

PURCHASE AND SALE AGREEMENT
Squam River Landing - A Boatslip Condominium
River Street, Ashland, New Hampshire

THIS AGREEMENT is made and dated _____, 2005 by and between **NHNY Marina Development, LLC**, a limited liability company, organized and existing under the laws of the State of New Hampshire, whose mailing address is River Street, Ashland, NH 03217, (hereinafter referred to as "**Seller**"), and _____, residing at _____ with a mailing address of _____ (hereinafter referred to as "**Buyer**").

In consideration of the mutual covenants and obligations set forth herein, and receipt of the deposit(s) listed in Paragraph II, which are hereby acknowledged, the parties hereby agree as follows;

I. Property: Seller agrees to sell and Buyer agrees to purchase, the following described property (the "**Unit**"), together with and subject to certain rights, obligations, benefits, covenants, easements, restrictions, and rights to the use of "Limited Common Area", and a certain undivided interest in and to the Common Area of the Condominium, all as more particularly set forth in a certain Declaration of Covenants, Restrictions, Reservations and Easements for Squam River Landing - A Boatslip Condominium, to be recorded in the Grafton County Registry of Deeds, together with certain site and/or floor plans recorded therewith, (all hereinafter collectively referred to as the "**Declaration**", a draft copy of which is attached hereto as **Exhibit A** and incorporated herein):

Unit # _____ Squam River Landing - A Boatslip Condominium
("Condominium")

Address: Squam River Landing - A Boatslip Condominium
River Street
Ashland, New Hampshire 03217

It is understood and agreed that the Declaration has not yet been recorded in the Grafton County Registry of Deeds and, therefore, is expressly and explicitly subject to amendment and/or modification without the consent of the Buyer. No such amendment or modification shall materially affect the proposed use and enjoyment of the Unit.

Also included with the above-mentioned Unit are certain items of personal property set forth as follows:

A. All Units not located within a boathouse shall be conveyed together with the following:

Use of an individual storage area to be located within a storage structure which is intended to be built upon the Common Area of the Condominium, on the southerly side of River Street. Each such Unit shall also have the use of a bench/storage box located adjacent to the dock providing access to the Unit. Within such bench/storage box shall be a dry vac, marine mechanic's tool kit, electric outlet, and lighting. In addition, winter storage shall be available in certain designated portions of the Common Area, although it is expressly understood and agreed that such winter storage shall include only the ability to place or have placed a boat for storage. Routine winterization of a boat, preparation for winter storage and placement into winter storage shall be accomplished at the expense of the unit owner.

- B. Those Units situate within any boathouse shall be conveyed together with the following: personalized signage, storage and shelving hooks, dock lines and bumpers, dry vac, industrial cleaner compartment, marine mechanic's tool kit, electric outlet, and lighting. In addition, winter storage shall be available in certain designated portions of the Common Area, although it is expressly understood and agreed that such winter storage shall include only the ability to place or have placed a boat for storage. Routine winterization of a boat, preparation for winter storage and placement into winter storage shall be accomplished at the expense of the unit owner.

II. Purchase Price

A. Unit Purchase Price: \$ _____

B. Initial Deposit \$ 1,000.00

C. Earnest Money Deposit at execution of the within Agreement, subject to collection, the receipt of which is hereby acknowledged, to be held in a **non-interest-bearing** escrow account by **Coldwell Banker Old Mill Properties**, Plymouth, New Hampshire as agent of the Seller: \$ _____

D. Cash to Close (excluding closing costs and prorations): \$ _____

III. Financing Contingency: The within Agreement **is or is not** contingent upon financing. In the event the within Agreement is contingent upon financing, the Buyer will make application for financing as soon as is reasonably practicable and seek diligently to obtain such financing. In the event that the Buyer, acting diligently, shall be unable to obtain financing upon such rates and terms as are agreeable to the Buyer, then the Buyer shall be entitled to notify the Seller, in writing, of the unavailability of such

financing and seek a return of the Buyer's deposit, thereby terminating the within Agreement.

In the event that such written notice shall not have been received by the Seller on or before the close of the business day, _____, **TIME BEING OF THE ESSENCE**, the Buyer shall conclusively be deemed to have waived the right to terminate the within Agreement for lack of financing, notwithstanding the fact that financing may subsequently become unavailable.

