

DATE: May 26, 2016 TIME: 10:00 AM IN JURISDICTION: Augusta County, Virginia

**MEMORANDUM OF FORECLOSURE SALE OF PROPERTY OWNED BY CROSY FARM, LLC,**  
**HELD THIS DATE**  
**AT THE AUGUSTA COUNTY COURTHOUSE**  
**1 EAST JOHNSON STREET, STAUNTON, VIRGINIA**  
**ON PROPERTY LOCATED IN PASTURES DISTRICT AUGUSTA COUNTY, VIRGINIA AT:**

FIRST: 103.75 acres on Pine Run, 507 Jerusalem Chapel Road, (TM 33-4)

SECOND: 127.34 acres near intersection of Rt 725 and Route 720, (TM 33-7)

THIRD: 25.86 acres on Pine Run, (TM 33-8)

FOURTH: 269.045 acres on Jennings Branch, 408 Hankey Mountain Highway, (TM 34-1)

FIFTH: 53.50 acres at Lone Fountain, (TM 34-11)

SIXTH: 46.495 acres near Churchville, (TM 34-12)

**SALES PRICE:** \$ \_\_\_\_\_

**DOWNPAYMENT:** \$ \_\_\_\_\_ 25,000.00 \_\_\_\_\_

**BALANCE DUE IN 15 DAYS:** \$ \_\_\_\_\_ \*

*\*subject to tax adjustments*

Deed to: \_\_\_\_\_

Attorney for buyer: \_\_\_\_\_

Buyer's address: \_\_\_\_\_

Buyer's phone number: \_\_\_\_\_

Miller Levin PC, Trustee  
11 Terry Court, Suite A  
PO Box 2366  
Staunton, VA 24402  
Phone: (540) 885-8146  
Fax: (540) 886-8913  
[phil@millerlevin.com](mailto:phil@millerlevin.com)

By: \_\_\_\_\_  
Philip H. Miller

Buyer: \_\_\_\_\_

Print Name: \_\_\_\_\_

Buyer acknowledges that the following terms and conditions were announced prior to sale and apply to this transaction. Buyer voluntarily enters into this contract of his/her own free will. In consideration of the premises and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, buyer agrees to the terms below and acknowledges that he/she fully understands said terms.

1. The property is sold subject to conditions, restrictions, rights-of-way, easements, and reservations, if any, of record. The property will be sold free of all liens against the property.

2. The property is sold subject to the rights of any occupants. The trustee is not obligated to convey property vacant.

3. The conveyance to the buyer will be by special warranty deed prepared by the trustee at buyer's expense of \$150.00 in addition to the sales price set forth above.

4. The property is sold "as is, where is" without warranty of any kind. No representations or warranties are made as to the zoning, structural integrity, physical condition, adequacy of access and egress, availability of any public utilities, environmental condition, construction, workmanship materials, habitability, fitness for a particular purpose, marketability of title, or merchantability of all or any part of any property being sold. The foregoing disclaimer of representations and warranties is not intended to void or impair any liability or obligation, if any; any other party may have with respect to all or any part of the property being sold. The buyer recognizes and agrees that any investigation, examination, or inspection of the property being sold is within the control of the owner or other parties in possession and their agents and not within the control of the trustee, the noteholder, or their successors or assigns.

5. Time is of the essence in closing the purchase of the property; failure to close within the allotted time (fifteen (15) days from date of foreclosure sale) shall constitute automatic forfeiture of deposit without prior written notice of same. Buyers shall remit balance of sales price in certified funds without trustee having to request same from buyers. In the event of default by the successful bidder, the deposit shall be forfeited and applied to the costs, expenses of sale and trustees' fee and/or the secured indebtedness. There shall be no refund of deposits.

Such forfeiture shall not limit any liability of the defaulting buyer, or any rights or remedies of the trustee or the noteholder, with respect to any default. The defaulting buyer shall be liable for all costs of re-sale of the property (including attorney fees of the noteholder and the trustee), plus any amount by which the ultimate sale price for the property is less than the defaulting buyer's bid. After any such default and forfeiture, the property may, at the discretion of the trustee, be conveyed to the next highest bidder on the property whose bid was acceptable to the trustee. Buyer agrees that in any suit, whether at law or in equity, where trustee has to enforce or defend this memorandum of sale against the buyer, buyer shall be responsible for reasonable attorney fees and costs incurred by the trustee for said suit.

