? Here’s the language used:

“Seller and Broker acknowledge that there are mutual benefits in addressing the effects of the COVID 19 pandemic ...” “In consideration of the mutual benefits contained herein...”.

Hmmm.

They acknowledge there are mutual benefits, and in consideration of those mutual benefits, the listing is amended. How, exactly, is a Seller benefitted? We’ll explore that as we go.

The next thing of import is to recognize that this Amendment is to stay in effect “until the termination of ALL governmental orders, including local, State and Federal, impacting the Property due to the COVID 19 pandemic.” (EMPHASIS added.)

Wow; this stays in place until ALL the “orders” “effecting the Property” are lifted. Umm, what “orders” are there effecting “property”? There are a lot of orders effecting how people move about; but what’s that got to do with “the property”?

We’ll put that aside for a minute and go on.

Next, with regard to Property showings, the RLA CAA Form is explicit:

“Prospective purchase visitors will be asked not to enter ... nor will they be given permission to do so, until and unless:”

Two things: 1) “Prospective purchasers will not be given permission to enter”, so if they do, are they trespassers? 2) “until AND unless”, so everyone better do all the following things on the list.

The prospective purchaser SIGNS A STATEMENT that,

- A. to the best of their knowledge they are not afflicted with COVID 19, and have not knowingly - within the last 14 days - been in contact with anyone who is, nor are they experiencing a fever, or signs of respiratory illness AND they agree to abide by (undefined) “safe practices” while at the property.
- B. They provide verification that they are financially able to purchase the property, such as verification of an all-cash payment ability or a pre-approval (not pre-qualification) from a lender

AND

- C. That the prospective Buyer has already viewed the property “on line”

OK, so this just killed about 90% of all property showings, even after waiting 14 days. No open houses people.

For Sellers (and Buyers) that can’t or won’t make the kind of representations needed to gain access to property, the Form has a provision for “pausing” the marketing of the Property Listing, or extending the Listing termination date.

Notice “cancellation” of the Listing is NOT one of the options here.

And then there is the Whopper Clause. Paragraph 5 of the PLA-CAA:

“Seller understands and agrees that Broker will abide by the terms of the Addendum or Amendment and use Broker’s best efforts to obtain compliance by others. Broker cannot and will not verify the representations of others nor guarantee their compliance with Seller’s and Broker’s instructions. Broker cannot and will not physically prevent entrance to the Property by others who do not agree to the instructions. If Broker becomes aware of such person’s failure to comply with the instructions, Broker will promptly inform Seller and take efforts to prevent such person’s future access to the property. Seller agrees to and shall hold Broker and its agents harmless from any and all claims, liabilities, obligations, attorneys’ fees, or actions and shall indemnify Broker for any damages, costs, attorney’s fees and/or other fines from any third party, that arise from or are related in any manner to this Addendum or Amendment.” (Emphasis added.)

Wow.

If that ain’t an example of overwhelming CYA (that’d be Cover Your Ass) language, I don’t know what is. And the shift of liability from the Brokerage to the Seller is – breathtaking.

A Seller in desperate need to sell, or someone simply not well advised, may just sign away - after all, the Listing Agent likely doesn't understand what the Form just did to their client anyway. And if that Listing Agent does, and didn't explain it - well, then; that's another story, isn't it?

I get it; I get that real estate licensees want to keep as many of their existing Listings as possible. And they'd like to extend the Listing period to make up for the lost month (two? three?) that we are all going to experience. And I get that they can't predict what the home buying-selling environment is going to be like in our soon-to-be future. And I get it that they have deals in the hopper right now, that no one knows what's going to happen with. And I get it that there are unintended consequences that will arise from breaches of current contracts.

Here's what I want readers of this memo to get.

These proposed forms may do exactly what you want them to do. And they might not. They may result in your lost opportunity to collect a Liquidated Damage amount you're entitled to, or expose you to additional unintended liability.

What these forms don't have on them is some bold, all caps notice that:
THESE FORMS ARE NOT MANDATORY AND ARE SUBJECT TO NEGOTIATION.

Ask yourself: Why not?

