

MEMORANDUM OF FORECLOSURE SALE

MEMORANDUM OF FORECLOSURE SALE (this “Agreement”) entered into this 12th day of October, 2018, by and between _____, with a mailing address of _____ and with a tax I.D./social security number of _____ (“Buyer”) and **FARM CREDIT EAST, ACA** (“Seller” and “Foreclosing Party”), with a mailing address c/o Suzanne Brunelle, Esq., Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire 03101.

WHEREAS, Seller has auctioned certain real property located thereon in the Town of Bradford, County of Merrimack and State of New Hampshire, which real property is more particularly described in the Mortgage given Kendra and Robert Wheeler Messer to Farm Credit East, ACA dated July 1, 2013, and recorded with the Merrimack County Registry of Deeds at Book 3396, Page 774 (the “Premises”); and

WHEREAS, Buyer bid _____ Dollars (\$ _____) for the Premises, which bid Seller accepted.

NOW, THEREFORE, in consideration of the deposit in the amount of Ten Thousand Dollars (\$10,000.00) deposit paid this date by Buyer to Seller, the parties agree as follows:

1. Within ten (5) business days of the date of this sale, Buyer shall pay to Seller an additional deposit amount which, when combined with the initial deposit in the amount of Ten Thousand Dollars (\$10,000.00), will bring the total deposit to an amount equal to ten percent (10%) of the purchase price hereof.
2. Seller shall convey the real property by duly executed foreclosure deed to Buyer on or before November 25, 2018, at the offices of Devine, Millimet & Branch, Professional Association, 111 Amherst Street, Manchester, New Hampshire.
3. Buyer shall pay Seller _____ Dollars (\$ _____) in cash or certified funds at said closing in exchange for the foreclosure deed. In addition, Buyer shall execute such other documentation as is reasonably requested by Seller, including, without limitation, a Receipt and Acknowledgment of Delivery of Deed and a Declaration of Consideration. At closing, Buyer also shall pay the entire amount of the transfer tax due the State of New Hampshire Department of Revenue Administration.

4. Buyer may not enter upon, trespass, make repairs to, or hire any contractors to work on the Premises prior to delivery of the foreclosure deed without express written permission of the Seller.
5. Buyer acknowledges that Seller makes no warranties whatsoever regarding title to, or condition or possession of, the Premises. **THE BUYER ACCEPTS THE PREMISES IN AN AS-IS CONDITION WITH NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES RELATING TO TITLE, POSSESSION, CONSTRUCTION OR FITNESS FOR HABITATION, COMPLIANCE WITH STATE OR LOCAL CODES, RECITATION OF ACREAGE AND HAZARDOUS WASTE.**
6. From and after the date of the foreclosure sale, all risk of damage or loss thereto by fire or other casualty or by taking by eminent domain, shall be on the successful bidder, who, in the case of any such loss, damage or taking, shall pay the purchase price for the Premises without deduction.
7. Buyer acknowledges that Seller conveys the Premises subject to all liens and encumbrances entitled to precedence over the Mortgage including, but not limited to, all unpaid taxes and all liens for hazardous waste cleanup asserted by the United States of America, the State of New Hampshire, or any other political subdivision thereof.
7. The parties further acknowledge there will be no proration of and the Buyer takes the Premises subject to any and all amounts due or owing for utilities, fuel in tank(s) and any and all other charges for services benefitting the subject premises. The Foreclosing Party will not pay any portion of those charges and the Buyer will be required to make arrangements with the all related providers regarding billing and payment of any past due charges.
9. The Buyer further acknowledges the Premises will be taken subject to any and all real estate taxes which may be owing, due or past due. If the Foreclosing Party has paid taxes for a period in advance of the Closing Date then those taxes only will be prorated, which proration shall be done solely for the benefit of the Foreclosing Party; otherwise real estate taxes will not be prorated and the Buyer will take title subject to any and all real estate taxes.
10. If Buyer defaults under this Agreement, Seller shall, at its option, keep the deposit as reasonable liquidated damages. **TIME IS OF THE ESSENCE WITH RESPECT TO BUYER'S PERFORMANCE UNDER THIS AGREEMENT.**
11. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Any assignment of rights under this Agreement by Buyer must be consented to by Seller, which consent shall not be unreasonably withheld, and must be in writing in form and content satisfactory to Seller.
12. Buyer hereby acknowledges previous receipt of the Bidder Information Sheet which included the following notifications pursuant to New Hampshire R.S.A. §477:4-a, c, and d and by RSA 485-A:39, if applicable:

Radon, Arsenic, and Lead (RSA 477:4-a):

Radon: Radon, the product of decay of radioactive materials in rock, may be found in some areas of New Hampshire. Radon gas may pass into a structure through the ground or through water from a deep well. Testing of the air by a professional certified in radon testing and testing of the water by an accredited laboratory can establish radon's presence and equipment is available to remove it from the air or water.

Arsenic: Arsenic is a common groundwater contaminant in New Hampshire that occurs at unhealthy levels in well water in many areas of the state. Tests are available to determine whether arsenic is present at unsafe levels, and equipment is available to remove it from water. The buyer is encouraged to consult the New Hampshire department of environmental services private well testing recommendations (www.des.nh.gov) to ensure a safe water supply if the subject property is served by a private well.

Lead: Before 1978, paint containing lead may have been used in structures. Exposure to lead from the presence of flaking, chalking, chipping lead paint or lead paint dust from friction surfaces, or from the disturbance of intact surfaces containing lead paint through unsafe renovation, repair or painting practices, or from soils in close proximity to the building, can present a serious health hazard, especially to young children and pregnant women. Lead may also be present in drinking water as a result of lead in service lines, plumbing and fixtures. Tests are available to determine whether lead is present in paint or drinking water.

Water Supply (RSA 477:4-c, d):

- a. Type of water supply system: Information is not available and is unknown to the Seller
- b. Location: Information is not available and is unknown to the Seller
- c. Malfunctions: Information is not available and is unknown to the Seller
- d. Date of Installation: Information is not available and is unknown to the Seller
- e. Date of Most Recent Water Test: Information is not available and is unknown to the Seller
- f. Unsatisfactory Water Test or Water Test With Notation: Information is not available and is unknown to the Seller

Sewage Disposal (RSA 477:4-c, d):

- a. Type of Sewage Disposal System: Information unknown by Seller
- b. Size of Tank: Information is not available and is unknown to the Seller
- c. Location: Information is not available and is unknown to the Seller
- d. Malfunctions: Information is not available and is unknown to the Seller
- e. Age of System: Information is not available and is unknown to the Seller

- f. Date of Most Recent Service: Information is not available and is unknown to the Seller
- g. Name of Contractor who services the system: Information is not available and is unknown to the Seller

Insulation (RSA 477:4-d):

- a. Type of Insulation: Information is not available and is unknown to the Seller
 - b. Location of Insulation: Information is not available and is unknown to the Seller
13. In the event of any default by the Seller, then Buyer’s remedies shall be strictly limited to the return of the deposit. Buyer waives all claims arising out of any breach of this agreement by Seller for damages relating to or computed by reference to lost profits, consequential damages and every other form of damage excepting only the return of its deposit. The provisions of this paragraph are a material inducement to the Seller entering into this agreement.
14. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument.

EXECUTED as of the date first above written.

FARM CREDIT EAST, ACA
(Seller)

Witness

By: _____
Name:
Capacity:
Duly Authorized

Witness

[print name]
(Buyer)