

Property Address: 5515 Hot Springs Road, Hot Springs, VA 24445  
MAP or PARCEL ID/GPIN # 01300-00-000-0090  
DESCRIPTION IN TAX RECORD: 43.80 Acres Falling Spring Valley

### **SPECIAL COMMISSIONER'S MEMORANDUM OF SALE**

THIS MEMORANDUM OF SALE is a contract made this April 26, 2018, by and between \_\_\_\_\_ ("Purchaser"), and J. Michael Sharman, Special Commissioner ("Special Commissioner").

WITNESSETH:

In execution of that Order on Creditor's Suit to Enforce a Judgment Lien described in the notice of sale attached hereto and made a part hereof, the undersigned Special Commissioner with full power to act did sell to the purchaser as high bidder at public auction on April 26, 2018 at 12:00 noon at the front entrance of the Circuit Court of Alleghany County, Virginia, the real estate with all improvements thereon commonly described as:

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and referred to herein as the "Property", for the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), Cash ("Purchase Price"). In connection with such sale, the Purchaser acknowledges and agrees:

1. That the Property was sold in an "as is" condition with no representations or warranties of ANY kind whatsoever;
2. That the Special Commissioner will by SPECIAL COMMISSIONER'S DEED, convey title to the Purchaser, subject to all of the following: (a) covenants, conditions, easements, restrictions, and reservations, if any, that are duly recorded and constitute constructive notice of same; (b) the rights of persons in possession of the property, if any; (c) any and all defects, encumbrances or adverse claims of whatever nature, recorded and unrecorded, if any;
3. That all taxes, rents and assessments, if any, will be prorated as of the date of the foreclosure sale, and that the Purchaser shall be responsible for all title examination, survey, title insurance, and other costs of purchase and transfer with the exception of the Grantor's tax imposed by Section 58-54.1 of the Code of Virginia;
4. That obtaining possession of the Property shall be at the sole cost, risk, and expense of the Purchaser;
5. The Special Commissioner hereby acknowledges receiving a bidder's deposit on the day of sale, April 26, 2018, in the amount of \$ \_\_\_\_\_, which will be applied to the Purchase Price;
6. The Buyer hereby acknowledges that Buyer must tender to the Special Commissioner the remainder of the purchase price, in the amount of \$ \_\_\_\_\_, on or before April 27, 2018;

7. Both the bidder's deposit and the remainder of the purchase price shall be deposited into the Special Commissioner's IOLTA trust account pending the completion of the sale by the Alleghany County Circuit Court's confirmation of the sale;
8. That a hearing for the purposes of the Alleghany County Circuit Court's confirmation of the sale has been set to be heard on Friday, May 4, 2018 at 2:00 p.m.;
9. At the conclusion of the May 4, 2018 confirmation hearing, the Special Commissioner will tender the SPECIAL COMMISSIONER'S DEED to buyer or buyer's designated agent.
10. The risk of loss from casualty or otherwise and all liabilities of the ownership of the Property shall pass to the purchaser at the conclusion of the bidding.
11. If after the sale has been conducted the Special Commissioner is advised of a court action filed prior to the time of the May 4, 2018 confirmation hearing which affects the validity of the sale the buyer acknowledges that the sale may be void and subject to cancellation by the Special Commissioner. Should this occur, Special Commissioner should promptly refund deposit to buyer after which the party shall be relieved of any and all further liability.
12. In the event that Alleghany County Circuit Court does not confirm sale, then the buyer acknowledges that the sale is void and subject to cancellation by the Special Commissioner. Should this occur, Special Commissioner should promptly refund the full deposits to buyer after which the party shall be relieved of any and all further liability.
13. If a suit challenging the sale is filed in the Court of competent jurisdiction whether at law or in equity prior the Court's confirmation of the sale, the Special Commissioner in his sole discretion reserves the right to set aside the sale, cancel the memorandum of sale, and return the deposits to the buyer without further liability to the parties.

**TIME IS OF THE ESSENCE IN SETTLING THIS TRANSACTION.**

The Special Commissioner will convey to buyer the SPECIAL COMMISSIONER'S DEED to the property only after receipt of the bidder's deposit, receipt of the remainder of the purchase price funds, and the Court's confirmation of the sale. If the buyer fails or refuses to tender to the Special Commissioner the bidder's deposit and remainder of the purchase price funds as set forth herein, all rights of the buyer shall terminate and the buyer shall have no further right, title or interest in the Property. The bidder's deposit money shall belong to the Special Commissioner to be used to defray the costs of the April 26, 2018 sale and the Special Commissioner may, in the Special Commissioner's discretion, (without further notice to the buyer) resell the Property either at public auction or by private contract, under any present or future conditions which the Alleghany County Circuit Court may deem reasonable. The deficiency between the forfeited bidder's deposit and the costs of the April 26, 2018, if any, shall immediately be made good by the buyer and be recoverable by Special Commissioner as liquidated damages.

If, for any reason, Special Commissioner is unable to convey title to the Property to the buyer on the settlement date, the buyer's sole remedy shall be the return of the deposited funds without

interest, and this Contract and all rights and obligations of the Special Commissioner and the buyer shall be terminated and shall be of no further force and effect.

WITNESS the following signatures and seals of this April 26, 2018.

Buyer:

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Address:

Phone:

Fax:

Email:

Special Commissioner:

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