CDNH

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CORONAVIRUS ADDENDUM OR AMENDMENT (C.A.R. Form CVA, 3/20)

The following terms and conditions are hereby incorporated in and made a part of the Purchase Agreement or Other _____ dated _____ (the "Agreement") on property known as _____ ("Property") in which _____ is referred to as Buyer and _____ is referred to as Seller

OR This is an amendment to the already accepted Agreement. This amendment shall be deemed revoked unless within 3 or _____ Days after being Signed by the initiating Party it is Signed by the other Party and a Copy Delivered to the initiating Party or that person's Authorized Agent.

- 1. The current world-wide Coronavirus (COVID-19) pandemic has had unprecedented impacts on real estate transactions, including, but not limited to: travel restrictions; self-imposed and governmentally required isolations; closures of both governmental and private offices and businesses providing integral functions to the closing of a real estate transaction, such as inspecting, repairing, packing and moving, funding, recording, and declarations of States of Emergency and so-called shelter-in-place or stay-at-home orders, among others ("Unforeseen Coronavirus Circumstance"). While the Agreement allocates risk as between the Parties by way of contingencies, covenants, and disclosures, it does not address the concept commonly referred to as "Force Majeure" or the right of a Party to suspend or terminate performance when circumstances, which the parties could not have anticipated and are beyond their control, make performance of the contract impossible or impracticable.
2. This form is intended to contractually address an Unforeseen Coronavirus Circumstance. The Parties' agreement to this form is optional. It is not binding on either Party unless Signed by both. Its purpose is to reflect the Parties' (i) mutual obligation to deal fairly with each other and act in good faith to accomplish the purpose of the Agreement, and (ii) attempt to avoid any uncertainty that may otherwise exist as a result of the COVID-19 pandemic by resolving potential disputes by mutual agreement.
3. If either Buyer or Seller is affected by an Unforeseen Coronavirus Circumstance, the affected Party shall Deliver to the other a Notice of Unforeseen Coronavirus Circumstance (C.A.R. Form NUCC) which both identifies and provides verification of (i) the Unforeseen Coronavirus Circumstance applicable to the affected Party and (ii) the identified circumstance's impact on the affected Party's ability to perform. The Parties agree that upon Delivery of the NUCC the extension selected in 4A or 4B, or the cancellation selected in 4C, shall apply (if checked, NUCC is attached):
4. Extension of Time or Mutual Cancellation (check 4A, 4B or both, OR 4C):
A. Extension of Time for Buyer to Remove Contingencies: The time to remove the following contingency(ies) shall be extended for 30 or _____ Days: Loan, Investigation, Appraisal, Other: _____. If, after this time, Buyer does not remove the applicable contingency because of the Unforeseen Coronavirus Circumstance, either Party may cancel the Agreement by Delivering written notice of cancellation (C.A.R. Form CC) to the other. No Notice to Buyer to Perform (C.A.R. Form NBP), as otherwise applicable, shall be required. Buyer's deposit shall be returned to Buyer, minus fees and costs incurred by Buyer.
B. Extension of Time for Buyer or Seller to Close Escrow: The Close Of Escrow date shall be extended for 30 or _____ Days. If, after this time, the Buyer or Seller Delivering the NUCC is still unable to close escrow as a result of the Unforeseen Coronavirus Circumstance, either Party may cancel the Agreement by Delivering written notice of cancellation (C.A.R. Form CC) to the other. No Demand to Close Escrow (C.A.R. Form DCE), as otherwise applicable, shall be required. Buyer's deposit shall be returned to Buyer, minus fees and costs incurred by Buyer OR Buyer's deposit shall be released to Seller if otherwise allowed in the Agreement.
OR C. Mutual Cancellation: The Agreement shall be cancelled upon Acceptance of this amendment. Unless otherwise agreed, Buyer's deposit shall be returned to Buyer, minus fees and costs incurred by Buyer. This form CVA shall constitute irrevocable joint instructions to Escrow Holder to cancel the escrow and release the deposit as provided in this form without further instructions of the Parties. NUCC is attached.
5. The following additional terms shall apply: _____

By signing below Buyer and Seller acknowledge that each has read, understands, has received a Copy of, and agrees to the terms of this Coronavirus Addendum Or Amendment.

