

## MEMORANDUM OF TERMS AND CONDITIONS OF SALE

Property Address: 49 Shawna Street  
Fitchburg, MA (hereinafter the "Property")

This Memorandum of Sale is made this 20th day of June, 2017, by and among Scott D. Wolf of Brigs, LLC (the "Receiver"), James Regan (the "Auctioneer") and \_\_\_\_\_ of \_\_\_\_\_ (the "Buyer").

Subject to and in accordance with the terms and conditions set forth in that certain Notice of Receiver's Sale of Real Estate attached hereto as **Exhibit A** and incorporated herein by reference, and as supplemented by further terms set forth below, the Buyer hereby agrees to purchase the Property more fully described in said Exhibit A.

The Property shall be conveyed by a Receiver's deed pursuant to Massachusetts General Laws Chapter 111, Section 127I and the Order Authorizing Sale of Property Located at 49 Shawna Street, Fitchburg, Massachusetts to Satisfy Receiver's Statutory Priority Lien (the "Order") entered by the Commonwealth of Massachusetts Housing Court, Worcester Division, Worcester County in *City of Fitchburg Acting Through its Director of Public Health, Petitioners, v. Xiong H. Yang and Wells Fargo Bank, N.A.*, Docket No. 16 CV 1224 (the "Receiver Action"), and recorded at Worcester Northern District Registry of Deeds in Book 8826, Page 224. A copy of the Order is attached hereto as **Exhibit B** and incorporated herein by reference.

**The Property shall be conveyed subject to the receivership order in the Receiver Action and subject to the approval of the Commonwealth of Massachusetts Housing Court, Worcester Division, Worcester County. The sale to the Buyer shall be subject to approval by the Court under the terms of the Order.**

The Property shall be conveyed subject to any outstanding tenancies and/or leases, the rights of any parties in possession, any tax titles, municipal taxes or assessments, municipal trash fees, any outstanding water or sewer bills or liens, and the provisions of applicable state and local law, including building codes, zoning ordinances and M.G.L. c. 21E.

The bid price for which the Property has been sold to the Buyer is \$ \_\_\_\_\_. The sale shall not be deemed completed until the Buyer has signed this Memorandum of Sale. The balance of the purchase price shall be paid at the Law Offices of Turk & Quijano, LLP, 639 Granite Street, Suite 305, Braintree, Massachusetts, 02184 by certified or bank check on or before 10:00 a.m. on the thirtieth (30<sup>th</sup>) day following the sale, provided that such day is one on

which the Registry of Deeds is open for business, and if not, then on the next day on which said Registry is open for business.

The Buyer shall pay all recording costs, including, but not limited to, all recording fees and excise tax stamps. In the event the Receiver cannot convey title to the Property as stipulated or the Court fails to approve the sale, the deposit shall be refunded and all rights hereunder shall cease, and the Buyer shall have no recourse against the Receiver, or its employees, agents, lawyers and representatives, whether at law or in equity.

The Buyer acknowledges that from and after this date he or she shall have the sole risk of loss, and the Receiver shall have no responsibility for maintaining insurance on the Property. In the event the Property is damaged by fire or other casualty from or after this date, the Buyer shall remain obligated to consummate the sale without any reduction in the purchase price.

The Property shall be conveyed in its "as is" condition. The Buyer acknowledges that Buyer has not been influenced to enter this transaction by, nor has it relied upon, any warranties or representations of the Receiver or the Auctioneer not set forth or incorporated in this Memorandum. No personal property of any nature is included in this conveyance except as expressly set forth herein. If, as of this date, there is any tenant or occupant in residence, the Buyer, if he or she wishes to evict such tenant or occupant, must do so at his or her own expense.

The Buyer shall assume responsibility for and costs relating to compliance with Title 5 of the State Environmental Code, state and city requirements regarding smoke detection and carbon monoxide detection equipment, and lead paint regulations, all as applicable. Receiver makes no warranties or representations regarding the Property's current compliance with any state or local regulations or laws.

In the event that the successful bidder at the sale shall default in purchasing the within described Property according to the terms of the Notice of Sale and/or terms of this Memorandum of Sale executed at the time of the sale, the Receiver reserves the right to, inter alia, retain the deposit as damages for the default and sell the Property to the second highest bidder provided that the second highest bidder shall deposit the amount of the required deposit with the Law Offices of Turk & Quijano, LLP within three (3) business days after written notice of default of the previous highest bidder and title shall be conveyed to the second highest bidder within thirty (30) days of said written notice.

