

McBREEN & KOPKO
Kenneth A. Reynolds
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

Hearing Date: November 27, 2017
Hearing Time: 1:30 p.m.
Place of Hearing: Central Islip, NY
Last Day to Object: November 20, 2017

Counsel for 215 Hempstead Realty Corp.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----x

In re:

215 HEMPSTEAD REALTY CORP.,

Chapter 11

Case No. 17-74474 (REG)

Debtor.

-----x

**NOTICE OF DEBTOR’S MOTION FOR AN ORDER APPROVING
(A) THE SALE OF CERTAIN COMMERCIAL PROPERTY PURSUANT
TO SECTION 363 OF THE BANKRUPTCY CODE, AND (B) PAYMENTS TO
CREDITORS OF 100% OF THEIR CLAIMS AS FILED OR, IN THE EVENT
NO CLAIM WAS FILED, AS SCHEDULED**

PLEASE TAKE NOTICE, that 215 Hempstead Realty Corp., the debtor and debtor-in-possession (the “Debtor”) in the above captioned Chapter 11 case, by and through its proposed attorneys, McBreen & Kopko shall move before the Honorable Robert E. Grossman, United States Bankruptcy Judge, Eastern District of New York, at the Courthouse located at 290 Federal Plaza, Courtroom 860, Central Islip, New York 11722, on November 27, 2017, at 1:30 p.m., or as soon thereafter as counsel can be heard, for an for an Order, pursuant to Sections 105(a), 363(b) and 363(f)(1), (2), (3), and (5) of Title 11 of the United States Code (the “Bankruptcy Code”) for the entry of an order approving (a) the sale of a certain commercial property described and known as 215 Hempstead Avenue, West Hempstead, New York 11552 (the “Premises”) at the contractually agreed upon sale price of \$775,000.00 free and clear of any all liens, claims and encumbrances and other interests (with such liens to attach to the proceeds of

such sale); and (b) authorizing the payment of 100% of creditor claims, or in the event no claim is filed in the case, claims will be paid in accordance with those scheduled in the petition and schedules filed by the Debtor, and granting such other, further and related relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief sought in the Motion must conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, as modified by any administrative orders entered in this case, and be filed with the Bankruptcy Court electronically in accordance with General Order # 462, by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, Microsoft Word DOS text (ASCII) or a scanned image of the filing, with a hard copy delivered directly to Chambers, and may be served in accordance with General Order # 462, and upon (i) counsel to the Debtor, McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, New York 11753, Attn: Kenneth A. Reynolds, Esq.; and (ii) the Office of the United States Trustee, Long Island Federal Courthouse 560 Federal Plaza - Room 560 Central Islip, NY 11722-4437, Attn: Alfred M. Dimino, Esq., so as to be received by no later than 4:00 p.m. on November 20, 2017.

PLEASE TAKE FURTHER NOTICE, that only those objections that have been timely filed may be considered by the Court.

Dated: Jericho, New York
November 1, 2017

McBREEN & KOPKO
Attorneys for Debtor and Debtor
in Possession

By: /s/ Kenneth A. Reynolds
Kenneth A. Reynolds, Esq. (KR3808)
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

McBREEN & KOPKO

Kenneth A. Reynolds
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

Counsel for Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----X

In re:

Chapter 11

215 HEMPSTEAD REALTY CORP.,

Case No. 17-74474 (REG)

Debtor.

-----X

**DEBTOR’S MOTION FOR AN ORDER APPROVING (A) THE SALE OF CERTAIN
COMMERCIAL PROPERTY PURSUANT TO SECTION 363 OF THE BANKRUPTCY
CODE, AND (B) PAYMENTS TO CREDITORS OF 100% OF THEIR CLAIMS AS
FILED OR, IN THE EVENT NO CLAIM WAS FILED, AS SCHEDULED**

**TO: THE HONORABLE ROBERT E. GROSSMAN,
UNITED STATES BANKRUPTCY JUDGE:**

215 Hempstead Realty Corp., the above captioned debtor and debtor-in-possession (the “Debtor”) by and through its undersigned attorneys, submits this motion (the “Sale Motion”) pursuant to Sections 105(a), 363(b) and 363(f)(1), (2), (3), and (5) of Title 11 of the United States Code (the “Bankruptcy Code”) for the entry of an order approving (a) the sale of a certain commercial property described and known as 215 Hempstead Avenue, West Hempstead, New York 11552 (the “Premises”) at the contractually agreed upon sale price of \$775,000.00 free and clear of any all liens, claims and encumbrances and other interests (with such liens to attach to the proceeds of such sale); and (b) authorizing the payment of 100% of creditor claims, or in the event no claim is filed in the case, claims will be paid in accordance with those scheduled in the petition and schedules filed by the Debtor. In support of its Sale Motion, the Debtor respectfully represents as follows:

BACKGROUND

1. The Debtor previously filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, in the United States Bankruptcy Court for the Eastern District of New York (the “Court”) on February 10, 2017 which proceeding was dismissed by Order of the Court dated June 26, 2017.

2. Thereafter, the Debtor filed for relief under Chapter 11 of Title 11 of the United States Code again on July 24, 2017.

3. The Debtor is a corporation formed in 2013 under the laws of the State of New York and is in the business of holding and managing real property. The Debtor operates its business from a primary business location of 215 Hempstead Avenue, West Hempstead, New York 11552.

4. The Debtor remains in possession of its property and management of its affairs pursuant to Bankruptcy Code §§1107(a) and 1108.

5. No trustee, examiner or committee of creditors has been appointed in this case.

6. The Debtor was compelled to seek Chapter 11 relief because it’s secured lender Vincent J. Fischetti (“Fischetti”), filed a foreclosure proceeding against the Premises.

7. The \$775,000.00 purchase price was negotiated pursuant to an arms length sale contract and constitutes a fair price for the Premises being sold by the Debtor.

8. Fischetti has consented to the referenced sale. By reason of the foregoing, Debtor is confident that the sale process is fair and reasonable and is fully supported by

the exercise of the Debtor's sound business judgment and should be approved by the Court.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this Sale Motion pursuant to 28 U.S.C. §§ 157(a), 157(b)(1) and 1334. Venue is appropriate in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105, 363(b)(1) and 363(f)(1), (2), (3), and (5) of the Bankruptcy Code and Rules 2002 and 4011 of the Federal Rules of the Bankruptcy Procedure.

RELIEF REQUESTED

10. By this Sale Motion, the Debtor seeks the entry of an order of the Court, (a) approving the sale of the Premises with prospective purchaser Aftab Hussain ("Purchaser") for the purchase price of \$775,000.00 (annexed hereto as Exhibit "A is a copy of the Contract of Sale as of July 20, 2017 as amended by the Riders annexed thereto). Fischetti maintains a first priority perfected security interest in the Debtor's assets which consist of the commercial property formerly operated as a gasoline station, service station and convenience store. Annexed hereto as Exhibit "B" is a copy of the Mortgage and Promissory Note duly recorded and perfected against the Debtor's real property.

11. Bankruptcy Code Section 363(f)(1), (2), (3), and (5) permits a debtor to sell property not in the ordinary course of its business under the below stated provisions, all of which being present in Debtor's case:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

12. The Debtor had been advised by its attorney, the Purchaser's attorney, and the lender that a closing would not occur without an Order of the Court authorizing the sale.

13. Accordingly, the Debtor hereby seeks an Order of the Court pursuant to Bankruptcy Code Section 363(b)(1) and 363(f)(1), (2), (3), and (5) approving the sale.

14. Debtor seeks to sell the Premises free and clears of all liens, claims and encumbrances with any such liens, claims and encumbrances to attach to the proceeds of sale in accordance with Bankruptcy Code Section 363(f).

15. It is further submitted that the Order approving the sale protective provisions of Bankruptcy Code Section 363(m) in favor of Purchaser.

16. Additionally, pursuant to Bankruptcy Code Section 363 the Debtor shall make payment to Fischetti at the closing in the approximate amount of \$560,310.71 from the sale proceeds of the Premises to Aftab Hussain as required by the underlying loan documents.

17. The Debtor submits that ample authority exists for the approval of the proposed sale on the terms and conditions set forth in the Motion.

18. Section 363(f) of the Bankruptcy Code authorizes the Debtor to sell assets for the estate not in the ordinary course of business subject to higher and better offers such that the sale proceeds will be free and clear of liens, claims and encumbrances.

19. That if the sale is not approved on or before November 27, 2017 and the closing does not occur on or before January 9, 2018, the Debtor will consent to a dismissal of its case along with certain other stipulated conditions in a stipulation to be executed by the Debtor and Aftab Hussain and filed with the Court for approval within the next five (5) business days. The proposed notice and bidding procedures, in the event a qualified bidder emerges, have been annexed hereto as Exhibit "C". The Debtor believes the proposed notice and bidding procedures are fair and reasonable and prepared as a sound exercise of the Debtor's business judgment. Debtor requests that the Court approve the annexed notice and procedures.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

WHEREFORE, the Debtor respectfully requests that the Court enter an order (a) approving the sale of the Premises for the purchase price of \$775,000.00 subject to higher and better offers; (b) authorizing and directing the Debtor to pay to Fischetti the full amount of its secured claim in the approximate amount of \$560,310.71; (c) granting unto the purchaser the protections accorded by Bankruptcy Code Section 363(m) in connection with purchaser's acquisition of the Premises, and (d) approving payment by the Debtor of 100% of claims filed and/or scheduled in the case in the approximate amount of \$40,000.00, exclusive of Fischetti's claim, and in the event certain creditors didn't file claims, payment in full of the amounts listed by Debtor in its petition and schedules. The sale price of \$775,000.00 is more than needed to satisfy all creditor claims, and seeks such other and further relief as this Court deems just and proper.

Dated: Jericho, New York
November 1, 2017

McBREEN & KOPKO
Attorneys for Debtor and
Debtor-in-Possession

By: /s/ Kenneth A. Reynolds
Kenneth A. Reynolds, Esq.
A Member of the Firm
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

Contract of Sale for New York office, commercial and multi-family residential premises

Contract of Sale—Office, Commercial and Multi-Family Residential Premises

Table of Contents

Schedule A. Description of premises (to be attached)	Section 8. Destruction, damage or condemnation
Schedule B. Permitted exceptions	Section 9. Covenants of seller
Schedule C. Purchase price	Section 10. Seller's closing obligations
Schedule D. Miscellaneous	Section 11. Purchaser's closing obligations
Schedule E. Rent schedule (to be attached)	Section 12. Apportionments
Section 1. Sale of premises and acceptable title	Section 13. Objections to title, failure of seller or purchaser to perform and
Section 2. Purchase price, acceptable funds, existing mortgages, purchase money mortgage and escrow of downpayment	Section 14. Broker
Section 3. The closing	Section 15. Notices
Section 4. Representations and warranties of seller	Section 16. Limitations on survival of representations, warranties, covenants and other obligations
Section 5. Acknowledgments of purchaser	Section 17. Miscellaneous provisions
Section 6. Seller's obligations as to leases	Signatures and receipt by escrowee
Section 7. Responsibility for violations	

CONTRACT dated the ²⁵ 20 day of July, 2017.

