

AGREEMENT FOR SALE OF REAL ESTATE

THIS AGREEMENT for the sale of 73.39 acres of land and timber, located at 511 Wallis Road, Rye, New Hampshire and formally known the **Rand Lumber business and woodlot**, as of this this ___ day of _____ 2014, by and between **Wallis Road Properties LLC, 105 Bartlett Street, Portsmouth, New Hampshire 03801**, or their duly authorized representatives (hereinafter referred to as the "Seller") and the **Town of Rye**, a duly authorized municipal corporation as represented by the **Rye Conservation Commission, 10 Central Road, Rye, County of Rockingham, State of New Hampshire**, an official Commission of the Town of Rye, a municipal corporation duly organized and existing in the County of Rockingham, and State of New Hampshire or its assigns (hereinafter referred to as the "Buyer") states as follows:

WHEREAS, the Seller is the owner of a parcel of land comprised of a single tract or parcel situated in Rye, further described as Tax Map 16, Lot 66 and Tax Map 16, Lot 71, and being designated for the purposes of this Agreement as off Wallis Road, Rye, New Hampshire, the subdivided rear portion of the parcel formally known as Rand Lumber partially bordered by Liberty Common, Wallis Road and Alehson Road, containing 73.39 acres, more or less, such parcel being collectively referred to hereafter as the subject premises, and,

WHEREAS, the Buyer, Town of Rye, through its Conservation Commission, is desirous of purchasing 73.9 acres of forest land once a part of the Rand Lumber tract under the provisions of New Hampshire RSA 477: 45-47, with a deed to contain terms to be agreed upon so as to permit said premises to remain in their present undeveloped state in perpetuity. The Town of Rye Conservation Commission or its designee shall hold a Conservation Easement Deed acceptable to Buyer and Seller.

WHEREAS, the parties are desirous of entering into an agreement for the purchase and sale of the subject premises, in accordance with the terms set forth below,

WHEREAS, this sale is contingent upon the Town of Rye having a warrant article to fund the purchase approved and certain further contingencies agreed to by the Seller and Buyer as set out below, and

WHEREAS, the Seller shall obtain an approved subdivision to create the 73.39 acre parcel being purchased.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. **PURCHASE PRICE:** The parties agree that the purchase price of the approximately 73.39 acres parcel shall be the sum of \$1,250,000.00.

2. **CONTINGENCIES:** The following contingencies shall apply to this transaction:

- 2.1 *The Buyer shall receive an appraisal in the amount of \$1,250,000.00 or more from a qualified appraiser on or before _____, 2014.*
- 2.2 *The Buyer receiving funds from the NRCS Wetlands Reserve Program or such other similar program as may be employed through the approval of a grant applied for, said approval expected by _____, 2014.*
- 2.3 *The Buyer, with assistance from other conservation groups, is applying for a grant from the NRCS Wetland Reserve and/or such other programs as may be applied to, which money is to be allocated directly to the purchase of said land.*

If any of the above contingencies has not occurred, the Town of Rye Conservation Commission shall notify the Sellers within 15 days of each of the above contingency deadlines of its intent to either waive said contingency or to cancel this agreement and the Earnest Money deposit shall be returned with interest forthwith. Time is of the essence.

3. **TIME OF CLOSING:** The parties agree to a closing date of on or before _____, _____, *time being of the essence* with every effort being made to complete the closing at an earlier date. The closing shall occur at the Law Offices of Christopher W. Keenan, or at such other place or location as may be subsequently agreed upon by the parties.

4. **EARNEST MONEY DEPOSIT:** Upon the execution of this Contract by Seller and Buyer, Buyer shall deliver to the Seller the sum of **Fifty Thousand Dollars (\$50,000.00)** (the "Earnest Money"). Said earnest money to be held in escrow by Attorney Christopher W. Keenan in an interest bearing account. Any interest earned on said account shall be delivered, in addition to the purchase price, to the Sellers at the closing or be returned to the Buyers should a closing not take place in accordance with this agreement.

5. **PAYMENT OF PURCHASE PRICE:** The parties agree that at the time of the closing the Seller shall receive the full purchase price for the purchase of said parcel in the sum of One Million Two Hundred Thousand Dollars (\$1,250,000.00).