I, the undersigned Buyer at this public auction sale, do hereby acknowledge that I have read the foregoing Memorandum of Terms and Conditions of Sale and agree to the terms and conditions set forth herein. I further acknowledge that I have been given a copy of this Memorandum.

Executed under seal this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

Receiver By:

\_\_\_\_\_  
Scott Wolf

Auctioneer By:

\_\_\_\_\_  
James Regan, License No. AU331

**NOTICE OF RECEIVER'S SALE OF REAL ESTATE**

By virtue of an Order of the Housing Court, Worcester Division, Worcester County in CITY OF FITCHBURG ACTING THROUGH ITS DIRECTOR OF PUBLIC HEALTH, Petitioners v. XIONG H. YANG AND WELLS FARGO BANK, N.A., Respondents, Docket No. 16-CV-1224, the Court has granted the Receiver, Scott D. Wolf and Brigs, LLC, authorization to sell the property located at 49 Shawna Street, Fitchburg, Massachusetts, to satisfy its priority lien pursuant to M.G.L. c. 111, §127I. The record owner of the premises is Wells Fargo Bank, N.A.

The same will be sold at Public Auction at 10:00 a.m. on June 20, 2017 on the premises located at 49 Shawna Street, Fitchburg, Massachusetts which is described as follows:

Two parcels of land in Fitchburg being described as:

Parcel I: The land with the buildings thereon located in Fitchburg, Worcester County, Massachusetts, being all of the land shown as Lot 20 on a plan entitled "Sub-Division Plan of Beechwood Estates, in Fitchburg, Massachusetts," prepared for Don Zagoren Associates, Boston, Massachusetts by Allen & Demurjian, Inc., 131 Clarendon Street, Boston, Massachusetts 02118, dated May 22, 1986 and recorded in the Worcester Northern District Registry of Deeds in Plan Book 296, Page 6, and on a plan entitled "Confirmatory Subdivision Plan Beechwood Estates (Pierce Farm) Fitchburg, Mass." Dated August 3, 1987, Paul C. Olsen, Surveyor, and recorded in Plan Book 310, Page 6 as such subdivision has had its name modified to "Pierce Farm" pursuant to a Certificate of Decision recorded in said Deeds in Book 1588, Page 84.

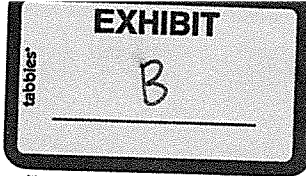
Parcel II: A certain lot of land located off the Easterly side of Klondike Ave., Fitchburg, Worcester County, Massachusetts, beginning at a point of land of Marshall and Mullaney; thence by said Mullaney land S. 82 29'27" W. 15.34 feet to Parcel D on a plan hereinafter referred; thence by said Parcel D N. 06 20'30" W. 98.44 feet to a point of land now or formerly of Marshall; thence by said Marshall land S. 15 13' 33" E. 124.88 feet to the place of beginning; containing 755 square feet more or less. Being Parcel E on "Plan of Land in Fitchburg, Mass. Prepared for Russell C. & Helen D. Pierce, dated September 18, 1996 by Whitman and Bingham Associates, Inc. recorded with Worcester Northern District Registry of Deeds in Plan Book 384, Page 20.

The premises will be sold and conveyed subject to and with the benefit of all rights, rights of way, restrictions, easements, covenants, liens or claims in the nature of liens, improvements, public assessments, any and all unpaid taxes, tax titles, tax liens, water and sewer liens, trash fee liens and any other municipal assessments or liens existing encumbrances of record which are in force and are applicable, having priority over said receiver's lien, whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the deed.

**TERMS OF SALE:**

A deposit of \$5,000.00 by certified or bank check will be required to be paid by the purchaser at the time and place of sale. The balance is to be paid by certified or bank check at the offices of the Receiver's attorney, Turk & Quijano, LLP, 639 Granite Street, Suite 305, Braintree, MA 02184 within 30 days from the date of sale, or at such other time as may be designated by receiver. Deed will be provided to purchaser for recording upon receipt in full of the purchase price. The description contained in the Deed recorded at Worcester District Registry of Deeds in Book 7419 Page 323 shall control in the event of a typographical error in this publication. Other terms to be announced at sale.

Scott Wolf, Receiver  
Erica L. Belden, Esquire  
Turk & Quijano, LLP  
639 Granite Street, Suite 305  
Braintree, MA 02184  
Tel: (781) 356-4200  
Email: ebelden@tqlawfirm.com



Bk 8826 Pg 224 #8819  
05-30-2017 @ 11:28a

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss

HOUSING COURT DEPARTMENT  
WORCESTER DIVISION  
CIVIL ACTION NO. 16-CV-1224

49 Shawna Street, Fitchburg, MA

CITY OF FITCHBURG ACTING THROUGH	)
ITS DIRECTOR OF PUBLIC HEALTH	)
Petitioners,	)
	)
v.	)
	)
XIONG H. YANG AND WELLS FARGO BANK,	)
N.A.,	)
Respondents,	)
	)

A TRUE COPY, ATTEST:

Nicholas W. Maudros

**ORDER AUTHORIZING SALE OF PROPERTY LOCATED AT 49 SHAWNA STREET, FITCHBURG, MA BY PUBLIC AUCTION FOR THE PURPOSE OF SATISFYING THE RECEIVER'S LIEN**

Upon hearing and consideration of Receiver's Motion for Authority to Sell 49 Shawna Street, Fitchburg, MA for the Purpose of Satisfying the Receiver's Lien, and after notice and no opposition thereto; and the Court having reviewed the entire record and being sufficiently satisfied that good cause exists,

THE COURT HEREBY ORDERS THAT:

1. This Court has jurisdiction over this proceeding and the Receivership property affected thereby;
2. Scott D. Wolf was appointed as receiver and was given the authority to take possession of the property located at 49 Shawna Street, Fitchburg, MA, to repair and correct the Property and maintain it in a safe and healthful condition in accordance with the Board of Health request dated December 2, 2016, among other things
3. The Receiver has incurred fees, costs and expenses in this Receivership for removing rubbish from and securing the premises.

Return to: Erica L. Belden, Esq.  
Turk + Quijano LLP  
639 Granite St. Ste. 305  
Braintree MA 02184

4. The Receiver has a lien for all of the work it has done on the property, and all other costs and expenses of the receivership per the provisions of M.G.L. ch. 111, §127I.
5. Because the property produces no income, there is no means to satisfy the Receiver's statutory lien.
6. The Receiver is therefore authorized to sell the Receivership property by public auction for the purpose of satisfying the Receiver's lien.
7. For purposes of selling the property, the Receiver may pursue the following procedure:
  - a. The Receiver shall prepare a Notice of Sale which shall indicate the following:
    1. The street address and legal description of the property to be offered for sale by public auction;
    2. The name of the titled owner(s) of the property;
    3. The date, time and place of the sale; and
    4. That the Housing Court has granted the Receiver authorization to sell the property to satisfy its lien under M.G.L. ch. 111, §127I.
  - b. The Receiver's Notice of Sale to be served on the record owners of the property, and every junior lienholder, whose lien is of record 30 days prior to the auction sale date, by mailing each a copy by certified mail, at least 14 days prior to the date of sale.
  - c. The Receiver shall engage a duly licensed auctioneer to conduct the public auction. The property shall be sold to the highest bidder, and the mortgage holder may bid in all or part of its debt. The Receiver reserves the right to reject all bids.
  - d. The Receiver shall arrange for the publication of the Notice of Sale. The Notice must be published once a week for three (3) successive weeks in the Worcester

A TRUE COPY, ATTEST:

*Nickolas W. Moudios*

Telegram & Gazette, a newspaper of general circulation in the City of Fitchburg, the first publication being at least 21 days prior to the sale date. The Receiver shall collect tear sheets of the newspaper advertisements to be filed with the Court.

- e. The Receiver shall prepare a Memorandum of Sale.
  - f. The Receiver shall execute the Memorandum of Sale with the prospective purchaser after completion of the public auction sale.
  - g. The sale shall be subject to approval by the Court.
  - h. The sale shall be subject to the receivership and the prospective new owner shall be subject to approval by the Court under the terms of the receivership order.
8. The Receiver, nor any principal, officer or owner thereof shall not be prohibited from purchasing the Receivership Property, provided they are the high bidder at public auction.

So entered this 24 day of May, 2017.



Hon.

*Nickolas W. Moudios*

A TRUE COPY, ATTEST:

ATTEST NO. WORC. REGISTRY OF DEEDS  
KATHLEEN REYNOLDS DAIGNEAULT, REGISTER