Between
215 HEMPSTEAD REALTY CORP.

Address:
215 Hempstead Avenue, West Hempstead, NY
("Seller") and

AFTAB HUSSAIN

Address: *6 Olive St., Great Neck, NY 11020*
("Purchaser").

Seller and Purchaser hereby covenant and agree as follows:

**Schedule A
DESCRIPTION OF PREMISES**

The Premises are located at or known as:
Street Address: 215 Hempstead Avenue
City: West Hempstead State: NY Zip: 11552
Tax Map Designation: Section: 35 Block: 362 Lot: 248-252

metes and bounds description attached hereto)

**Schedule B
PERMITTED EXCEPTIONS**

1. Zoning regulations and ordinances which are not violated by the existing structures or present use thereof and which do not render title unmarketable.
2. Consents by the Seller or any former owner of the Premises for the erection of any structure or structures on, under or above any street or streets on which the Premises may abut.
3. ~~The Existing Mortgage(s) and financing statements, assignments of leases and other collateral assignments ancillary thereto.~~
4. ~~Leases and Tenancies specified in the Rent Schedule and any new leases or tenancies not prohibited by this contract.~~
5. Unpaid installments of assessments not due and payable on or before the Closing Date.
6. Financing statements, chattel mortgages and liens on personalty filed more than 5 years prior to the Closing Date and not renewed, or filed against property or equipment no longer located on the Premises or owned by Tenants.
7. (a) Rights of utility companies to lay, maintain install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Premises, provided that none of such rights imposes any monetary obligation on the owner of the Premises.
(b) Encroachments of stoops, areas, cellar steps, trim cornices, lintels, window sills, awnings, canopies, ledges, fences, hedges, coping and retaining walls projecting from the Premises over any street or highway or over any adjoining property and encroachments of similar elements projecting from adjoining property over the Premises.
(c) Revocability or lack of right to maintain vaults, coal chutes, excavations or sub-surface equipment beyond the line of the Premises.
(d) Any state of facts that an accurate survey would disclose, provided that such facts do not render title unmarketable. For the purposes of this contract, none of the facts shown on the survey, if any, identified below shall be deemed to render title unmarketable, and Purchaser shall accept title subject thereto:

**Schedule C
PURCHASE PRICE**

The Purchase Price shall be paid as follows:

- (a) By check subject to collection, the receipt of which is hereby acknowledged by Seller:

577,500.000

(b) By check or checks delivered to Seller at the Closing in accordance with the provisions of §2.02:
~~(c) By acceptance of title subject to the following Existing Mortgage(s):~~
~~(d) By execution and delivery to Seller by Purchaser or its assignee of a note secured by a Purchase Money Mortgage on the Premises, in the sum of \$_____ payable as follows:~~

\$697,500.00
\$

Interest Rate: _____ Term: _____ Monthly payment: _____ Prep. Fee: _____ Other provisions: _____
Making for a total Purchase Price of: _____

\$
\$ 775,000.00

**Schedule D
MISCELLANEOUS**

- 1. Title insurer designated by the parties (§1.02):
- 2. Last date for consent by Existing Mortgagee(s) (§2.03(b)):
- 3. Maximum Interest Rate of any Refinanced Mortgage (§2.04(b)):
- 4. Prepayment Date on or after which Purchase Money Mortgage may be prepaid (§2.04(c)):
- 5. Seller's tax ID Nos (§2.05) #1: #2: #3: #4:
- 6. Buyer's tax ID Nos (§2.05) #1: #2: #3: #4:
- 7. Scheduled time and date of Closing (§3.01): Date: ~~Aug. 30, 2017~~ Time: 1:00 PM o'clock.
Sept. 15,
- 8. Place of Closing (§3.01): Seller's Attorney's Office
- 9. Assessed valuation of Premises (§4.10):
- 10. Fiscal year and annual real estate taxes on Premises (§4.10): Fiscal Year: Annual Taxes:
- 11. Tax abatements or exemptions affecting Premises (§4.10):
- 12. Assessments on Premises (§4.13):
- ~~13. Maximum Amount which Seller must spend to cure violations, etc. (§7.02): 10,000~~
- ~~14. Maximum Expense of Seller to cure title defects, etc. (§13.02): 10,000~~
- 15. Broker, if any (§14.01): Keller Williams Realty
- 16. Party to pay broker's commission (§14.01): Seller
- 17. Address for notices (§15.01):
If to Seller: Ray Radow, Esq.
Radow Law Group, PC
1010 Northern Blvd., 304, Great Neck, NY 11021

with a copy to:

If to Purchaser: C. Fred Weill, Esq.
Law Offices of C. Fred Weill
35 Roosevelt Avenue, Syosset, NY 11791

with a copy to:

18. Limitation Date for actions based on Seller's surviving representations and other obligations (§16.01):

19. Additional Schedules or Riders (§17.08):

~~Schedule E~~
RENT SCHEDULE

if more than four tenants, check and annex a rent schedule rider hereto, otherwise enter information below

Name	Apt. No.	Rent	Due	Security
------	----------	------	-----	----------

Section 1. Sale of Premises and Acceptable Title

§1.01. Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, at the price and upon the terms and conditions set forth in this contract:

(a) the parcel of land more particularly described in Schedule A attached hereto ("Land"); (b) all buildings and improvement situated on the Land (collectively, "Building");

(c) all right, title and interest of Seller, if any, in and to the land lying in the bed of any street or highway in front of or adjoining the Land to the center line thereof and to any unpaid award for any taking by condemnation or any damage to the Land by reason of a change of grade of any street or highway;

(d) the appurtenances and all the estate and rights of Seller in and to the Land and Building; and

(e) all right, title and interest of Seller, if any, in and to the fixtures, ~~equipment and other personal property~~ attached or appurtenant to the Building (collectively, "Premises"). The Premises are located at or known as Street Address: 215 Hempstead Avenue
City: West Hempstead State: NY Zip: 11552
Tax Map Designation: Section: 35 Block: 362 Lot: 248-252

§1.02. Seller shall convey and Purchaser shall accept fee simple title to the Premises in accordance with the terms of this contract, subject only to: In accordance with the authority of an order of the United States Bankruptcy Court for the Eastern District of New York,

~~(a) the matters set forth in Schedule B attached hereto (collectively, "Permitted Exceptions"); and~~

~~(b) such other matters as (i) the title insurer specified in Schedule D attached hereto (or if none is so specified, then any member of the New York Board of Title Underwriters) shall be willing, without special premium, to omit as exceptions to coverage or to except with insurance against collection out of or enforcement against the Premises and (ii) shall be accepted by any lender described in Section 274-a of the Real Property Law ("Institutional Lender") which has committed in writing to provide mortgage financing to Purchaser for the purchase of the Premises ("Purchaser's Institutional Lender"), except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld or delayed, such acceptance shall be deemed to have been given.~~

Section 2. Purchase Price, Acceptable Funds, Existing Mortgages, Purchase Money Mortgage and Escrow of Down payment

§2.01. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Premises as provided in Schedule C attached hereto is \$775,000.00

§2.02. All monies payable under this contract, unless otherwise specified in this contract, shall be paid by:

~~(a) certified checks of Purchaser or any person making a purchase money loan to Purchaser drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York or~~

(b) official bank checks drawn by any such banking institution, payable to the order of Seller, except that uncertified checks of Purchaser payable to the order of Seller up to the amount of one-half of one percent of the Purchase Price shall be acceptable for sums payable to Seller at the Closing.

§2.03. (a) If Schedule C provides for the acceptance of title by Purchaser subject to one or more existing mortgages (collectively, "Existing Mortgage(s)"), the amounts specified in Schedule C with reference thereto may be approximate. If at the Closing the aggregate principal amount of the Existing Mortgage(s), as reduced by payments required there under prior to the Closing, is less than the aggregate amount of the Existing Mortgage(s) as specified in Schedule C, the difference shall be added to the monies payable at the Closing, unless otherwise expressly provided herein.

(b) If any of the documents constituting the Existing Mortgage(s) or the note(s) secured thereby prohibits or restricts the conveyance of the Premises or any part thereof without the prior consent of the holder or holders thereof ("Mortgagee(s)") or confers upon the Mortgagee(s) the right to accelerate payment of the indebtedness or to change the terms of the Existing Mortgage(s) in the event that a conveyance is made without consent of the Mortgagee(s), Seller shall notify such Mortgagee(s) of the proposed conveyance to Purchaser within 10 days after execution and delivery of this contract, requesting the consent of such Mortgagee(s) thereto. Seller and Purchaser shall furnish the Mortgagee(s) with such information as may reasonably be required in connection with such request and shall otherwise cooperate with such Mortgagee(s) and with each other in an effort expeditiously to procure such consent, but neither shall be obligated to make any payment to obtain such consent. If such Mortgagee(s) shall fail or refuse to grant such consent in writing on or before the date set forth in Schedule D or shall require as a condition of the granting of such consent

(i) that additional consideration be paid to the Mortgagee(s) and neither Seller nor Purchaser is willing to pay such additional consideration or

(ii) that the terms of the Existing Mortgage(s) be changed and Purchaser is unwilling to accept such change, then unless Seller and Purchaser mutually agree to extend such date or otherwise modify the terms of this contract, Purchaser may terminate this contract in the manner provided in §13.02.

If Schedule C provides for a Purchase Money Mortgage (as defined in §2.04), Seller may also terminate this contract in the manner provided in §13.02 if any of the foregoing circumstances occur or if Seller is unwilling to accept any such change in the terms of the Existing Mortgage(s).

§2.04. (a) If Schedule C provides for payment of a portion of the Purchase Price by execution and delivery to Seller of a note secured by a purchase money mortgage ("Purchase Money Mortgage"), such note and Purchase Money Mortgage shall be drawn by the attorney for the Seller on the standard forms of the New York Board of Title Underwriters then in effect for notes and for mortgages of like lien, as modified by this contract. At the Closing, Purchaser shall pay the mortgage recording tax and recording fees therefor and the filing fees for any financing statements delivered in connection therewith.