IV. Title:

A. Evidence of Title: If desired by Buyer, Buyer may obtain evidence of title at Buyer's expense. If said evidence of title shows that the Seller is vested with marketable and insurable title to the property, subject to: (i) the usual exceptions contained in the American Land Title Association Owner's Policy Form as customarily used in the State of New Hampshire; (ii) covenants, limitations, conditions, restrictions, and easements of record which the Seller warrants and represents do not adversely affect the use of the subject Unit for purposes of boat docking and, further, there is no violation of any applicable covenant, limitation, condition, restriction, or other matter affecting the use of the subject property; (iii) liens and encumbrances to be discharged at or before Closing; and (iv) those matters set forth in the Declaration of Condominium and By-Laws, except that the Seller warrants and represents to the Buyer that there are no special assessments which have been levied by any association having jurisdiction over the common areas of the Condominium, and, further there are no contemplated special assessments with respect thereto, then this transaction shall be closed as set forth in Article V. If such evidence of title reveals any defects which are not within the scope of this Agreement, the Buyer shall, by **January 31, 2006**, notify Seller in writing of such title defects or non-conformities, and the Seller shall have the option to cure such defects, in which event this transaction shall be closed as is set forth in Article V hereinbelow. If the Seller is unable or unwilling to cure such defects or non-conformities, then the Seller shall, within **fifteen (15)** days from and after date of receipt of such written notice from Buyer, advise the Buyer of same, by written notice mailed to the Buyer at the address set forth hereinabove, sent by U. S. Mail, postage prepaid, whereupon the Buyer shall be required to elect either:

- (i) To receive from the Seller all sums deposited hereunder, whereupon all rights, liabilities and obligations of the parties hereto shall cease and terminate and this Agreement shall be null and void, or
- (ii) To accept such title as the Seller may be able to convey and close this transaction in accordance with the terms as stated herein, without any further recourse against the Seller.

Such election shall be deemed to have been timely given, if forwarded to the Seller, by telefacsimile transmission to the Seller c/o John J. McCormack, Attorney At Law, Telefacsimile Number (603) 968-2153, received on or before 5 pm on the **tenth (10th) day** from and after the date of mailing of the notice from the Seller to the Buyer setting forth the Seller's inability or unwillingness to cure such defects or non-conformities. In the event that the Buyer shall fail, neglect or refuse to make such election, within the time as specified hereinabove, then it shall be conclusively presumed that the Buyer does not wish a refund of Buyer's deposit and that the Buyer is willing to accept such title as the Seller may be able to convey as set forth in Subparagraph (ii) hereinabove.

B. Notice of Availability of Title Insurance: The Seller's closing agent has agreed to offer the Buyer the option to purchase owner's title insurance for the Unit, a specimen of which is available for review at the Seller's attorney's office. If the Buyer elects to purchase title insurance, Buyer shall pay the premium for such policy at Closing, together with the charge for preparation of same.

V. Closing:

A. Deed: Title shall be conveyed by a Warranty Deed subject to (i) property taxes for the year of closing; (ii) all grants, covenants, limitations, restrictions, easements, liens, conditions, reservations and rights-of-way of record, which the Seller warrants and represents do not adversely affect the use and enjoyment of the subject premises as presently improved; (iii) those matters set forth in the Declaration and By-Laws of the Condominium; (iv) rights of flowage and/or drainage in Squam River and Little Squam Lake, as may exist or appear of record; (v) subdivision, land use and zoning ordinances, rules and regulations governing the Condominium; and (vi) those matters set forth in Paragraph IV (A) hereinabove.

B. Costs:

(i) The Seller will pay the following costs:

- a. Seller's tax stamps.
- b. Costs of recording any instrument to clear title.

(ii) The Buyer will pay the following costs:

- a. Buyer's tax stamps.
- b. Costs of recording deed.
- c. Title insurance premium if Buyer elects to purchase owner's title insurance together with the charge for preparation of same.
- d. Costs of recording documents required by any bank financing extended to the Buyer.

e. An amount not to exceed one (1) month, in advance, of condominium assessments to be utilized in funding the condominium association.

C. Prorations: Real estate taxes for the current year will be prorated based upon the latest assessment and rate, together with such other information as may be reasonably available from the Office of the Tax Collector for the Town of Ashland, New Hampshire. Buyer and Seller agree to reprorate the current tax bill, if it differs from the closing proration by more than ten percent (10%). This provision shall survive the Closing. Condominium assessments for the quarter during which the closing occurs, shall be prorated between the Buyer and Seller as of the date of Closing.

D. The location: This sale shall be closed at the office of Seller's attorney, **John J. McCormack, Esq.**, 62 Main Street, Ashland, New Hampshire, or at such other location as may be mutually agreed upon.

E. Date of Closing:

(i) Construction of the subject Unit is estimated to be substantially complete on or before **May 15, 2006**.

(ii) Seller does not guarantee a firm completion date for construction of the Unit. Seller shall make every reasonable and diligent effort to meet the estimated construction schedule, but shall not be obligated to provide or compensate Buyer for any accommodations or inconvenience to Buyer as the result of any construction delays. Further, such delays shall not serve to cancel, amend, or diminish any of the Buyer's obligations herein.

