

MEMORANDUM OF SALE

At the public auction held in accordance with the attached notice of sale entitled "Notice of Mortgagee's Sale of Real Estate" (the "Notice of Sale"), the premises described therein as **336-338 Park Avenue, Worcester, Massachusetts** (the "Premises") have been sold for \$ \_\_\_\_\_ (the "Purchase Price") to the undersigned purchaser (the "Purchaser") who has made the required deposit and hereby agrees to pay the balance of the Purchase Price to the holder of the Mortgage (as defined in the Notice of Sale) (the "Mortgagee"), according to the terms of the Notice of Sale and also agrees to accept the Mortgagee's deed conveying the Premises (Massachusetts General Laws, Chapter 183, Appendix Form 11) according to the terms of the Notice of Sale. The balance of the Purchase Price shall be paid in certified check or bank cashier's check and deed shall be taken by the Purchaser within thirty (30) days of the date hereof at the offices of Seder & Chandler, LLP, 339 Main Street, Worcester, Massachusetts. The foregoing terms of payment and delivery may only be varied by written agreement signed by the Mortgagee and the Purchaser.

The execution and delivery of this Memorandum of Sale shall bind both the Purchaser and the Mortgagee. This Memorandum of Sale, together with the Notice of Sale, shall constitute the entire agreement of the parties hereto. Verbal descriptions and/or qualifications regarding the Premises by the Mortgagee or Auctioneer or their respective agents SHALL NOT INVALIDATE nor become part of this sale as THE PURCHASER HAS EXAMINED THE PREMISES TO HIS/HER SATISFACTION.

The Premises are sold subject to any outstanding mortgages, leases, tenancies, restrictions, orders of conditions, easements, encroachments, improvements, outstanding tax titles, municipal or other public taxes, assessments, federal or state tax liens, other liens, or claims in the nature of liens and existing encumbrances of record created prior to the Mortgage or otherwise having priority over the Mortgage, if there be any, including, without limitation: easement granted to Massachusetts Electric Company recited in instrument recorded with the Worcester District Registry of Deeds in Book 16633, Page 246; those encumbrances, partial releases, exclusions and liens specifically set forth in the Notice of Sale; outstanding municipal utility, water and sewer bills, betterment assessments and liens and other municipal charges and taxes in the nature of liens, if any; violations, if any, of the State Sanitary Code or any other federal, state or local statute or ordinance, public

health rule, regulation or requirement, including, but not limited to, federal and state environmental statutes or regulations; restrictions and rights of way insofar as same may be in force and effect; and rights of persons under the Servicemembers Civil Relief Act of 2003.

Inaccuracy in the description of the Premises SHALL NOT BE REASON FOR FAILURE ON THE PART OF THE PURCHASER TO COMPLETE THE SALE. The Premises shall be deemed sufficiently described if described by lot, parcel and/or street number if that is the only description available at the time of this auction.

THE PURCHASER WILL TAKE TITLE TO THE PREMISES SUBJECT TO ALL PRIOR MORTGAGES, LIENS, AND OTHER ENCUMBRANCES, WHETHER OR NOT SPECIFICALLY DESCRIBED OR NOTED HEREIN AND WHETHER OR NOT SPECIFICALLY ANNOUNCED OR REFERRED TO AT SAID PUBLIC AUCTION. NO PORTION OF THE PURCHASE PRICE IS OR SHALL BE AVAILABLE TO BE APPLIED TO, TO CURE, OR TO SATISFY, IN WHOLE OR IN PART, ANY PRIOR MORTGAGE, LIEN, DEBT OR OTHER ENCUMBRANCE.

The Premises are sold in "as is" condition, subject to all known and unknown defects, without any representation or warranty, whether express, implied or imposed by law. Without limiting the foregoing total exclusion of representations and warranties, the Premises are sold without any warranty or representation regarding: (a) the validity, enforceability or perfection of Mortgagee's right or interest, (b) construction, existence or validity of permits or licenses for construction or occupancy, (c) compliance of existing structures with state or local zoning ordinances or other ordinances, (d) compliance of the Premises with any federal, state or local regulations or laws, (e) encroachments onto the Premises or from the Premises, (f) the presence or absence of lead paint and/or Urea Formaldehyde Foam Insulation, (g) compliance of the Premises and/or management of the Premises with federal or state environmental statutes or regulations, or (h) fitness for habitation or condition. The Purchaser has not been influenced to purchase the Premises by, nor has relied upon, any warranties or representations of the Mortgagee or the Auctioneer not set forth or incorporated in this Memorandum of Sale. The Premises are sold subject to the rights of any occupants or parties in possession of the Premises, if any. The Premises are sold subject to any liability to any occupant for security deposits and prepayments of rent, if any.

