

RESIDENTIAL REALTY PURCHASE AND SALE AGREEMENT

This REALTY PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of _____, 20____, is entered into by and between:

NAME: _____
ADDRESS: _____
_____ ("Seller").

and

NAME: _____
ADDRESS: _____
_____ ("Purchaser").

In consideration of the mutual promises and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties to this Agreement, intending to be legally bound, agree as follows:

1. **Public Auction.** This Agreement provides for the sale and conveyance of real property offered at public auction (the "Auction") on _____, 20____ by ROWE REALTY AND APPRAISAL, INC. d/b/a Rowe Auctions and Appraisal, 4040 West Walworth Road, Macedon, NY 14502 ("Auctioneer").

2. **The Property.** As more particularly described on the property description attached to this Agreement as Exhibit A, which Exhibit A is incorporated herein by reference and made a part of this Agreement, the real property subject to this Agreement (the "Property") is, as follows:

Street: _____
Municipality: _____
County: _____
State: _____
Zip Code: _____

Property Identification Number: _____

Total acreage of the Property is approximately _____ (_____) acres, more or less. Seller believes the amount of acreage of the Property to be accurate, but neither Seller nor Auctioneer makes any representation or warranty as to the actual acreage amount. Purchaser acknowledges and agrees that Purchaser has had the opportunity to verify acreage prior to the Auction, by survey or otherwise, and Purchaser waives any and all claims against Seller and Auctioneer regarding, or in any way respecting, the actual acreage of the Property.

3. **Personal Property; Fixtures.** The following items located in, at, or about the Property will convey with the Property:

4. **High Bid Price.** Purchaser was the successful high bidder for the Property at the Auction, with a bid in the amount of _____ Dollars (\$_____) (the "High Bid Price").

5. **Buyer's Premium.** Purchaser is responsible for paying a Buyer's Premium to Auctioneer, for Auctioneer's own account, in an amount equal to _____ percent (____%) of the High Bid Price (the "Buyer's Premium").

6. **Purchase Price.** The total purchase price for the Property (the "Purchase Price") is

_____ Dollars (\$_____), calculated as follows:

High Bid Price \$_____

plus Buyer's Premium \$_____

Purchase Price \$_____

7. **Sale and Purchase of the Property.** As set forth in this Agreement, Seller agrees to sell and convey the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller, for the Purchase Price.

8. **Payment of Purchase Price.** The Purchase Price will be paid, as follows:

- (i) **Deposit.** A deposit in cash, certified funds, approved check, or other immediately available funds paid by Purchaser to Auctioneer on the signing of this Agreement (the "Deposit") in the amount of _____ Dollars (\$ _____).
- (ii) **Balance of Purchase Price.** The balance of the Purchase Price will be paid in cash, by certified check, or by other immediately available funds at the Closing.

9. **Escrow.** The Deposit will be held by Auctioneer in a non-interest bearing account. Auctioneer will not be liable to Seller or Purchaser for any acts or omissions regarding the Deposit unless taken or suffered in bad faith, in willful disregard of this Agreement, or involving gross negligence. Seller and Purchaser will jointly and severally indemnify, defend and hold Auctioneer harmless from and against all costs, claims, and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Auctioneer's duties under and pursuant to this Section, except with respect to acts or omissions taken or suffered by Auctioneer in bad faith, in willful disregard of this Agreement, or involving gross negligence. In no event will Auctioneer be liable for unearned interest with respect to the Deposit. If Purchaser defaults under this Agreement, Auctioneer will be entitled to retain any and all amounts owing to Auctioneer from Seller, including, without being limited to, Auctioneer's expenses, Commission, and Buyer's Premium from the Deposit prior to distributing any remaining portions of the Deposit to Seller or otherwise disbursing such monies.

10. **Contingencies.**

No Contingencies. This Agreement, and the transactions contemplated hereunder, are not subject to any contingencies, including, without being limited to, mortgage or financing contingencies, inspection contingencies, and attorney approval, all of which are waived by Purchaser. Purchaser understands that any and all repairs, inspections, surveys, or permits are strictly and solely Purchaser's obligation and at Purchaser's expense.

Mortgage Contingency; No Other Contingencies. This Agreement, and the transactions contemplated hereunder, are contingent on Purchaser obtaining mortgage financing in an amount equal to the Purchase Price, less the Deposit. Purchaser will immediately apply for, and will diligently pursue, such financing. This Agreement, and the transactions contemplated hereunder, are not subject to any other contingencies, including, without being limited to, inspection contingencies and attorney approval, all of which are waived by Purchaser. Purchaser understands that any and all repairs, inspections, surveys, or permits are strictly and solely Purchaser's obligation and at Purchaser's expense.

11. **Closing.** Unless otherwise agreed in writing, the settlement at which Purchaser will pay the balance of the Purchase Price and Seller will sell, transfer, and convey the Property to Purchaser (the "Closing") will occur on or before _____, 20____, at the offices of Purchaser's title agent or at such other location mutually agreed to by Seller and Purchaser. The actual date on which the Closing occurs will be the "Closing Date." Purchaser will provide Seller with written notice of the Closing Date not less than five (5) business days in advance thereof.

12. **Possession.** Possession will be delivered, with the keys, at the Closing.

13. **Seller's Delivery of Title Documents and Other Materials.** At Closing, Seller will deliver, at Seller's expense: (i) a Special Warranty Deed with lien covenant (or an Executor's Deed, Administrator's Deed or Trustee's Deed if Seller holds title as an Executor, Administrator, or Trustee) (the "Deed"); (ii) carbon monoxide detector and smoke alarm affidavits; (iii) any other documents required by law; (iv) documents reasonably required by Purchaser's lender (recognizing that there is no financing contingency, and provided there is no cost or liability to Seller); and (v) assignment of leases and transfer of security deposits, if any.

14. **Title.** At the Closing, Seller will convey good and marketable title to the Property, in fee simple absolute, free and clear of any and all liens, encumbrances, and easements, excepting, however, any (i) any building restrictions, (ii) any ordinances, (iii) any easements of roads, (iv) any easements, privileges, or rights of public service companies, (v) any easements or servitudes visible upon the ground or apparent from an inspection of the Property, (vi) any variation in location or dimensions, conflict with lines of adjoining property, encroachments, projections or other matters that might be disclosed by an accurate survey of the Property, (vii) any covenants, restrictions, and easements of public record, and (viii) any reservations, restrictions, conveyances, or limitations with respect to gas, mineral, oil, and timber rights.

15. **Title Defects; Objections to Title.** If Seller is unable to convey and transfer good and marketable title to the Property as required under this Agreement, including the instance of Purchaser's objection to title, in writing, showing that title to the Property is unmarketable, then Seller may cancel this Agreement on written notice to Purchaser, and the Deposit will be returned to Purchaser. However, if Seller: (i) is able to cure the objection at or before the Closing, or (ii) is able to insure over the title defect or objection and Purchaser is willing to accept insurable title, then this Agreement will continue in force and effect subject to the Seller curing the title defect or objection and/or providing insurable title at Seller's expense. If

Seller fails to cure a title defect or objection at or before the Closing, or if Purchaser is unwilling to accept insurable title, Purchaser may cancel this Agreement upon written notice to Seller and the deposit will be returned to Purchaser. Should this Agreement be cancelled in accordance with this Section, the parties will have no further liability to each other on the return of the Deposit.

16. **Transfer Taxes and Recording Fees.** Seller will pay the real property transfer tax; provided, however, that if the Purchase Price is \$1,000,000 or more, the additional transfer tax identified in Section 1402-a of the Tax Law will be paid by the Purchaser. Purchaser will pay for recording the Deed and any mortgage recording fees, mortgage tax, or other fees or costs associated with a mortgage given by Purchaser.

17. **Apportionment of Taxes and Periodic Costs.** Taxes and all other periodic realty costs, if any, will be apportioned *pro rata* as of the Closing Date. All taxes will be considered to be on a calendar year basis, with the exception of school taxes, which will be pro-rated on a fiscal year basis. Seller will pay for all days up to and including the Closing Date, and Purchaser will pay for all days following the Closing Date.

18. **Title Agent.** Purchaser will be responsible for any and all fees or costs payable to any title agent conducting or attending the Closing, or who performs a title search or prepares a title report.

19. **Gas, Mineral, Oil and Timber Rights.**

All gas, mineral, oil, and timber rights will transfer with the Property.

No gas, mineral, oil, and timber rights will transfer with the Property, and the same are reserved to the Seller, or are subject to other reservation or conveyance.

Transfer of Gas, mineral, oil, and timber rights will be as follows:

20. **Survey.** Any survey that is necessary or desired will be secured and paid for by Purchaser.

21. **Seller's Property Condition Disclosure Statement.**

Seller has provided Purchaser with a Seller's Property Condition Disclosure Statement (a copy of which is attached to this Agreement).

Seller has not provided Purchaser with a Seller's Property Condition Disclosure Statement, and Seller will credit Purchaser \$500.00 at Closing in lieu of such statement.

No Seller's Property Condition Disclosure Statement is provided because Seller is exempt from providing such statement.

22. **Property Sold AS IS, WHERE IS, and WITH ALL FAULTS AND DEFECTS.** Purchaser acknowledges and agrees that the Property, including the real property and any personal property and fixtures conveying with the real property, is sold **AS IS** and **WHERE IS**, in its current condition (subject to reasonable use, wear, tear, and natural deterioration between the date of this Agreement and Closing), **WITH ALL FAULTS AND DEFECTS**, and Purchaser hereby releases and forever discharges Seller and Auctioneer from any and all claims liabilities, losses, damages, costs, and expenses resulting therefrom or in connection therewith. Purchaser acknowledges and agrees that Purchaser has not relied on any representation, claim, oral understanding, advertising, promotional activity, brochure, or plan of any kind made by the Seller, or by Auctioneer, in connection with this Agreement or Purchaser's purchase of the Property. Seller and Auctioneer make no representations, warranties or guarantees, express or implied, written or oral, of any kind whatsoever. Purchaser acknowledges and agrees that Purchaser has relied solely on Purchaser's own personal investigations and inspections relative to bidding on and purchasing the Property.

23. **Opportunity for Inspection; Pre-Closing Inspection; Other Inspections Waived.** Purchaser acknowledges and agrees that: (i) Purchaser was afforded the opportunity to view and inspect the Property prior to bidding; (ii) Purchaser may conduct a pre-Closing inspection of the Property within forty-eight (48) hours prior to Closing for the purposes of determining whether the condition of the Property has changed in any material way from the date of this Agreement; and (iii) with the exception of a pre-Closing inspection, any and all other inspections, including, without being limited to, the following inspections, are not material to Purchaser's purchase of the Property, and are waived, and that Purchaser will purchase the Property regardless of whether serious or substantial deficiencies are revealed by reason of any such inspections subsequently commissioned by or on behalf of Purchaser:

(i) Termite/Pest/Wood Infestation Inspection;

(ii) Radon Test;

- (iii) Structural (including roof and foundation);
- (iv) Electrical Inspection;
- (v) Plumbing Inspection;
- (vi) Heating System Inspection;
- (vii) Water analysis to determine potability;
- (viii) Percolation inspection to determine use of Property in conjunction with PA Sewage Facilities Act;
- (ix) Septic/Sewage Disposal System;
- (x) Inspections to determine environmental hazards and/or toxic wastes or substances;
- (xi) Wetland Studies; and
- (xii) Lead Testing.

PURCHASER HEREBY RELEASES, QUIT CLAIMS AND FOREVER DISCHARGES AND RELEASES SELLER AND AUCTIONEER FROM ANY AND ALL CLAIMS, LOSSES OR DEMANDS, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURIES AND PROPERTY DAMAGE AND ALL OF THE CONSEQUENCES THEREOF, WHETHER NOW KNOWN OR NOT, WHICH MAY ARISE FROM THE PRESENCE OF TERMITES OR OTHER WOOD-BORING INSECTS, RADON, LEAD-BASED PAINT HAZARDS, ENVIRONMENTAL HAZARDS, ANY DEFECTS IN THE INDIVIDUAL ON-LOT SEWAGE DISPOSAL SYSTEM OR DEFICIENCIES IN ANY ON-SITE WATER SERVICE SYSTEM, OR ANY DEFECTS OR CONDITIONS ON THE PROPERTY. THIS DISCHARGE AND RELEASE WILL SURVIVE CLOSING.

24. **Water and Sewage Systems.**

The Property is serviced by on-site water and sewage systems. Purchaser understands, acknowledges, and agrees that a municipal sewer system is not available to the Property.

The Property is serviced by municipal water and sewage systems.

The Property is serviced by an on-site water system and a municipal sewage system.

The Property is serviced by a municipal water system and an on-site sewage system.

25. **Utilities.** The Property is serviced by:

Electric

Fuel Oil

Natural Gas

Propane (check appropriate)

☐ tank owned by Seller

☐ tank not owned by Seller

☐ existing written contract for the supply of propane

☐ no existing written contract for the supply of propane

26. **Environmental Issues.** Neither Seller nor Auctioneer has made any representations as to any environmental, health or safety conditions that which exists or may arise at the Property. Purchaser assumes responsibility for any and all clean-up costs, and will indemnify Seller, and hold Seller harmless, with respect to the same.

27. **Zoning.** Purchaser acknowledges and agrees that Purchaser is not relying on any representations by Seller or Auctioneer concerning the zoning classification of the Property, and that it is Purchaser's responsibility to contact the appropriate officials, and to review appropriate records, to determine the zoning classification of the Property and the uses permitted thereon.

28. **Compliance; Certificate of Occupancy.** Purchaser understands and agrees that any and all requirements needed for compliance with all federal, state, or local laws, ordinances, inspections, permits, zoning, or occupancy are strictly and solely Purchaser's responsibility at Purchaser's sole cost and expense. Without limiting the generality of the foregoing: it is the Purchaser's obligation, at Purchaser's sole cost and expense, to obtain any necessary Certificate of Occupancy, and no

Certificate of Occupancy will be acquired or provided by Seller; and (ii) Seller will not provide any certificates of compliance or any other evidence that the improvements that are a part of the Property comply with building codes and ordinances.

29. **Risk of Loss.** Risk of loss or damage to the Property by fire or other casualty is assumed by the Seller until Closing. If the Property suffers material damaged prior to Closing, either party may cancel this Agreement, and on return of the Deposit, neither party will have any further obligations or liability to other. If this Agreement is not cancelled pursuant to this Section, any insurance proceeds (or Seller's claim to insurance proceeds) will be transferred to Purchaser.

30. **Brokerage Fees.** Each of the parties represents and warrants to the other that, except for (i) fees payable to Auctioneer, (ii) brokerage participation fees agreed to by Auctioneer, or (iii) as otherwise expressly set forth in this Agreement, there are no brokerage, realtor or other fees or commissions due by either of them concerning the sale and/or purchase of the Property. In the event that any fees or commissions, of whatever nature, are due and owing, the party incurring the same will have the sole and exclusive liability for payment. Each party agrees to hold the other safe and harmless from any and all fees and commissions due or payable in conjunction with the sale and/or purchase of the Property.

31. **Purchaser's Default.** If Purchaser fails to comply with the terms and conditions of this Agreement,

Seller may retain the Deposit as liquidated damages (and not as a penalty), and, thereafter, Seller may proceed to make a resale of the Property, either at public or private sale.

Seller may retain the Deposit to be applied against damages suffered on account of Purchaser's breach, and Seller may pursue any and all remedies available to Seller at law or equity, including, without being limited to, the costs and expenses of a resale of the Property, any diminution in price at resale, and any and all attorneys' fees incurred as a consequence of Purchaser's breach.

32. **Seller's Default.** If Seller is unable to deliver good and marketable title to the Property, or otherwise defaults under this Agreement, Purchaser's sole and exclusive remedy will be the return of the Deposit. Under no circumstances will Purchaser be entitled to incidental or consequential damages, lost profits, or specific performance.

33. **Notices.** All notices, requests and demands under this Agreement will be in writing, to the addressed shown on the attached Administrative Page. Notices may be given by any of the following means: (i) personal service (including, without limitation, overnight delivery, courier or messenger services); (ii) electronic communication, whether by email, telex, telegram, or fax (if confirmed in writing sent by registered or certified, first-class mail, postage prepaid, return receipt requested), or (iii) registered or certified, first-class United States mail, postage prepaid, return receipt requested. Addresses for receipt of notice may be changed by notice to the other party given in the manner provided above. Any notice, demand or request sent (i) by personal service will be deemed received on such personal service or refusal to accept delivery, (ii) by electronic communication will be deemed received on the day of dispatch by electronic means, and (iii) registered or certified mail will be deemed received five (5) days following deposit in the mail.

34. **Recording.** This Agreement will not be recorded in the Office for the Recorder of Deeds or in any other office or place of public record, and if Purchaser causes or permits this Agreement to be recorded, Seller may elect to treat such act as a breach of this Agreement.

35. **Fair Housing Statement.** Under and pursuant to the Federal Fair Housing Law, 42 U.S.C.A. 3601, it is illegal to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, disability or national origin; or to discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services. It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.

36. **Assignment.** This Agreement may not be assigned or transferred by Purchaser without the prior written consent of Seller.

37. **Binding Effect.** This Agreement will be binding on, and will inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns as the case may be.

38. **Time of the Essence.** Time is of the essence in the performance of this Agreement

39. **Headings.** The headings used in this Agreement are for the convenience of reference only and will not control the interpretation of any term or condition hereof, and will not have independent significance.

40. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties, and supersedes any and all prior written or oral understandings or agreements and any and all contemporaneous oral understandings or agreements with respect to the subject matter of this Agreement.

41. **Amendment.** This Agreement may only be modified or amended by a writing signed by both parties.

42. **Applicable Law.** This Agreement will be governed by and construed in accordance with the laws of the State of New York, including its statutes of limitations, but without regard to its rules governing conflict of laws.

43. **Jurisdiction and Venue.** All claims, disputes, and other matters between the parties will be brought in the state or federal courts sitting in and for _____ County, New York, which courts will have exclusive jurisdiction, and will be the exclusive venue, for any and all such claims, disputes, and other matters between the parties.

44. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which, taken together, will constitute one and the same instrument.

45. **Attachments.** The following Attachments are incorporated into and attached to and made a part of this Agreement:

Administrative Page Agricultural Districts/Farming Activity Disclosure Mediation
Sale & Transfer of Title Contingency All Parties Agreement (FHANA) Mortgage Assumption
Electric Availability Personal Property Agreement Uncapped Natural Gas Well Disclosure
Home Warranty Property Inspection Utility Surcharges Lead Compliance Rented Property
County Disclosure Notice for all Residential Property Well and Septic System
Other (_____)

Seller's Confirmation. This Agreement and the sale of the Property under this Agreement are subject to Seller's confirmation and approval. This Agreement will not be binding on Seller, and Seller will have no obligation to sell, transfer, or convey the Property to Purchaser, unless and until this Agreement is signed by Seller.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have executed this Agreement as of the date first written above.

SELLER:

(Signature)

(Printed Name)

(Signature)

(Printed Name)

(Entity Name, if applicable)

By: _____

Name: _____

Its: _____
Authorized Representative

PURCHASER:

(Signature)

(Printed Name)

(Signature)

(Printed Name)

(Entity Name, if applicable)

By: _____

Name: _____

Its: _____
Authorized Representative

ADMINISTRATIVE INFORMATION

Property Address: _____ MLS# _____

Seller

Seller

Address

City, State, Zip

Telephone No.

Email address

Seller's Attorney

Address

City, State, Zip

Telephone No.

Fax

Email address

Ruth Rowe Campbell - Rowe Realty Auctions & Appraisal
Listing Broker

31R00478897

NY License No.

4040 West Walworth Road

Address

Macedon

NY

14502

City, State, Zip

315 986 9600

N/A

Phone

Fax

Ruth Rowe Campbell - Rowe Realty Auctions & Appraisal
Listing Agent

31R00478897

NY License No.

315 986 9600

N/A

Phone

Fax

44

Cell

Public ID#

ruth@digginfordeals.com

Email Address

Buyer

Buyer

Address

City, State, Zip

Telephone No.

Email Address

Buyer's Attorney

Address

City, State, Zip

Telephone No.

Fax

Email address

Selling Broker

NY License No.

Address

City, State, Zip

Phone

Fax

Selling Agent

NY License No.

Phone

Fax

Cell

Public ID#

Email address