(iii) Closing shall take place on or before **June 1, 2006**, or within **fourteen (14) days** of the Unit being ready for use, as determined by Seller, in accordance with reasonable standards, whichever occurs later. It is understood and agreed that a Closing may be required to occur notwithstanding the fact that all improvements to all portions of the common area of the Condominium have not been fully completed.

VI. Possession: The Buyer shall not enter the subject property in any manner prior to Closing without the express permission of the Seller which shall not be unreasonably withheld. Possession of the property shall be delivered to the Buyer at Closing or as otherwise agreed to in writing between the Buyer and Seller.

VII. Association:

A. Membership: Buyer recognizes that in purchasing the Unit, Buyer will automatically become a member of the **Squam River Landing - A Boatslip Condominium** Unit Owners' Association ("**Association**"), and will be subject to

the articles of association and by-laws of that Association and all the rules and regulations enacted by said Association, and the Declaration of Condominium.

B. Assessments: Buyer acknowledges that as a member of the Association, Buyer shall be obligated to pay assessments for maintenance and management in accordance with the Declaration. The Buyer, further, acknowledges that the Condominium containing the Unit has not yet been formed and functioned, so that the Seller's estimate as to the budget for the Association is based upon the Seller's best estimate of same. The budget, a copy of which is attached hereto as **Exhibit B**, therefore, is subject to change and amendment depending upon actual costs, once realized, such as real estate taxes assessed by the **Town of Ashland, New Hampshire**, costs of insurance, costs of water, sewer and electricity, reasonable costs of maintenance and repair, and such other charges, costs and expenses as are typically and customarily included within a condominium association budget.

VIII. Performance: Except as otherwise set forth herein **TIME IS OF THE ESSENCE** in the performance of this Agreement.

The obligation of the Seller to perform is expressly and explicitly contingent upon the following:

A. The Buyer is acquiring title to a Unit located within certain premises which are intended to be purchased by the Seller and from which shall be developed "**Squam River Landing - A Boatslip Condominium**". The parties acknowledge and agree that nothing contained herein shall constitute or create an obligation, legal, equitable or otherwise, on the part of the Seller. It is expressly understood and acknowledged that the Seller presently intends, but is not legally obligated, to acquire such title. In the event that the Seller shall elect to not acquire such title, then the Seller shall be entitled to notify the Buyer of the termination of the within Agreement, whereupon any and all deposits shall be refunded to the Buyer, and neither party shall have any further rights, obligations or duties with respect to the other.

B. The Seller's obligations to perform hereunder are also expressly and explicitly contingent upon the Seller obtaining any and all necessary permits, approvals, licenses, variances, and/or exceptions so as to permit the Seller to complete and construct the Condominium project and its included improvements in such a manner as the Seller, in Seller's sole discretion, shall deem to be necessary, reasonable or appropriate. In the event that the Seller shall determine that such permits, approvals, licenses, variances, and/or exceptions are not obtainable in form and substance acceptable to the Seller, in the Seller's sole discretion, then the Seller shall be entitled to notify the Buyer of the lack thereof, whereupon the within instrument shall terminate. Any and all deposits shall be returned to the Buyer, and neither party shall have any further rights, obligations or duties hereunder.

IX. Insurance: Seller represents that as of the time of closing the buildings and improvements which shall constitute the Condominium will be insured against loss by fire with extended coverage in an amount equal to the replacement cost, and the Seller agrees to keep said property insured in said amount until title passes. Buyer shall be entitled to receive a certificate of insurance upon execution of this Agreement. In the event all or part of said property is destroyed by fire or casualty insured against, Buyer, unless the property shall at the time of Closing have been previously restored to their former condition by Seller, may at his option elect to terminate this Agreement, in which event he shall have refunded to him immediately his deposit, or the Buyer may elect to perform this Agreement, in which event he shall, upon payment of the purchase price, receive an assignment of the Seller's claim for loss by said fire or casualty insured against as to the Unit.

X. Punch List: Prior to Closing, a punch list may be made by the Buyer and Seller of items which are to be corrected and adjusted within **sixty (60) days** after Closing. Closing shall not be delayed by Buyer for Seller's failure to correct such items by the Closing date set by Seller. The Buyer acknowledges and agrees that certain portions of the Common Area, including, without limitation, landscaping and/or grounds which do not materially or unreasonably affect the use and enjoyment of the subject Unit may not be completed as of the time of Closing. The Seller acknowledges and reaffirms its obligation to complete same and the consummation of a closing by the Buyer shall not be deemed to be a waiver of the Buyer's rights to require that same be completed.

XI. Default by Buyer: In the event Buyer fails to perform in accordance with this Agreement, all monies paid hereunder to Seller shall be retained by Seller as and for liquidated damages and not as a penalty, and in consideration for the execution of this Agreement, it being understood that Seller's actual damages would be unascertainable. Seller shall have no remedies other than withholding said monies as liquidated damages.