~~(b) If Schedule C provides for the acceptance of title by Purchaser subject to Existing Mortgage(s) prior in lien to the Purchase Money Mortgage, the Purchase Money Mortgage shall provide that it is subject and subordinate to the lien(s) of the Existing Mortgage(s) and shall be subject and subordinate to any extensions, modifications, renewals, consolidations, substitutions or replacements thereof (collectively, "Refinancing" or "Refinanced Mortgage"), provided that (i) the rate of interest payable under a Refinanced Mortgage shall not be greater than that specified in Schedule D as the Maximum Interest Rate or, if no Maximum Interest Rate is specified in Schedule D, shall not be greater than the rate of interest that was payable on the refinanced indebtedness immediately prior to such Refinancing, and (ii) if the principal amount of the Refinanced Mortgage plus the principal amount of other Existing Mortgage(s), if any, remaining after placement of a Refinanced Mortgage exceeds the amount of principal owing and unpaid on all mortgages on the Premises superior to the Purchase Money Mortgage immediately prior to the Refinancing, an amount equal to the excess shall be paid at the closing of the Refinancing to the holder of the Purchase Money Mortgage in reduction of principal payments due there under in inverse order of maturity. The Purchase Money Mortgage shall further provide that the holder thereof shall, on demand and without charge therefore, execute, acknowledge and deliver any agreement or agreements reasonably required by the mortgagee to confirm such subordination.~~

~~(c) The Purchase Money Mortgage shall contain the following additional provisions:~~

(i) ~~The mortgagor or any owner of the mortgaged premises shall have the right to prepay the entire unpaid indebtedness together with accrued interest, but without penalty, at any time on or after [insert the day following the last day of the fiscal year of the mortgagee in which the Closing occurs or, if a Prepayment Date is specified in Schedule D, the specified Prepayment Date], or not less than 10 days' written notice to the holder hereof.~~

(ii) "Notwithstanding anything to the contrary contained herein, the obligation of the mortgagor for the payment of the indebtedness and for the performance of the terms, covenants and conditions contained herein and in the note secured hereby is limited solely to recourse against the property secured by this mortgage, and in no event shall the mortgagor or any principal of the mortgagor, disclosed or undisclosed, be personally liable for any breach of or default under the note or this mortgage or for any deficiency resulting from or through any proceedings to foreclose this mortgage, nor shall any deficiency judgment, money judgment or other personal judgment be sought or entered against the mortgagor or any principal of the mortgagor, disclosed or undisclosed, but the foregoing shall not adversely affect the lien of this mortgage or the mortgagee's right of foreclosure."

(iii) "In addition to performing its obligations under Section 274-a of the Real Property Law, the mortgagee, if other than one of the institutions listed in Section 274-a agrees that, within 10 days after written request by the mortgagor, but not more than twice during any period of 12 consecutive months, it will execute, acknowledge and deliver without charge a certificate of reduction in recordable form (a) certifying as to (1) the then unpaid principal balance of the indebtedness secured hereby, (2) the maturity date thereof, (3) the rate of interest, (4) the last date to which interest has been paid and (5) the amount of any escrow deposits then held by the mortgagee, and (b) stating, to the knowledge of the mortgagee, whether there are any alleged defaults hereunder and, if so, specifying the nature thereof."

(iv) "All notices required or desired to be given under this mortgage shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail, addressed to the mortgagor and mortgagee at the addresses specified in this mortgage or to such other parties or at such other addresses, not exceeding two, as may be designated in a notice given to the other party or parties in accordance with the provisions hereof."

(v) ~~The additional provisions, if any, specified in a rider hereto.~~

§2.05. (a) If the sum paid under paragraph (a) of Schedule C or any other sums paid on account of the Purchase Price prior to the Closing (collectively, "Downpayment") are paid by check or checks drawn to the order of and delivered to Seller's attorney or another escrow agent ("Escrowee"), the Escrowee shall hold the proceeds thereof in escrow in a special bank account (or as otherwise agreed in writing by Seller, Purchaser and Escrowee) until the Closing or sooner termination of this contract and shall pay over or apply such proceeds in accordance with the terms of this section. Escrowee need not hold such proceeds in an interest-bearing account, but if any interest is earned thereon, such interest shall be paid to the same party entitled to the escrowed proceeds, and the party receiving such interest shall pay any income taxes thereon. The tax identification numbers of the parties are either set forth in Schedule D or shall be furnished to Escrowee upon request. At the Closing, such proceeds and the interest thereon, if any, shall be paid by Escrowee to Seller. If for any reason the Closing does not occur and either party makes a written demand upon Escrowee for payment of such amount, Escrowee shall give written notice to the other party of such demand. If Escrowee does not receive a written objection from the other party to the proposed payment within 10 business days after the giving of such notice, Escrowee is hereby authorized to make such payment. If Escrowee does receive such written objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by written instructions from the parties to this contract or a final judgment of a court. However, Escrowee shall have the right at any time to deposit the escrowed proceeds and interest thereon, if any, with the clerk of the Supreme Court of the county in which the Land is *caused by the Seller

located. Escrowee shall give written notice of such deposit to Seller and Purchaser. Upon such deposit Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience, that Escrowee shall not be deemed to be the agent of either of the parties, and that Escrowee shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this contract or involving gross negligence. Seller and Purchaser shall jointly and severally indemnify and hold Escrowee harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith, in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this contract.

Section 3. The Closing

§3.01. Except as otherwise provided in this contract, the closing of title pursuant to this contract ("Closing") shall take place on the scheduled date and time of closing specified in Schedule D (the actual date of the Closing being herein referred to as "Closing Date") at the place specified in Schedule D.

Section 4. Representations and Warranties of Seller

Seller represents and warrants to Purchaser as follows:

§4.01. Unless otherwise provided in this contract, Seller is the sole owner of the Premises.

~~§4.02. If the Premises are encumbered by an Existing Mortgage(s), no written notice has been received from the Mortgagee(s) asserting that a default or breach exists thereunder which remains uncured and no such notice shall have been received and remain uncured on the Closing Date. If copies of documents constituting the Existing Mortgage(s) and note(s) secured thereby have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals and the Existing Mortgage(s) and note(s) secured thereby have not been modified or amended ~~except as shown in such documents.~~~~

§4.03. The information concerning written leases (which together with all amendments and modifications thereof are collectively referred to as "Leases") and any tenancies in the Premises not arising out of the Leases (collectively, "Tenancies") set forth in Schedule E attached hereto ("Rent Schedule") is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof, and there are no Leases or Tenancies of any space in the Premises other than those set forth therein and any subleases or subtenancies. Except as otherwise set forth in the Rent Schedule or elsewhere in this contract:

- (a) all of the Leases are in full force and effect and none of them has been modified, amended or extended;
- (b) no renewal or extension options have been granted to tenants;
- (c) no tenant has an option to purchase the Premises;
- (d) the rents set forth are being collected on a current basis and there are no arrearages in excess of one month;
- (e) no tenant is entitled to rental concessions or abatements for any period subsequent to the scheduled date of closing;

~~(f) Seller has not sent written notice to any tenant, claiming that such tenant is in default, which default remains uncured.~~

~~(e) no action or proceeding instituted against Seller by any tenant of the Premises is presently pending in any court, except with respect to claims involving personal injury or property damage which are covered by insurance; and~~

~~(h) there are no security deposits other than those set forth in the Rent Schedule.~~

~~If any Leases which have been exhibited to and initialed by Purchaser or its representative contain provisions that are inconsistent with the foregoing representations and warranties, such representations and warranties shall be deemed modified to the extent necessary to eliminate such inconsistency and to conform such representations and warranties to the provisions of the Leases.~~

~~§4.04. If the Premises or any part thereof are subject to the New York City Rent Stabilization Law, Seller is and on the Closing Date will be a member in good standing of the Real Estate Industry Stabilization Association, and, except as otherwise set forth in the Rent Schedule, there are no proceedings with any tenant presently pending before the Conciliation and Appeals Board in which a tenant has alleged an overcharge of rent or diminution of services or similar grievance, and there are no outstanding orders of the Conciliation and Appeals Board that have not been complied with by Seller.~~

~~§4.05. If the Premises or any part thereof are subject to the New York City Emergency Rent and Rehabilitation Law, the rents shown are not in excess of the maximum collectible rents, and, except as otherwise set forth in the Rent Schedule, no tenants are entitled to abatements as senior citizens, there are no proceedings presently pending before the rent commission in which a tenant has alleged an overcharge of rent or diminution of services or similar grievance, and there are no outstanding orders of the rent commission that have not been complied with by Seller.~~

~~§4.06. If an insurance schedule is attached hereto, such schedule lists all insurance policies presently affording coverage with respect to the Premises, and the information contained therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.~~

~~§4.07. If a payroll schedule is attached hereto, such schedule lists all employees presently employed at the Premises, and the information contained therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof, and, except as otherwise set forth in such schedule, none of such employees is covered by a union contract and there are no retroactive increases or other accrued and unpaid sums owed to any employee.~~

~~§4.08. If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is attached hereto, such schedule lists all such contracts affecting the Premises, and the information set forth therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.~~

~~§4.09. If a copy of a certificate of occupancy for the Premises has been exhibited to and initialed by Purchaser or its representative, such copy is a true copy of the original and such certificate has not been amended, but Seller makes no representation as to compliance with any such certificate.~~

~~§4.10. The assessed valuation and real estate taxes set forth in Schedule D, if any, are the assessed valuation of the Premises and the taxes paid or payable with respect thereto for the fiscal year indicated in such schedule. Except as otherwise set forth in Schedule D, there are no tax abatements or exemptions affecting the Premises.~~

~~§4.11. Except as otherwise set forth in a schedule attached hereto, if any, if the Premises are used for residential purposes, each apartment contains a range and a refrigerator, and all of the ranges and refrigerators and all of the items of personal property (or replacements thereof) listed in such schedule, if any, are and on the Closing Date will be owned by~~

Seller free of liens and encumbrances other than the lien(s) of the Existing Mortgage(s), if any.

§4.12. Seller has no actual knowledge that any incinerator, boiler or other burning equipment on the Premises is being operated in violation of applicable law. If copies of a certificate or certificates of operation therefor have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals.

§4.13. Except as otherwise set forth in Schedule D, Seller has no actual knowledge of any assessment payable in annual installments, or any part thereof, which has become a lien on the Premises

Section 5. Acknowledgments of Purchaser
Purchaser acknowledges that:

§5.01. Purchaser has inspected the Premises, is fully familiar with the physical condition and state of repair thereof, except as modified by any and, ~~subject to the provisions of §7.01, §8.01, and §9.04,~~ shall accept the Premises "as is" and in their present condition, subject to reasonable use, wear, tear and natural deterioration between now and the Closing Date, without any reduction in the Purchase Price for any change in such condition by reason thereof subsequent to the date of this contract.

