

PURCHASE AND SALE AGREEMENT

1. **PARTIES.** **LUCIA CONNELLY**, formerly known as LUCIA GEEL, whose mailing address is 60 Field Rd., Falmouth, Maine 04105 (“Seller”), agrees to sell, and the **TOWN OF FALMOUTH** a Maine municipal corporation whose mailing address is c/o Nathan Poore, Town Manager, 271 Falmouth Rd., Falmouth, Maine 04105 (“Buyer”), agrees to buy, upon the terms and conditions hereinafter set forth, the real estate described in Paragraph 2 of this Agreement.

2. **DESCRIPTION.** The real estate to which this Agreement applies consists of approximately 5.03+/- acres, with all buildings and improvements thereon, and all rights and easements appurtenant thereto, at and near Field Road, being a portion of the lot shown on Town of Falmouth Tax Map R03 as Lot 3, and also being a portion of the property described in a Deed from Scott M. Freedman and Linda S.W. Freedman to Lucia Geel dated October 30, 1991 and recorded in the Cumberland County Registry of Deeds in Book 9771, Page 208 (the “Premises”). The location of the Premises is approximately shown on the attached **Exhibit A.**

3. **DEED.** The Premises are to be conveyed by a good and sufficient warranty deed, which deed shall convey good and clear record and marketable title to the Premises, free from all liens and encumbrances except utility easements of record and the easement to be reserved by Seller as described in Paragraph 9(a) of this Agreement, the Premises to be in compliance at transfer with all applicable laws, ordinances and regulations relating thereto. At the request of Buyer, the Premises shall be conveyed utilizing a metes and bounds description based upon a current survey of the Premises, should such a survey be obtained by Buyer at its sole expense.

4. **PURCHASE PRICE.** The purchase price for the Premises is **\$60,000** (the “Purchase Price”), which shall be paid as follows:

- (a) **\$500** to be paid within five (5) business days of the Effective Date of this Agreement to Buyer’s or Seller’s attorney (the “Deposit”), which Deposit is to be held in a non-interest bearing account and disbursed in accordance with the terms of this Agreement; and
- (b) the remainder of the Purchase Price, subject to the credits and proration set forth in this Agreement shall be paid to the Seller by wire transfer or certified check at the Closing.

5. **WITHHOLDING TAX.** Buyer is required to withhold two and one-half percent (2.5%) of the Purchase Price for transfer to the State of Maine Tax Assessor pursuant to 36 M.R.S. § 5250-A unless Seller delivers to Buyer prior to Closing evidence that Seller has obtained a waiver/reduction, or a Residency Affidavit in the form attached to this Agreement as **Exhibit B.**

6. **TIME FOR PERFORMANCE/DELIVERY OF DEED.** The deed and other transfer documents are to be delivered and the consideration paid on the _____ day

following the date of execution of this Agreement by Seller (said date of execution of this Agreement by Seller being hereinafter referred to as the "Effective Date of this Agreement"), at 10:00 a.m. at the offices of Buyer's attorney, Drummond Woodsum, 84 Marginal Way, Suite 600, Portland, Maine 04101 (the "Closing"), unless otherwise agreed to by Seller and Buyer. If such date falls on a Saturday, Sunday or legal holiday in the State of Maine, the Closing shall occur on the next business day.

7. BUYER'S CONTINGENCIES. In addition to such other conditions to closing as may be set forth herein, the obligations of Buyer under this Agreement are subject to the Buyer having obtained a current survey of the Premises prior to Closing, signed with a raised seal, prepared by a licensed Maine surveyor, disclosing a state of facts acceptable to the Buyer. Seller also agrees to provide Buyer with copies of any surveys in her possession within seven (7) days of the Effective Date of this Agreement. If the results of the Buyer's survey are not satisfactory to Buyer in its sole discretion, Buyer shall be entitled to terminate this Agreement by giving Seller written notice and upon such termination, the Deposit paid by the Buyer shall be promptly returned to Buyer, and the parties shall be relieved of all further obligations under this Agreement except for such obligations as by their terms survive termination of this Agreement. Prior to the Closing, Buyer and Buyer's agents shall have the right to enter, inspect and survey the Premises, so long as any damage to the Premises as a result thereof is repaired in the event that Buyer should not proceed with the acquisition of the Premises.