XII. Default by Seller: If the Seller fails to perform in accordance with this Agreement, Buyer shall give Seller **fifteen (15) days** written notice to cure such default and if Seller fails to cure default within **fifteen (15) days**, Buyer may terminate this Agreement and receive a refund of all monies paid to the Seller as Buyer's sole and exclusive remedy. Nothing contained herein shall preclude the Buyer from accepting such performance as the Seller shall deliver, with no abatement of the purchase price.

XIII. Realtor: The parties to this Agreement further acknowledge and agree that **Coldwell Banker Old Mill Properties** brought about this sale as agent of the Seller, who shall be responsible for the payment of a real estate commission to said firm.

XIV. Attorney's Fees: In the event that it shall become necessary for either party to initiate an action against the other to compel compliance with the terms, covenants and conditions thereof, or to enforce either party's rights hereunder, then in addition to any other damages to which the prevailing party may be entitled, the prevailing party shall

be entitled to reimbursement of reasonable costs and attorney's fees incurred by said party.

XV. No Recording: This Agreement or any other notice thereof shall not be recordable in any public records.

XVI. Assignment: This Agreement is not assignable by Buyer unless such assignment is approved in writing by the Seller. Such approval may be withheld for any reason.

XVII. RIGHT OF CANCELLATION: NEW HAMPSHIRE LAW PROVIDES THAT YOU HAVE AN EXPRESS AND UNQUALIFIED RIGHT TO CANCEL YOUR PURCHASE AND SALE AGREEMENT WITHIN FIVE (5) CALENDAR DAYS FROM THE DATE THE AGREEMENT WAS ENTERED INTO OR THE DELIVERY TO YOU OF THE PUBLIC OFFERING STATEMENT, WHICHEVER IS LATER. IF YOU ELECT TO CANCEL, YOU MAY DO SO BY WRITTEN NOTICE THEREOF HAND-DELIVERED OR DEPOSITED IN THE UNITED STATES MAIL, RETURN RECEIPT REQUESTED, WITHIN THE FIVE (5) DAY PERIOD, TO THE DECLARANT OR TO ANY AGENT OF THE DECLARANT; PROVIDED, HOWEVER, THAT IF YOU ELECT TO MAIL THE NOTICE OF CANCELLATION, YOU MUST ALSO PROVIDE THE DECLARANT WITH TELEPHONIC NOTICE OF CANCELLATION WITHIN THE FIVE (5) DAY PERIOD. SUCH CANCELLATION SHALL BE WITHOUT PENALTY AND ANY DEPOSIT MADE BY YOU AND ALL OF THE SUMS PAID BY YOU MUST BE REFUNDED IN ITS ENTIRETY NO LATER THAN TEN (10) CALENDAR DAYS FROM THE DECLARANT'S RECEIPT OF YOUR WRITTEN NOTICE OF CANCELLATION.

XVIII. Agreement Binding: This Agreement shall be binding upon the parties hereto, their respective personal representatives, successors, and assigns.

XIX. Governing Law: This Agreement of sale and purchase shall be governed by and interpreted under the laws of the State of New Hampshire.

XX. Notices: All notices and demands required herein shall be made in writing by registered or certified mail, return receipt requested, mailed to the Buyer and Seller at the addresses set forth on Page 1.

XXI. Dispute Prior to Closing: If, in the sole opinion of the Seller, a dispute or disagreement beyond solution has arisen between Buyer and Seller, Seller reserves the right to refund all monies paid by the Buyer, and to terminate this Agreement. Upon payment of this amount, both Buyer and Seller will mutually and permanently release the other from all obligations, rights and claims against the other.

XXII. Oral Representations: This Agreement represents the entire agreement between the parties hereto. Any modifications, changes, or alterations to the Agreement shall be in writing and signed by both parties.

XXIII. Validity and Survival: In the event that any provision of this Agreement shall be held invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

XXIV. Captions: All sections and article titles and captions as set forth herein are for convenience only and shall not be deemed a part of the context of this Agreement.

XXV. Execution of Agreement and Receipt of Documents: The parties acknowledge and agree that an executed telefacsimile transmission hereof shall be deemed to constitute an original and, further, Buyer expressly indicates that Buyer:

A. Has read this Agreement and understands and agrees to all the provisions, terms and conditions contained herein.

B. Acknowledges that no Condominium Public Offering Statement is required by New Hampshire law, and therefore, none shall be forthcoming.

SELLER:
NHNY Marina Development, LLC

By: _____
Witness

Its: **Member**, duly authorized

BUYER:

Witness

(Print Buyer's Name)

Buyer's Mailing Address:

Buyer's Telephone Number:

Buyer's Social Security Number: