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## **BIDDER'S INFORMATIONAL PACKAGE**

### **UNIT #'S 102 & 103, 433 NORTH CONDOMINIUM 437 & 439 NORTH STREET PITTSFIELD, MASSACHUSETTS**

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## MORTGAGEE'S NOTICE OF SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Ferrin Clark LLC (the "Mortgagor") to People's United Bank, successor by merger with The Bank of Western Massachusetts (the "Mortgagee") dated May 24, 2007 and recorded with the Berkshire Middle District Registry of Deeds in Book 3806, Page 107, which Mortgage the undersigned is the present holder, for breach of the conditions of said Mortgage and for the purpose of foreclosing, the same will be sold at Public Auction on **Tuesday, April 9, 2013, at 11:00 A.M.**, on the mortgaged premises below described, being known and numbered as **Unit Nos. 102 and 103, 433 North Condominium, 437 and 439 North Street, Pittsfield, Massachusetts** more particularly described as follows:

The units known as No. 102 and 103 (the "Units") at 433 North Condominium, a condominium located in Pittsfield, Berkshire County, Massachusetts, and established by the Grantor pursuant to Massachusetts General Laws Chapter 183A by Master Deed dated November 17, 2006 and recorded in the Berkshire Middle District Registry of Deeds ("Registry") in Book 3671, Page 186 ("Master Deed") and amended by a First Amendment to Master Deed dated March 6, 2007 and recorded in the said Registry in Book 3747, Page 68 and further amended by a Second Amendment to Master Deed dated May 24, 2007 and recorded in the said Registry of Deeds in Book 3806, Page 92.

The Units are shown on a plan recorded with the Berkshire Middle District Registry of Deeds in Drawer R #9 and more particularly on a plan recorded herewith, to which is affixed a verified statement in the form provided by M.G.L. c.183A, § 9, and is conveyed subject to and with the benefit of the obligations, restrictions, rights and liabilities contained in M.G.L. c.183A, the 433 North Street Master Deed, the documents establishing the organization of unit owners and the By-Laws as amended of record.

Each of the units is intended for such other uses as are set forth in the Master Deed.

Together with an undivided percentage interest as to Unit 102 in the common areas and facilities of 9.3% and as to Unit 103 an undivided percentage interest in the common areas and facilities of 10.2%.

The Units are also conveyed together with an exclusive right and easement to use three (3) parking spaces to be designated by the Trustee of the "433 North Condominium Trust", which trust was established by Declaration of Trust ("Declaration") dated November 17, 2006 and recorded with said Registry in Book 3671, Page 203.

Unit 102 is hereby conveyed with the benefit of a non-exclusive perpetual easement as described in the Second Amendment to Master Deed of 433 North Condominium dated May 24, 2007 and recorded in the Berkshire Middle District Registry of Deeds in Book 3806, Page 92.

Unit 103 is hereby conveyed with an exclusive, perpetual easement as described

in the Second Amendment to Master Deed of 433 North Condominium dated May 24, 2007 and recorded in the Berkshire Middle District Registry of Deeds in Book 3806, Page 92.

Being all and the same premises conveyed to the Mortgagor by deed of Whaling Properties, LLC dated May 24, 2007 and recorded in the Berkshire Middle District Registry of Deeds in Book 3806, Page 102.

**TERMS OF SALE:**

A deposit of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS will be required to be paid in cash or by certified check by the purchaser at the time and place of sale as an initial deposit in escrow with O'Connell, Plumb & MacKinnon, P.C., 75 Market Place, Springfield, Massachusetts 01103. The purchaser shall within 5 business days of the sale increase the deposit to a sum equal to 10% of the purchase price by delivering the amount necessary to O'Connell, Plumb & MacKinnon, P.C. in cash or certified check. The balance is to be paid in cash, or by certified check, within thirty (30) days thereafter and the Deed transferred contemporaneously therewith. The successful bidder at the sale shall be required to sign a Memorandum of Terms of Sale containing the above terms at the Auction Sale.