- (a) Additional Land. If, prior to the Closing, the Buyer and Seller mutually agree to increase the size of the Premises to include more than 5 acres, each additional tenth (.10) of an acre shall increase the Purchase Price by **\$1,200**. By way of example, if the parties mutually agree to create a parcel that is 5.5 acres, the Purchase Price will be increased by \$6,000 to \$66,000.

8. PREMISES BOUNDARIES. Buyer shall be responsible for the cost of its surveyor marking the corners of the Premises and placing flags along the length of the northeast boundary line of the Premises, marking the line between the Premises and the Seller's retained land adjacent to the Premises (the "Seller's Retained Property").

9. CLOSING DOCUMENTS. At the Closing, and in addition to any other documents referred to in this Agreement to be delivered to Buyer at the Closing, Seller shall execute, acknowledge as necessary and deliver the following documents and such other documents as Buyer's attorneys may reasonably require to complete the transaction contemplated herein: deed, transfer tax Declaration of Value, title affidavits, nonforeign person affidavit, Maine resident affidavit, and underground oil storage certification. The following shall be prorated and adjusted between Buyer and Seller on a per diem basis as of the Closing: real property taxes and other municipal assessments for the then current municipal tax year and other items of expense customarily prorated on the transfer of properties similar to the Premises. Seller shall be responsible for paying its share of the transfer tax owed on this transaction, in accordance with Maine law.

(a) Preparation of Closing Documents. Buyer agrees to have its attorney prepare the deed and other documents typically prepared by the Seller, at Buyer's expense.

(b) Easement. The Seller shall retain a non-exclusive easement to allow the Seller to construct a paved driveway across a portion of the Premises for pedestrian and vehicular access to and from the Seller's Retained Property and any public street that may be constructed on the Premises; provided, however, that no such easement rights may be exercised by Seller until such time, if ever, as a street has been constructed on the Premises and accepted by the Town of Falmouth as a Town Way. If no such Town Way is first built, then the easement shall terminate on the date that is 27 years from the date of the easement. The precise easement area shall be identified with certainty prior to the Closing and may thereafter be unilaterally relocated by the Buyer from time to time so long as no construction of a public street has commenced and so long as the new easement area does not materially and adversely affect the use thereof by the Seller for the above-stated purpose. Notwithstanding the foregoing, Buyer makes no representations or warranties regarding any present or future intent or obligation to construct, allow or accept a public street on the Premises.

10. POSSESSION AND CONDITION OF PREMISES. Full possession of the Premises free of all tenants and occupants, is to be delivered at the Closing, the Premises to be then in the same condition as they now are, reasonable wear and tear excepted.

11. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM. If Seller shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or, if at the time of the Closing the Premises do not conform with the terms and conditions hereof, then Seller shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the terms and conditions hereof, as the case may be, in which event the time for performance hereof shall be extended for a period of thirty (30) days, or such longer period as shall be agreed to by Buyer, during which time Seller shall continue such efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the terms and conditions hereof.

12. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM. If at the expiration of such extended time Seller shall have failed to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then, at Buyer's option, any payments made under this Agreement shall be promptly refunded to Buyer and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse of the parties hereto, except for such obligations as by their terms survive termination of this Agreement.

13. BUYER'S ELECTION TO ACCEPT TITLE AND CONDITION. In addition to such other remedies available to Buyer under this Agreement, Buyer shall have the election, at either the original or such extended time for performance, to accept such title to the Premises in

its then condition as Seller can deliver and to pay therefor the purchase price without deduction, in which case, Seller shall convey such title or deliver the Premises in such condition, except that in the event of such conveyance in accordance with the provisions of this clause the Premises shall have been damaged by fire or casualty insured against, then Seller shall, unless Seller has previously restored the Premises to its former condition, and at Buyer's express election, pay over or assign to Buyer, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by Seller for any partial restoration. Seller represents and warrants that Seller will maintain replacement value insurance coverage on the Premises through the Closing.