Date _____ Date _____
Buyer _____ Seller _____
Buyer _____ Seller _____

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NOTICE OF UNFORESEEN CORONAVIRUS CIRCUMSTANCES

(C.A.R. Form NUCC, 3/20)

In accordance with the terms and conditions of the Coronavirus Addendum or Amendment (C.A.R. Form CVA), dated _____, the affected Party (Buyer OR Seller) hereby gives notice to the other Party, as specified in the CVA.

1. The Unforeseen Coronavirus Circumstance that is applicable to the affected Party and that is the reason for the extension of time or mutual cancellation specified in paragraph 4 of the CVA is as follows (check all that apply):

A. Loan-Related:

Loss of income due to an Unforeseen Coronavirus Circumstance which prevents Buyer from qualifying for the specified loan (ex. Layoff, furlough, reduced hours. Provide verification of income loss and lender denial in paragraph 2.)

Notary appointment delay

Lender delay due to Unforeseen Coronavirus Circumstance

B. Shelter-in-place/stay-at-home or other Government Order Presenting Difficulties in Scheduling:

Home Inspection

Pest Control Inspection

Government Required Inspection

Appraisal Inspection

Movers

Final Verification of Condition

Other: _____

C. Personal Impact (affected Party, immediate family or household member):

Confirmed Diagnosis of COVID-19

Government ordered/voluntary quarantine

COVID-19 related hospitalization

Physician ordered quarantine

D. Other: _____

E. The Unforeseen Coronavirus Circumstance has the following impact on the affected Party's performance: _____

2. Verification of the Unforeseen Coronavirus Circumstance and its impact on performance is as follows, or, if checked attached:

By signing below, the affected Party acknowledge that they have read, understand, received a Copy of this Notice of Unforeseen Coronavirus Circumstances and that the information contained in it, or attached to it, is true.

Affected Party: Buyer's or Seller's Signature

Date

Affected Party: Buyer's or Seller's Signature

Date

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CORONAVIRUS PROPERTY ENTRY ADVISORY AND DECLARATION

(C.A.R. Form PEAD, 4/20)

Property Address _____ Date _____

- RISKS OF EXPOSURE:** The Coronavirus (COVID-19) pandemic is a worldwide risk to human health. COVID-19 is highly contagious and has a mortality rate many times greater than the flu. COVID-19 can spread easily and exponentially. While people of all ages are at risk of catching COVID-19, persons especially at risk are those with compromised immune systems and the elderly. Persons over 65 years of age may be at particular risk.
- “STAY HOME ORDERS”:** In order to reduce the spread of COVID-19, the State of California, as well as many California cities and counties have issued “Safer at Home” or “Shelter in Place” orders, with exceptions for essential activities.
- REAL ESTATE SALES ACTIVITIES AS ESSENTIAL SERVICES:** Under Federal and State guidelines, activities required to facilitate a **real estate transaction have been deemed essential activities.** Nevertheless, designation of some real estate activities as essential activities does not make them free from COVID-19 risks. All persons must still practice **“social distancing”** and take all steps necessary to protect themselves and others. Finally, some county and city orders are more restrictive than Federal and State guidelines and may take precedence over Federal and State guidelines.
- REPRESENTATION AND AGREEMENT:** By signing below, **you make the following representations and agree** as follows:
 - You are** either:
 - The seller, landlord, tenant, or occupant, **voluntarily allowing someone to enter the Property** for viewing, walk-through, inspections, or otherwise facilitating the real estate transaction; or
 - A prospective or actual buyer, tenant, real estate agent, or other person whose services facilitate the completion of a real estate transaction and are **voluntarily entering** the Property for the purpose of viewing, inspecting, or performing an activity or providing services in furtherance of a real estate transaction.
 - You understand that **showing and visiting properties may be dangerous or unsafe and could expose you or others to COVID-19.**
 - If applicable, you understand that your showing or visiting activities are part of an exception to Federal and State “Safer at Home” or “Shelter in Place” orders and that you are conducting those activities **at your own risk.**
 - You understand that if you engage in any activities in violation of the law, including Federal, State, county or city orders, you are acting against the advice of Broker.**
 - You agree to take **all** reasonable and necessary precautions to protect yourself and others from the spread of COVID-19, including, but not limited to the following:
 - You are aware of and agree to follow all Federal, State, and local laws and orders, including Stay Home, Safer at Home, Shelter in Place orders, even though such laws and orders may be changing rapidly.
 - You agree and understand that **it is your responsibility to exercise care to protect yourself,** such as assessing your own risks, which may include age, underlying health conditions, recent travel, possible exposure to COVID-19, doctor’s recommendations, local, and State and Federal recommendations.
 - You represent that (i) to the best of your knowledge, you are not currently afflicted with, and have not knowingly, within the last 14 days, been in contact with someone afflicted with, COVID-19, and (ii) you are not experiencing a fever, or signs of respiratory illness such as cough, shortness of breath or difficulty breathing, or other COVID-19 symptoms.**
 - You believe that you are not likely to transmit or contract COVID-19.**
 - When visiting or allowing someone to visit the Property, and if available, you agree to wash your hands with soap and water or use hand sanitizer, and to wear rubber gloves, a protective face mask, and protective shoe coverings. Remember to not touch your eyes, nose or mouth.**
 - You agree to practice social distancing** by keeping at least 6 feet between yourself and others. Do not gather in groups, and do not touch surfaces or items in the Property. If you believe it necessary to touch surfaces or items in the Property, consider the risks of doing so. You are reminded that wearing protective gloves, face masks, shoe coverings, and washing and sanitizing hand are steps you can take to protect yourself and others.
 - After showing the Property, sellers, landlords, tenants, and occupants should clean and disinfect the Property, paying attention to any areas that may be commonly touched, such as door knobs, handles, and counter tops.**
 - After viewing the Property, visitors should discard any gloves, masks or shoe coverings worn during the visit and wash their hands with soap and water for at least twenty seconds.
- AGREEMENT, DECLARATION AND ASSUMPTION OF RISK:** By signing below, you are declaring the foregoing is true, that **you agree** to take all recommended and reasonable actions to protect yourself and others from exposure to COVID-19, and that **you assume the risk,** as applicable, of entering the Property, or allowing someone to enter the Property. You understand and agree that no one, including but not limited to real estate brokers and agents, can guarantee that you will not be exposed to or contract COVID-19.

By signing below, I acknowledge that I have read, understand, voluntarily agree to the foregoing, and have received a copy of this Coronavirus Property Entry Advisory and Declaration.

 (print name) _____ (signature) _____ Date _____

 (print name) _____ (signature) _____ Date _____

If the person signing above is a real estate licensee, complete the following:

Brokerage Company name: _____ DRE License # _____

Salesperson or broker-associate name: _____ DRE License # _____

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LISTING AGREEMENT
CORONAVIRUS ADDENDUM OR AMENDMENT
(C.A.R. Form RLA-CAA, 4/20)

The following terms and conditions are hereby incorporated in and made a part of the Listing Agreement or Other _____ ("Listing Agreement") dated _____ on property known as _____ ("Property") in which _____ is referred to as Broker and _____ is referred to as Seller OR This is an amendment to the already existing Listing Agreement between Seller and Broker.

The current worldwide Coronavirus (COVID-19) pandemic has had unprecedented impacts on the real estate industry, from solicitation and marketing, to pre-contract showings, negotiations and inspections, to contract formation and expectations, to post-contract inspections and repairs, to loan applications, appraisals and approvals, to closing. The various local, State and Federal states of emergency and so-called safer-at-home or stay-at-home orders have changed the way sellers and real estate licensees need to approach otherwise allowable or acceptable business practices. Seller and Broker acknowledge that there are mutual benefits in addressing the effects of the COVID-19 pandemic on the sale of the Property. In consideration for the mutual benefits contained herein, Seller and Broker agree as follows. This Addendum or Amendment shall remain in force until the earlier of either (i) the termination of all government orders, including local, State and Federal, impacting the Property due to the COVID-19 pandemic or (ii) the mutual written termination of this Addendum or Amendment by Seller and Broker. Nothing contained in this Addendum or Amendment shall be construed to allow an activity that is otherwise prohibited by any law.

- 1. PROPERTY SHOWINGS: Seller agrees (DOES NOT agree) to allow prospective purchasers to enter the Property as specified below. Seller has been advised of the potential for visitors to the Property to be carriers of the COVID-19 virus. Broker has provided Seller with a Coronavirus Property Entry Advisory and Declaration (C.A.R. Form PEAD), and Seller and Broker agree to abide by the showing protocols set forth in the Coronavirus Property Entry Advisory and Declaration and those in the C.A.R. Best Practice Guidelines (document found at https://www.car.org/riskmanagement/covidlegaldocs) or similar document approved by Broker and provided to Seller. Prospective purchaser visitors will be asked not to enter the Property, nor will they be given permission to do so, until and unless:
A. They sign a statement representing that the visitor (i) to the best of the visitor's knowledge is not currently afflicted with, and has not knowingly, within the last 14 days, been in contact with someone afflicted with, the COVID-19 virus, (ii) is not experiencing a fever, or signs of respiratory illness such as cough, shortness of breath or difficulty breathing, and (iii) that they agree to abide by safe practices while visiting the Property.
B. They provide verification that they are financially able to purchase the Property, such as (i) verification of an all-cash purchase or (ii) a prequalification or preapproval from a lender or loan broker.
C. They represent that they have previously viewed the Property online.
2. PRE-SALE AND POST-ACCEPTANCE ACTIVITY: In furtherance of the goal of selling the Property, and provided Broker and others follow the same requirement specified in paragraph 1A for prospective purchaser visitors, Seller gives permission to Broker and other authorized persons, to access the inside and outside of the Property in order to engage in the following activities:
A. Prepare a virtual tour or take photographs
B. Install signage
C. Prepare an agent's visual inspection and disclosure
D. Conduct a Homeowner's Association site inspection
E. Prepare an appraisal or buyer insurance inspection
F. Obtain county or other municipal or government inspections or permit approvals
G. Put up or remove fumigation tents
H. Prepare a home inspection, and necessary follow-up inspections, on behalf of the buyer
I. Perform repairs agreed to in the Purchase Agreement, or improvements necessary to get the Property ready for sale, or prepare bids or estimates
J. Conduct a final verification (walk-through)
K. Pack and move Seller's furniture or belongings
L. _____
M. _____

Note: If Seller elects to limit the access to the Property for post-acceptance activity, Seller and Broker are each advised to modify and review the purchase agreement to reflect Seller's elections.

- 3. BROKER MARKETING PLAN: If Broker's Listing Agreement included a marketing plan, that plan is modified as follows: _____ or _____ in the attached addendum.
4. TEMPORARY WITHDRAWAL OF PROPERTY FROM MARKET:
A. Broker agrees to pause marketing of the Property, including changing to an appropriate status on the MLS, and not to conduct any showings of the Property while this Addendum or Amendment is in effect. The Listing Agreement shall remain in effect during the temporary withdrawal and Broker shall immediately begin all appropriate marketing efforts upon termination of this Addendum or Amendment.
B. The termination date of the Listing Agreement shall be extended by the same amount of time that the temporary withdrawal is in effect but in no event shall the termination date be extended beyond _____ (date).



5. **SCOPE OF BROKER DUTY:** Seller understands and agrees that Broker will abide by the terms of this Addendum or Amendment and use Broker's best efforts to obtain compliance by others. Broker cannot and will not verify the representations of others nor guarantee their compliance with Seller's and Broker's instructions. Broker cannot and will not physically prevent entrance to the Property by others who do not agree to the instructions. If Broker becomes aware of such person's failure to comply with the instructions, Broker will promptly inform Seller and take efforts to prevent such person's future access to the property. Seller agrees to and shall hold Broker and its agents, harmless from any and all claims, liabilities, obligations, attorney's fees, or actions, and shall indemnify Broker for any damages, costs, attorney's fees, and/or other fines from any third party, that arise from or are related in any manner to this Addendum or Amendment.

6. ADDITIONAL TERMS: _____

By signing below Seller and Broker acknowledge that each has read, understands, has received a copy of, and agrees to the terms of this Listing Agreement Coronavirus Addendum or Amendment.

Seller _____ Date _____

Seller _____ Date _____

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

Real Estate Broker (Firm) _____

By _____ DRE Lic# _____ Date _____

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a subsidiary of the CALIFORNIA ASSOCIATION OF REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