6. **CONSERVATION EASEMENT HOLDER AND CONSERVATION EASEMENT DEED:** *The parties acknowledge that the Town of Rye, Rye Conservation Commission, a governmental body eligible to hold a conservation easement, or its designee shall be granted a Conservation Easement Deed upon payment of one dollar (\$1.00) prior to the sale of the property to the Buyer. This Agreement may be assigned by the Town of Rye to the Rockingham County Conservation District or to the State of New Hampshire, the United States Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the US Internal Revenue Code of 1986, as amended, or to any qualified organization within meaning of Section 170(h)(3) of said code, which organization has among its purposes the conservation and preservation of land and water areas and*

agrees to and is capable of enforcing the conservation purposes of this Easement at the Buyer's sole discretion. The parties agree that the Parcel will be the subject of customary and usual Rockingham County Conservation District easement documents with no special or reserved rights.

The parties shall agree upon the form and content of the Conservation Easement Deed and shall agree upon the use restrictions to be incorporated in such deed, as well as such other necessary and appropriate terms and conditions.

7. **RECORDING COSTS:** At the time of closing, the Buyer shall be responsible for all the customary recording costs associated with or required to be paid at the time of closing.
8. **TRANSFER TAX:** The Seller and the Buyer understand and agree that there will be no payment of a transfer tax as this transaction is exempt pursuant to the provisions of New Hampshire RSA 78-B:2.
9. **CURRENT USE TAX:** The Seller and the Buyer acknowledge that as the Buyer will retain the tract or parcel in its current state, if any portion of the parcel presently is in current use, there will be no current use change tax penalty attributable to this transaction. **[cwk check on this. May be if subdivided?]**
10. **DEED AND LIEN RELEASES:** The Seller agrees to convey to the Buyer, or Buyer's designee, first by a Conservation Easement Deed to the Buyer or its designee and then Title by good and sufficient Warranty Deed to the Buyer. The Seller shall obtain the consent of any mortgagors or other lien holders, holding liens or encumbrances on the subject premises, should the same be deemed necessary.
 - 10.1 To enable the Seller to make the conveyance contemplated herein, the Seller may, at the time of the delivery of the deeds, use purchase monies, or any portion thereof, to clear the title to the subject premises of any and all encumbrances or interest to be conveyed by the Seller to the Buyer.
11. **TITLE EXAMINATION:** The obligation to purchase the parcel shall be contingent upon a satisfactory title examination undertaken by the Buyer. The cost of any additional examinations or assessments that the Buyer may wish to have performed shall be borne solely by the Buyer. Said title examinations shall be performed by _____, 2014; If said title examinations are not done and accepted by the Buyer, the title examination requirement shall be waived.
12. **MARKETABLE AND INSURABLE TITLE:** Should the Seller be unable to convey good, clear, marketable and insurable title, then this agreement shall be null and void.
13. **HAZARDOUS MATERIALS:** No assessment for hazardous materials has been performed to date. The discovery of hazardous material after the execution of this Purchase Agreement, may, at the sole discretion of the Buyer, be declared null and void.

14. **PRORATIONS:** Property taxes on the parcel shall be prorated to the date of closing. See paragraph 19 below for assumption of 2013 Real Estate taxes.
15. **BINDING EFFECT:** This agreement is binding upon the parties and inures to benefit the parties, their respective heirs, devisees, executors, administrators, successors and assigns.
16. **AMENDMENTS:** This agreement may be modified or amended only by a written instrument executed by the Seller and the Buyer.
17. **MISCELLANEOUS:** This agreement, executed in triplicate, is to be construed as a New Hampshire contract, is to take effect as a sealed instrument, and sets forth the entire contract between the parties.
18. **NOTICES:** Any notification required under this agreement shall be given to:

Edward R. Hayes
Wallis Road Properties LLC
105 Bartlett Street
Portsmouth, NH 03801

Christopher W. Keenan, Esq.
Law Office of Christopher W. Keenan, PC
125 Brewery Lane, Suite 7
Portsmouth, NH 03801

Timothy Phoenix, Esq.
Hoefle, Phoenix, Gormley and Roberts, P.A.
127 Parrott Avenue
Portsmouth, NH 03801

in addition to the parties themselves.

19. **PURCHASE:** *The parties agree that the Town of Rye shall purchase the Conservation Easement prior to the purchase of the parcel for the sum of One Dollar (\$1.00). The Buyer Town of Rye will assume all unpaid taxes for the 2014 property tax year (April 1, 2014 to March 31, 2015) attributable to the 73.39 parcel only.*

IN WITNESS WHEREOF, the parties have executed this agreement in triplicate, and set their hands hereto, the day and date first above written.

SELLER: Wallace Road Realty, LLC

By

Edward R. Hayes, Duly Authorized

BUYER:
TOWN OF RYE
RYE CONSERVATION COMMISSION

By: _____