

**MEMORANDUM OF
SALE BY FORECLOSURE**

AGREEMENT made this 15th day of August, 2023, by and between the Town of Hollis, a municipal corporation duly formed and existing pursuant to the laws of the State of New Hampshire, and having a place of business at Town Hall, 7 Monument Square, Hollis, NH 03049 (SELLER) and _____ of

_____, _____, _____,
Telephone: _____, Email: _____ (BUYER).

WHEREAS, SELLER is the holder of a mortgage from Raymond P. Oban, III, to SELLER, dated July 7, 2009, recorded in the Hillsborough County Registry of Deeds at Book 8111, Page 1151 (“the Mortgage”) relative to property known as 109 West Hollis Road, Hollis, New Hampshire; and

WHEREAS, SELLER on this day has held a foreclosure auction sale of the property described in the Mortgage (“the PROPERTY”) pursuant to the statutory power of sale contained in the Mortgage; and

WHEREAS, BUYER was the high bidder at this foreclosure auction sale; and

WHEREAS, a condition of the foreclosure sale was that SELLER and the high bidder would enter into this Memorandum.

NOW, THEREFORE, and for VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, SELLER, as foreclosing Mortgagee, and BUYER hereby agree as follows:

1. SALE. SELLER shall sell and convey and BUYER shall pay for and accept title to the PROPERTY by foreclosure deed in a form and content substantially in the form of the statutory power of sale foreclosure deed as supplemented by the terms and conditions of this Memorandum and subject to all mortgages, liens, real estate taxes and other encumbrances and matters having priority over the Mortgage, subject to the provisions of Section 4., below.
2. PRICE. The auction sale price is _____ Dollars (\$ _____) and shall be paid at closing in the form of wire transfer, bank cashier’s or treasurer’s check or other form of funds acceptable to SELLER and SELLER’s counsel.
3. CLOSING. Closing shall be held on or before September 15, 2023, at 10:00 AM, TIME BEING OF THE ESSENCE at the Law Office of Thomas F. Quinn, Prof. Corp., 62 Elm Street, Milford, New Hampshire 03055, unless some other time or location is agreed upon by the parties in writing.

4. REAL ESTATE TAXES. This sale is subject to all mortgages, liens, real estate taxes and other encumbrances and matters of record, and matters having priority over the Mortgage provided, however, that BUYER shall pay all real estate taxes due and payable and outstanding as of the date of closing.
5. CLOSING COSTS. Each party shall be responsible for and shall pay their own closing costs except that BUYER shall pay the following charges at closing regardless of whether such charges are legally assessed against or usually and customarily paid by a seller of real estate:
 - A. BUYER shall pay all real estate transfer taxes assessed against sellers and purchasers of real estate. For purposes of clarity, it is expressly agreed that BUYER shall pay the share of such transfer tax assessed against SELLER.
 - B. BUYER shall pay an auctioneer's fee of JSJ Auctions equal to three percent (3%) of the sales price or Five Hundred Dollars (\$500.00) whichever is greater, said payment to be paid and disbursed as part of settlement at closing.
6. PROPERTY. The PROPERTY shall be conveyed in "AS-IS/WHERE-IS" condition, WITH ALL FAULTS and without warranty, express or implied. This provision shall be included in the foreclosure deed of conveyance. From and after the date of this Agreement, BUYER shall have the sole risk of loss. SELLER shall have no responsibility with respect to the condition of the PROPERTY for matters occurring or arising prior to, or subsequent to, the foreclosure auction sale and shall have no obligation to acquire or maintain insurance covering the PROPERTY. In the event that the PROPERTY, or any portion thereof, is, or has been, damaged or destroyed by fire, or other cause or casualty, BUYER shall remain obligated to close on the transaction without reduction in price.

No personal property is included with this sale, and SELLER makes no claim of ownership of personal property on or about the PROPERTY.

7. DEPOSIT. BUYER has made a deposit in the amount of Ten Thousand Dollars (\$10,000.00). All deposits made in connection with this Agreement are non-refundable and shall be held by Thomas F. Quinn, Esquire, of the Law Office of Thomas F. Quinn, Prof. Corp., in an IOLTA account and shall be duly accounted for at closing. Neither party shall be entitled to interest on the deposit. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under this Agreement pending instructions mutually given by SELLER and BUYER. The escrow agent shall have no obligations as escrow agent other than to follow the mutual written instructions of the parties. In the absence of such mutual written instructions, the escrow agent may file a bill in interpleader and retain from the deposit the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as well as the actual cost of filing fees and service and costs for preparation and filing of this bill. Each party shall be jointly and severally liable to the escrow agent for all other legal fees and costs incurred in connection with the litigation.

8. POSSESSION. The PROPERTY shall be conveyed subject to persons in possession thereof whether by right, holdover or lease. SELLER is without keys to the PROPERTY. SELLER shall have no obligation to put BUYER in possession of the PROPERTY, and obtaining possession of the PROPERTY shall be the sole responsibility of BUYER.

Notwithstanding the foregoing, prior to the recording of the foreclosure deed and delivery to SELLER of SELLER's proceeds, BUYER shall take no actions, whether informally, formally, legal or otherwise, to obtain possession of the PROPERTY.

9. EXTENSIONS. If SELLER is unable to close on the transaction and deliver the foreclosure deed by the date of closing, then SELLER, at its sole and unrestricted option, may extend the date of closing for up to two (2) consecutive periods of fifteen (15) business days each by providing written notice to BUYER.
10. TERMINATION BY SELLER. SELLER retains the right to terminate this Memorandum and the sale of the PROPERTY in the event that (a) it is stayed from consummating the sale by virtue of the automatic stay provisions of the Bankruptcy Code or other Bankruptcy Court order; (b) a court approves a memorandum of lis pendence against the PROPERTY; (c) SELLER is enjoined from conveying the PROPERTY to BUYER for any reason; or (d) if SELLER determines, in SELLER's sole, exclusive and unrestricted discretion, that, for any reason, it is not in the best interest of SELLER or the Mortgagee, to complete the sale. In the event of such termination, the deposit and any other sums paid to SELLER in anticipation of closing, shall be returned to BUYER, notwithstanding the general non-refundability of the deposit, in which case all of BUYER's rights, whether arising under or in connection with this Memorandum, the auction or otherwise, shall cease, and BUYER will have no recourse, whether at law or in equity, against SELLER, SELLER's agents, attorneys, employees, auctioneer or representatives.
11. TITLE. SELLER, as Mortgagee, shall convey all SELLER's right, title and interest in the PROPERTY, as Mortgagee, to BUYER subject to all matters of record and expressly, but without limiting the foregoing, subject to all unpaid real estate taxes, water and sewer assessments, or liens, if applicable, any other municipal assessments or liens, other charges related to the PROPERTY, persons or tenants in possession, other liens which may be entitled to priority over the Mortgage and any other condition or circumstance affecting the PROPERTY, except that all outstanding real estate taxes shall be paid at closing.

The auction sale, this Memorandum and BUYER's obligation to perform fully all of BUYER's obligations pursuant to this Memorandum will not be invalidated by errors or mis-description of the size of the parcel or land sold, or the improvements which may be thereon, and BUYER hereby waives any claim or right BUYER might otherwise have by reason of any such error or mis-description of, and agrees that if the PROPERTY can be identified by the description as given, or by part thereof, BUYER shall accept title to the PROPERTY based upon said description at full price, without reduction, in complete satisfaction and fulfillment of SELLER's obligations and SELLER's auctioneer, attorneys, agents, employees and representatives.

12. DEFAULT. In the event that BUYER shall fail to perform under this Memorandum, upon five (5) days written notice to BUYER, SELLER may declare BUYER in default, retain the deposit and offer the PROPERTY for sale to the maker of the second highest bid at the auction at an amount equal to or greater than the current bid by said second-highest bidder. In the event that said second-highest bidder shall refuse to execute a Memorandum of Sale or to purchase the PROPERTY, SELLER shall have the option, but not the obligation, to purchase the PROPERTY for the amount of the second-highest bidder.

SELLER shall have the option, in its sole and unrestricted discretion, and as an alternative to the options set forth above, to resell the PROPERTY pursuant to the statutory power of sale, at auction, without notice to or approval from, BUYER or any other bidders. SELLER is under no obligation to offer the PROPERTY to any other bidders prior to conducting a subsequent foreclosure auction in the event of default by BUYER.

The sale of the PROPERTY either to the second-highest bidder or upon a resale of the PROPERTY at auction pursuant to the statutory power of sale, shall not relieve BUYER from liability for breach of this Memorandum. In the case of default by BUYER, the deposit paid by BUYER shall become the PROPERTY of SELLER. Retention of the deposit shall not constitute a waiver of SELLER's rights to pursue all other available remedies including, but not limited to, specific performance, a suit for damages and other remedies, all of such rights being hereby expressly reserved by SELLER.

13. STATUTORY DISCLOSURES. 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 notifications:
- A. RADON GAS (477:4-a): 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.
 - B. LEAD PAINT (477:4-a): Before 1977, paint containing lead may have been used in structures. The presence of flaking paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present.
 - C. ARSENIC (477:4-a): 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.

D. PUBLIC WATER SUPPLY (477:4-c/d):

1. Type of system: PRIVATE
2. Location: UNKNOWN
3. Date of installation: UNKNOWN
4. Date of most recent water test (including the results thereof and a description of any unsatisfactory conditions or notations): UNKNOWN
5. Problems experienced by SELLER: UNKNOWN
6. Malfunctions: UNKNOWN

E. PUBLIC/PRIVATE SEWAGE DISPOSAL SYSTEM (477:4-c/d):

1. Size of the tank: UNKNOWN
2. Type of system: PRIVATE
3. Location: UNKNOWN
4. Malfunctions: UNKNOWN
5. Age of system: UNKNOWN
6. Date of most recent service: UNKNOWN
7. Name of contractor who services the system: UNKNOWN

F. INSULATION (477:4d): The Seller hereby discloses the following:

1. Type: UNKNOWN
2. Location: UNKNOWN
3. R Factor: UNKNOWN

G. HISTORY OF PROPERTY (477:4-c): To the best of Seller's knowledge and belief, the Property was not the site of a homicide, suicide or felony.

H. METHAMPHETAMINE (477:4-G): To the best of Seller's knowledge and belief, no methamphetamine production or any other conduct prohibited by N.H. RSA 318-D has occurred on the Property.

I. UREA-FORMALDEHYDE RESIN CAUTIONARY STATEMENT (RSA399-A:10 (For Residential Property Only))

Urea-Formaldehyde Resin. Pursuant to NH RSA 339-A:10, the Seller makes the following disclosure: (initial one)

(i) To the best of Seller's knowledge and belief, the PREMISES does not contain any particle board, fiberboard, or any similar construction materials that contain Urea-Formaldehyde resin; _____

(ii) The PREMISES contains (or may contain) Urea-Formaldehyde Resin. For some people, Urea-Formaldehyde may cause health problems, such as irritation of the eyes, nose and throat, coughing, headaches, shortness of breath, or

chest or stomach pains. Children under two years of age, elderly persons with breathing problems or persons with allergies may have more serious difficulties. If you have a question about problems you may have with Urea-Formaldehyde, consult a doctor. _____

- J. PUBLIC UTILITY TARIFF (477:4-h): With respect to any metered public utility services at the Property where Buyer may be responsible for payment as a condition of the provision of such utility services, Seller represents, that to the best of its knowledge and belief:

The service is or is NOT provided under a tariff with unamortized or ongoing charges for energy efficiency or renewable energy improvements pursuant to RSA 374:61 and if so,

- (i) The remaining term and amount of such charges are n/a; and
- (ii) The estimate or documents regarding the gross or net energy or fuel savings resulting from such financed or amortized improvements and investments are: n/a are not available.

- K. WATER FRONT PROPERTY SITE ASSESSMENT. The Property is waterfront property within the meaning of NH RSA 485-A:39, or regulations promulgated pursuant thereto. SELLER will not obtain a WATERFRONT PROPERTY SITE ASSESSMENT FORM.

14. ASSIGNMENT. BUYER's rights and obligations hereunder may not be assigned without SELLER's prior, express, written consent.
15. AMENDMENT. This Memorandum completely and fully sets forth the agreement between the parties. This Memorandum shall only Be modified or amended by an instrument in writing signed by all parties.
16. APPLICABLE LAW. This Agreement shall be interpreted under the laws of the State of New Hampshire and shall inure to the benefit of, and be binding upon, the heirs, successors and assigns of the parties, The captions used herein are for convenience only, are not a part of this Agreement, and shall not be used in construing it.
17. LITIGATION. In the event that either the SELLER or BUYER initiates legal proceedings against the other to enforce any term or provisions of this Memorandum, the prevailing party shall be entitled to recover reasonable attorney's fees and costs in pursuing such litigation.

WITNESS our hands as of the date first written above.

SELLER:

THE TOWN OF HOLLIS

By: _____

Name: _____

Title: _____

(duly authorized)

BUYER:

Name: _____

Address: _____

Telephone: _____

Email address: _____