

**PURCHASE AND SALE AGREEMENT**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between **THE TOWN OF BROOKLINE**, a municipality with a principal place of business at 1 Main Street, Brookline, County of Hillsborough, and State of New Hampshire 03033, by and through its duly elected and authorized Selectboard (hereafter referred to as **SELLER**) and \_\_\_\_\_, \_\_\_\_\_, (hereafter referred to as **BUYER**).

**Recitals**

1. **Seller** is the owner of certain real property consisting of a tract with buildings thereon, with an address of **237 State Route 13, Brookline, NH 03033**, which is property shown on the Town of Brookline Tax Maps as **Tax Map D, Lot 30**; which property shall be referred to hereafter as the '**Property**'.
2. The **Seller** acquired title to the **Property** by virtue of a Tax Deed. The Town obtained said deed from the Tax Collector pursuant to his/her authority as set forth in NH RSA 80:76. Said Tax Deed is dated **November 19, 2019**, and has been recorded in the Hillsborough County Registry of Deeds at **Volume 9234, Page 452**.
3. The Selectboard of the Town of Brookline have been authorized by its meeting on **April 20, 2020**, to sell said Property.
4. The **Seller** wishes to sell and the **Buyer** wishes to buy the **Property** on the terms and conditions set forth herein.

NOW THEREFORE, in order to carry into effect the intention of the parties as set forth above, and in consideration of the promises and covenants made herein, the parties hereby agree as follows:

**SECTION 1**  
**DESCRIPTION OF THE PROPERTY**

Upon the terms and conditions hereinafter set forth, the **Seller** agrees to sell and convey and the **Buyer** agrees to purchase and accept the property comprising the **Property** as defined above.

**SECTION 2**  
**SALES PRICE**

The total sales price for the Property shall be \_\_\_\_\_.

**SECTION 3**  
**TERMS OF PAYMENT**

The sales price shall be paid as follows:

- Upon execution of this agreement by all parties, **Buyer** shall make a deposit in the amount of \_\_\_\_\_, which deposit shall be held by the **Seller**. Upon the occurrence of the closing, the deposit shall be applied to the purchase price.
- The **Buyer** shall pay the balance of the full sales price, \_\_\_\_\_ at the time of closing and transfer of title in the form of cash or certified check or bank check.

**SECTION 4**  
**DEED/TITLE**

The Property is to be conveyed by a NO WARRANTY DEED, running to the **Buyer** and said deed shall convey only the following:

- a. They have been given appropriate authority to dispose of tax deeded property pursuant to NH RSA 80:80 by a vote of the Town meeting; and,
- b. The Town acquired its interest in and to the premises by deed of the Collector of Taxes dated **November 19, 2019**, and recorded in the Hillsborough County Registry of Deeds at s at **Volume 9234, Page 452**.
- c. Other than the foregoing, no warranties of any kind, including warranties of title will be made by the Selectmen.
- d. The property will be sold '**Where Is and As Is.**'

The **Buyer** reserves the right to have an examination of title made at its own expense. If upon examination of title, it is found that the title is not satisfactory to the **Buyer**, this Agreement may be rescinded by written notice from the **Buyer** to the **Seller** no later than the conclusion of the **due diligence** period specified below. Upon such rescission all obligations of either party hereto shall cease. Failure to provide such notice within said time period shall constitute a waiver of the right to terminate for this reason.

**SECTION 5**  
**TRANSFER OF TITLE**

Closing shall be held on a date selected by **Buyer** within thirty (30) days of the date of the execution of this agreement by all parties. In no event shall closing be held later than **September 1, 2017** unless extended by mutual agreement in writing. Closing shall be held at Brookline Town Offices or at the location of the **Seller's** title agent.

Possession of the **Property** shall be delivered at closing, free of all tenants, occupants or persons in possession **other than the Tenant (Food Cart) referenced in Section 4, above**, and in compliance with the terms of this agreement.

**SECTION 6**

## TAXES

It is acknowledged that since the **Seller** is a municipality, there are NO taxes with respect to the **Property** for the current year to be prorated up to and including the closing date with the exception of any taxes associated with the current lease of the premises. The **Property**, however, after said closing date shall be subject to such assessment that would be applicable given any use or conditions of the property after the closing date.

## SECTION 7 CLOSING COSTS, OUTSTANDING CHARGES AND RECORDING CHARGES

The parties acknowledge that it is their respective understanding that there should be no New Hampshire Documentary Transfer Tax due from the **Seller** required with respect to the **Seller's** portion of this transaction for reason of the fact that Seller is a municipality. However, it is understood that the **Buyer** will be responsible for its share of said Transfer Tax by virtue of the applicable Rule at **Rev 802.03, (a)**. In addition the **Buyer** agrees to pay for the recording costs for the deed incurred by the Hillsborough County Registry of Deeds at the time of closing.

## SECTION 8 FINDER'S FEES OR BROKERAGE COMMISSIONS

Both parties acknowledge that there is no broker which brought about this transaction on behalf of either party involved in this transaction and that no real estate broker, sales agent or other real estate professional is due a commission or fee in connection with this transaction. Each party shall be solely responsible for payment of any such commission or fee owed to any such real estate professional as a consequence of that party's association or involvement with such real estate professional.

## SECTION 9 DEFAULT, TERMINATION AND EFFECT

In the event the **Buyer** shall be in default by reason of the failure or refusal to comply with the terms of this Agreement, the amount of the deposit shall become the property of the **Seller** as reasonable liquidated damages in lieu of all other remedies of the **Seller**. If the **Seller** shall default in its obligations under this Agreement then the Buyer may seek any remedy available at law or equity, including the remedy of specific performance.

## SECTION 10 EXTENSIONS

Notwithstanding any language in this Agreement to the contrary, the parties may extend any time limit indicated in this Agreement by mutual agreement in writing.

## SECTION 11 PRIOR STATEMENTS

All representations, statements, and prior agreements previously made between the parties hereto are merged into this Agreement which alone fully and completely expresses the respective obligations and this Agreement is entered into by each party after opportunity for investigation, neither party relying on any statement or representation not embodied in this Agreement made by the other or on his or its behalf.

**SECTION 12**  
**BINDING ON SUCCESSORS**

This Agreement shall be binding upon the heirs, executors, administrators and assigns of both parties. This Agreement shall not be assigned by the **Buyer** without the express written consent of the **Seller**.

**SECTION 13**  
**NOTICE**

All notices required or permitted by this Agreement shall be in writing and shall be sent to the addresses listed above in the preamble to this agreement.

**SECTION 14**  
**CONDITION OF THE PROPERTY**

It is understood that the property is being sold ‘**As Is**’ and that the **Buyer** acknowledges that there is no contingencies relating to the condition of the Property.

The closing must take place within the next 30 days from the date of the execution of this agreement by all parties unless extended by the mutual written agreement of the parties.

As Is Condition. Except as expressly set forth in this Agreement, it is understood and agreed that Seller is not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Premises, including, but not limited to, any warranties or representations as to size, topography, developability, habitability, merchantability or fitness for a particular purpose or as to the physical, structural or environmental condition of the Premises or its compliance with any laws.

Buyer acknowledges and agrees that upon Closing, Seller shall sell and convey to Buyer and Buyer shall accept the Premises “**AS IS, WHERE IS, WITH ALL FAULTS**”. Buyer has not relied and will not rely on, and Seller is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining or relating to the Premises made or furnished by Seller, to whomever made or given, directly or indirectly, orally or in writing, unless specifically set forth in this Agreement. Buyer also acknowledges that the Purchase Price reflects and takes into account that the Premises is being sold “As Is”.

**SECTION 15**  
**NEW HAMPSHIRE LAW**

This Agreement is to be construed as a New Hampshire contract and is to take effect immediately upon the execution by all parties.

**SECTION 16**  
**TIME IS OF THE ESSENCE**

Time is of the essence of all dates and time periods of this Agreement. Nevertheless, it is agreed that any deadline or performance date in this Agreement may be extended by mutual written agreement of the parties.

**SECTION 18**  
**ADDITIONAL PROVISIONS**

- A. **Binding Effect** - This Agreement shall be binding upon and for the benefit of the parties hereto and their respective legal representatives, successors, and assigns.
- B. **Severability** - If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- C. **Independent Counsel and Lack of Coercion** - The parties both acknowledge and agree that each of them has sought and been represented by independent counsel with respect to the negotiations, drafting and execution of this agreement. Both parties acknowledge and agree that they have entered into this agreement of their own free will and without any coercion or undue influence. The parties represent and acknowledge that each party's independent counsel has fully reviewed and explained the legal and practical effect of this agreement, and having the knowledge of such advice and with an understanding of the force and effect of this agreement, each party signs this agreement voluntarily, of his, her or its own free will, and without any undue influence, fraud, coercion or duress of any kind whatsoever exercised upon either of them by the other party or any person.
- D. **Condition of the Property and Warranties** - The parties acknowledge that the *Seller* makes no warranties as to the condition of the Property or any buildings thereon, nor does it warrant that the Property is fit for use for any purpose. The Property is being sold '*As Is*', in the condition that exists at the time of the closing. *Buyer* acknowledges that it has made an inspection of the Property and is satisfied to purchase the Property with this understanding.

E. **STATUTORILY REQUIRED NOTIFICATIONS AND DISCLOSURES**

1. **Radon Gas, Arsenic and Lead Paint Notification - (RSA 477:4-a).**

'Radon Gas: 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](http://www.des.nh.gov)) to ensure a safe water supply if the subject property is served by a private well.'