6. Buyer shall be solely responsible for all closing expenses except grantor's tax which will be paid by the seller. Taxes prorated through date of sale will be paid by seller; buyer agrees to reimburse seller for prepaid taxes. Buyer agrees to pay any roll back taxes, if applicable, and any and all amounts claimed owing by any homeowners' association, condominium association, and/or leasehold cooperative association.

7. If after the sale has been conducted the trustee is advised of a bankruptcy filing prior to the time of the sale which affects the validity of the sale, buyer acknowledges that sale may be void and subject to cancellation by trustee. Should this occur, trustee shall promptly refund deposit to buyer after which the parties shall be relieved of all further liability to each other.

8. If the trustee for any reason whatsoever fails or refuses to convey title to this property, then it is a term of this sale that the buyer's sole remedy in law and in equity is limited to the return of the deposit only. Upon a refund of the deposit, the sale shall be void and of no effect. The return of the deposit is the sole extent of the buyer's remedy and return of deposit is the agreed upon liquidated damages.

If a suit challenging the sale is filed in a court of competent jurisdiction by any entity, including but not limited to buyer named herein or its successor assigns or agents, whether at law or in equity, the trustee reserves the right to set aside the sale, cancel this memorandum of sale and return the deposit to the buyer without incurring any further liability between the parties. Buyer's remedies are limited to the return of the deposit only.

Buyer acknowledges trustee's right to take the actions described herein and agrees to be bound by the trustee's actions. The buyer's remedy recited herein represents the buyer's agreed upon liquidated damages.

9. Where the trustee refuses or fails to execute and deliver to the buyer a trustee's deed of foreclosure the buyer's sole remedy is limited to the refund of the deposit. The return of the deposit is the buyer's sole remedy and it is the agreed upon liquidated damages. In the event a trustee's deed or deed of foreclosure has been recorded and the trustee determines in its discretion that it is necessary to rescind the foreclosure sale, trustee reserves the right to nullify the trustee's deed or deed of foreclosure and revest title to the mortgagors/prior owners subject to the deed of trust upon which was foreclosed

10 Buyer shall be paid a \$100.00 cancellation fee as consideration for the rescission and/or cancellation of the sale in the event the trustee fails or refuses to deliver a deed as provided herein. Buyer hereby acknowledges that such consideration is fair and adequate in exchange for the cancellation provisions set forth herein and waives any challenge thereto.

11. If a suit challenging the sale is filed in a court of competent jurisdiction whether at law or in equity, prior to the closing and receipt of funds, the trustee, in its sole discretion, reserves the right to set aside the sale, cancel this memorandum of sale and return the deposit to the buyer without any further liability between the parties.

12 The sale shall be completed and final upon signing of the memorandum of sale and the insertion of the time of execution by the parties. Buyer is prohibited from initiating or completing any repairs, modifications or alterations to the aforesaid property until the balance of purchase price is paid in full to the trustee.

13. The risk of loss from fire, casualty, condemnation actions, whether or not notice was given by posting property or otherwise, or other causes of loss, and all liabilities of ownership of the property pass to buyer upon execution of this memorandum of sale. Any damage occurring to the property during the settlement period is solely the buyer's risk.

14, Buyer shall close within the allotted time. In certain cases, the trustee at his discretion, may grant an extension which will require buyer to pay per diem interest of \$110.00. (to be determined) beginning on the sixteenth (16th) day after the sale, and continuing through the date trustee receives said funds, not to exceed thirty (30) days. Any request for extensions must be submitted in writing and acknowledge and agree to pay said per diem interest. Said extensions are not automatic and will be approved by the trustee on a case by case basis. In any event, buyer shall be responsible for any and all per diem interest accrued from the 16th day onward as the result of any extension granted to close on said property.

15. This memorandum of sale, a contract, shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, and buyer consents to the jurisdiction and venue of the Circuit Court of the County of Augusta, Virginia, and further agrees that any and all causes of action arising under this memorandum of sale by and between the trustee and buyer shall only be brought in the Circuit Court of the County of Augusta, Virginia.

16. If any provision or part of this memorandum of sale is deemed invalid by a court, the invalidity of that provision shall not affect the remainder of said memorandum.