

PURCHASE AND SALE AGREEMENT

This **Agreement** is made between the following parties:

The **Sellers** are Charles H. and Alisa D. Darmstadt

Mailing address post-sale: 521 St. Paul Street, Burlington, VT 05401

Seller's contact info: maggiedarm@gmail.com; (802) 272-7209 (no texts)

The **Buyers** are: _____

Buyers' address: _____

Buyers' email address: _____

Buyers' telephone: _____

1. Description of Property

Seller is the sole owner of certain real **Property** at 255 McCullough Hill Road, Middlesex Vermont; Span #390-121-10593; Middlesex parcel ID 00036-018.000. Deed reference is Book 80, Pages 217-218 of the Town of Middlesex Land Records.

2. Sale

Seller hereby agrees to sell to Buyers and Buyers hereby agree to purchase from Seller, the Property described above, subject to the terms and contingencies in this Agreement. The **Contract Date** shall be the last date a party signs the main body of this Agreement unless otherwise mutually agreed in writing.

3. Purchase Price

The purchase price for the Property shall be _____ thousand dollars (\$_____) payable by certified bank check, cashier's check, attorneys trust (IOLTA) check, or wire transfer at the closing.

Buyers are placing a \$_____ earnest money deposit made payable to Law Office of Sharon M. Winn, PLC IOLTA account to be held in escrow by Law Office of Sharon M. Winn, PLC, (**escrow agent**). Such earnest money deposit shall be made within five days of receipt of Seller's written acceptance, which shall be credited to the purchase price at closing. No interest shall accrue on the deposit.

The Sellers would appreciate an earnest money deposit of at least five to ten percent of your purchase price offer.

4. Closing Date

The **closing** when the deed shall be delivered and purchase price shall be paid, shall take place *on or before* _____, 2022 (unless extended by the parties by mutual agreement), provided the conditions in this agreement have been met. Closing will be coordinated by the Buyer's attorney or the Buyers' financing institution.

The Sellers prefer to close on or after March 11, 2022.

5. Contingencies

This Agreement is contingent upon the following:

A. Financing

- a. This is a cash offer. Buyer is not financing this purchase. _____

OR

- b. Offer is contingent on Buyers' ability to obtain mortgage financing of at least % of the purchase price for a term of _____ years at an interest rate no higher than % fixed rate for the term of the loan with no points to be paid at closing. Buyers agree to act diligently and in good faith to obtain such financing and shall within five calendar five days after Seller's acceptance of this Agreement, submit a complete application for such financing.

The Buyer has _____ OR has not _____ secured pre-qualification through a lender.

B. Inspection

- a. This offer is NOT subject to inspection. _____

OR

- b. Offer is contingent on a thorough inspection at Buyers' expense, prior to _____, 2022, of the following (check all that apply):

- ☐ structure's interior
- ☐ structure's exterior
- ☐ water testing
- ☐ radon testing
- ☐ septic systems testing
- ☐ other (be specific):

If the inspection discloses substantial defects or deficiencies which, based upon written, signed estimates from independent qualified inspectors, contractors or other persons specializing in the type of repair needed, would cost, in the aggregate, more than \$_____ to repair, Buyer shall have the right to terminate this Contract, provided Buyer shall give Seller written notice of Buyer's decision to terminate this Contract based upon the results of the property inspection(s) not later than three CALENDAR DAYS after the INSPECTION DEADLINE. As part of such notice, Buyer shall provide Seller with copies of all such written signed estimates.

C. Realtor Fees

Buyer requires Seller to pay the following real estate brokerage commissions, due as a result of this sale.

☐ None. In checking the "none" box Buyer confirms there are no real estate brokers involved in this sale, or that Buyer will pay 100 percent (100%) of any real estate brokerage commission due.

OR

☐ Buyer requests Seller pay _____ % of the purchase price as commission to a Buyer-engaged real estate brokerage. Buyer acknowledges that Seller will not agree to pay more than 3% of a real estate brokerage commission.

D. Other Buyer Contingencies (be very specific):

Buyers shall pursue fulfillment of the stated contingencies with due diligence. If a contingency is not met, this Agreement may be rescinded at the sole option of Buyers with return of the full deposit and release of Buyers' obligations.

6. Attorney Review

This fully Executed Agreement is subject to attorney review, for the benefit of both parties, to review the terms/provisions of this contract (other than price). If, as a result of the attorney review, Buyer or Seller desire to terminate this contract, Buyer or Seller shall have the right to do so not later than 5 business days from the CONTRACT DATE. Neither Buyer nor Seller shall have the right to terminate this contract under the Attorney Review provision based on the price set forth in the contract.

7. Possession

Possession, including all keys to the premises, free and clear of any claims or circumstances that would otherwise interfere with Buyers' quiet enjoyment of the Property, shall be provided at closing (unless otherwise agreed in writing). The Property shall be in substantially the same condition as the date of this Agreement without any material change, except being free of all debris, and interiors at least broom-clean. Buyer shall be entitled to a walk-through of the Property within 24 hours prior to closing to ensure conditions are satisfactory.

Property shall be free of all tenants, personal property, and encumbrances (unless otherwise agreed between the parties) on or before the time of Closing, except the following items that are included in the sale:

- | | |
|----------------|-----------|
| • woodstove | • range |
| • refrigerator | • washer |
| • dishwasher | • dryer |
| • microwave | • hot tub |

During the term of this Agreement, the Property shall not be further encumbered or sold, conveyed, leased, or otherwise transferred without the prior written consent of Buyers. During the term of this Agreement, Seller shall not substantially alter, remove or destroy any part of the Property being sold, including fixtures, fencing, landscaping, or the natural resources (such as timber and soils) associated with it.

8. Title

The title shall be conveyed by Warranty Deed and shall be good and marketable title of record, free and clear of all encumbrances except as agreed to herein:

- A. Normal permits from the town and state for wastewater & potable water.
- B. Normal utility easements to serve the Property.

Buyers shall bear the cost Buyers' title examination. If, upon examination of title and permits, it is found that title is not marketable title of record, or Seller is not in compliance with any issued permits or requirements by the state or town, or is lacking required permits, Seller shall bear the responsibility and cost of securing good and marketable title of record, securing necessary permits or health and safety measures, coming into compliance with them, and clearing other material encumbrances on the Property and fulfilling typical statutory Seller obligations by the time of Closing. All liens, encumbrances, and mortgages shall be discharged at closing which may be from the Sellers' proceeds of closing.

In the event Buyer's examination of title discloses a defect in marketable title, Buyer shall notify Seller in writing within a reasonable time after discovery of the defect, which shall be no later than ten (10) days prior to the Closing Date, describing the title defect. Seller shall have a reasonable time, not to exceed thirty (30) days, to correct such defect. In the event Seller is unable to perfect title after making a good faith effort to do so within such time period, then (unless another solution is mutually agreed by both parties in writing) Buyers shall have the option of closing the transaction and accepting title with such defect, or Buyers shall have the option to terminate the transaction in which case Sellers shall promptly refund the full deposit and this contract shall become null and void with full release of Buyers' obligations.

Seller shall be responsible for obtaining any releases or documents clearing encumbrances on the Property in recordable form prior to or simultaneous with the closing. In anticipation of a mortgage or other creditor payoff at the time of closing with Sellers' closing proceeds, Seller shall, in a timely way, obtain and provide to Buyers a mortgage payoff letter (and Account Closing verification if there is a line of credit) directly from the lender or creditor confirming the correct amount for a full discharge with a per diem rate and payment instructions.

9. Taxes and Closing Costs

Property taxes shall be paid in full for the tax year in effect at Closing, and be prorated between Buyers and Seller as of the date of Closing according to statute. Seller shall pay any back taxes or penalties owed up to the closing date. If there are any special assessments, rents, water, sewage, fuel storage, private road maintenance fees, or similar obligations, they shall be likewise prorated and paid through the billing cycle (unless otherwise agreed herein).

Unless otherwise agreed to herein, Buyers shall reimburse Seller for the value of fuel oil remaining in the tank based on the cash price of the Seller's provider within ten (10) days prior

to closing. Propane prorations are handled directly by the propane company, as is electrical readings. Both parties shall open or close accounts as applicable.

Buyers and Seller shall each be responsible for providing accurate and necessary information such as their taxpayer ID numbers and post-closing addresses for the transfer tax return and settlement statement. Buyers shall be responsible for paying the Vermont transfer tax. Seller may be responsible for paying taxes or withholdings set by federal or state law, such as a Vermont land gains tax. If Seller is not a resident of Vermont, Buyers may be required to withhold 2.5% of Seller's proceeds for the Vt Dept. of Taxes. There may be a federal withholding requirement for non-US citizen Sellers. Buyers shall pay for recording the Warranty Deed and for the Vt Property Transfer Tax Return. Seller shall pay for recordings that clear title or affirm Seller's authority to do the transaction, if any. Each party shall be responsible for their own legal fees.

10. Insurance and Risk of Loss

During the period between the date of this Agreement and the Closing, the risk of loss shall be on the Seller, and Seller shall continue to carry fire and extended coverage insurance on the Property. If the Property is materially damaged prior to Closing, or subjected to a claim of eminent domain, Buyers, at Buyers' sole option and discretion, may elect to terminate this Agreement with a full refund of the deposit, or may elect to complete the purchase so long as Buyers and Seller agree on a reduced price, or Seller assigning all insurance funds to Buyer, or other terms compensating for the damage or lost property.

11. Seller representations to Buyer

Seller warrants and represents to Buyers the following:

- a) The person(s) signing this agreement is either the Seller or has full power and authority to bind Seller to this Agreement, and to convey all rights, title, and interests in the Property.
- b) Seller is not in the process of filing for bankruptcy protection or applying for other federal benefits which have the potential to reverse this Agreement.
- c) The Property is not in any special flood hazard area. The Property is located either on a public road or deeded right-of-way that provides for year-round access for residential uses and utilities.
- d) Seller has provided a complete "Seller's Property Information Report" dated January 15, 2022.

12. Pre-Closing Requirements

Seller shall provide a form of Warranty Deed acceptable to Buyers, as well as a completed Vt Property Transfer Tax Return, and as applicable to the circumstances, Land Gains return and/or non-Vt-resident Withholding return, or Commissioner's Certificates, and any other forms typically provided by Seller at closing when applicable (such as an Act 250 disclosure statement if a subdivision occurred.)

Seller shall execute a IRS W-4 form or similar document disclosing his/her social security number, a settlement statement as prepared by the Closing Agent, and an Seller Affidavit provided by Buyers' attorney for title purposes essentially affirming that to Seller's knowledge

Seller is not aware of any boundary disputes, tenants, squatters, others claiming possession, underground fuel tanks, hazardous waste or dumps, or any work done on the property within the past 120 days with potential to give rise to mechanics liens or materialmen's liens, whether Sellers have filed for bankruptcy protection, and confirming whether Sellers are U.S. citizens for U.S. FIRPTA requirements.

Prior to closing, Seller shall ensure and certify that smoke and carbon monoxide detection devices are installed in all dwellings on the Property in full conformance with Vermont law 9 V.S.A. Chapt. 77 § 2881-2883.

13. Written Notice/Effective Delivery

All notices required to be given under this Agreement shall be deemed given when hand delivered or when deposited in the U.S. Mail, certified, registered or express mail, return receipt requested, postage prepaid and properly addressed to Seller or Purchaser at the addresses set forth below. Sellers' acceptance of this Purchase and Sale Agreement is effective when delivered to Buyers via email.

If to Seller: Charles and Alisa Darmstadt
255 McCullough Hill Road
Middlesex, VT 05602
(until February 28, 2022)
maggiedarm@gmail.com

With copy to: Sharon M. Winn, Esq.
Law Office of Sharon M. Winn, PLC
7 Main St., Suite 301
Montpelier, Vermont 05602
sharon@winnlawvermont.com

If to Purchaser: _____

With copy to Attorney Name and Address:

The addresses and persons entitled to receive the notices provided for above may be changed by written notice to the other party given in accordance with the provisions of this paragraph.

In all cases, notice shall be effective upon receipt. Text or telephonic notice shall not be effective to satisfy any required notice.

14. Construction of Agreement

In the event Buyers default in any obligation under this Agreement, the Seller may terminate this Agreement and retain the earnest money deposit as payment in full for liquidated and agreed upon damages.

If any of the Seller's representations or obligations are not fulfilled by the time of Closing, the Buyers may terminate this Agreement with a full refund of the deposit and release of all of Buyers' obligations, and Buyers may pursue any remedy for actual damages suffered as a result of Seller's default.

In the event of any dispute or claim arising out of or relating to this Agreement to the Property, any party may proceed how they deem most appropriate under the circumstances whether by alternative dispute resolution methods such as mediation, or by litigation.

In the event of a dispute over the earnest money deposit not resolved by mutual agreement, the escrow agent holding the deposit shall continue to hold the deposit in escrow or may, at any time, pay the deposit into court for the purpose of determining the rights of the parties to the deposit. All costs and expenses of any such action, including attorney's fees incurred by escrow agent holding the deposit, shall be borne jointly and severally by Seller and Buyer irrespective of the amount of the deposit. Except that in any action prevailed by any party against the escrow agent when the escrow agent is determined to be at fault by a court of qualified jurisdiction, each party shall bear their own costs.

This Agreement shall be construed as a Vermont contract. It sets forth the entire understanding of the parties and may be cancelled, modified, amended or extended only by written instrument executed by all parties. This Agreement shall inure to the benefit of and be binding upon each party hereto and the respective heirs, administrators, successors, and assigns of each. The masculine gender shall include the feminine, and the singular shall include the plural, and vice versa. All prior agreements, representations and warranties, if any, oral or written, are merged herein and no longer have any independent legal significance.

The parties enter this agreement by executing and dating it here. Dated signatures on separate duplicates constitute a full agreement.

This offer made by Buyers shall expire at 5pm on Thursday January 27, 2022 unless fully signed by Sellers and delivered to Buyers by that date and time.

Sellers:

Date

Date

Buyers:

Date

Date