'Lead Paint: 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 women. Tests are available to determine whether lead is present.'

2. Notification Required; Subsurface Disposal Systems - (RSA 477:4-b)

Any person seeking to obtain approval for a subsurface sewage disposal system shall meet the requirements set forth in RSA 485-A:29 and 30.

3. Water Supply, Sewage Disposal and Other Disclosures (RSA 477:4-c,d).

RSA 477:4-c:

(i) Water Supply System:

- (a) Type: Municipal Water - Town of Brookline Water Utility
- (b) Location: In Adjacent Public Highway
- (c) Malfunctions: n/a
- (d) Date of Installation: n/a
- (e) Date of Most recent Water Test: n/a
- (f) Problems Experienced by SELLER:

*Property is site of State and Federal Mandated Superfund remediation effort. Groundwater is contaminated. Mitigation efforts resulted in placement on the Property of several monitoring wells. The state and federal authorities having jurisdiction of the mitigation efforts have given permission to allow the Property to be sold, so long as it is sold subject to a notice and conditions of future use which are outlined in a document entitled '**Notice of Activity and Use Restrictions**', dated July 17, 2017, a copy of which is attached hereto and incorporated herein by reference.*

(ii) Sewage Disposal System:

- (a) Size of Tank: n/a Municipal Sewer is available
- (b) Type: n/a
- (c) Location: n/a
- (d) Malfunctions: n/a
- (e) Age: n/a
- (f) Date Most Recently Serviced: n/a
- (g) Name of Contractor Who Services System: n/a

(iii) Insulation:

- (a) Type: Unknown
- (b) Location: Unknown

RSA 477:4-d:

RSA 477:4-d. Notification Required.

I. Prior to or during the preparation of an offer for the purchase and sale of any interest in real property to be used or proposed to be used for a one to 4 family dwelling, the seller shall disclose, in writing, the following information to the buyer. The buyer shall acknowledge receipt of the disclosure by signing a copy of the disclosure:

(a) Information relative to the type of private water supply system, its location, malfunctions, date of installation, date of most recent water test and whether or not the seller has experienced a problem such as an unsatisfactory water test or a water test with notations. *There is no private water supply so that this section is not applicable.*

(b) Information relative to the private sewage disposal system including its location, malfunctions, the date it was most recently serviced and the name of the contractor who services the system. *There is no private sewage disposal system so that this section is not applicable.*

(c) Information relative to the insulation, including type and location. *Information relative to insulation, including type and location, are unknown to the Seller.*

II. The fact that the information requiring disclosure regarding the private water supply system, private sewage disposal system, and insulation is not available shall also be conveyed, in writing, when such is the case. *Not Applicable - See prior response.*

4. *Notification Prior to Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced - RSA 477:4-g:*

I. In any purchase and sale agreement, lease agreement, or rental agreement before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under RSA 318-D has occurred on such property and prior to the determination by the department of environmental services, pursuant to paragraph II, that the property meets remediation cleanup standards:

(a) The seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, methamphetamine production has occurred on the property. *The Seller discloses that it has no knowledge that methamphetamine production has ever occurred on the property.*

(b) If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant. *Not Applicable, see prior response.*

II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

5. *Notification Prior to Sale, Transfer, Lease, or Rental of Real Property Subject to a Public Utility Tariff Pursuant to RSA 374:61 For the Financing or Amortization of Energy Efficiency or Renewable Energy Improvements - RSA 477:4-h.*

I. Prior to or during the preparation of an offer for the purchase and sale of any interest in real property and in conjunction with an offer to lease or rent real property and before signing an agreement to sell, transfer, lease, or rent real property the seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, any metered public utility services at the premises that the buyer, transferee, lessee, or occupant may be responsible for paying as a condition of such utility service is provided under a tariff with unamortized or ongoing charges for energy efficiency or renewable energy improvements pursuant to RSA 374:61. Such disclosure should include, if known, the remaining term and amount of such charges and any estimates or documentation of gross or net energy or fuel savings resulting from such financed or amortized improvements and investments. The buyer shall acknowledge receipt of the disclosure by signing a copy of the disclosure.

*There are no metered public utility services at the premises that the buyer, transferee, lessee, or occupant may be responsible for paying as a condition of such utility service is provided under a tariff with unamortized or ongoing charges for energy efficiency or renewable energy improvements pursuant to RSA 374:61.*

II. In the case of a sale or transfer of real property, the fact that information regarding such required disclosure is not available shall also be conveyed, in writing, when such is the case. *Not Applicable see prior response.*

**IN WITNESS WHEREOF** the parties have set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 2020,

**Buyer:**

\_\_\_\_\_

\_\_\_\_\_  
**Witness:**

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

**Seller:**

**TOWN OF Brookline  
BY the Selectboard**

**Selectboard:**

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