§5.02. Before entering into this contract, Purchaser has made such examination of the Premises, the operation, income and expenses thereof and all other matters affecting or relating to this transaction as Purchaser deemed necessary. In entering into this contract, Purchaser has not been induced by and has not relied upon any representations, warranties or statements, whether express or implied, made by Seller or any agent, employee or other representative of Seller or by any broker or any other person representing or purporting to represent Seller, which are not expressly set forth in this contract, whether or not any such representations, warranties or statements were made in writing or orally.

Section 6. Seller's Obligations as to Leases

~~§6.01. Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not, without Purchaser's prior written consent, which consent shall not be unreasonably withheld,~~

~~(a) amend, renew or extend any Lease in any respect, unless required by law;~~

~~(b) grant a written lease to any tenant occupying space pursuant to a Tenancy; or~~

~~(c) terminate any Lease or Tenancy except by reason of a default by the tenant thereunder.~~

~~§6.02. Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not permit occupancy of, or enter into any new lease for, space in the Building which is presently vacant or which may hereafter become vacant without first giving Purchaser written notice of the identity of the proposed tenant, together with~~

~~(a) either a copy of the proposed lease or a summary of the terms thereof in reasonable detail and~~

~~(b) a statement of the amount of the brokerage commission, if any, payable in connection therewith and the terms of payment thereof. If Purchaser objects to such proposed lease, Purchaser shall so notify Seller within 4 business days after receipt of Seller's notice if such notice was personally delivered to Purchaser, or within 7 business days after the mailing of such notice by Seller to Purchaser, in which case Seller shall not enter into the proposed lease. Unless otherwise provided in a schedule attached to this contract, Purchaser shall pay to Seller at the Closing, in the manner specified in §2.02, the rent and additional rent that would have been payable under the proposed lease from the date on which the tenant's obligation to pay rent would have commenced if Purchaser had not so objected until the Closing Date, less the amount of the brokerage commission specified in Seller's notice and the reasonable cost of decoration or other work required to be performed by the landlord under the terms of the proposed lease to suit the premises to the tenant's occupancy ("Reletting Expenses"), provided in each case over~~

~~the term of the proposed lease and apportioned as of the Closing Date. If Purchaser does not so notify Seller of its objection, Seller shall have the right to enter into the proposed lease with the tenant identified in Seller's notice and Purchaser shall pay to Seller, in the manner specified in §2.02, the Reletting Expenses, prorated in each case over the term of the lease and apportioned as of the later of the Closing Date or the rent commencement date. Such payment shall be made by Purchaser to Seller at the Closing. In no event shall the amount so payable to Seller exceed the sums actually paid by Seller on account thereof.~~

~~§6.03. If any space is vacant on the Closing Date, Purchaser shall accept the Premises subject to such vacancy, provided that the vacancy was not permitted or created by Seller in violation of any restrictions contained in this contract. Seller shall not grant any concessions or rent abatements for any period following the Closing without Purchaser's prior written consent. Seller shall not apply all or any part of the security deposit of any tenant unless such tenant has vacated the Premises.~~

~~§6.04. Seller does not warrant that any particular Lease of Tenancy will be in force or effect at the Closing or that the tenants will have performed their obligations thereunder. The termination of any Lease or Tenancy prior to the Closing by reason of the tenant's default shall not affect the obligations of Purchaser under this contract in any manner or entitle Purchaser to an abatement of or credit against the Purchase Price or give rise to any other claim on the part of Purchaser.~~

Section 7. Responsibility for Violations

~~§7.01. Except as provided in §7.02 and §7.03, all notes or notices of violations of law or governmental ordinances, orders or requirements which were noted or issued prior to the date of this contract by any governmental department, agency or bureau having jurisdiction as to conditions affecting the Premises and all liens which have attached to the Premises prior to the Closing pursuant to the Administrative Code of the City of New York, if applicable, shall be removed or complied with by Seller. If such removal or compliance has not been completed prior to the Closing, Seller shall pay to Purchaser at the Closing the reasonably estimated unpaid cost to effect or complete such removal or compliance, and Purchaser shall be required to accept title to the Premises subject thereto, except that Purchaser shall not be required to accept such title and may terminate this contract as provided in §13.02 if:~~

the closing

- ~~(a) Purchaser's Institutional Lender reasonably refuses to provide financing by reason thereof or~~
- ~~(b) the Building is a multiple dwelling and either~~
 - ~~(i) such violation is rent impairing and causes rent to be unrecoverable under Section 302-a of the Multiple Dwelling Law or~~
 - ~~(ii) a proceeding has been validly commenced by tenants and is pending with respect to such violation for a judgment directing deposit and use of rents under Article 7-A of the Real Property Actions and Proceedings Law. All such notes or notices of violations noted or issued on or after the date of this contract shall be the sole responsibility of Purchaser.~~

~~§7.02. If the reasonably estimated aggregate cost to remove or comply with any violations or liens which Seller is required to remove or comply with pursuant to the provisions of §7.01 shall exceed the Maximum Amount specified in Schedule D (or if none is so specified, the Maximum Amount shall be one-half of one percent of the Purchase Price), Seller shall have the right to cancel this contract, in which event the sole liability of Seller shall be as set forth in §13.02, unless Purchaser elects to accept title to the Premises subject to all such violations or liens, in which event Purchaser shall be entitled to a credit of an amount equal to the Maximum Amount against the monies payable at the Closing.~~

~~§7.03. Regardless of whether a violation has been noted or issued prior to the date of this contract, Seller's failure to remove or fully comply with the following violations shall not be an objection to title:~~

~~(a) any violations of New York City Local Law 5 of 1973, as amended (relating to fire safety in office buildings), if applicable, or~~

~~(b) any violations which a tenant is required to remove or comply with pursuant to the terms of its lease by reason of such tenant's use or occupancy. Purchaser shall accept the Premises subject to all such violations without any liability of Seller with respect thereto or any abatement of or credit against the Purchase Price, except that if Purchaser's Institutional Lender reasonably refuses to provide financing by reason of the violations described in (b) above, Purchaser shall not be required to accept the Premises subject thereto and Purchaser shall have the right to terminate this contract in the manner provided in §13.02.~~

~~§7.04. If required, Seller, upon written request by Purchaser, shall promptly furnish to Purchaser written authorizations to make any necessary searches for the purposes of determining whether notes or notices of violations have been noted or issued with respect to the Premises or liens have attached thereto.~~

Section 8. Destruction, Damage or Condemnation

~~§8.01. The provisions of Section 5-1311 of the General Obligations Law shall apply to the sale and purchase provided for in this contract.~~

Section 9. Covenants of Seller

~~Seller covenants that between the date of this contract and the Closing:~~

~~§9.01. The Existing Mortgage(s) shall not be amended or supplemented or prepaid in whole or in part. Seller shall pay or make, as and when due and payable, all payments of principal and interest and all deposits required to be paid or made under the Existing Mortgage(s).~~

~~§9.02. Seller shall not modify or amend any Service Contract or enter into any new service contract unless same is terminable without penalty by the then owner of the Premises upon not more than 30 days notice.~~

~~§9.03. If an insurance schedule is attached hereto, Seller shall maintain in full force and effect until the Closing the insurance policies described in such schedule or renewals thereof for no more than one year of those expiring before the Closing.~~

~~§9.04. No fixtures, equipment or personal property included in this sale shall be removed from the Premises unless the same are replaced with similar items of at least equal quality prior to the Closing.~~

~~§9.05. Seller shall not withdraw, settle or otherwise compromise any protest or reduction proceeding affecting real estate taxes assessed against the Premises for any fiscal period in which the Closing is to occur or any subsequent fiscal period without the prior written consent of Purchaser, which consent shall not be unreasonably withheld. Real estate tax refunds and credits received after the Closing Date which are attributable to the fiscal tax year during which the Closing Date occurs shall be apportioned between Seller and Purchaser, after deducting the expenses of collection thereof, which obligation shall survive the Closing.~~

~~§9.06. Seller shall allow Purchaser or Purchaser's representatives access to the Premises, the Leases and other documents required to be delivered under this contract upon reasonable prior notice at reasonable times.~~

Section 10. Seller's Closing Obligations

~~At the Closing, Seller shall deliver the following to Purchaser:~~

~~§10.01. A statutory form of Quit Claim deed without covenant against grantor's acts, containing the covenant required by Section 13 of the Lien Law, and properly executed in proper form for recording so as to convey the title required by this contract.~~

~~§10.02. All Leases initiated by Purchaser and all others in Seller's possession.~~

~~§10.03. A schedule of all cash security deposits and a check or credit to Purchaser in the amount of such security deposits, including any interest thereon, held by Seller on the Closing Date under the Leases or, if held by an Institutional Lender, an assignment to Purchaser and written instructions to the holder of such deposits to transfer the same to Purchaser, and appropriate instruments of transfer or assignment with respect to any lease securities which are other than cash.~~

~~§10.04. A schedule updating the Rent Schedule and setting forth all arrears in rents and all prepayments of rents.~~

~~§10.05. All Service Contracts initiated by Purchaser and all others in Seller's possession which are in effect on the Closing Date and which are assignable by Seller.~~

~~§10.06. An assignment to Purchaser, without recourse or warranty, of all of the interest of Seller in those Service Contracts, insurance policies, certificates, permits and other documents to be delivered to Purchaser at the Closing which are then in effect and are assignable by Seller.~~

~~§10.07. (a) Written consent(s) of the Mortgagee(s), if required under §2.03(b), and (b) certificate(s) executed by the Mortgagee(s) in proper form for recording and certifying (i) the amount of the unpaid principal balance thereof, (ii) the maturity date thereof, (iii) the interest rate, (iv) the last date to which interest has been paid thereon and (v) the amount of any escrow deposits held by the Mortgagee(s).~~

~~Seller shall pay the fees for recording such certificate(s). Any Mortgagee which is an Institutional Lender may furnish a letter complying with Section 274-a of the Real Property Law in lieu of such certificate.~~

~~§10.08. An assignment of all Seller's right, title and interest in escrow deposits for real estate taxes, insurance premiums and other amounts, if any, then held by the Mortgagee(s).~~

~~§10.09. All original insurance policies with respect to which premiums are to be apportioned or, if unobtainable, true copies or certificates thereof.~~

~~§10.10. To the extent they are then in Seller's possession and not posted at the Premises, certificates, licenses, permits, authorizations and approvals issued for or with respect to the Premises by governmental and quasigovernmental authorities having jurisdiction.~~

~~§10.11. Such affidavits as Purchaser's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller's name.~~

~~§10.12. Checks to the order of the appropriate officers in payment of all applicable real property transfer taxes and copies of any required tax returns therefor executed by Seller, which checks shall be certified or official bank checks if required by the taxing authority, unless Seller elects to have Purchaser pay any of such taxes and credit Purchaser with the amount thereof.~~

~~§10.13. To the extent they are then in Seller's possession, copies of current painting and payroll records Seller shall make all other Building and tenant files and records available to Purchaser for copying, which obligation shall survive the Closing.~~

~~§10.14. An original letter, executed by Seller or by its agent, advising the tenants of the sale of the Premises to Purchaser and directing that rents and other payments thereafter be sent to Purchaser or as Purchaser may direct.~~

~~§10.15. Notice(s) to the Mortgagee(s), executed by Seller or by its agent, advising of the sale of the Premises to Purchaser and directing that future bills and other~~

~~correspondence should thereafter be sent to Purchaser or as Purchaser may direct.~~

~~§10.16. If Seller is a corporation and if required by Section 909 of the Business Corporation Law, a resolution of Seller's board of directors authorizing the sale and delivery of the deed and a certificate executed by the secretary or assistant secretary of Seller certifying as to the adoption of such resolution and setting forth facts showing that the transfer complies with the requirements of such law. The deed referred to in §10.01 shall also contain a recital sufficient to establish compliance with such law.~~

~~§10.17. Possession of the Premises in the condition required by this contract, subject to the Leases and Tenancies, and keys therefor.~~

~~§10.18. Any other documents required by this contract to be delivered by Seller.~~

Section 11. Purchaser's Closing Obligations
At the Closing, Purchaser shall:

~~§11.01. Deliver to Seller checks in payment of the portion of the Purchase Price payable at the Closing, as adjusted for apportionments under Section 12, plus the amount of escrow deposits, if any, assigned pursuant to §10.08.~~

~~§11.02. Deliver to Seller the Purchase Money Mortgage, if any, in proper form for recording, the note secured thereby, financing statements covering personal property, fixtures and equipment included in this sale and replacements thereof, all properly executed, and Purchaser shall pay the mortgage recording tax and recording fees for any Purchase Money Mortgage.~~

~~§11.03. Deliver to Seller an agreement indemnifying and agreeing to defend Seller against any claims made by tenants with respect to tenants' security deposits to the extent paid, credited or assigned to Purchaser under §10.03.~~

~~§11.04. Cause the deed to be recorded, duly complete all required real property transfer tax returns and cause all such returns and checks in payment of such taxes to be delivered to the appropriate officers promptly after the Closing.~~

~~§11.05. Deliver any other documents required by this contract to be delivered by Purchaser.~~

Section 12. Apportionments

~~§12.01. The following apportionments shall be made between the parties at the Closing as of the close of business on the day prior to the Closing Date:~~

~~(a) prepaid rents and Additional Rents (as defined in §12.03);~~

~~(b) interest on the Existing Mortgage(s);~~

~~(c) real estate taxes, water charges, sewer rents and vault charges, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Premises, apportionment at the Closing shall be based on the last available reading, subject to adjustment after the Closing when the next reading is available;~~

~~(d) wages, vacation pay, pension and welfare benefits and other fringe benefits of all persons employed at the Premises whose employment was not terminated at or prior to the Closing;~~

~~(e) value of fuel stored on the Premises, at the price then charged by Seller's supplier, including any taxes;~~

~~(f) charges under transferable Service Contracts or permitted renewals or replacements thereof;~~

~~(g) permitted administrative charges, if any, on tenants' security deposits;~~

~~(h) dues to rent stabilization associations, if any;~~

~~(i) insurance premiums on transferable insurance policies listed on a schedule hereto or permitted renewals thereof;~~

~~(j) Relating Expenses under §6.02, if any; and~~

~~(k) any other items listed in Schedule D.~~

~~If the Closing shall occur before a new tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the old tax rate for the preceding period applied to latest assessed valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such recomputation and any errors or omissions in computing apportionments at Closing shall be promptly corrected, which obligations shall survive the Closing.~~

~~§13.02. If any tenant is in arrears in the payment of rent on the Closing Date, rents received from such tenant after the Closing shall be applied in the following order of priority:~~

- ~~(a) first to the month preceding the month in which the Closing occurred;~~
- ~~(b) then to the month in which the Closing occurred;~~
- ~~(c) then to any month or months following the month in which the Closing occurred; and~~
- ~~(d) then to the period prior to the month preceding the month in which the Closing occurred.~~

~~If rents or any portion thereof received by Seller or Purchaser after the Closing are payable to the other party by reason of this allocation, the appropriate sum, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof, shall be promptly paid to the other party, which obligation shall survive the Closing.~~

~~§13.03. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ("Additional Rents") and any Additional Rents are collected by Purchaser after the Closing which are attributable in whole or in part to any period prior to the Closing, then Purchaser shall promptly pay to Seller Seller's proportionate share thereof, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof, if and when the tenant paying the same has made all payments of rent and Additional Rent then due to Purchaser pursuant to the tenant's Lease, which obligation shall survive the Closing.~~

Section 13. Objections to Title, Failure of Seller or Purchaser to Perform and Vendee's Lien

~~§13.01. Purchaser shall promptly order an examination of title and shall cause a copy of the title report to be forwarded to Seller's attorney upon receipt. Seller shall be entitled to a reasonable adjournment or adjournments of the Closing for up to 60 days or until the expiration date of any written commitment of Purchaser's Institutional Lender delivered to Purchaser prior to the scheduled date of Closing, whichever occurs first, to remove any defects in or objections to title noted in such title report and any other defects or objections which may be disclosed on or prior to the Closing Date.~~

~~§13.02. If Seller shall be unable to convey title to the Premises at the Closing in accordance with the provisions of this contract or if Purchaser shall have any other grounds under this contract for refusing to consummate the purchase provided for herein, Purchaser, nevertheless, may elect to accept such title as Seller may be able to convey with a credit against the monies payable at the Closing equal to the reasonably estimated cost to cure the same (up to the Maximum Expense described below), but without any other credit or liability on the part of Seller. If Purchaser shall not so elect, Purchaser may terminate this contract and the sole liability of Seller shall be to refund the Down payment to Purchaser and to reimburse Purchaser for the net cost of title examination, but not to exceed the net amount charged by Purchaser's title company therefor without issuance of a policy, and the net cost of updating the existing survey of the Premises or the net cost of a new survey of the Premises if there was no existing survey or the existing survey was not capable of being updated and a new survey was required by Purchaser's Institutional Lender. Upon such refund and reimbursement, this contract shall be null and void and the parties hereto shall be relieved of all further obligations and liability other than any arising under Section 14. Seller shall not be required to bring any action or proceeding or to incur any expense in excess of the Maximum Expense specified in~~

~~Schedule D (or if none is so specified, the Maximum Expense shall be one-half of one percent of the Purchase Price) to cure any title defect or to enable Seller otherwise to comply with the provisions of this contract, but the foregoing shall not permit Seller to refuse to pay off at the Closing, to the extent of the monies payable at the Closing, mortgages on the Premises, other than Existing Mortgages, of which Seller has actual knowledge.~~

~~§13.03 Any unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two days following the Closing Date, and any other liens and encumbrances, which Seller is obligated to pay and discharge or which are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser on the Closing Date official bills for such taxes, assessments, water charges, sewer rents, interest and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record. Upon request made a reasonable time before the Closing, Purchaser shall provide at the Closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and otherwise complying with §2.02. If Purchaser's title insurance company is willing to insure both Purchaser and Purchaser's Institutional Lender, if any, that such charges, liens and encumbrances will not be collected out of or enforced against the Premises, then, unless Purchaser's Institutional Lender reasonably refuses to accept such insurance in lieu of actual payment and discharge, Seller shall have the right in lieu of payment and discharge to deposit with the title insurance company such funds or assurances or to pay such special or additional premiums as the title insurance company may require in order to so insure. In such case the charges, liens and encumbrances with respect to which the title insurance company has agreed so to insure shall not be considered objections to title.~~

~~§13.04. If Purchaser shall default in the performance of its obligation under this contract to purchase the Premises, the sole remedy of Seller shall be to retain the Downpayment as liquidated damages for all loss, damage and expense suffered by Seller, including without limitation the loss of its bargain.~~

~~§13.05. Purchaser shall have a vendee's lien against the Premises for the amount of the Downpayment, but such lien shall not continue after default by Purchaser under this contract.~~

Section 14. Broker

~~§14.01. If a broker is specified in Schedule D, Seller and Purchaser mutually represent and warrant that such broker is the only broker with whom they have dealt in connection with this contract and that neither Seller nor Purchaser knows of any other broker who has claimed or may have the right to claim a commission in connection with this transaction, unless otherwise indicated in Schedule D. The commission of such broker shall be paid pursuant to separate agreement by the party specified in Schedule D. If no broker is specified in Schedule D, the parties acknowledge that this contract was brought about by direct negotiation between Seller and Purchaser and that neither Seller nor Purchaser knows of any broker entitled to a commission in connection with this transaction. Unless otherwise provided in Schedule D, Seller and Purchaser shall indemnify and defend each other against any costs, claims or expenses, including attorneys' fees, arising out of the breach on their respective parts of any representations, warranties or agreements contained in this paragraph. The representations and obligations under this paragraph shall survive the Closing or, if the Closing does not occur, the termination of this contract.~~

Section 15. Notices

property to be conveyed to Purchaser free of any liens, claims and encumbrances pursuant to an order of the United States Bankruptcy Court for the Eastern District of New York.

§15.01. All notices under this contract shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail, addressed as set forth in Schedule D, or as Seller or Purchaser shall otherwise have given notice as herein provided.

Section 16. Limitations on Survival of Representations, Warranties, Covenants and other Obligations

§16.01. Except as otherwise provided in this contract, no representations, warranties, covenants or other obligations of Seller set forth in this contract shall survive the Closing, and no action base thereon shall be commenced after the Closing. ~~The representations, warranties, covenants and other obligations of Seller set forth in §4.03, §6.01 and §6.02 shall survive until the Limitation Date specified in Schedule D (or if none is so specified, the Limitation Date shall be the date which is six months after the Closing Date), and no action based thereon shall be commenced after the Limitation Date.~~

§16.02 The delivery of the deed by Seller, and the acceptance thereof by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this contract to survive the Closing.