The purchaser will be responsible for all closing costs, Massachusetts deed excise stamps and all recording fees. Other terms, if any, to be announced at the sale.

The Seller reserves the right to sell to the second highest bidder in the event that the highest bidder defaults. However, this reservation of rights should not be construed as requiring the Seller to sell to the second highest bidder in the event of such a default.

This sale may be postponed or adjourned by public proclamation from time to time, if necessary, at the scheduled time and place of sale. The description of the premises contained in said Mortgage shall control in the event of a typographical error in this publication.

PEOPLE'S UNITED BANK  
The Present Holder of said Mortgage

By: \_\_\_\_\_  
Jerry B. Plumb, Jr., its Attorney  
O'Connell, Plumb, & MacKinnon P.C.  
75 Market Place  
Springfield, MA 01103  
(413) 733-9111

**Publication Dates:**

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## MEMORANDUM OF SALE

1. People's United Bank (the "Seller"), hereby sells the parcel of property in Springfield, Hampden County, Massachusetts, known and numbered as Unit Nos. 102 and 103, 433 North Condominium, 437 and 439 North Street, Pittsfield, Massachusetts, as the foreclosing holder of a mortgage dated May 24, 2007 and recorded with the Berkshire Middle District Registry of Deeds in Book 3806, Page 107 to the undersigned (the "Purchaser"), or to the Assignee designated by the Purchaser, on the thirtieth (30th) day following the date of this Agreement (or if on that day the Registry of Deeds is not open for business, then on the next day following said thirtieth day when the Registry of Deeds is open), or earlier if the parties so agree, by a good and sufficient Foreclosure Deed conveying a good, marketable title of record to the Premises as described in the notice entitled "Mortgagee's Notice of Sale of Real Estate" (the "Notice of Sale"), a copy of which is attached hereto as Exhibit "A", subject to all restrictions, easements, prior mortgages, improvements, outstanding tax titles, municipal or other encumbrances of record created prior to the Mortgage, condominium fees, rights of parties in possession, tenants, building codes, zoning ordinances, and G.L.c. 21E, and all other claims in the nature of liens having priority over the Mortgage, if any there be. The property shall also be transferred subject to the right of redemption of the United States of America, if any there be.

2. The purchase price of \_\_\_\_\_ DOLLARS (\$) is to be paid in cash or by certified bank check(s) to the order of People's United Bank within 30 days of the date of this Agreement.

4. The delivery of a deposit of TEN THOUSAND and no/ 100 DOLLARS (\$10,000.00), plus so much paid within 5 business days hereof to make the deposit equal to 10.0% of the purchase price, which has been made to bind this purchase, shall be applied against the purchase price or otherwise accounted for, and shall be forfeited to the use of the Seller in the event that the Purchaser shall fail to comply with the terms of this Agreement, but such a forfeiture shall not relieve the Purchaser from the Purchaser's obligations hereunder. The Seller shall be entitled to any interest earned on the deposit and the amount to be paid to the Purchaser shall not be adjusted to reflect any such interest.

5. The Purchase Price shall be paid at the office of Jerry B. Plumb, Jr., O'Connell, Plumb & MacKinnon, 75 Market Place, Springfield, Massachusetts 01103 at 10:00 a.m. on the date fixed for conveyance, or at such other place or hour as the parties hereto shall in writing agree, it being understood that Time is of the Essence of this Agreement.

