

## MEMORANDUM OF SALE

THIS AGREEMENT, made as of the 11<sup>th</sup> day of September, 2020, by and between the Estate of Timothy L. Parker (the "Seller"), c/o Hughes Atwood & Mullaly PLLC, 30 Bank Street, Suite 3, Lebanon, New Hampshire 03766, and

\_\_\_\_\_ of \_\_\_\_\_

(if more than one, jointly and severally, the "Purchaser").

### WITNESSETH:

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

#### 1. PURCHASE AND SALE

1.01 Pursuant to NH RSA 479:25 and 479:27-a and the final order entered in Case No.: 315-2019-EQ-00512 by the New Hampshire Circuit Court 2<sup>nd</sup> Circuit Probate Division dated June 12, 2020 (the "Order"), Seller conducted a public sale by auction of the real property (the "Property") located at 110 Crystal Lake Road, Enfield, New Hampshire, Tax Map 12, Lots 4-2 and 5-0.

1.02 At said sale, Purchaser was the highest bidder on the Property.

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

1.04 The total Purchase Price for the Property shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00).

1.05 A non-refundable deposit in the total amount of TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) has been paid to Seller upon execution of this Agreement. All deposit funds will be held in a non-interest bearing account and are non-refundable.

#### 2. CLOSING TIME AND PLACE

2.01 Unless the parties agree otherwise, the Closing shall take place on or before November 1, 2020 at 11:00 AM at the offices of Hughes Atwood & Mullaly PLLC, 30 Bank Street, Suite 3, Lebanon, New Hampshire 03766, time being of the essence, unless a different time and place is mutually agreed to by the parties.

2.02 At Closing, Seller shall deliver to Purchaser a Deed and Affidavit in statutory form, which shall be immediately redelivered to Seller for the sole purpose of recording the same.

2.03 The balance of the Purchase Price shall be paid by Purchaser in certified check or wire transfer at Closing. Purchaser shall also pay and be responsible for the entire New Hampshire real estate transfer tax owing on account of this transaction and the cost of recording the Deed and Affidavit.

2.04 There shall be no proration of real estate taxes, real estate transfer taxes, rents, security deposits, utilities, fuel oil or any other expenses or items of income associated with the Property. Seller is not responsible for any security or other deposits or pre-payments of any kind paid at any time to the Purchaser.

### **3. WARRANTIES AND REPRESENTATIONS**

3.01 The Property shall be sold subject to any and all unpaid real estate taxes, municipal water and sewer charges, leases, prior liens, or other encumbrances, whether or not of record.

3.02 The Property shall be sold and conveyed "AS IS, WHERE IS". Seller makes no warranties or representations of any kind in connection with the Property, whether real, personal or mixed, or with regard to any and rights which may be conveyed or transferred therewith. In particular, and without limiting the foregoing, Seller makes no warranty or representation regarding the title to or condition of any of all or a portion of the Property; the current status or performance of any leases; the accuracy of any statement as to the boundaries, acreage or frontage; the habitability of any structures; the condition of any wells or septic systems; the availability of any utilities, access, income potential, rental or income information; compliance of the property with applicable statutes, ordinances, rules or regulations; or the existence or non-existence of hazardous material, asbestos, radon, lead paint or other health hazards. SELLER EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE PROPERTY FOR A PARTICULAR PURPOSE. The Property shall be sold subject to any and all matters, including but not limited to unpaid real estate taxes, prior liens, tenancies and other encumbrances, whether or not of record. Risk of loss between the auction and closing shall be entirely on the successful bidder. Any warranty or representation made by any auctioneer or other person is not binding on Seller. Seller is expressly not responsible for any security or similar deposits not in its possession.

3.03 No statement regarding the Property, whether contained herein or in or referred to in any advertisement or 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 Any representation or warranty other than contained herein is without authority and not binding on Seller.

### **4. REAL ESTATE COMMISSION**

Each party represents to the other that no real estate broker, agent or finder's fee is due with respect to the sale of the Property, except the fee to the auctioneer which Seller shall pay. Each party agrees to hold the other party harmless from all costs, loss, damage and expense, including attorney's fees, arising from or related to any claim of any other broker or finder for a commission on account of this transaction. The provisions of this paragraph shall survive the Closing and shall not be merged in the deed.

### **5. DEFAULT**

5.01 In the event of Purchaser's default hereunder, the Seller may at its option do one or more of the following: (a) retain the Purchaser's deposit as reasonable liquidated damages; or (b) receive an assignment of Purchaser's rights hereunder and acquire the Property as purchaser for a price equal to the next highest bid made at the sale as provided in the Notice of Sale. In the event of any litigation arising under this Agreement, Purchaser shall pay all of Seller's costs and expenses thereof, including

but not limited to, attorney's fees and costs. Purchaser hereby irrevocably appoints Seller, as its attorney in fact, coupled with an interest, for the purpose of executing any assignment of Purchaser's rights under this Agreement.

5.02 If the Seller defaults for any reason, the Purchaser may elect a return of the deposit or specific performance, but shall have no other claim or recourse against the Seller, its attorneys, agents, or the auctioneer.

## **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.

To the best of Seller's knowledge, the Property is served by public water and sewer. Seller has no information concerning the following in connection with said water and or septic/sewer systems:

- a. Location
- b. Malfunctions
- c. Date of installation
- d. Date of most recent water test
- e. Existence of any problems with the water or unsatisfactory water test
- f. Date of most recent service of septic/sewer system
- g. Name of contractor servicing the septic/sewer system
- h. Insulation

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 of 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 sale, then the Seller shall have the opportunity to cure or remove said stay or injunction order. In the event the Seller elects to cure or remove said stay or injunction order and diligent pursues the same, this Agreement shall remain in effect. Should Seller elect not to cure or remove such stay or injunction, then this Agreement shall be deemed rescinded and all deposits shall be paid to Purchaser upon return of the deposit this Agreement shall terminate and be null and void.

6.10 I have read the information contained in paragraph 6.04 regarding Notification pursuant to RSA 477:4-a, 477:4-c and 477:4-d 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:**

\_\_\_\_\_

\_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

**PURCHASER:**

\_\_\_\_\_

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

SS#/FED.ID# \_\_\_\_\_

Daytime telephone # \_\_\_\_\_

\_\_\_\_\_

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

SS#/FED.ID# \_\_\_\_\_

Daytime telephone # \_\_\_\_\_

**SELLER:**

\_\_\_\_\_

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