

NORTHAMPTON MEMORANDUM OF SALE

This Memorandum of Sale is made this September 20, 2007, by and among Capmark Finance, Inc. servicing agent for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D (the "FMLT Trust") (the "Mortgage Holder"), Aaron Posnik & Company, Inc., of 83 State Street, Springfield, MA 01103 (the "Auctioneer") and _____ of _____ (the "Buyer").

1. MORTGAGE HOLDER'S SALE AT PUBLIC AUCTION. Pursuant to a public auction (the "Auction") conducted on September 20, 2007 by the Auctioneer on behalf of the Mortgage Holder as holder of a Mortgage from Sondocatt Investments, LLC ("Mortgagor") to Franchise Mortgage Acceptance Company ("Original Mortgagee") dated September 29, 1998, and recorded in the Hampshire County Registry of Deeds, Book 5497, Page 291 (the "Mortgage") and pursuant to the Power of Sale contained therein, the Buyer, as the highest bidder, agrees to purchase the property described below (the "Property") in accordance with the terms hereof.

2. DESCRIPTION OF THE PROPERTY. The Property shall mean the following:

a. The Property. A certain parcel of land with the buildings thereon situated at 203 King Street, Northampton, Hampshire County, Massachusetts, as more particularly described in the Mortgagee's Notice of Sale ("Mortgagee's Notice") attached as Exhibit B and incorporated herein by reference, together with the property and subject to the terms and conditions set forth in said Mortgagee's Notice (the "Property").

b. Inaccuracy of the description of the Property and known and unknown defects SHALL NOT BE REASON FOR FAILURE ON THE PART OF THE BUYER TO COMPLETE THE SALE. The Buyer will consider the Property as sufficiently described by the descriptions available at the time of the Auction. Verbal qualifications by the Mortgage Holder or Auctioneer or their respective agents SHALL NOT INVALIDATE nor become part of this sale as THE BUYER HAS EXAMINED THE PROPERTY TO HIS/HER SATISFACTION.

3. TRANSFER OF THE PROPERTY. The Property shall be conveyed by mortgagee's deed (Massachusetts General Laws, Chapter 183), under the statutory power of sale, and delivered together with an Affidavit, each in the form set forth in and attached as Exhibit A.

4. PRICE AND DEPOSIT. The bid price for which the Property has been sold to the Buyer is \$_____ of which \$50,000.00 has been paid this day in escrow to Shatz, Schwartz and Fentin, P.C. ("Escrow Agent") in accordance with the terms of

the Mortgagee's Notice. The Deposit shall not be invested in an interest bearing account and the amount to be paid by the Buyer shall not be adjusted to reflect any interest earned on the deposit. Within three (3) business days after the sale an additional deposit shall be paid by the successful bidder sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price.

5. BALANCE OF PRICE; CLOSING. The deed and associated papers shall be delivered and the balance of the consideration paid by certified or bank treasurer's check at the office of Shatz, Schwartz and Fentin, P.C., 1441 Main Street, Springfield, Massachusetts at ten o'clock (10:00) A.M. on or before thirty days from the date of this Agreement, time being of the essence, unless Mortgage Holder otherwise agrees (the "Closing").

6. TITLE. Buyer acknowledges that it has reviewed this Memorandum of Sale, the Mortgagee's Notice, the Municipal Lien Certificate, and all other materials delivered at the sale (referred to collectively as the "Bidder's Package"), and agrees to purchase the Property subject to the items disclosed in such Bidder's Package.

In the event the Mortgage Holder cannot convey title to the Property as stipulated, for any reason whatsoever except the fault of the Buyer, the deposit shall be refunded and all rights hereunder shall cease, and the Buyer shall have no recourse against the Mortgage Holder or Escrow Agent or their employees, agents and representatives, whether at law or in equity; provided, however, that at the election of the Buyer and the Mortgage Holder, Buyer may accept such title as the Mortgage Holder can deliver to the Property in its then condition and to pay therefor the purchase price without deduction.

7. RISK OF LOSS/INJURY.

a. Mortgage Holder shall be under no obligation to maintain casualty insurance covering the Property after the execution of this Agreement. If the Property is damaged by fire or other casualty after the date hereof and prior to the Closing, Buyer shall nonetheless accept the deed to the Property and pay therefor the full balance of the bid price. Buyer may at its expense, obtain insurance on the Property upon the execution of this Agreement to insure itself against any loss or damage occurring prior to Closing. In the event of any loss or damage has occurred to the Property prior to the execution of this Agreement, any insurance proceeds now or hereafter received for such damage shall belong to the Mortgage Holder, it being acknowledged that, except as stated herein, the Premises shall be delivered in their AS IS condition.

b. Neither Buyer nor any of its agents or employees shall enter upon the Property prior to Closing for any purpose without obtaining the prior written authorization of the Mortgage Holder. In the event Mortgage Holder, in its sole and exclusive discretion, permits the Buyer or its agents to enter upon the Property, Buyer indemnifies Mortgage Holder for any loss, damage, liability or expense, including reasonable attorneys' fees, incurred on account of such entry and any activity conducted by Buyer, it being acknowledged that any entry or activity shall be at the sole risk and expense of the Buyer.

8. ACCEPTANCE OF DEED. The acceptance of a deed to the Property by the Buyer shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed or arising out of said Auction on the part of the Mortgage Holder to be performed or observed. The Mortgage Holder shall be under no obligation to provide any certifications or affidavits to the Buyer, Buyer's lender or title company with regard to the conduct of the sale or condition of the Property.

9. CONDITION OF THE PROPERTY. THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS", AND "WITH ALL FAULTS" AS OF THE DATE OF CLOSING. MORTGAGE HOLDER WILL MAKE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE THE PROPERTY. MORTGAGE HOLDER AND AUCTIONEER SPECIFICALLY DISCLAIM ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY OR ITS OPERATION, OR ANY OF THE INFORMATION CONTAINED IN THE BIDDER'S PACKAGE, EXCEPT AS SPECIFICALLY SET FORTH IN THE MEMORANDUM OF SALE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO CONSTRUCTION, FITNESS FOR HABITATION, ZONING, USE, OR CONDITION OF THE PROPERTY, OR THE EXISTENCE ON OR UNDER THE PROPERTY OF ANY OIL, HAZARDOUS WASTE, SUBSTANCES, OR MATERIALS, ASBESTOS, UREA FORMALDEHYDE FOAM INSULATION, LEAD PAINT OR ABOVE GROUND OR UNDERGROUND STORAGE TANKS FOR OIL OR OTHER MATERIALS. BUYER SHOULD INDEPENDENTLY EXAMINE, OR HAVE ITS OWN CONSULTANTS EXAMINE, ALL FINANCIAL AND LEGAL DOCUMENTS, CONTRACTS, LICENSES, PERMITS, ENVIRONMENTAL MATTERS, AND INFORMATION RELATING TO THE PROPERTY. ALL PURCHASES OF THE PROPERTY WILL BE BASED SOLELY ON BUYER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE ON ANY INFORMATION PROVIDED BY MORTGAGE HOLDER OR AUCTIONEER. IN THE EVENT ANY INFORMATION CONTAINED IN THE BIDDER'S PACKAGE VARIES FROM DATA OBTAINED ELSEWHERE, THE INFORMATION CONTAINED IN THE BIDDER'S PACKAGE SHALL GOVERN, SUBJECT TO BEING UPDATED AT THE SALE.

Without limiting the generality of the foregoing, it is acknowledged as follows:

a. No representation or warranty is made as to whether any contracts, leases, licenses or permits (including

without limitation any licenses or permits needed to operate any aspect of the Property) are in full force and effect, whether the same are transferable or assumable, or whether they terminate upon sale of the Property.

b. No representation is made as to the zoning or permitted use of the Property, including without limitation, whether the Property can be used as a two-family house.

c. No representation is made as to whether any Certificate of Municipal Liens or any tax information is accurate or complete or whether the Property can be used for any particular purpose. Buyer assumes full responsibility with regard to municipal charges, including without limitation, taxes and tax titles, outstanding as of the date of the foreclosure sale and those outstanding as of the Closing and for determining the proper uses for the Property.

d. The Buyer agrees to investigate all of the foregoing prior to the sale to its satisfaction and indemnifies and holds the Mortgage Holder harmless from all liability and expenses, including reasonable attorney's fees, incurred by Mortgage Holder on account of the condition or use of the Property.

