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*Hearing Date: February 16, 2017
Hearing Time: 10:30 a.m.
Objection Deadline:*

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

In Re:

**HOLY NAZARENE DELIVERANCE
MINISTRIES INC.
d.b.a. HOLY NAZARINE HOUSE
OF PRAYER FOR ALL PEOPLE**

Case No. 16-22715-RDD

In Proceedings In Chapter 11

Debtor.

**DEBTOR'S MOTION PURSUANT TO SECTOINS 105 AND 363
OF THE BANKRUPTCY CODE FOR ENTRY OF AN ORDER:
(1) AUTHORIZING THE AUCTION SALE, AND APPROVING
THE TERMS AND CONDITIONS OF SALE, OF THE DEBTOR'S REAL
PROPERTY LOCATED AT 467 RALPH AVENUE, BROOKLYN, N.Y.;
AND (2) GRANTING RELATED RELIEF**

Holy Nazarene Ministries Inc., the Debtor and Debtor in Possession (the "Debtor") in the above captioned Chapter 11 case (the "Case") moves this Court pursuant to §§105 and 363 of the Title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") for the entry of an Order: (1) authorizing the sale at public auction of, and approving the terms and conditions of the sale of, the Debtor's real property located at 237 Ralph Avenue, Brooklyn, N.Y. (the "Debtor's Building" or the "Property"), free and clear of liens, claims, encumbrances, tenancies, and interests pursuant to Bankruptcy Code §§363 (b)

and (f); and (2) granting such other and further relief as to this Court appears to be just, fitting and proper.

I. JURISDICTION

1. The United States bankruptcy Court for the Eastern District of New York (the “Court”) has jurisdiction over this case and the Motion pursuant to 28 U.S.C. §§157(b)(2) and 1334. Venue of this case and the Motion in this district is proper under 28 U.S.C. §§1408 and 1409.
2. The statutory and legal predicates for the relief requested herein are section 105 and 363 of the Bankruptcy Code and Rules 2002 and 6004 of the Bankruptcy Rules.

II. BACKGROUND

3. On May 17, 2016 (the “Petition Date”) the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor is conducting its affairs and managing its property as a Debtor in Possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of an examiner has been made in this Chapter 11 case, and no committee has been appointed or designated.
4. The Debtor is a New York State corporation with a business address of 237 Ralph Avenue, Brooklyn, N.Y.
5. The Debtor is not a single asset entity. The Debtor owns the Debtor’s Building. The Debtor’s Building is a two story “taxpayer”. The Debtor “business” is the conduct of a church whose primary purpose is the conduct of religious services for members of its congregation.

6. The Debtor's Chapter 11 filing was precipitated by, among other considerations, the desire to propose, confirm and consummate a plan of reorganization or liquidation that resolves the claim of Debtor's only true creditor, Maverick Construction Services.
7. In its Schedule A/B the Debtor listed a fee simple interest in the Debtor's Building. According to the Debtor's Schedule D the Debtor's Building is encumbered by a judgment lien held by the aforesaid Maverick Construction Services in the liquidated amount of \$400,000.00, docketed in the office of the Clerk of Kings County on April 8, 2015.
8. Maverick Construction Services ("Maverick") has apparently not yet filed a proof of claim with the Court in any amount but in its motion to dismiss the Debtor's case or to obtain relief from the automatic stay Maverick asserts its claim in the amount of \$4000,000.00 and claims interest at the rate of 9.00% from April 8, 2015.
9. Maverick has brought a motion for relief from the automatic stay or to have this case dismissed.
10. By application dated January 9, 2017, the Debtor seeks the entry of an Order employing Maltz Auctions ("Maltz") as its auctioneer to market the Debtor's Building and conduct a public auction and sale of the Debtor's Building at a date to be determined (the "Auction Sale").
11. Upon the Court's entry of an Order substantially in the form attached hereto as Exhibit A, the Debtor will cause a "Notice to Creditors and Other Parties in Interest of Debtor's Intended Sale" (the "Notice of Sale") to be filed with the Court and served on the Office of the United States Trustee, Maverick, all known

creditors of the Debtor, and all known parties with an interest in the Debtor's Building. A copy of the Notice of Sale is annexed as Exhibit B. The Notice of Sale provides notice to all interested parties of the Debtor's intended Auction Sale of the Debtor's Building, the date, time, and location of the Auction Sale, the terms and conditions of the Auction Sale, and the deadline for objections to be filed to the Auction Sale. See Exhibit B.

III. THE DEBTOR'S APPLICATION

12. By this Motion the Debtor seeks authorization of, and approval for, the Auction Sale of the Debtor's Building in accordance with the proposed Terms and Conditions of Sale.

13. Some of the pertinent terms of the Terms and Conditions of Sale are as follows:

- (a) To register to bid, prospective bidders must present a bank check in the amount of \$50,000.00 made payable to the Debtor;
- (b) The successful bidder must close title on or before a date to be set by the Court, time being of the essence as to the successful bidder;
- (c) The successful bidder must pay all county, state or other property transfer taxes in connection with the sale of the Debtor's Building; and
- (d) The Debtor's Building is being sold "as is," "where is," "with all faults," and without any representations or warranties of any kind.

See Exhibit C.

IV. THE AUCTION SALE OF THE DEBTOR'S BUILDING IS A REASONABLE EXERCISE OF THE DEBTOR'S BUSINESS JUDGMENT AND SHOULD BE APPROVED

14. §363(b) of the Bankruptcy Code and Bankruptcy Rule §6004 govern the sale of assets outside of the ordinary course of a debtor's business. §363 of the Bankruptcy Code provides, in relevant part, that "[t]he Debtor, after notice and hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate...." 11 U.S.C. §363(b)(1).
15. Although §327 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate to authorize the sale or disposition of a debtor's assets, the Second Circuit, in applying this section of the Code, has required that it be based upon the sound business judgment of the Debtor. See *Motorola Inc. v. Official Comm. Of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 466 (2d Cir. 2007) (quoting *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983)); *Official Comm. Of Unsecured Creditors of LTV Aerospace & Defense Co. v LTV Corp. (In re Chateaugay Corp.)*, 973 F.2d 141, 145 (2d Cir. 1993); *Parker v. Motors Liquidation Co. (In re Motors Liquidation Co.)*, 430 B.R. 65, 83 (S.D.N.Y. 2010) (the overriding consideration for approval of Section 362 sale is whether a 'good business reason' has been articulated." (citations omitted)); *In re Hirsch*, 360 B.R. 43, 45-46, 48, 50 (Bankr. E.D.N.Y. 2007)(requiring "existence of 'a good business reason to grant such an application' (quoting *In re Lionel Corp.*, 722 F.2d at 1071)).
16. The terms of such sale are also generally within the sound discretion of the Debtor. See *In re Dial-A-Mattress Operating Corp.*, 2009 Bankr. LEXIS 1801, at *12 (Bankr. E.D.N.Y. June 24 2009)(explaining courts "generally will defer to the business judgment of the debtor's management" (citations omitted)); *In re*

Ionosphere Clubs Inc., 100 B.R. 670 (Bankr. S.D.N.Y. 1989)(approving sale of debtor's airline shuttle assets where the debtor articulated a compelling business reason for the sale and the price represented fair value and evidence exercise of independent good faith and on-coerced business judgment.

17. As established by the United States Court of Appeals for the Second Circuit in *In re Lionel Corp.*, a Court may approve an application to sell under Bankruptcy Code §363 after expressly determining from the record at the hearing that a good business reason exists to grant such application. *In re Lionel Corp.*, 722 F.2d at 1071.

18. In this instance, the Debtor has used its sound business judgment to determine that the sale of the Debtor's Building at the scheduled Auction Sale is appropriate and in the best interest s of the Debtor's estate. The Debtor has a duty to maximize the value of its asset(s) for the benefit of the estate and its creditors and the Debtor believes that it will obtain the highest value for the benefit of its creditor(s) through the sale of the Debtor's Building at the Auction.

19. The proposed Terms and Conditions of Sale for the Debtor's Building are annexed as Exhibit C. The salient provisions of the proposed Terms and Conditions of Sale of the Debtor's Building are as follows:

(a) To register to bid, prospective bidders must present a bank check in the amount of \$50,000.00 made payable to the Debtor;

(b) The successful bidder must close title on or before a date to be set by the Court time being of the essence as to the successful bidder;

(c) The successful bidder must pay all county, state or other property transfer taxes in connection with the sale of the Debtor's Building; and

(d) The Debtor's Building is being sold "as is," "where is," "with all faults," and without any representations or warranties of any kind.

See Exhibit C.

The Debtor submits that the proposed Terms and Conditions of Sale are reasonably designed to ensure that the Debtor's estate receive the maximum benefit available from the sale of the Debtor's Building and therefore warrants Court approval.

20. Maltz is ready to immediately market the Debtor's Building for Sale and will continue to market the Debtor's Building and the Auction Sale. Among other things, Maltz has or will advertise the Auction Sale in print publications, mail brochures to potential interested Parties, distribute brochures with information about the Auction Sale, list the Debtor's Building Auction Sale on real estate auction web sites, and post signage at the Debtor's Building.

21. Pursuant to Bankruptcy Rules §§6004(a) and (c) and 2002(a)(2), the Debtor is providing notice of the intended Auction Sale to all known creditors of the Debtor, Maverick and any other known holders of liens, claims, encumbrances, or tenancies against or interests in the Debtor's Building, all parties who have filed a notice of appearance in the Debtor's case, and the Office of the United States Trustee.

22. The proposed sale of the Debtor's Building is both necessary and appropriate, and is in the best interests of the Debtor's estate and its creditors. Accordingly and for the reasons set forth above, the Debtor seeks authorization of an approval for the Auction Sale of the Debtor's Building in accordance with the Terms and Conditions of Sale.

THE DEBTOR'S BUILDING SHOULD BE SOLD FREE AND CLEAR OF LIENS

23. Pursuant to Bankruptcy Code §363(f), property may be sold outside the ordinary course of business under subsection (f) free and clear of any interest in such property of an entity other than the estate, only if –

- (1) Applicable non-bankruptcy law permits the 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;
- (4) Such interest is in bona fide dispute; or
- (5) Such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. §363 (f). Thus, a Debtor may sell property of a bankruptcy estate outside the ordinary course of business if one of the five conditions under Bankruptcy Code §363(f) is satisfied. See *In re Grubb & Ellis Co.*, Case No 12-10685 (MG), 2012 Bankr. LEXIS 1279, at *31 (Bankr. S.D.N.Y. Mar. 27, 2012)(discussing Bankruptcy Code §363(f)); *In re Borders Group Inc.* 453 B.R. 477, 483, 84 (Bankr. S.D.N.Y. 2011)(discussing Bankruptcy Code §363(f)).

24. Here, Maverick's claim is a lien on the Debtor's Property. The price at which the Debtor's Property is to be sold is greater than the aggregate value of all liens on such property. Accordingly, the Debtor submits that Bankruptcy Code §363(f)(3) is satisfied.

25. Moreover, all other potential holders of liens, claims, encumbrances or tenancies against or interests in Debtor's Building will be provided with notice of the Auction Sale vis-à-vis the Sale Notice and will have an opportunity to object to the relief requested in this Motion. Any such entity that does not object to the sale shall be deemed to have consented. See, e.g., *Futuresource LLC v. Reuters Ltd.* 312 F.3d 281, 285,86 (7th Cir. 2002)(lack of an objection to a proposed sale of assets counts as consent); *Hargrave v. Township of Pemberton (In re Tabone, Inc.)*; *in re Elliot*, 9 B.R. 343, 345 (Bankr. E.D. Pa. 1988)(citing *In re Gabel*, 61 B.R. 661 (Bankr. W.D. La 1985)). See also *In re Enron Corp.* 2003 WL 21755006 at *2 (A.J.G.)(Bankr. .S.D.N.Y. 2003 (order deeming all parties who did not object to proposed sale to have consented to §363.

C. THE SUCCESSFUL BIDDER MAY BE ENTITLED TO THE PROTECTIONS OF SECTION 363(m) OF THE BANKRUPTCY CODE

26. Bankruptcy Code §363(m) protects good faith purchasers at sales conducted under Bankruptcy Code §363(b) providing that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. §363(m).

26. Although the Bankruptcy Code does not define good faith, the Second Circuit Court of Appeals has provided the following definition of good faith in the context of sales under Bankruptcy Code §363(m):

Good faith of a purchaser is shown by the integrity of his conduct during the course of the sale proceedings; where there is a lack of

such integrity, a good faith finding may not be made. A purchaser's good faith is lost by fraud, collusion between the purchaser and other bidders or the Debtor, or an attempt to take grossly unfair advantage of other bidders.... As just defined, the good-faith analysis is focused on the purchaser's conduct in the course of the bankruptcy proceedings.

Licensing by Paolo v Sinatra (In re Gucci), 126 F.3d 380, 390 (2d Cir. 1997)(quotations and citations omitted); see In re Motors Liquidation, 430 B.R. at 78 (relying on Gucci definition of good faith in this context).

28. Here, the Debtor has proposed a public Auction Sale of the Property. The Debtor anticipates that, at the hearing to approve the Auction Sale, it will seek to confirm the results of the Auction Sale to the highest and best bidder. The Debtor anticipates that the successful bidder for the Debtor's Building will be acting in good faith since the Auction Sale is being conducted at arms' length with an opportunity for competitive bidding. Accordingly, the Debtor may request the entry of an Order affording the successful bidder at the Auction Sale the protections available under Bankruptcy Code §363(m). At the hearing to consider the Auction Sale, the Debtor will seek authorization to distribute, without further Order of the Court, the net proceeds of sale of the Property to Maverick on account of, in reduction of, and up to the amount of Maverick's Lien.

29. No previous request for the relief sought herein has been made to this or to any other Court.

WHEREFORE, the Debtor respectfully requests that this Court grant the relief requested in this Motion and grant to the Debtor such other and further relief as to this Court may appear to be just, fitting and proper.

Dated: January 14, 2017
West Hempstead, N.Y.

s//Morse Geller
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See Exhibit C.

IV. THE AUCTION SALE OF THE DEBTOR'S BUILDING IS A REASONABLE EXERCISE OF THE DEBTOR'S BUSINESS JUDGMENT AND SHOULD BE APPROVED

14. §363(b) of the Bankruptcy Code and Bankruptcy Rule §6004 govern the sale of assets outside of the ordinary course of a debtor's business. §363 of the Bankruptcy Code provides, in relevant part, that "[t]he Debtor, after notice and hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate...." 11 U.S.C. §363(b)(1).
15. Although §327 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate to authorize the sale or disposition of a debtor's assets, the Second Circuit, in applying this section of the Code, has required that it be based upon the sound business judgment of the Debtor. See *Motorola Inc. v. Official Comm. Of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 466 (2d Cir. 2007) (quoting *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983)); *Official Comm. Of Unsecured Creditors of LTV Aerospace & Defense Co. v LTV Corp. (In re Chateaugay Corp.)*, 973 F.2d 141, 145 (2d Cir. 1993); *Parker v. Motors Liquidation Co. (In re Motors Liquidation Co.)*, 430 B.R. 65, 83 (S.D.N.Y. 2010) (the overriding consideration for approval of Section 362 sale is whether a 'good business reason' has been articulated." (citations omitted)); *In re Hirsch*, 360 B.R. 43, 45-46, 48, 50 (Bankr. E.D.N.Y. 2007)(requiring "existence of 'a good business reason to grant such an application' (quoting *In re Lionel Corp.*, 722 F.2d at 1071)).
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18. In this instance, the Debtor has used its sound business judgment to determine that the sale of the Debtor's Building at the scheduled Auction Sale is appropriate and in the best interest s of the Debtor's estate. The Debtor has a duty to maximize the value of its asset(s) for the benefit of the estate and its creditors and the Debtor believes that it will obtain the highest value for the benefit of its creditor(s) through the sale of the Debtor's Building at the Auction.

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The Debtor submits that the proposed Terms and Conditions of Sale are reasonably designed to ensure that the Debtor's estate receive the maximum benefit available from the sale of the Debtor's Building and therefore warrants Court approval.

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21. Pursuant to Bankruptcy Rules §§6004(a) and (c) and 2002(a)(2), the Debtor is providing notice of the intended Auction Sale to all known creditors of the Debtor, Maverick and any other known holders of liens, claims, encumbrances, or tenancies against or interests in the Debtor's Building, all parties who have filed a notice of appearance in the Debtor's case, and the Office of the United States Trustee.

22. The proposed sale of the Debtor's Building is both necessary and appropriate, and is in the best interests of the Debtor's estate and its creditors. Accordingly and for the reasons set forth above, the Debtor seeks authorization of an approval for the Auction Sale of the Debtor's Building in accordance with the Terms and Conditions of Sale.

THE DEBTOR'S BUILDING SHOULD BE SOLD FREE AND CLEAR OF LIENS

23. Pursuant to Bankruptcy Code §363(f), property may be sold outside the ordinary course of business under subsection (f) free and clear of any interest in such property of an entity other than the estate, only if –

- (1) Applicable non-bankruptcy law permits the 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;
- (4) Such interest is in bona fide dispute; or
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11 U.S.C. §363 (f). Thus, a Debtor may sell property of a bankruptcy estate outside the ordinary course of business if one of the five conditions under Bankruptcy Code §363(f) is satisfied. See *In re Grubb & Ellis Co.*, Case No 12-10685 (MG), 2012 Bankr. LEXIS 1279, at *31 (Bankr. S.D.N.Y. Mar. 27, 2012)(discussing Bankruptcy Code §363(f)); *In re Borders Group Inc.* 453 B.R. 477, 483, 84 (Bankr. S.D.N.Y. 2011)(discussing Bankruptcy Code §363(f)).

24. Here, Maverick's claim is a lien on the Debtor's Property. The price at which the Debtor's Property is to be sold is greater than the aggregate value of all liens on such property. Accordingly, the Debtor submits that Bankruptcy Code §363(f)(3) is satisfied.

25. Moreover, all other potential holders of liens, claims, encumbrances or tenancies against or interests in Debtor's Building will be provided with notice of the Auction Sale vis-à-vis the Sale Notice and will have an opportunity to object to the relief requested in this Motion. Any such entity that does not object to the sale shall be deemed to have consented. See, e.g., *Futuresource LLC v. Reuters Ltd.* 312 F.3d 281, 285,86 (7th Cir. 2002)(lack of an objection to a proposed sale of assets counts as consent); *Hargrave v. Township of Pemberton (In re Tabone, Inc.)*; *in re Elliot*, 9 B.R. 343, 345 (Bankr. E.D. Pa. 1988)(citing *In re Gabel*, 61 B.R. 661 (Bankr. W.D. La 1985)). See also *In re Enron Corp.* 2003 WL 21755006 at *2 (A.J.G.)(Bankr. .S.D.N.Y. 2003 (order deeming all parties who did not object to proposed sale to have consented to §363.

C. THE SUCCESSFUL BIDDER MAY BE ENTITLED TO THE PROTECTIONS OF SECTION 363(m) OF THE BANKRUPTCY CODE

26. Bankruptcy Code §363(m) protects good faith purchasers at sales conducted under Bankruptcy Code §363(b) providing that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. §363(m).

26. Although the Bankruptcy Code does not define good faith, the Second Circuit Court of Appeals has provided the following definition of good faith in the context of sales under Bankruptcy Code §363(m):

Good faith of a purchaser is shown by the integrity of his conduct during the course of the sale proceedings; where there is a lack of

such integrity, a good faith finding may not be made. A purchaser's good faith is lost by fraud, collusion between the purchaser and other bidders or the Debtor, or an attempt to take grossly unfair advantage of other bidders.... As just defined, the good-faith analysis is focused on the purchaser's conduct in the course of the bankruptcy proceedings.

Licensing by Paolo v Sinatra (In re Gucci), 126 F.3d 380, 390 (2d Cir. 1997)(quotations and citations omitted); see In re Motors Liquidation, 430 B.R. at 78 (relying on Gucci definition of good faith in this context).

28. Here, the Debtor has proposed a public Auction Sale of the Property. The Debtor anticipates that, at the hearing to approve the Auction Sale, it will seek to confirm the results of the Auction Sale to the highest and best bidder. The Debtor anticipates that the successful bidder for the Debtor's Building will be acting in good faith since the Auction Sale is being conducted at arms' length with an opportunity for competitive bidding. Accordingly, the Debtor may request the entry of an Order affording the successful bidder at the Auction Sale the protections available under Bankruptcy Code §363(m). At the hearing to consider the Auction Sale, the Debtor will seek authorization to distribute, without further Order of the Court, the net proceeds of sale of the Property to Maverick on account of, in reduction of, and up to the amount of Maverick's Lien.

29. No previous request for the relief sought herein has been made to this or to any other Court.

WHEREFORE, the Debtor respectfully requests that this Court grant the relief requested in this Motion and grant to the Debtor such other and further relief as to this Court may appear to be just, fitting and proper.

Dated: January 14, 2017
West Hempstead, N.Y.

s//Morse Geller
Morse Geller Esq.
mgadv1@aol.com
Morse Geller & Associates
277 Sycamore Street
West Hempstead, N.Y. 11552
516-220-1752
Counsel for the Debtor and Debtor in
Possession

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re:

HOLY NAZARENE DELIVERANCE
MINISTRIES INC.
d.b.a. HOLY NAZARINE HOUSE
OF PRAYER FOR ALL PEOPLE

In Proceedings In Chapter 11
File No. 16-42137

Debtor

**ORDER AUTHORIZING AND APPROVING THE EMPLOYMENT OF
MALTZ AUCTIONS, INC., d/b/a MALTZ AUCTIONS AS BROKER TO DEBTOR
TO MARKET AND SELL THE DEBTOR'S REAL PROPERTY**

Upon the application (the "Application") of Holy Nazarene Deliverance Ministries Inc. (the "Debtor"), by its prospective attorney, Morse Geller & Associates, seeking the entry of an Order by the United States Bankruptcy Court, Eastern District of New York (the "Court"), pursuant to 11 U.S.C. §327 (the "Bankruptcy Code") and rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing and approving the retention and employment of Maltz Auctions, Inc. d.b.a Maltz Auctions ("Maltz"), as the Debtor's broker in this bankruptcy proceeding, to market and sell the Debtor's real property know as and located at 243 Ralph Avenue, Brooklyn, (the "Real Property"); and upon the Affidavit of Richard B. Maltz, which is annexed to the Application; and after due deliberation and consideration having been had; and it appearing that sufficient cause exists for granting the relief requested in the Application; and Maltz' employment being in the best interests of the Bankruptcy Estate and its creditors; it is hereby

ORDERED, that, in accordance with Section 327 of the Bankruptcy Code, Maltz is retained and employed as broker to the Trustee and the estate to market and sell the Real Property; and it is further

ORDERED, that Maltz shall be paid commissions in the form of a buyer's premium in the amount of five

per cent (5%) of the gross sales price of the Real Property, which amount shall be added to the amount of the gross sales price and payable by the purchaser of the Real Property; and, it is further

ORDERED, that upon application to this Court, Maltz shall seek commissions for its services in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court; and it is further

ORDERED, that no commissions or reimbursement of expenses shall be paid to Maltz for professional services rendered to the Debtor except upon property application to, and by further Order of this Court following a hearing on notice pursuant to Sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules of the Eastern District of New York, the Amended Guidelines for Fees and Disbursements for Professionals in the Eastern District of New York, and the United States Trustee Fee Guidelines; and it is further

ORDERED, that the Debtor is authorized to do such things and execute such documents and expend such funds as may be necessary to effectuate the terms and conditions of this Order.

NO OBJECTION
UNITED STATES TRUSTEE

By: _____
Rachel Weinberg, Trial Attorney

*Morse Geller
Morse Geller & Associates
277 Sycamore Street
West Hempstead, N.Y. 11552
Telephone: 516-220-1752
Prospective Counsel for the Debtor and Debtor in Possession*

*Auction Sale Date: _____
Hearing Date: _____ 10:30 a.m.
Objection Deadline: _____*

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

In Re:

**HOLY NAZARENE DELIVERANCE
MINISTRIES INC.
d.b.a. HOLY NAZARINE HOUSE
OF PRAYER FOR ALL PEOPLE**

Case No. 16-22715-RDD

In Proceedings In Chapter 11

Debtor.

**NOTICE TO CREDITORS AND OTHER PARTIES
IN INTEREST OF DEBTOR'S INTENDED SALE**

PLEASE TAKE NOTICE, that, on May 17, 2016, Holy Nazarene Deliverance Ministries Inc., (the "Debtor"), filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The Debtor's Chapter 11 case is pending before The Honorable Dorothy Hershey Lord, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Eastern District of New York; and

PLEASE TAKE FURTHER NOTICE, that on _____ at _____ a.m./p.m., the Debtor, by its proposed auctioneer, Maltz Auctions Inc. d.b.a. Maltz Auctions ("Maltz"), will conduct a public auction sale (the "Auction Sale") of the Debtor's right, title and interest in the real property known as and numbered 427 Ralph Avenue, Brooklyn, N.Y. (the "Debtor's Building"); and

PLEASE TAKE FURTHER NOTICE, that the Auction Sale will be held at the New York LaGuardia Airport Marriott Hotel, 102-05 Ditmars Boulevard, East Elmhurst, New

York 11369. Registration for the Auction Sale will commence at 9:30 a.m. E.S.T. on T.B.A.; and

PLEASE TAKE FURTHER NOTICE, that, in order to bid on the Debtor's Building, a \$50,000.00 deposit bank check payable to the Debtor is required to be delivered to Maltz; and

PLEASE TAKE FURTHER NOTICE, that the Debtor's Building is being sold by the Debtor "as is", "where is", "with all **faults**" and without any representations or warranties of any kind; and

PLEASE TAKE FURTHER NOTICE, that pursuant to Bankruptcy Code §§363(b) and (f), rule 6004 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules E.D.N.Y. LBR 6004-1, the Debtor's Building will be sold free and clear of any and all liens, claims, encumbrances, interests, judgments and/or mortgages, or adverse claims to title, of whatever kind or nature (collectively, the "Liens"), with such Liens, if any, to attach to the net proceeds of sale from the Debtor's Building; and

PLEASE TAKE FURTHER NOTICE, that complete copies of the terms and conditions of sale of the Debtor's Building and dates and times for inspections of the Debtor's Building will be posted on Maltz' website located at www.MaltzAuctions.com; and

PLEASE TAKE FURTHER NOTICE, that any requests for additional information about the Debtor's Building may be obtained by contacting counsel to the Debtor, Morse Geller & Associates, Morse Geller Esq. at mgadv1@aol.com or 51 6-220-1752 or Maltz at (516)349-7022; and

PLEASE TAKE FURTHER NOTICE, that any objections to the Auction Sale must be made in writing and be filed, with notice to the Debtor and counsel to the Debtor, on or

before T.B.A. at 12:00 p.m., with the Clerk of the Bankruptcy Court, Eastern District of New York, 271 Cadman Plaza East, Brooklyn, N.Y. 11201; and

PLEASE TAKE FURTHER NOTICE, that a hearing to confirm the results of the Auction Sale of the Debtor's Building will be conducted following the Auction Sale before The Honorable Nancy Hershey Lord, United States Bankruptcy Judge, on T.B.A. at 10:00 a.m. at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, N.Y. 11201.

Dated: January 15, 2017

Maltz Auctions, Inc. d.b.a. Maltz Auctions
39 Windsor Place
Central Islip, New York, N.Y. 11722
Telephone: 516-349-7022
Fax No.: 516-49-0105
www.MaltzAuctoins.com

s/Morse Geller
Morse Geller Esq.
Morse Geller & Associates
277 Sycamore Street
West Hempstead, N.Y. 11552
516-220-1752
Counsel for the Debtor and Debtor in
Possession

TERMS AND CONDITIONS OF SALE

PURSUANT TO AN ORDER OF THE HONORABLE NANCY HERSHEY LORD, DATED FEBRUARY _____, 2017, THE PROPERTY OF THE DEBTOR, LOCATED AT 427 RALPH AVENUE, BROOKLYN, NY 11233 IS TO BE SOLD AT PUBLIC AUCTION.

1. On May 17, 2016, Holy Nazarene Deliverance Ministries, Inc., the debtor and debtor-in-possession (the “Debtor”), filed a voluntary petition for relief under chapter 11 of Title 11, United States Code (the Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York (the “Court”), commencing case number 16-42137-NHL. To date, no committee, trustee, or examiner has been appointed, and the Debtor continues to operate and manage its business and property as a debtor-in-possession under Bankruptcy Code §§ 1107(a) and 1108.

2. These Terms and Conditions of Sale are promulgated in connection with the court authorized Public Auction Sale (the “Auction”) of the Debtor’s real property located at 237 Ralph Avenue, Brooklyn, NY 11233 a/k/a Borough: Brooklyn Block: 1445 Lot: 1 (the “Property”). The Auction shall be conducted by Maltz Auctions, Inc. (“Maltz”), the Debtor’s duly retained real estate broker for the sale contemplated herein.

3. The Debtor is represented by Morse Geller, Esq., (“GELLER”), with offices at 277 Sycamore Street, Suite 202, West Hempstead, NY 11552.

4. The Auction will be held on March 22, 2017 at 11:00 am (the “Sale Date”) at New York LaGuardia Airport Marriott Hotel, 102-05 Ditmars Boulevard, East Elmhurst, NY 11369. The sale shall be free and clear of all liens, taxes and non-permitted exceptions pursuant to section 363(b) and 479 of the Bankruptcy Code.

5. The Debtor has received and accepted a \$680,000.00 offer for the property. The next acceptable bid shall be in the minimum amount of \$695,000.00.

6. The Successful Purchaser (as hereinafter defined) of the Property, will, at the time and place of the conclusion of the Auction, sign a memorandum of sale (the “Memorandum of Sale”) in accordance with these Terms and Conditions of Sale.

7. In order to be permitted to bid on the Property, prior to the commencement of the Auction, each prospective bidder (“Bidder”) must deliver to Maltz a certified check or bank check made payable to “Morse Geller, Esq., Escrow Account” in the amount of Fifty Thousand Dollars (\$50,000.00) (the “Qualifying Deposit”), which amount shall serve as a partial good faith deposit against payment of the purchase price by such competing Bidder as GELLER determines to have made the highest or best bid for the Property (the “Successful Purchaser”). Within 48 hours after conclusion of the Auction, the Successful Purchaser shall deliver to GELLER, by certified check or bank check made payable to “Morse Geller, Esq., Escrow Account” or by wire in immediately available federal funds, an amount equal to 10% of the high bid realized at Auction minus the Qualifying Deposit (together with the Qualifying Deposit, the “Deposit”) plus a six (6%) percent Buyer’s Premium (as hereinafter defined). The Buyer’s Premium shall be deemed to have been earned immediately upon the fall of the hammer and is due within 48 hours after conclusion of the Auction. Failure of the Successful Purchaser to tender the 10% Deposit of the high bid at Auction and the Buyer’s Premium within 48 hours after conclusion of the Auction shall result in an immediate default under the terms of these Terms and Conditions of Sale and the Memorandum of Sale and shall result in the forfeiture of all earnest monies paid, including the Buyer’s Premium. The Successful Purchaser must execute, and thereby agree to be bound by these Terms and Conditions of

Sale and the Memorandum of Sale. **At the conclusion of the Auction, Maltz will return the Qualifying Deposits to all Bidders, except for the Successful Purchaser.**

8. A hearing approving this sale will be held on T.B.D. ("Court Approval Date").
9. Pursuant to an order of the Bankruptcy Court, the Successful Purchaser is solely responsible to pay Maltz six (6%) percent of the high bid at Auction (the "Buyer's Premium"). The sum of the high bid at Auction and the Buyer's Premium is defined herein as the "Purchase Price".
10. The Successful Purchaser must pay the balance of the Purchase Price for the Property to FOX by certified check or bank check or by wire in immediately available federal funds. The Successful Purchaser must close title to the Property at a date that is no more than thirty (30) days after the Court Approval Date, **TIME BEING OF THE ESSENCE as to the Successful Purchaser**, although such date may be extended by GELLER as the Attorney for the Debtor in consultation with Maverick Construction Services as the senior secured creditor ("MAVERICK"). Notwithstanding the foregoing, Debtor shall grant the Successful Bidder a single thirty (30) day extension, at the request of the Successful Bidder, provided Successful Bidder posts an additional, non-refundable deposit equal to ten (10%) percent of the Purchase Price prior to the thirtieth (30th) day following court approval (the "Additional Deposit"). The Additional Deposit shall be made by certified check or bank check made payable to "Morse Geller, Esq., Escrow Account" or by wire in immediately available federal funds and, together with the original Deposit, shall be deemed the "Deposit". If Successful Bidder elects for an extension, the Closing shall take place on or before the sixtieth (60th) day following court approval, **TIME BEING OF THE ESSENCE as to the Successful Bidder**. If Successful Purchaser elects to exercise the Extension, Successful Purchaser shall be responsible for all real estate taxes incurred from the 30th day after the Court Approval Date through closing and shall pay interest on the Purchase Price at a nine (9%) percent annual rate from the 30th day after the Court Approval Date through to the actual day of closing.
11. If the Successful Purchaser fails to post the total required ten (10%) percent Deposit and six (6%) percent Buyer's Premium within 48 hours following the Public Sale ("Successful Purchaser's Default"), GELLER, in consultation with MAVERICK, may, within three (3) business days of Successful Purchaser's Default, be authorized to contact the second highest bidder ("Second Bidder") to sell the Property to the Second Bidder without any further notice or approval of the Bankruptcy Court, without giving credit for any Deposit and/or Buyer's Premium forfeited by the initial Successful Purchaser, and upon such other terms and conditions as GELLER in consultation with MAVERICK deem appropriate. Thereafter, the Second Bidder shall be deemed for all benefits and obligations to be the Successful Purchaser.
12. The closing shall take place at the offices of Morse Geller, Esq., 277 Sycamore Street, Suite 202, West Hempstead, NY 11552. (the "Closing").
13. The Successful Purchaser shall pay any and all costs and expenses in connection with the Closing related to obtaining a survey; fee title or mortgage insurance; title company endorsement, search and escrow charges; environmental, engineering or other Property inspections; appraisals, reports and other costs of Property due diligence; and County, State, New York City, or other real property transfer, deed or documentary tax, or other taxes imposed upon the sale due in connection with the transfer of the Property from the Debtor at Closing to the extent not otherwise exempt. The Successful Purchaser acknowledges that they will be responsible for the completion of any ACRIS forms, if required. The Debtor shall not be required to execute any form of title affidavit (but may in his sole and absolute discretion) and all title exceptions customarily omitted from a title policy on account of such title affidavit shall be deemed permitted exceptions. The Successful Purchaser acknowledges that it will be responsible for the preparation of all Closing documents

required including, but not limited to, transfer tax forms. In connection with the Closing and Closing date, the Successful Purchaser is hereby given notice that **TIME IS OF THE ESSENCE against the Successful Purchaser and the failure of the Successful Purchaser to close for any reason whatsoever (except as otherwise provided herein) including its failure to pay the balance of the Purchase Price on the Closing date, will result in an immediate forfeiture of the Deposit and Buyer's Premium and the termination of the Successful Purchaser's right to acquire the Property under these Terms and Conditions of Sale and the Memorandum of Sale.** The Successful Purchaser shall be obligated to close title to the Property and, except as expressly set forth herein, there is no contingency of any kind or nature that will permit the Successful Purchaser to cancel or avoid its obligation under these Terms of and Conditions of Sale and the Memorandum of Sale other than the Debtor's inability to deliver insurable title to the Property. Further, the Successful Purchaser shall have demonstrated, to the satisfaction of GELLER, evidence of its ability to conclude the transaction upon these Terms and Conditions of Sale and the Memorandum of Sale, without delay. GELLER in consultation with MAVERICK, reserves the right to reject any Purchaser or Bidder who they believe, in their reasonable discretion, is not financially capable of consummating the purchase of the Property. Expenses incurred by the Successful Purchaser, or any other Bidder, concerning any due diligence shall be the sole responsibility of such Bidder and, under no circumstances shall Maltz or the Debtor be responsible for, or pay, such expenses.

14. The only commission that will be paid is to the Licensed Real Estate Broker, who registers the Successful Purchaser in accordance with the Broker Participation Agreement and has received confirmation of receipt and acknowledgement of valid registration by Maltz. The commission for such registered real estate broker will be two (2%) percent of the Successful Bid.

15. Maltz and the Debtor and their professionals have not made and do not make any representations or warranties as to the physical condition, expenses, operations, value of the land or buildings thereon, or any other matter or thing affecting or related to the Property or this Auction, 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 current or future rents, other operating incomes or expenses; (vii) the presence or absence of any laws, ordinances, rules or regulations issued by any governmental authority, agency or board and any violations thereof; (viii) the compliance or non-compliance with environmental laws and the presence or absence of underground fuel storage tanks, any asbestos, any lead paint or other hazardous materials anywhere on the Property, or notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued by any governmental department, agency or bureau having authority as to but not limited to lands, housing, buildings, fire, health, environment and labor conditions affecting the property. Each Bidder hereby expressly agrees and acknowledges that no such representations or warranties have been made. Maltz and the Debtor shall not be liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations or information pertaining to the Property, made or furnished by Maltz or the Debtor or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent Maltz or Debtor unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing within these Terms

and Conditions of Sale and the Memorandum of Sale. **The Property shall be delivered vacant of tenancies at Closing.**

16. The Property is being sold “**AS IS**” “**WHERE IS**”, “**WITH ALL FAULTS**”, without any representations, covenants, guarantees or warranties of any kind or nature, and free and clear of any liens, claims, or encumbrances of whatever kind or nature, with such liens, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Closing, and sale of the Property is 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; and (e) environmental conditions; provided, however, **the Property shall be delivered free and clear of any and all monetary liens.** By delivering their respective Qualifying Deposits, all Bidders 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 will rely solely thereon and on their own independent investigations and inspections of the Property in making their bids. Neither Maltz, the Debtor nor any of their collective representatives makes any representations or warranties with respect to the permissible uses of the Property including, but not limited to, the zoning of the Property. All Bidders acknowledge that they have conducted their own due diligence in connection with the Property and are not relying on any information provided by Maltz, the Debtor, or their professionals. The Property will be sold subject to any and all violations requiring corrective action.

17. The Successful Purchaser has five (5) days from the Court Approval Date to order title, copy of which shall promptly be provided to GELLER. The Successful Purchaser has twenty (20) days from the Court Approval Date to advise GELLER (by electronic mail to mgadv1@aol.com) of any and all title issues or defects that would in any way be an impediment to the Closing on the sale of the Property. Failure of the Successful Purchaser to advise GELLER within twenty (20) days from the Court Approval Date of any such title issues or defects shall be deemed a waiver of any and all rights to raise any such title issues or defects, with GELLER reserving the right to specify a particular title company to insure title, provided said company is licensed in the State of New York.

18. To the extent applicable as subject to the terms herein, and except as provided above, the following shall be apportioned as of midnight of the day before the day of Closing: (i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed; (ii) fuel; (iii) rents as and when collected and (iv) any existing security deposits. If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest assessed valuation. If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading. If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Seller at or prior to Closing. All security deposits shall be transferred to Successful Bidder at Closing, with any unpaid rent balances, if any, being applied against said security deposits.

19. The Debtor shall convey the Property by delivery of a bargain and sale deed without covenants, after Bankruptcy Court approval. 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. If the Successful Purchaser is unable to obtain title insurance, subject to the permissible exceptions contained herein, GELLER may, at his option, arrange for the issuance of a title insurance policy by such a company at the sole cost and expense of the Successful Purchaser.

20. Nothing contained in these Terms and Conditions of Sale is intended to supersede or alter any provisions of 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 GELLER or by the Court. GELLER reserves the right to modify these Terms and Conditions of Sale at the Auction or thereafter to maintain consistency with the provisions of the Bankruptcy Code and/or prior orders of the Court.

21. These Terms and Conditions of Sale will be read into the record, or specifically incorporated by reference, at the Auction of the Property. By making a bid for the Property, all Purchasers will be deemed to have acknowledged having read and understood these Terms and Conditions of Sale and have agreed to be bound by them.

22. If the Debtor is unable to deliver the Property in accordance with these Terms and Conditions of Sale for any reason whatsoever, the Debtor's and Maltz's only obligation will be to refund the Deposit and Buyer's Premium, without interest, to the Successful Purchaser upon such refund, the Successful Purchaser will have no claim or recourse against the Debtor, Maltz or their professionals and shall have no further rights under these Terms and Conditions of Sale or Memorandum of Sale.

23. The Auction of the Property is subject to (a) confirmation by the Debtor, (b) consent and approval by the Charities Bureau of the New York State Office of the Attorney General, and/or the New York State Supreme Court, on notice to the Attorney General pursuant to New York Not for Profit Corporation Law §§ 510, 511 and 511-a, and (c) entry by the Bankruptcy Court of an order confirming the Auction.

24. Either Maltz or GELLER shall notify the Successful Purchaser whether the Auction is confirmed.

25. The Bankruptcy Court shall determine any disputes concerning the Auction of the Property. By participating in the Auction, all Purchasers consent to the jurisdiction of the Bankruptcy Court to determine such disputes under the Debtor's pending case.

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

By:_____ Date:_____

Print Name: _____

MEMORANDUM OF SALE – SUCCESSFUL PURCHASER

High Bid Realized at Auction: _____

6% Buyer's Premium: _____

Purchase Price: _____

The undersigned has this ____ day of _____, 2017, agreed to purchase the property located at 427 Ralph Avenue, Brooklyn, NY 11233 a/k/a Borough: Brooklyn Block: 1445 Lot: 1 (the "Property") of Holy Nazarene Deliverance Ministries, Inc. as the Chapter 11 debtor and debtor-in-possession for the sum of \$_____ DOLLARS and hereby promises and agrees to comply with the annexed Terms and Conditions of Sale of the Property and this Memorandum of Sale.

SUCCESSFUL PURCHASER (Signature)_____
SUCCESSFUL PURCHASER (Signature)_____
PRINT NAME_____
PRINT NAME_____
ADDRESS_____
ADDRESS_____
ADDRESS (City, State, Zip)_____
ADDRESS (City, State, Zip)_____
TELEPHONE NUMBER_____
TELEPHONE NUMBER_____
EMAIL ADDRESS_____
EMAIL ADDRESS

Received from _____ the sum of \$50,000 DOLLARS, as a non-refundable deposit for the purchase of the Property pursuant to the Terms and Conditions of Sale.

This is to verify that the final Purchase Price in the above sale was for the sum of \$_____.

Maltz Auctions, Inc.**SUCCESSFUL PURCHASER ATTORNEY INFORMATION**

Name _____

Address _____

Phone _____