Section 17. Miscellaneous Provisions

~~§17.01. If consent of the Existing Mortgagee(s) is required under §2.03(b), Purchaser shall not assign this contract or its rights hereunder without the prior written consent of Seller. No permitted assignment of Purchaser's rights under this contract shall be effective against Seller unless and until an executed counterpart of the instrument of assignment shall have been delivered to Seller and Seller shall have been furnished with the name and address of the assignee. The term "Purchaser" shall be deemed to include the assignee under any such effective assignment.~~

§17.02. This contract embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein and all prior agreements, understandings, representations and statements, oral or written, are merged into this contract. Neither this contract nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

§17.03. This contract shall be governed by, and construed in accordance with, the law of the State of New York.

§17.04. The captions in this contract are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this contract or any of the provisions hereof.

§17.05. This contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

§17.06. This contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser.

§17.07. As used in this contract, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context may require.

§17.08. If the provisions of any schedule or rider to this contract are inconsistent with the provisions of this contract, the provisions of such schedule or rider shall prevail. Set forth in Schedule D is a list of any and all schedules and riders which are attached hereto but which are not listed in the Table of Contents.

~~IN WITNESS WHEREOF~~, the Parties hereto have duly executed this Contract as of the date first above written.

SELLER(S):

BUYER(S):

215 Hempstead Realty Corp. by Nadide Cakici, Pres.

X
Aftab Hussain

Receipt by Escrowee:

The undersigned Escrowee hereby acknowledges receipt of, by check subject to collection, to be held in escrow pursuant to §2.05.

Order No.:15-7405-845812-N

LEGAL DESCRIPTION

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in West Hempstead, Town of Hempstead, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Hempstead Avenue with the westerly side of Morton Avenue;

RUNNING THENCE south 81 degrees 16 minutes 15 seconds west, along the northerly side of Hempstead Avenue, a distance of 100.00 feet to a point;

THENCE north 8 degrees 43 minutes 45 seconds west, a distance of 106.00 feet to a point;

THENCE north 81 degrees 16 minutes 15 seconds east, a distance of 100.00 feet to a point in the westerly side of Morton Avenue;

THENCE south 8 degrees 43 minutes 45 seconds east along the westerly side of Morton Avenue, a distance of 106.00 feet to a point, said point being the point and place of BEGINNING.

FOR INFORMATION ONLY: Premises also known as 215 Hempstead Avenue, West Hempstead, New York

RIDER TO CONTRACT OF SALE BETWEEN

215 Hempstead Realty Corp.
(hereinafter called "Seller"), as Seller
and
to Aftab Hussain
(hereinafter called "Purchaser"), as Purchaser
of the Premises as set forth in the Contract of Sale
to which this Rider is annexed (the "Premises").

It is hereby agreed by Seller and Purchaser that:

1. To the extent that this Rider is inconsistent in any way with the Contract of Sale and with any Riders attached to the Contract of Sale other than this Rider, this Rider shall prevail over the Contract of Sale and any previous Riders. The Contract of Sale and all Riders shall hereinafter be referred to as the "Contract of Sale".

~~2. Purchaser has forty five (45) days from the receipt by Purchaser's counsel of a fully executed Contract of Sale, to conduct, at Purchaser's sole cost and expense, investigations, studies and inspections of any kind or nature whatsoever, and to make a complete and independent investigation of all aspects of the transaction contemplated by the Contract of Sale including, but not limited to, the condition of the property, all correspondence, instruments, agreements, contracts, documents, records, plans drawings, specifications, approvals and authorizations concerning the premises (the "Investigation Period"). Purchaser and its agents have the right to enter onto the property at reasonable times for all purposes contemplated by the Contract of Sale during the Investigation Period and during the term of the Contract of Sale. No later than the expiration of the Investigation Period, Purchaser may, at his sole discretion, terminate the Contract of Sale, by giving written notice to Seller. Upon receipt of such notice by Seller, the Escrow Agent shall, within seven (7) days of notice by Purchaser to Escrow Agent, return the deposit paid to Escrow Agent, in which event the Contract of Sale shall become null and void and neither party shall have any further obligation to the other.~~

3. Notwithstanding anything contained in the Contract of Sale to the contrary, ^{to the best of} Seller's knowledge represents that no petroleum contamination or other hazardous substances or material, as defined by local, state and federal laws and regulations (hereinafter "Contamination"), has escaped from the underground petroleum storage tanks or the automotive lifts at the Premises. The parties hereto acknowledge that Purchaser intends to remove the existing underground petroleum storage tanks located in the Premises, and to replace them with tanks of the same or greater capacity. Seller hereby agrees to indemnify and hold harmless Purchaser and the Lender and take full responsibility for any and all claims, obligations, liabilities, indebtedness, or any relationship, acts, omissions, damages, costs, losses, and expenses, of every type, kind, nature, description or character (including, without limitation, reasonable attorney's fees that in any way arise out of, or are connected with or related to: (i) any Contamination in, on or under the Premises or emanating therefrom (hereinafter ; and (ii) any required clean-up, remediation, including monitoring, of any and all Contamination in, on or under the Premises or emanating therefrom, including without limitation any personal injuries suffered by any person or persons. This provision shall survive closing and delivery of the deed, and the limitations provided in

par. 16.01 shall not be applicable herein.

In order to secure Seller's obligations and undertakings herein, Seller agrees that at closing, it shall deposit in escrow, with Seller's attorney (herein the "Escrowee"), the sum of \$ 65,000.00 (hereinafter the "Escrow Fund"). In the event that no Contamination is found to exist at the Premises prior to, or during Purchaser's installation of new tanks, Seller may request Escrowee to disburse the Escrow Fund to Seller. In such event, and provided that Purchaser shall not have objected, Escrowee may, no earlier than fifteen (15) days after Purchaser's receipt of a copy of Seller's request, disburse the Escrow Fund to Seller. In the event Contamination is found to exist at the Premises, to the extent that Purchaser shall be required to perform any monitoring and/or remediation of any Contamination in accordance with all applicable laws and regulations, Purchaser shall deliver to the Escrowee a request for distribution from the Escrow Fund providing the Escrowee with any applicable invoice for work, services, equipment and labor reasonably necessary or required for the monitoring and/or remediation of the Contamination. The Escrowee shall, within five (5) days thereafter, make payment from the Escrow Fund to the respective contractor. In the event that Purchaser shall have paid any sums to any contractor reasonably incurred on account of the monitoring and/or remediation of any Contamination, Escrowee shall disburse said amount to Purchaser upon request therefor. Seller's obligations hereunder shall continue until the New York State Department of Environmental Conservation ("DEC") shall have closed any applicable spill file and provided to Purchaser a "No Further Action" letter. Thereafter, and provided that all invoices of contractors or payments by Purchaser for which reimbursement is required, have been paid from the Escrow Fund, Escrowee may, upon fifteen (15) days written notice to Purchaser, release any balance remaining in the Escrow Fund to Seller.

4. Purchaser may assign the Contract of Sale to a related entity in which Purchaser is a principal.
5. At closing, Seller will deliver the Premises vacant and free of any and all tenancies and occupancies.
6. By the execution of this Agreement, Seller and Purchaser hereby agree that their respective counsel on behalf of their respective clients, may agree to change the closing date, by an Agreement in writing between said counsel, without the necessity of execution of such Agreement by Purchaser or Seller.
7. To the best of Seller's knowledge, Seller has not received any claim, demand, complaint or request by the owner of any adjoining property concerning encroachments, fences, walls, retaining walls, hedges or shrubs nor is Seller aware of any such claims they may have against any owner of adjoining property.

~~8. Purchaser may desire to exchange, for other property of like kind and qualifying use within the meaning Section 1031 of the Internal Revenue Code, as amended and the regulations promulgated thereunder, fee title in the Premises. Purchaser expressly reserves the right to assign its rights, but not its obligations, hereunder to a "Qualified Intermediary", as provided in IRC Reg. 1.1031(k)-1(g)(4) on or before the Closing. Seller agrees to cooperate fully with Purchaser at no material expense or cost to Seller in that regard, without limitation, sign all instruments and documents necessary to effectuate such an exchange. To the extent this Section contains provisions that alter or vary or are inconsistent with other terms of this Contract, the provisions of this Section 22 will govern and predominate. Purchaser has agreed to purchase the Premises as part of a tax-free exchange transaction~~

~~and timing of the closing is critical to the Purchaser acquiring the Premises pursuant to Section 1031 of the Internal Revenue Code.~~ In the event that the Seller is unable or unwilling to close and convey title to the Premises to Purchaser on or before Jan. 9, 2018 then, in that event, and provided that Purchaser is not in default of the terms of this Contract of Sale, Purchaser may terminate this Contract and receive a return of its Downpayment from Escrow Agent.

9. The Riders and the Contract of Sale may be executed by the parties hereto in any number of separate counterparts, each of which shall be an original, and all of which taken together shall be deemed to constitute one and the same instrument. A facsimile signature or PDF signature by any of the parties below shall be deemed binding for all purposes hereof, without necessity of an original signature being thereafter required, with the exception of any original signatures required by the parties required by the Corporation.

10. The parties hereto agree that electronically transmitted copies of executed counterparts of this Contract of Sale and the Riders thereto shall be deemed original for all purposes.

11. see below

In Witness Whereof, Seller and Purchaser have duly executed the Contract of Sale on the ___ day of July, 2017.

215 Hempstead Realty Corp.

Seller

By: _____

Name: Nadide Cakici

Title: President

Aftab Hussain

Purchaser

11. Seller represents that at closing, the heating, plumbing and electric systems and equipment will be in working order, and the roof free of leaks.

AFTAB HUSSAIN
6 OLIVE STREET
GREAT NECK, NY 11020

1-8
210

101

Date 7/20/2017

Pay to the order of RAY RANOW, as attorney \$ 77,500.00

SEVENTY SEVEN THOUSAND FIVE HUNDRED

00/100

Security Features
Include:
Details on Back.

citibank

CITIBANK, N.A.

Memo downpayment 215 Hempstead Aftab Hussain

MP

RIDER TO CONTRACT OF SALE BETWEEN

**215 Hempstead Realty Corp.
(hereinafter called "Seller"), as Seller**

And

**Aftab Hussain
(hereinafter call "Purchaser"), as Purchaser**

**of the Premises as set forth in the Contract of Sale
to which this Rider is annexed (the "Premises")**

It is hereby agreed by Seller and Purchaser that:

1. Notwithstanding anything contained in the Contract of Sale to the contrary, Purchaser agrees to close on the Contract of Sale regardless of the contamination findings ground surrounding the underground petroleum storage tanks and mechanic's shop and is purchasing the Premises on as is, where is, basis.
2. The Seller represents that the automobile lifts are in working order and will be at closing.
3. Notwithstanding anything contained in the Contract of Sale to the contrary, the Contract of Sale shall be made subject to higher and better offers of creditors, parties in interest and prospective purchasers and subject to approval of the United States Bankruptcy Court for the Eastern District of New York. A copy of the motion to approve the sale of the Premises will be provided to Purchaser prior to filing with the Court.
4. The Riders and the Contract of Sale may be executed by the parties hereto in any number of separate counterparts, each of which shall be an original, and all of which taken together shall be deemed to constitute one and the same instrument. A facsimile signature or PDF signature by any of the parties below shall be deemed binding for all purposes hereof, without necessity of an original signature being thereafter required, with the exception of any original signatures required by the parties required by the Corporation.
5. The parties hereto agree that electronically transmitted copies of executed counter parts of this Contract of Sale and the Riders thereto shall be deemed original for all purposes.

In Witness Whereof, Seller and Purchaser have executed this Rider to Contract of Sale for 215 Hempstead Avenue, West Hempstead New York 11552

SELLER:

PURCHASER:

McBREEN & KOPKO

Kenneth A. Reynolds
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

Counsel for Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----x

In re:

Chapter 11

215 HEMPSTEAD REALTY CORP.,

Case No. 17-74474 (REG)

Debtor.

-----x

**NOTICE OF (I) BIDDING PROCEDURES RELATING TO THE
SALE OF CERTAIN COMMERCIAL PROPERTY PURSUANT TO
SECTION 363 OF THE BANKRUPTCY CODE OF THE DEBTOR AND
DEBTOR-IN-POSSESSION TO ALL CREDITORS AND OTHER
PARTIES IN INTEREST**

PLEASE TAKE NOTICE that on November 1, 2017, 215 Hempstead Realty Corp., as debtor and debtor-in-possession (the "Debtor"), filed a motion (the "Motion") seeking the entry of and order approving: (a) the sale of a certain commercial property described and known as 215 Hempstead Avenue, West Hempstead, New York 11552 (the "Premises") at the contractually agreed upon sale price of \$775,000.00 free and clear of any all liens, claims and encumbrances and other interests (with such liens to attach to the proceeds of such sale) subject to higher and better offers, pursuant to Section 363 of Title 11 of the United States Code (the "Bankruptcy Code") and approving bidding procedures in connection therewith; and (b) authorizing the payment of 100% of creditor claims, or in the event no claim is filed in accordance with the amounts scheduled by the Debtor, in the petition schedules from the proceeds of sale.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Sale Procedures Order, which was approved by the Bankruptcy Court on _____, 2017, the following bidding requirements (the "Bidding Requirements") for the sale (the "Sale") of the Premises were approved by the Bankruptcy Court:

(1) (a) Due Diligence. Any interested parties (the "Bidders") interested in submitting a bid (the "Bid") for the Assets may obtain information regarding the proposed Sale by contacting the Debtor's real estate broker as set forth below:

Richard B. Maltz
David R. Maltz & Co., Inc.
155 Terminal Drive
Plainview, NY 11803
E-mail: rmaltz@maltzauctions.com

(b) The Debtor shall allow any such prospective Bidder(s) to conduct reasonable due diligence in connection with the consideration of a potential Bid for the Properties. In connection with the conduct of due diligence, the Debtor may require a prospective purchaser to demonstrate its financial ability to purchase of the Properties as determined by the Debtor in its reasonable discretion.

(2) The Debtor has received and accepted a \$775,000.00 offer ("stalking horse bid") subject to any higher or better offers. The next acceptable offer for a bulk bid must be equal to or greater than \$775,000.00.

(3) The Sale will be subject to higher or better offers in bulk and/or individually. The solicitation of higher or better offers and approval shall be held on or about _____, 2017 at _____m. (the "Sale Date") at _____.

(4) In order to be permitted to tender an offer on the Property, prior to commencement of the solicitation, each prospective buyer must deliver to McBreen &

Kopko a bank check in the amount of Seventy Five Dollars (\$77,500.00) for the Premises (the “Qualifying Deposit”) payable to “McBreen & Kopko Escrow Account”, which amount shall serve as a partial good faith deposit against payment of the purchase price by such competing offeror as the Debtor determines to have made the highest or best offer for the Property (the “Successful Buyer”). Within 48 hours after conclusion of the solicitation, the Successful Buyer(s) shall deliver to McBreen & Kopko by bank check an amount equal to 10% of its successful bid minus the Qualifying Deposit (together with the Qualifying Deposit, the “Deposit”).

(5) The Successful Buyer must pay the balance of the purchase price for the Property (the difference between the amount of the Purchase Price and the Deposit) (the “Purchase Price”) to McBreen & Kopko, by bank check, federal funds or wire transfer at the closing of title to the Property (the “Closing”). The Successful Buyer must close title to the Property at a date that is no more than thirty (30) days after the conclusion of the solicitation, or _____, 2017, (the “Closing Date”), TIME BEING OF THE ESSENCE as to the Purchaser, although such date may be extended solely by the Debtor.

(6) The Closing shall take place at the offices of the attorneys for the Debtor, McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, NY 11753.

Dated: Jericho, New York
November 1, 2017

McBREEN & KOPKO
Attorneys for Debtor
and Debtor-in-Possession

By: /s/ Kenneth A. Reynolds
Kenneth A. Reynolds, Esq.
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

EXHIBIT 1

McBREEN & KOPKO

Kenneth A. Reynolds
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095

Counsel for Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----x

In re:

Chapter 11

215 HEMPSTEAD REALTY CORP.,

Case No. 17-74474 (REG)

Debtor.

-----x

**ORDER APPROVING (I) BID AND AUCTION PROCEDURES
FOR THE SALE OF CERTAIN ASSETS AND (II) THE FORM AND
MANNER OF NOTICE OF THE AUCTION**

Upon the motion dated November 1, 2017 (the “Sale Motion”), as debtor and debtor-in-possession (the “Debtor”), seeking amongst other forms of relief, the entry of an Order of this Court approving (a) the sale of a certain commercial property described and known as 215 Hempstead Avenue, West Hempstead, New York 11552 (the “Premises”) at the contractually agreed upon sale price of \$775,000.00 free and clear of any all liens, claims and encumbrances and other interests (with such liens to attach to the proceeds of such sale); and (b) authorizing the payment of 100% of creditor claims, or in the event no claim is filed in accordance with the amounts scheduled by the Debtor, in the petition schedules from the proceeds of sale and (c) granting related relief; and upon the order approving the Sale Motion (the “Sale Order”) entered by the Court on November ____, 2017; and it appearing that due notice of the relief requested has been properly provided to parties in interest; and no other or further notice of the relief requested pertaining to the proposed sale and provided herein need to be given; and upon

the hearing on the sale; and the appearances of all parties in interest having been duly noted in the record; and after due deliberation, sufficient cause appearing therefor; and

SUBJECT TO THE FURTHER PROVISIONS OF THIS ORDER, THIS COURT FINDS THAT:

A. On July 24, 2017 (the “Filing Date”), the Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor is continuing to operate its businesses and manage its properties as a debtor in possession.

B. On November 1, 2017 the Debtor filed with this Court the Sale Motion for approval of, among other things, a sale of substantially all of the Debtor’s assets and certain bid procedures as more fully set forth therein. The bid procedures, notice provisions and the terms and conditions of sale relate to the sale by the Debtor of certain of its assets by and among the Debtor as seller and Aftab Hussain as the stalking horse bidder, subject to higher or better offers at an auction. The Sale Motion with its exhibits contemplated, among other things, the certain bid procedures, terms and conditions of sale and notice provisions as more fully set forth therein (collectively, the “Bid Procedures”).

C. The Debtor has articulated good and sufficient business justifications for approval of the Bid Procedures, and has exercised prudent and reasonable business judgment with respect thereto.

D. The Terms and Conditions of Sale and Proposed Notice of Bidding Procedures as set forth in Exhibit “1” and “2”, respectively, annexed hereto have been approved the hearing to approve the Bid Procedures which took place on November 27, 2017.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Terms and Conditions of Sale and Notice of Bidding Procedures, which are attached hereto as Exhibit “1” and “2”, respectively, are hereby approved.

2. The Terms and Conditions of Sale shall govern all processes and proceedings relating to the submission, consideration, and acceptance of competing bids for the Premises and are hereby incorporated herein by reference.

3. Aftab Hussain is approved as the stalking horse bidder for the assets set forth herein. Aftab Hussain’s bid for the Assets set forth herein shall be the floor bid against which any and all other bids shall be considered by the Debtor.

4. An auction to solicit competing bids shall be held on November __, 2017 at 10:00 a.m. at the law offices of McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, New York 11753.

5. The hearing on approval of the sale of the Debtor’s assets shall be held on the _____ day of _____, 2017 at _____ o’clock _____.m., unless otherwise continued or adjourned (the “Sale Hearing”) in the Courtroom of the Honorable Robert E. Grossman, United States Bankruptcy Judge, United States Bankruptcy Court, 290 Federal Plaza, Room 860, Central Islip, New York 11722.

6. The Debtor shall serve a copy of this order, the Terms and Conditions of Sale and Notice of Bidding Procedures in the forms annexed hereto as Exhibits “1” and “2”, respectively, upon all known creditors and parties in interest, for an expression of interest in acquiring the Debtor’s assets, and that an affidavit of such service shall be filed on or before _____, 2017 and that service of this order and the attached notice in accordance with this order shall be deemed good and sufficient notice of the proposed

auction sale and sale hearing.

7. Any party objecting to the sale must file a written objection setting forth the facts and authorities upon which it relies for its objection in the Office of the Clerk of the United States Bankruptcy Court, United States Courthouse, 290 Federal Plaza, Central Islip, New York 11722, so as to be received no later than 5:00 p.m. on _____ (the “Sale Hearing Objection Deadline”), with a copy to Chambers, and must serve a copy of any objection to the Sale Hearing filed with the Court on (i) McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, New York 11753, Attn: Kenneth A. Reynolds, Esq., counsel for the Debtor, and (ii) the Office of the United States Trustee for the Eastern District of New York, 560 Federal Plaza, Central Islip, New York 11722, Attn: Alfred M. Dimino, Esq.

EXHIBIT 2

TERMS AND CONDITIONS OF SALE

1. These Terms and Conditions of Sale are promulgated in connection with the Sale of certain commercial property located at 215 Hempstead Avenue, West Hempstead, New York 11552 (the “Property”).

2. The Seller of the Property is 215 Hempstead Realty Corp. as the Chapter 11 Debtor and Debtor-in-Possession (the “Debtor”), in the Chapter 11 case pending in the United States Bankruptcy Court for the Eastern District of New York (the “Bankruptcy Court”), Case No. 17-74474 (REG). The sale is conducted pursuant to section 363(f) of title 11 of the United States Code.

3. The Debtor has received and accepted a \$775,000.00 offer (“stalking horse bid”) subject to any higher or better offers. The next acceptable offer must be equal to \$785,000.00 or greater.

4. The Sale will be subject to higher or better offers. The solicitation of higher or better offers and approval shall be held on or about November __, 2017 at 10:00 a.m. (the “Sale Date”) at the law offices of McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, New York 11753.

5. In order to be permitted to tender an offer on the Property, prior to commencement of the solicitation, each prospective buyer must deliver to McBreen & Kopko a bank check in the amount of Seventy-Seven Thousand Five Hundred Dollars (\$77,500.00) for the Property (the “Qualifying Deposit”) payable to “McBreen & Kopko Escrow Account”, which amount shall serve as a partial good faith deposit against payment of the purchase price by such competing offeror as the Debtor determines to have made the highest or best offer for the Property (the “Successful Buyer”). Within 48 hours after conclusion of the solicitation, the Successful Buyer(s) shall deliver to

McBreen & Kopko by bank check an amount equal to 10% of its successful bid minus the Qualifying Deposit (together with the Qualifying Deposit, the "Deposit").

6. The Successful Buyer must pay the balance of the purchase price for the Property (the difference between the amount of the Purchase Price and the Deposit) (the "Purchase Price") to McBreen & Kopko, by bank check, federal funds or wire transfer at the closing of title to the Property (the "Closing"). The Successful Buyer must close title to the Property at a date that is no more than thirty (30) days after the conclusion of the solicitation, or _____, 2017, (the "Closing Date"), **TIME BEING OF THE ESSENCE as to the Purchaser**, although such date may be extended solely by the Debtor.

7. The Closing shall take place at the offices of the attorneys for the Debtor, McBreen & Kopko, 500 North Broadway, Suite 129, Jericho, NY 11753.

8. The Successful Buyer shall pay any Nassau County, New York State or other real property transfer taxes incurred by the transfer of the Property by the Estate at the Closing. Purchaser acknowledges that they will be responsible for the completion of any ACRIS forms, if required. In connection with the Closing and Closing Date, the Successful Buyer is hereby given notice that **Time is of the Essence Against the Successful Buyer and the failure of the Successful Buyer to close for any reason whatsoever (except as otherwise provided below) including its failure to pay the balance of the Purchase Price on the Closing Date, will result in the Debtor retaining the deposit as liquidated damages and the termination of the Successful Buyer's right to acquire the Property under these Terms and Conditions of Sale.**

The Successful Buyer shall be obligated to close title to the Property and there is no contingency of any kind or nature that will permit the Successful Buyer to cancel or

avoid its obligation under these Terms of and Conditions of Sale other than the Debtor's inability to deliver insurable title to the Property. Further, the Successful Buyer shall have demonstrated, to the sole satisfaction of the Debtor or the Court, as the case may be, evidence of its ability to conclude the transaction upon these Terms and Conditions of Sale, without delay. The Debtor reserves the right to reject any offeror, who in the sole discretion of the Debtor, the Debtor believes is not financially capable of consummating the purchase of the Property. **Expenses incurred by the Successful Buyer, or any competing potential Buyer concerning any due diligence, such as obtaining title reports or environmental inspections, shall be the sole responsibility of such potential Buyer, and under no circumstances shall the Debtor or the Estate or the Debtor's professionals be responsible for, or pay, such expenses.**

9. In the event that the Successful Buyer for the Property fails to tender the payment of the balance of the Purchase Price on the Closing Date, or otherwise perform any of its obligations under these Terms and Conditions of Sale, the Debtor, at his sole option, shall be authorized to sell the Property to the Second Highest Buyer without any further notice without giving credit for the Deposit forfeited by the Successful Buyer, and upon such other terms and conditions as the Debtor deems appropriate. Should the Second Highest Buyer fail to close on the Property, within such time as the parties may agree but not to exceed thirty (30) days after notice from the Debtor to the Second Highest Buyer, the Debtor shall be authorized to sell the Property to the next highest or best Buyer, without the necessity of any further notice. All potential buyers will be bound by these Terms and Conditions of Sale, including, without limitation, those terms set forth in paragraphs 9, 10, 11, and 12 hereof.

10. The Debtor or the Debtor's professionals have not made and do not make any

representations as to the physical condition, rents, leases, expenses, operations, value of the land or buildings thereon, or any other matter or thing affecting or related to the Property or this Sale, which might be pertinent to the purchase of the Property, including, without limitation, (i) the current or future real estate tax liability, assessment or valuation of the Property; (ii) the potential qualification of the Property for any and all benefits conferred by or available under federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated; (iii) the compliance or non-compliance of the Property, in its current or any future state, with applicable present or future zoning ordinances or other land use law or regulation, or the ability to obtain a change in the zoning or use, or a variance in respect to the Property; (iv) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Property from any source, including, but not limited to, any state, city or federal government or institutional lender; (v) the current or future use of the Property; (vi) the present and future condition and operating state of any and all machinery or equipment on the Property and the present or future structural and physical condition of any building thereon or its suitability for rehabilitation or renovation; (vii) the ownership or state of title of any personal property on the Property; (viii) the presence or absence of any laws, ordinances, rules or regulations issued by any governmental authority, agency or board and any violations thereof; (ix) any present or future issues concerning subdivision or non-subdivision of the Property; or (x) the compliance or non-compliance with environmental laws and the presence or absence of underground fuel storage tanks, any asbestos or other hazardous materials anywhere on the Property. Each buyer hereby expressly agrees and acknowledges that no such representations have been made. The Debtor is not liable or

bound in any manner by expressed or implied warranties, guaranties, promises, statements, representations or information pertaining to the Property, made or furnished by the Debtor or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent the Debtor unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing by the Debtor.

11. The Property is being sold **“AS IS” “WHERE IS”, “WITH ALL FAULTS”**, without any representations, covenants, guarantees or warranties of any kind or nature whatsoever, and free and clear of any and all liens, judgment or mortgage, or adverse claims to title, of whatever kind or nature, such liens, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Sale Date, and subject to, among other things (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions and easements of record; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; (e) all leases and occupancies, if any, as may exist or encumber the Property or any portion(s) thereof; and (f) environmental conditions. By delivering their respective Qualifying Deposits, all potential buyers acknowledge that they have had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and the form of the Quitclaim Deed that the Debtor will execute to convey the Property, and will rely solely thereon and on their own independent investigations and inspections of the Property in making their offers. Neither the Debtor nor any of his representatives make any representations or warranties with respect to the permissible uses of the Property, including, but not limited to, the zoning of the Property. All potential buyers

acknowledge that they have conducted their own due diligence in connection with the Property, and are not relying on any information provided by the Debtor, or the Debtor's professionals.

12. The Debtor shall convey the Property by delivery of a Quitclaim Deed. The quality of title shall be that which any reputable title insurance company authorized to do business in the State of New York is willing to approve and insure. The Debtor may at its option arrange for the issuance of a title insurance policy by such a company at the sole cost and expense of the Successful Buyer.

13. Neither the Debtor, Debtor's counsel, nor the Estate is liable or responsible for the payment of fees of any broker. The only sales commissions the estate may be liable for are those of David R. Maltz & Co., Inc., which will be retained if an auction becomes necessary pursuant to an Order of the Bankruptcy Court.

14. Nothing contained in these Terms and Conditions of Sale is intended to supersede or alter any provisions of Title 11 of the United States Code (the "Bankruptcy Code") or otherwise interfere with the jurisdiction of the Bankruptcy Court. All of the terms and conditions set forth in these Terms and Conditions of Sale are subject to modification as may be directed by the Debtor or by the Court. The Debtor reserves the right to modify these Terms and Conditions of Sale at the solicitation or thereafter to maintain consistency with the provisions of the Bankruptcy Code and/or prior orders of the Court.

15. These Terms and Conditions of Sale will be read into the record, or specifically incorporated by reference, at the solicitation for higher or better offers. By making an offer for the Property, all offeror's will be deemed to have acknowledged having read these Terms and Conditions of Sale and have agreed to be bound by them.

16. If the Debtor is unable to deliver title to the Property in accordance with these Terms and Conditions of Sale for any reason whatsoever, his only obligation will be to refund the Deposit, together with any interest earned thereon, if any, to the Successful Buyer, and upon such refund, the Successful Buyer will have no claim or recourse against the Debtor or the Debtor's professionals.

17. The final selling price is subject to confirmation by the Debtor.

18. The Debtor's attorney shall notify the Successful Buyer whether the offer(s) is/are confirmed. The Bankruptcy Court shall determine any disputes concerning the Sale of the Property. By submitting an offer, all parties consent to the jurisdiction of the Bankruptcy Court to determine such disputes under the Debtors' pending case.

19. The Property shall be delivered vacant of tenancies, but as is, and broom clean upon Closing.

20. Pursuant to E.D.N.Y. L.B.R. 6004-1 no appraiser, auctioneer or officer, director, stockholder, agent, employee or insider of any Broker, or relative of any of the foregoing, shall purchase directly or indirectly, or have a financial interest in the purchase of, any Assets of the estate that the appraiser or Broker has been employed to appraise or sell.

I have read these Terms and Conditions of Sale and agree to be bound by them.

By: _____

Date: _____

MEMORANDUM OF SALE

The undersigned has this 1st day of November, 2017, agreed to purchase the real property located at 215 Hempstead Avenue, West Hempstead, New York (the "Property"), vested in the Debtor, in the Chapter 11 case pending in the United States Bankruptcy Court for the Eastern District of New York (the "Bankruptcy Court"), Case No. 17-74474 (REG) for the sum of \$_____, and hereby promise and agree to comply with the terms and conditions of the sale of said property, as set forth in the annexed Terms and Conditions of Sale.

PURCHASER (Signature)

PURCHASER (Signature)

PRINT NAME OF PURCHASER

PRINT NAME OF PURCHASER

ADDRESS

ADDRESS

TELEPHONE NUMBER

TELEPHONE NUMBER

FAX NUMBER

FAX NUMBER

Received from _____ the sum of \$77,500.00 as a non-refundable deposit for the purchase of the Property pursuant to the Terms and Conditions of Sale, except to the extent as provided in the annexed Terms and Conditions of Sale.

Kenneth A. Reynolds, Esq.
McBREEN & KOPKO
Attorneys for the Debtor and Debtor-in-Possession
500 North Broadway, Suite 129
Jericho, New York 11753
(516) 364-1095
(516) 364-0612 Fax

This is to verify that the offer for the above captioned property is for the sum of \$_____.

Kenneth A. Reynolds, Esq.

ATTORNEY INFORMATION

Name _____

Address _____

Phone _____