

## MEMORANDUM OF SALE

1. The parcel of property in known as Lots 1-27, Gould Road, Ware, Massachusetts, Said premises are now known as "Wildflower Meadows" as shown on a plan of land entitled "WILDFLOWER MEADOW' DEFINITIVE SUBDIVISION PLAN' Plan of Land in WARE, MASSACHUSETTS Prepared for JAMES N. HAYWARD," dated July 15, 2004, revised July 20, 2004, prepared by Harold L. Eaton and Associates, Inc., and recorded in Plan Book 203, Page 77 (Lots Nos. 1-27), consisting of 22 lots of undeveloped land ("the Premises"), as more particularly described in the Mortgage to Hampden Bank (the "Seller") from Somerset Homes of Massachusetts, LLC, dated August 18, 2005 and recorded in the Hampshire County Registry of Deeds in Book 8398, Page 267, shall be conveyed as hereinafter provided to the undersigned (the "Purchaser"), or to the Assignee designated by the Purchaser, on the thirtieth (30th) day following the date of this Agreement (or if on that day the Registry of Deeds is not open for business, then on the next day following said thirtieth day when the Registry of Deeds is open), or earlier if the parties so agree, by a good and sufficient Foreclosure Deed conveying a good, marketable title of record to the Premises as described in the notice entitled "Mortgagee's Sale of Real Estate" (the "Notice of Sale"), a copy of which is attached hereto as Exhibit "A", subject to all restrictions, easements, prior mortgages, improvements, outstanding tax titles, municipal or other encumbrances of record created prior to the Mortgage, rights of parties in possession, tenants, building codes, zoning ordinances, Court Orders, orders of conditions, town or other governmental requirements and G.L.c. 21E, and all other claims in the nature of liens having priority over the Mortgage, covenants running with the land and affirmative obligations, if any there be. The property shall also be transferred subject to the right of redemption of the United States of America, if any there be.

2. The purchase price of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ ) is to be paid in cash or by certified bank check(s) to the order of Hampden Bank within 30 days of the date of this Agreement.

3. The delivery of a deposit of FIFTY THOUSAND and no/100 DOLLARS (\$50,000.00) which has been made to bind this purchase (and which shall be increased within 5 business days be increased to 10% of the purchase price), shall be applied against the purchase price or otherwise accounted for, and shall be forfeited to the use of the Seller in the event that the Purchaser shall fail to comply with the terms of this Agreement, but such a forfeiture shall not relieve the Purchaser from the Purchaser's obligations hereunder. The Seller shall be entitled to any interest earned on the deposit and the amount to be paid to the Buyer shall not be adjusted to reflect any such interest.

4. The Purchase Price shall be paid at the office of Jerry B. Plumb, Jr., O'Connell, Plumb & MacKinnon, 75 Market Place, Springfield, Massachusetts 01103 at 10:00 a.m. on the date fixed for the conveyance, or at such other place or hour as the parties hereto shall in writing agree, it being understood that Time is of the Essence of this Agreement.

5. If the Seller shall be unable to give title or make conveyance as above stipulated, or, if for any reason, including, without limiting the generality of the foregoing, the existence of a bankruptcy proceeding of any kind, whether voluntary or involuntary, or any order or requirement in connection therewith, or any requirement of a court of competent jurisdiction, impairs the authority of the Seller to give title or to make conveyance hereunder, said deposit shall be refunded and thereupon all obligations of the parties hereunder shall cease, and this Agreement shall be void and the Buyer shall have no recourse against the Seller, its employees, agents, attorneys and representatives, whether at law or in equity, provided, however:

- (a) If, on the date fixed for conveyance, a period of thirty (30) days shall not have expired after written notice from the Purchaser of a defect in title, the time for performance shall, if the Seller so elects in its absolute and sole discretion, be extended for a period of time not to exceed an additional sixty (60) days to enable the Seller to make reasonable efforts to cure such defect; and
- (b) If the Purchaser so elects, at either the original or extended time for performance, to pay said purchase price without deductions for defects in title, the Seller shall convey such title as the Seller has to the Premises.

6. Until the delivery of the deed, Seller shall continue to maintain insurance on the Premises against fire and other hazards as presently insured. If the Premises shall have been damaged by fire or casualty insured against, the Seller shall, unless the Seller has previously restored the Premises to their former condition, pay over or assign to Purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance less any amounts reasonably expended by the Seller for partial restoration.

7. The Purchaser shall be responsible for all closing costs, including, but not necessarily limited to, all attorneys' fees, Massachusetts deed excise stamps and all recording fees, taxes and other adjustments.

8. If the Buyer shall fail to fulfill the Buyer's agreements herein all deposits made hereunder by the Buyer shall be retained by the Seller and the Buyer shall reimburse the Seller for all costs and expenses of the Seller in excess of the amount of the deposit, including all advertising costs, publications costs, attorneys' and auctioneers' fees and costs.

9. The property shall be conveyed in an "AS-IS" condition. The Purchaser acknowledges that the Purchaser has not been influenced to enter this transaction by, nor has the Purchaser relied upon, any warranties or representations of the Seller or the Auctioneer not set forth or incorporated herein, and that no such warranties and representations have been made. Moreover, the Seller specifically disclaims any applicable warranties, whether express or implied. It shall be the obligation of the Purchaser to obtain and pay for any required Smoke Detector Certificates. Further, the Purchaser assumes all legal responsibility and costs in the event that the property does not conform to the requirements of Title 5 of the State Environmental Code. The Seller makes no warranties or representations with respect to any septic system or its compliance with Title 5, other services, compliance with any outstanding orders of notice, with the Subdivision Control Act or any other applicable statute or ordinance relating to subdivision

approvals, zoning or building requirements or approvals and permits.

10. The acceptance of the foreclosure deed by Purchaser or its nominee shall be deemed to be a full performance and discharge of every Agreement and obligation of the Seller herein contained or expressed or arising out of said public auction.

11. This agreement shall be construed in accordance with the law of the Commonwealth of Massachusetts, is to take effect as a sealed instrument, sets forth the entire agreement between the parties, is binding upon the parties and inures to the benefit of the parties, their heirs, executors, successors and assignees, and may be modified or amended only by a written instrument executed by both the Seller and the Buyer.

PURCHASER:

SELLER:

\_\_\_\_\_

\_\_\_\_\_  
Hampden Bank  
By: Donald F. Anderson  
Title: Vice President

Date: January 30, 2009

RECEIVED of \_\_\_\_\_  
the sum of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00) as a deposit on account of the above Agreement subject to the terms and conditions of sale hereinabove set forth.

\_\_\_\_\_  
Licensed Auctioneer

I hereby acknowledge that I have on January 30, 2009 purchased at the auction of Aaron Posnik and Associates (Auctioneer), a duly licensed auctioneer, for the sum of \_\_\_\_\_ DOLLARS (\$) the property described in the Notice of Sale attached hereto.

I hereby agree to comply with the above Agreement entitled "Memorandum of Sale", as well as any additional terms attached hereto and, having paid as a deposit to bind the bargain the sum of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00), understand that according to said Agreements I shall increase the deposit to 10% of the purchase price within 5 business days hereof and that I will forfeit said sum to the use of the Seller should I fail to comply with said terms and conditions of sale set forth therein, and will not be relieved by said forfeiture of the obligation to purchase the Premises according to said Agreements.

PURCHASER:

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