From and after the date hereof, the Purchaser shall have the sole risk of loss with respect to the Premises, and the Mortgagee shall have no responsibility for maintaining insurance

on the Premises. If the Premises are damaged by fire or other casualty prior to delivery of the deed to the Premises, the Purchaser shall pay the full balance of the Purchase Price and accept a deed to the Premises and an assignment of so much of the insurance proceeds as has not been used in the restoration of the Premises prior to the delivery of such deed, to the extent any such proceeds may be available to the Mortgagee.

The acceptance of Mortgagee's deed by the Purchaser (or the Purchaser's nominee or assignee) shall be deemed to be a full performance and discharge by Mortgagee of every agreement and obligation herein contained or expressed.

The Purchaser shall be responsible for payment of any title search desired by the Purchaser. The Purchaser shall be responsible and shall pay for all deed stamps and recording charges associated with this sale. The Purchaser shall pay for any surveying fees to establish metes and bounds of the Premises, if needed.

No personal property is included in this sale. Any work done upon the Premises or entry into possession before the delivery of the foreclosure deed and payment of the Purchase Price, with or without permission of the Mortgagee, shall be at the sole risk and expense of the Purchaser.

In the event that the Mortgagee cannot convey title as stipulated or otherwise perform its obligations hereunder, the deposit shall be refunded to the Purchaser, all rights hereunder shall cease, and this Memorandum of Sale shall be null and void without recourse to the Mortgagee or those acting on the Mortgagee's behalf, including but not limited to, the Mortgagee's employees, agents, representatives, attorneys, and any other person hired or retained by the Mortgagee in connection with the public auction of the Premises.

The auction is not complete until the Purchaser has executed this Memorandum of Sale and made the required deposit, which deposit shall be forfeited if the Purchaser does not perform the Purchaser's part of all of the terms and conditions of sale set forth herein. Failure of the Purchaser to execute this Memorandum of Sale or to comply in any way with the provisions hereof shall constitute a default hereunder and shall entitle the Mortgagee to retain the deposit. In case of default and forfeiture, the deposit shall become the property of the Mortgagee and shall not be applied to the Mortgage debt and such forfeiture shall not impair the right of the Mortgagee to seek further relief either at law or in equity. The Purchaser hereby

guarantees payment of the amount bid and entered on this Memorandum of Sale and performance hereunder. The Purchaser shall have no claim to any excess of the sale price over the amount bid.

In the event of the failure or inability of the Purchaser to perform and to purchase the Premises in accordance herewith, the Mortgagee reserves the right (but is not obligated) to accept, subject to the terms of this Memorandum of Sale, the second highest bid for the Premises, without further advertisement and without further notice to other bidders or persons. In the event that the Mortgagee offers the Premises to the second highest bidder and such person declines either to purchase the Premises at the second highest bid price or to sign this Memorandum of Sale, then the Mortgagee may elect (but is not obligated) to exercise the rights of the second highest bidder under this paragraph and to purchase the Premises at the second highest bid price, without further advertisement and without further notice to other bidders or persons.

The remedies of the Mortgagee stated herein are cumulative and not exclusive and shall not be deemed to limit in any way the Mortgagee's rights upon default by the Purchaser hereunder.

[SIGNATURE PAGE FOLLOWS]

Executed as a sealed instrument this 7<sup>th</sup> day of February, 2020.

BERMAN AUCTIONEERS & APPRAISERS,  
AUCTIONEER

By: \_\_\_\_\_

Sale Price \$ \_\_\_\_\_

Deposit Received \$ \_\_\_\_\_

Balance Due \$ \_\_\_\_\_

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Social Security Number  
or Federal Id. Number

Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

Phone: \_\_\_\_\_

HOMETOWN BANK, MORTGAGEE

By: \_\_\_\_\_