

MEMORANDUM OF TRUSTEE'S SALE

In consideration of the premises and other good and valuable consideration the adequacy and receipt of which are hereby acknowledged, the undersigned Purchaser and the undersigned Trustee agree as follows:

The undersigned Purchaser hereby agrees to purchase from the undersigned Trustee(s) that parcel of property designated on the published Notice of Trustee's Sale as \_\_\_\_\_, VA for a total cash purchase price of \$\_\_\_\_\_ (gross proceeds of sale). The Trustee hereby acknowledges the receipt of the amount of \$\_\_\_\_\_ as a bidder's deposit. In addition to the terms published with the legal advertisement of this sale (in case of conflict between advertisement terms and terms herein, the terms herein shall govern), the Purchaser and the Trustee agree to the following terms:

1. The property is sold in "as is" condition without warranty of any kind. The Purchaser acknowledges and agrees that neither the Trustee, the loan servicer, holder and/or owner of the note (collectively the "Beneficiary"), nor any of their respective officers, directors, employees, agents and attorneys has made any oral or written representation or warranty of any kind or nature to the Purchaser with regard to (a) the physical condition of the Property, (b) the quantity of real estate and/or the size or character of improvement(s), if any; (c) the zoning of the Property, (d) the availability of electrical service, telephone service, water service, sanitary sewer service or any other public utility to the Property, (e) the issuance of a certificate of occupancy for all or any portion of the Property, (f) whether any personal property located on the Property constitutes a fixture or conveys with the Property, (g) adequacy of access and egress, or (h) any other matter or thing relating to the Property other than as expressly set forth in this Memorandum of Trustee's Sale. The Purchaser further acknowledges and agrees that the Property was offered for sale at the Trustee's Sale "AS IS, WHERE IS" and that the Purchaser accepts the Property "AS IS, WHERE IS".

2. The Trustee and the Beneficiary disclaim, and the Purchaser waives, any implied warranty of any kind or nature with regard to the Property or any of the Improvements thereon or any of the personal property or fixtures located therein, including, but not limited to:

- a. Any implied warranty of merchantability;
- b. Any implied warranty of fitness for a particular purpose;
- c. Any implied warranty that the improvements to the property together with all their fixtures are free from structural defects so as to pass without objection in the trade;
- d. Any implied warranty that the improvements to the property together with all their fixtures are constructed in a workmanlike manner so as to pass without objection in the

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trade;

- e. Any implied warranty that the improvements to the property together with all their fixtures are fit for habitation;
- f. Any implied warranty of marketability of title; and

3. Risk of loss is upon the Purchaser at time of foreclosure sale. Purchaser is advised to immediately obtain insurance.

4. Purchaser is responsible for obtaining possession of the property from any hold over tenants/occupants, if any. Trustee makes no representation as to whether any tenants/occupants have rights to remain in the property.

5. The property has been purchased, and will be conveyed, subject to any and all liens not discharged as a matter of law. Purchaser has had the opportunity to examine the land records, to consult with independent counsel, and to make his/her own determination as to the status of any liens. No warranty is made by the Trustee as to the liens affecting the property and/or the validity of the amount(s) owing to any and all lienholder(s). The Purchaser acknowledges that it has not relied on any published or verbal representation made by Trustee and acknowledges that it shall be responsible to pay any and all amounts properly claimed owing by any homeowners' association, condominium association, and/or leasehold cooperative association, and/or any other lienholder not discharged by the foreclosure sale. The Trustee(s) is aware of the possible existence of the following lien(s) but this statement is no certification regarding the existence or the amount of any lien on the property and the responsibility is on the Purchaser to satisfy himself of the status and existence of any liens and the balances due thereunder:

- a. Accrued but unpaid real estate taxes.
- b. Tax liens and/or the right of redemption of the IRS and/or United States, if applicable.
- c. \_\_\_\_\_

In addition, the property shall be conveyed subject to all environmental issues, covenants, conditions, restrictions, or easements of record, if any, affecting the subject property and constituting constructive notice thereof. Without limiting the aforesaid, the sale is being made subject to all existing conditions, if any, of lead paint, mold, or other environmental or health hazards. The property shall also be conveyed subject to such matters as would be disclosed by an accurate and current physical survey of the property or by a careful visual inspection of the same. Sale shall be in gross and not by the acre. The property shall be conveyed subject to zoning and other laws, regulation and restrictions, including, without limitation, all wetlands laws and the Chesapeake Bay Preservation Act, imposed by governmental authority or agency. The Trustee shall not have any

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obligation to assist the Purchaser in the latter's efforts to obtain financing and/or Owner's/Lender's title insurance, or to otherwise assist the Purchaser in its compliance with any other terms of this agreement. Upon request of the high bidder or its agent, the Trustee will provide a Trustee certification on the Trustee's form or copies of recorded documents demonstrating compliance with the terms of the foreclosing Deed of Trust and Virginia law in regard to the foreclosure. Purchaser shall pay the Trustee \$50.00 for the said certification or for copies of the said documents, in addition to aforesaid purchase price.

6. The conveyance to the Purchaser shall be by Special Warranty Deed prepared by the attorney for the Trustee. The high bidder will be responsible for paying the attorney fee in the amount of \$150.00 for preparation of the Trustee's Deed. If the Trustee is unable to convey title to the subject property for any reason, the sole remedy of the Purchaser is the return of the deposit. Reasons of such inability to convey include, but are not limited to, the filing of a bankruptcy petition prior to the sale; agreement by noteholder or servicer to accept funds, to review or place a loan in a plan for loss mitigation plan or loan modification, for review or acceptance of a short sale offer, or any other agreement between the servicer/noteholder and the borrower/owner which is intended to stop the foreclosure, whether written or verbal; reinstatement or payoff of the loan without the knowledge of the trustee; and litigation including, but not limited, to any challenge to the authority of the trustee or noteholder to properly conduct the trustee sale.

In such circumstances, the purchaser at sale shall accept return of his/her deposit and cancel the Memorandum of Trustee's sale, and the parties to the Memorandum of Trustee's sale shall be relieved of any and all further obligations to each other.

If a suit challenging the sale is filed in a court of competent jurisdiction, whether at law or in equity, prior to the closing and receipt of funds by the trustee, the trustee, in its sole discretion, reserves the right to set aside the sale, cancel the memorandum of sale, and return the deposit to the purchaser at sale, and purchaser waives any right to action or claim against the trustee, its agents, and mortgage servicer/noteholder. The Purchaser will have no further remedy.

In the event a Trustee's Deed or deed of foreclosure has been recorded and the trustee determines, in its sole discretion, that it is necessary to rescind the foreclosure sale, the Trustee reserves the right to nullify the Trustee's Deed or deed of foreclosure and direct the grantee of said deed to recover title to the mortgagor/prior owners and trustees/substitute trustees, subject to the Deed of Trust lien that was foreclosed. Purchaser agrees to cooperate in the execution of any necessary documents to effect a rescission of sale and reconveyance and grants a specific power of attorney to trustee to execute any such necessary documents.

7. All past due real estate taxes shall be paid by the Trustee from the purchase price after the

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closing and currently accruing real estate taxes shall be pro-rated as of the date of the Trustee's Sale. The Purchaser will not be credited for any payment, or advance payment, of real estate taxes by any third party. The Purchaser agrees to be responsible to pay any roll back taxes, if applicable. **All other recordation taxes and fees (inclusive of grantor's tax and congestion relief fee where applicable), costs of title insurance, express mail and courier charges, any amounts claimed owing by any homeowner's association, condominium association, and/or leasehold cooperative association, and all other costs of settlement are to be borne by the Purchaser.** The gross proceeds of sale shall be applied in accord with Virginia law. The trustee reserves the right to assert or waive, in whole or in part, a trustee's commission of five (5%) percent of the gross proceeds of sale. Purchaser agrees to pay interest on the total cash purchase price at the rate of six percent (6%) from the date of sale until settlement (may be waived at Trustee's discretion if settlement is made within 15 days). **The balance of the purchase price and any additional amounts owed as provided herein shall be paid by the Purchaser by cash (subject to paragraph 9), cashier's check or certified check drawn on a bank, savings bank, or credit union with branches in Virginia or by wire transfer (same day funds), and closing shall be held on or before the expiration of 15 days from the date of sale, by close of business, at the offices of Glasser and Glasser, P.L.C. ESCROW CHECKS CANNOT BE ACCEPTED AS SETTLEMENT.** The parties understand and agree that no extension(s) will be granted as time is of the essence and that if the Purchaser defaults, the bidder's deposit is forfeited and the Purchaser shall be liable to the Trustee(s) for all costs and expenses incurred by the Trustee(s) in connection with the original sale, including a Trustee's Commission of five percent (5%) of the sale price.

8. In the event the inferior Deed of Trust is subject to prior liens and Glasser and Glasser, P.L.C., or Atlantic Trustee Services, L.L.C. facilitates a payoff of the senior lien(s), there will be a \$150.00 charge per lien to obtain a payoff, and/or handle the funds and/or obtain the release.

9. In the event the purchaser shall default, the Trustee shall have the option to award the high bid to the next highest bidder at sale who is prepared to assume the obligations of this memorandum of sale.

10. If cash is being tendered as the bid deposit or in settlement, and the amount is \$10,000.00 or more, then the deposit or settlement amount must be tendered in person and the individual tendering same must present a valid photo identification. The Trustee reserves the right to make a photographic copy of the identification and to copy any information therefrom.

10. The Memorandum of Trustee's Sale may not be assigned by the Purchaser without the Trustee's consent.

The Purchaser must sign this memorandum to evidence his/her understanding of its terms and to evidence

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his/her agreement to comply fully with its terms. THESE TERMS HAVE BEEN ANNOUNCED AT SALE.

Witness the following signatures and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Sole Acting Substitute Trustee

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

Name:

Title:

\_\_\_\_\_  
Purchaser's Signature

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

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

\_\_\_\_\_  
Purchaser's Phone: \_\_\_\_\_

Purchaser's Email: \_\_\_\_\_

Attorney for Purchaser: \_\_\_\_\_

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

**\*Title to be Vested in** \_\_\_\_\_

Type of Estate (Tenancy) \_\_\_\_\_

Mailing Address (for deed) \_\_\_\_\_

For Information and Scheduling of Closing contact:  
Third Party Sales  
Glasser and Glasser, P.L.C., Crown Center Building, Suite 600  
580 East Main Street  
Norfolk, VA 23510  
**(757) 321-6465**  
**thirdpartysale@glasserlaw.com**

\*revised 9/17/2015

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