14. RISK OF LOSS. Until delivery of possession of the Premises from Seller to Buyer, risk or loss or damage to the Premises by fire or otherwise shall be on Seller.

15. BROKERAGE. Seller and Buyer each represent and warrant to the other that no brokers, agents or consultants have been employed with respect to this transaction by either of them and Seller and Buyer agree to indemnify and hold the other harmless from any claim by any broker or agent claiming compensation in respect of this transaction, alleging an agreement with Seller or Buyer, as the case may be. This agreement to indemnify and hold harmless shall survive the Closing or termination of this Agreement.

16. DEFAULT/DAMAGES. Should Seller fail to fulfill Seller's obligations hereunder, Buyer may elect to pursue all available remedies, including specific performance and reasonable attorney's fees. Should Buyer fail to fulfill Buyer's obligations hereunder, Seller shall retain the Deposit as liquidated damages as Seller's sole and exclusive remedy at law or in equity for Buyer's default without further recourse to Buyer and Buyer shall be relieved of all obligations hereunder except for such obligations as by their terms survive termination of this Agreement.

17. SELLER'S WARRANTIES AND REPRESENTATIONS. Seller warrants and represents as of the date of Seller's execution of this Agreement and as of each date through and including the Closing that:

- (a) Seller is authorized to enter into this Agreement and sell the Premises without obtaining the consent or approval of any other party;
- (b) Seller knows of no litigation, liens, judgments, violations, investigations or proceedings pending or threatened relating to the Premises;
- (c) No work has been performed or is in progress at, and no materials have been furnished to, the Premises or any portion thereof which may give rise to mechanic's, materialmen's or other liens against the Premises or any portion thereof;

- (d) The Premises is not, and has never been, in any special tax classification (for example, tree growth, open space, etc.); and
- (e) To the best of Seller's knowledge, no hazardous or toxic wastes, substances, matters or materials, including but not limited to any material defined as hazardous or toxic from time to time by applicable state, local and federal law, are stored or otherwise located on the Premises or any adjacent property owned by Seller.

Seller shall immediately notify Seller of any changes in the above warranties and representations, and in the event of any material adverse change, Buyer may elect to terminate this Agreement in which case the Deposit paid shall be promptly returned to Buyer the parties shall be relieved of all further obligations under this Agreement except for such obligations as by their terms are to survive termination of the Agreement. All warranties and representations expressed herein shall survive the Closing and any termination of this Agreement. Seller agrees to indemnify and hold harmless Buyer from and against any liability, cost, damage, loss, claim, expense or cause of action (including, but not limited to, attorneys' fees and court costs) incurred by or threatened against Buyer as a result of any breach by Seller of any of Seller's warranties or representations contained in this Agreement. This agreement to indemnify and hold harmless shall survive the Closing.

18. MISCELLANEOUS. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. Notices relating in any way to this Agreement shall be in writing and shall be sent by (a) registered or certified mail, return receipt requested, (b) overnight delivery by a nationally recognized courier, or (c) hand delivery obtaining a receipt therefor, to the addresses set forth on page one of this Agreement, or such other address as either party may substitute by such manner of notice. Headings are for convenience only and are of no independent legal significance. This Agreement may not be modified except in a writing signed by both parties. Any and all prior and contemporaneous discussions, undertakings, agreements and understandings of the parties are merged in this Agreement, which alone fully and completely expresses their entire agreement. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Faxed or emailed signatures shall be binding. Time is of the essence. If any provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be deemed invalid or unenforceable by a court, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which this Agreement is held invalid or unenforceable, shall not be affected thereby, and shall be valid and be enforced to the fullest extent. This Agreement shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the dates shown below.

SELLER:

Lucia Connelly

Date: _____, 2017

BUYER:

TOWN OF FALMOUTH

By: _____
Nathan Poore
Its Town Manager

Date: _____, 2017

Drummond Woodsum, by its execution of this Agreement, acknowledges that it will hold and disburse the Deposit in accordance with the terms and conditions hereof.

By: _____

Its

Date: _____, 2017