6. If the Seller shall be unable to give title or make conveyance as above stipulated, or, if for any reason, including, without limiting the generality of the foregoing, the existence of a bankruptcy proceeding of any kind, whether voluntary or involuntary, or any order or requirement in connection therewith, or any requirement of a court of competent jurisdiction, impairs the authority of the Seller to give title or to make conveyance hereunder, said deposit shall be refunded and thereupon all obligations of the parties hereunder shall cease, and this Agreement shall be void and the Buyer shall have no recourse against the Seller, its employees, agents, attorneys and representatives, whether at law or in equity, provided, however:

- (a) If, on the date fixed for conveyance, a period of thirty (30) days shall not have expired after written notice from the Purchaser of a defect in title, the time for performance shall, if the Seller so elects in its absolute and sole discretion, be extended for a period of time not to exceed an additional sixty (60) days to enable the Seller to make reasonable efforts to cure such defect; and
- (b) If the Purchaser so elects, at either the original or extended time for performance, to pay said purchase price without deductions for defects in title, the Seller shall convey such title as the Seller has to the Premises.

7. Until the delivery of the deed, Seller shall continue to maintain insurance on the Premises against fire and other hazards as presently insured. If the Premises shall have been damaged by fire or casualty insured against, the Seller shall, unless the Seller has previously restored the Premises to their former condition, pay over or assign to Purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance less any amounts reasonably expended by the Seller for partial restoration.

8. The Purchaser will be responsible for all closing costs, Massachusetts deed excise stamps, all recording fees, real estate taxes, condominium fees and all other charges.

9. If the Purchaser shall fail to fulfill the Purchaser's agreements herein all deposits made hereunder by the Purchaser shall be retained by the Seller and the Purchaser shall reimburse the Seller for all damages, costs and expenses of the Seller in excess of the amount of the deposit, due to the Purchaser's default, including attorneys' and auctioneers' fees.

10. The property shall be conveyed in an "AS-IS" condition. The Purchaser acknowledges that the Purchaser has not been influenced to enter this transaction by, nor has the Purchaser relied upon, any warranties or representations of the Seller or the Auctioneer not set forth or incorporated herein, and that no such warranties and representations have been made. Moreover, the Seller specifically disclaims any applicable warranties, whether express or implied. It shall be the obligation of the Purchaser to obtain and pay for any required Smoke Detector Certificates. Further, the Purchaser assumes all legal responsibility and costs in the event that the property does not conform to the requirements of Title 5 of the State Environmental Code. The Seller makes no warranties or representations with respect to any septic system or its compliance with Title 5.

11. The acceptance of the foreclosure deed by Purchaser or its nominee shall be deemed to be a full performance and discharge of every Agreement and obligation of the Seller herein contained or expressed or arising out of said public auction.

12. This agreement shall be construed in accordance with the law of the Commonwealth of Massachusetts, is to take effect as a sealed instrument, sets forth the entire agreement between the parties, is binding upon the parties and inures to the benefit of the parties, their heirs, executors, successors and assignees, and may be modified or amended only by a written instrument executed by both the Seller and the Buyer.

PURCHASER:

\_\_\_\_\_

SELLER:

\_\_\_\_\_

People's United Bank  
By: Keith J. Nesbitt  
Title: Vice President

Date: April 9, 2013

RECEIVED of \_\_\_\_\_  
the sum of FIVE THOUSAND AND 00/100 DOLLARS (\$10,000.00) as a deposit on account  
of the above Agreement subject to the terms and conditions of sale hereinabove set forth.

\_\_\_\_\_  
Licensed Auctioneer

I hereby acknowledge that I have on April 9, 2013 purchased at the auction of Aaron  
Posnik & Associates (Auctioneer), a duly licensed auctioneer, for the sum of  
\_\_\_\_\_ DOLLARS (\$) ) the property described in the  
Notice of Sale attached hereto.

I hereby agree to comply with the above Agreement entitled "Memorandum of Sale",  
as well as any additional terms attached hereto and, having paid as a deposit to bind the  
bargain the sum of TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00), and agreeing to  
pay the additional deposit amounts, if any, required by this Agreement, understand that  
according to this Agreement, I will forfeit said sum to the use of the Seller should I fail to  
comply with said terms and conditions of sale set forth therein, and will not be relieved by  
said forfeiture of the obligation to purchase the Premises according to said Agreements.

PURCHASER:

\_\_\_\_\_

Print Name:  
Address: