

**MEMORANDUM OF SALE**  
**52 Cotton Road, Sutton, Merrimack County, New Hampshire**

THIS AGREEMENT, made as of the 2nd day of March, 2016, by and between **Mascoma Savings Bank, fsb**, (the "Mortgagee") and \_\_\_\_\_ of \_\_\_\_\_ (jointly and severally "Purchaser").

WHEREAS, the Mortgagee has auctioned the real property described in Section 1.02 below and;

WHEREAS, the above-referenced Purchaser(s) bid \$ \_\_\_\_\_ for the Property, which bid the Mortgagee has accepted.

W I T N E S S E T H:

In consideration of the mutual covenants set forth herein, the parties undertake and agree as follows:

1. PURCHASE AND SALE

1.01. Pursuant to the power of sale contained in the Mortgage from **James B. Howell and Karen A. Howell**. (hereinafter referred to as "Mortgagor") to the Mortgagee dated October 7, 2009, recorded with the Merrimack County Registry of Deeds in Volume 3159, Page 951 (hereinafter referred to as the "Mortgage"), and pursuant to N.H. RSA 479:25, the Mortgagee, conducted a foreclosure sale on April 6, 2016.

1.02. At said sale, the Purchaser was the highest bidder for the real property located at 52 Cotton Road, Sutton, Merrimack County, New Hampshire (hereinafter referred to as "the Property").

1.03. Purchaser agrees to purchase and Mortgagee agrees to sell, for the Purchase Price described below, the Property.

1.04 The total Purchase Price for the Property is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

1.05 Deposit. A non-refundable deposit in the total amount of Ten Thousand Dollars (\$10,000.00) was paid to Mortgagee upon registering to bid at said foreclosure auction (the "Deposit"). The Deposit will be held in a non-interest bearing account by the mortgagee's attorneys, Sheehan Phinney Bass & Green in Manchester, New Hampshire.

## 2. CLOSING TIME AND PLACE

2.01. Closing shall take place no later than 12:00 P.M. on Wednesday, May 25, 2016 at the offices of Sheehan Phinney Bass & Green, Professional Association, 1000 Elm Street, Manchester, New Hampshire, unless a different time and place is mutually agreed to by the parties.

2.02. At Closing, Mortgagee shall deliver to Purchaser a Foreclosure Deed and Affidavit in statutory form.

2.03. At Closing, the balance of the Purchase Price shall be paid by Purchaser either by bank check or wire transfer, to be determined by Mortgagee, payable to Mortgagee.

2.04. There shall be no proration of rents, real estate taxes, utilities, fuel oil or any other expenses or items of income associated with the Property.

2.05. Purchaser shall be responsible for all real estate transfer taxes.

## 3. TERMS OF SALE

3.01. The Property shall be sold subject to any and all unpaid real estate taxes, leases, prior liens, or other enforceable encumbrances, whether or not of record, which may be entitled to precedence over the Mortgage. The Property will be sold subject to any person who remains in possession of the Property.

3.02. Mortgagee expressly disclaims any representations as to the state of the title to the Property. For Purchaser's convenience and in lieu of all warranties of title, Mortgagee has arranged for a title insurance policy commitment to insure the successful bidder's title to the real estate with certain exceptions. Such commitment and exceptions were available for review at the foreclosure auction. Additionally, Purchaser may contact the Mortgagee for another copy of that commitment and the exceptions thereto. If Purchaser wishes to obtain the title insurance coverage, he shall be required to pay the title insurance premium due. Mortgagee is not responsible for the accuracy of such commitment, the exceptions thereto, and/or the financial strength of the title company.

3.03. No statement regarding the square footage of units or acreage of land, whether contained herein or in any advertisement or foreclosure notice, shall be deemed to be a warranty or representation with respect thereto but is included merely to aid in the identification of the Property.

3.04. Mortgagee makes no warranties or representations of any kind in connection with the Property. In particular, and without limiting the foregoing, Mortgagee makes no warranty or representation regarding the present or future use of the Property, the habitability of any structures, the condition of any wells or septic systems, availability of any utilities, access,

income potential, compliance of the property with applicable zoning or other land use laws or regulations, the existence or non-existence of hazardous material, asbestos, radon, lead paint or other health hazards. All property shall be conveyed "AS IS." Any warranty or representation made by any auctioneer, or other person, is expressly without authority. All personal property and fixtures being sold (if any) shall be conveyed AS IS and WHERE IS. MORTGAGEE EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. MORTGAGEE EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING TITLE TO ANY SUCH FIXTURES OR OTHER PERSONALTY. Prior to the auction Purchaser was encouraged to inspect the Property, the title thereto, the occupancy thereof, and all other matters in connection with the purchase of the Property by itself and by various experts as Purchaser considers reasonable and prudent.

3.05. The only warranty or representation that Mortgagee makes is that it was duly authorized to make the sale of the Property; that in all of its proceedings in the sale thereof, it has complied with the requirements of NH RSA 479:25.

3.06. Any representation or warranty other than contained herein is without authority and not binding on Mortgagee.

#### 4. REAL ESTATE COMMISSION

4.01. Mortgagee shall be responsible for the fee due to the Auctioneers, if any.

4.02. The successful bidder shall be responsible for any real estate commission or finder's fee due any other person and in no event shall Mortgagee or any of its agents be responsible for such fees or commissions.

#### 5. DEFAULT

In the event of Purchaser's default hereunder, the Mortgagee may: 1) terminate this Agreement and retain the Deposit; and/or 2) receive an assignment of Purchaser's rights hereunder and acquire the Property as purchaser for a price equal to the Purchase Price; and/or 3) pursue its remedies at law or in equity. In the event of any such breach by Purchaser, in addition to all of its other rights and remedies, Mortgagee shall be entitled to recover all of its costs and expenses arising from such default including its actual attorney's fees. Mortgagee shall have the right to elect any, any combination, or all of the above-referenced remedies. Purchaser hereby irrevocably appoints Mortgagee as its attorney in fact for the purpose of executing any assignment of Purchaser's right under this Agreement.

6. MISCELLANEOUS

6.01. This Agreement contains all the agreements of the parties with respect to the subject matter hereof. All prior discussions are merged herein. Any amendment hereto shall be effective only if executed with all the formalities hereof by the party against whom the amendment is asserted.

6.02. This Agreement shall be governed by the laws of the State of New Hampshire.

6.03. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.04. New Hampshire law provides that prior to the execution of any contract for the purchase and sale of any real property which includes a building, the seller, or the seller's agent shall provide the following notification and disclosure:

Radon Gas: Radon Gas, the product of decay of radioactive materials in rock may be found in some areas of New Hampshire. This gas may pass into a structure through the ground or through water from a deep well. Testing can establish its presence and equipment is available to remove it from the air or water.

Lead Paint: Before 1977, paint containing lead may have been used in structures. The presence of leaking lead paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present.

Private Water Supply and Sewage Disposal System: As set forth more specifically in the Seller's Disclosure of Private Water Supply and Sewage Disposal System Information attached hereto, the Mortgagee is unaware of the information required to be disclosed under RSA 477:4-C.

6.05. All notices required by this Agreement shall be deemed given when received and shall be mailed by United States mail, postage prepaid, certified, return receipt requested, and shall be mailed to the parties at the addresses set forth on Page 1 of this Agreement.

6.06. No loss, damage, condemnation or destruction of the Property shall relieve Purchaser of its obligation hereunder.

**6.07. TIME IS OF THE ESSENCE OF THIS AGREEMENT.**

6.08. The captions in this Agreement are inserted for convenience of reference only and do not define, describe, or limit the scope or intent of this Agreement or any of its terms.

6.09. This agreement is subject to the condition that in the event an order is issued by any Court of competent jurisdiction enjoining or otherwise staying or delaying this foreclosure sale, then the Mortgagee shall have the opportunity to cure or remove said stay or injunction

order. In the event that the Mortgagee is unable to cure or remove said stay or injunction order, this Purchase and Sale Agreement shall be null and void and the Purchaser hereunder shall be entitled to the refund of his full deposits and all of the parties' obligations hereunder shall be discharged and terminated and this Agreement shall be null and void.

6.10. I/we have read the information contained in paragraph 6.04 regarding Notification pursuant to RSA 477:4-a and 477:4-c prior to the execution of any contract for the purchase and sale of real property.

IN WITNESS WHEREOF, the Parties hereto have set their hands to the written instrument as of the date first above written.

WITNESS:

\_\_\_\_\_  
Name (printed):

PURCHASER:

By: \_\_\_\_\_  
Name (printed):

WITNESS:

\_\_\_\_\_  
Name (printed):

PURCHASER:

By: \_\_\_\_\_  
Name (printed):

WITNESS:

\_\_\_\_\_  
Name (printed):

MORTGAGEE: MASCOMA SAVINGS  
BANK fsb

By: \_\_\_\_\_  
Name (Printed):  
Its: \_\_\_\_\_

**SELLER'S DISCLOSURE OF PRIVATE WATER SUPPLY,  
SEWAGE DISPOSAL SYSTEM, INSULATION AND LEAD PAINT INFORMATION**

The Mortgagee hereby discloses the following information concerning the private water supply, sewage disposal and insulation of the Property located at:

**52 Cotton Road, Sutton, Merrimack County, New Hampshire**

**I. PRIVATE WATER SUPPLY: The Mortgagee believes the Property is served by municipal water OR:**

1. Type of system: Unknown
2. Location: Unknown
3. Any malfunctions: Unknown
4. Date of installation: Unknown
5. Date of most recent water test (including the results thereof and a description of any unsatisfactory conditions or notations): Unknown, if any.

**II. SEWAGE DISPOSAL SYSTEM: The Mortgagee believes the Property is served by municipal sewer OR:**

The Mortgagee hereby discloses the following information concerning the sewage disposal system:

1. Size of tank: Unknown
2. Type of system: Unknown
3. Location: Unknown
4. Malfunctions: Unknown
5. Age of system: Unknown
6. Date most recently serviced: Unknown
7. The name of the contractor who services the system: Unknown

**III. INSULATION INFORMATION:**

The Mortgagee hereby discloses the following information concerning insulation in any buildings on the Property:

1. Type: Unknown
2. Location: Unknown
3. Date of installation and installer: Unknown

**IV. LEAD PAINT DISCLOSURE PURSUANT TO RSA 477: 4-a, I.** Before 1977, paint containing lead may have been used in structures. The presence of flaking lead paint can present a serious health hazard, especially to young children and pregnant woman. Tests are available to determine whether lead is present.

\_\_\_\_\_, PURCHASER(S), hereby acknowledges receipt of the within Disclosure this 6th day of April 2016, prior to execution of a Memorandum of Sale with Seller.

WITNESS:

PURCHASER:

\_\_\_\_\_

Name (printed):

By: \_\_\_\_\_

Name (printed):

WITNESS:

PURCHASER:

\_\_\_\_\_

Name (printed):

By: \_\_\_\_\_

Name (printed):