10. BUYER'S DEFAULT; DAMAGES. The Auction sale is not complete until the Buyer has executed this Memorandum of Sale and made the required deposit. Failure of the Buyer to execute this Memorandum of Sale or failure by the Buyer to fulfill the Buyer's agreements herein, shall constitute a default hereunder. Upon Buyer's default, Mortgage Holder shall be entitled, at its election, to either retain the deposit as liquidated damages or to hold Buyer responsible for all damages caused by its breach of contract, including, without limitation any deficiency resulting from a resale, whether to the second highest bidder, Mortgage Holder, or otherwise, together with costs of resale and any costs of maintaining or owning the Property. In the event Mortgage Holder resells the Property, Buyer shall have no claim to any excess of the eventual sale price over the amount bid.

11. ASSIGNMENT. The successful bidder may not assign the bid or its rights under this Memorandum of Sale without the prior written consent of the Mortgage Holder.

12. DEED STAMPS, DETECTORS, FEES, ADJUSTMENTS. The Buyer shall pay all recording fees and documentary stamps and sales tax in connection with the transfer of the Property, all costs of obtaining smoke detectors and carbon monoxide detectors and smoke and carbon monoxide detector certificates, any real estate taxes, tax titles, or tax lien, and municipal charges due as of the date of this Agreement and those due from the date of this Agreement

to the date of the Closing, as well as all of Buyer's costs in connection with the transaction, including but not limited to title examinations and title premiums. There shall be no adjustments whatsoever, whether for taxes, municipal charges, rent, utilities or otherwise.

13. CONSTRUCTION OF AGREEMENT. This instrument is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Mortgage Holder and the Buyer. If two or more persons are named herein as Buyer, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Memorandum or to be used in determining the intent of the parties.

IN WITNESS WHEREOF, the parties have executed this Memorandum in multiple counterparts as of the date first written above.

MORTGAGE HOLDER
US Bank National Association as
Trustee for Registered Holders of
the FMLT Trust
By Capmark Finance Inc.

By: _____

BUYER

By: _____

AUCTIONEER
Aaron Posnik & Company, Inc.

By: _____

Received from Buyer the sum of \$_____ as a deposit on account of the above Memorandum, subject to the terms and conditions of sale hereinabove set forth.

SHATZ, SCHWARTZ AND FENTIN, P.C.

attorney for the Mortgage Holder

By: _____

Exhibits

- A - Form of Deed and Affidavit
- B - Mortgagee's Notice

07\0292\Foreclosure docs\05 Memo of Sale & attachmentsNH

Exhibit A

Northampton Foreclosure Deed

US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D (the "FMLT Trust"), a special purpose business trust organized and existing under the laws of the State of Delaware, having a usual place of business c/o Capmark Finance Inc., _____, holder of a mortgage

from Sondocatt Investments, LLC, a Massachusetts limited liability company, ("Mortgagor")

to Franchise Mortgage Acceptance Company

dated September 29, 1998, and recorded with the Hampshire County Registry of Deeds

at Book 5497, Page 291

which was assigned to the FMLT Trust and reassigned by the FMLT Trust to US Bank National Association as Trustee for Registered Holders of the FMLT Trust (the holder), pursuant to an Assignment recorded in said Registry at Book 5579, Page 2,

by power conferred by said mortgage and every other power, for \$_____, paid, grants to _____

the premises conveyed by said mortgage.

Executed under seal this ____ , 2007.

U.S. BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE FOR
THE REGISTERED HOLDER OF FMAC LOAN RECEIVABLES TRUST
1998-D

By: CAPMARK FINANCE INC., as Servicer, as authorized under that certain Servicing Agreement dated as of December 1, 1998 among FMAC Loan Receivables Trust 1998-D, as Issuer, Franchise Mortgage Acceptance Company, LLC, as Servicer, and U.S. Bank National Association, as Indenture Trustee

By: _____
James C. Rickard
Senior Vice President

STATE OF _____

County of _____

On this _____, 2007 before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, namely the person was [known to me, identified by affirmation of a credible witness, or identified in _____], to be the person whose name is signed on the preceding or attached document and acknowledged to me that such person is the duly authorized _____ of Capmark Finance Inc., who acknowledged Capmark Finance Inc. was the duly authorized servicer for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D, and that such person signed such document voluntarily as such person's free act and deed for its stated purpose on behalf of such Capmark Finance Inc., as servicer for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D.

_____ sign and stamp

Affidavit of Sale

_____, the _____ of Capmark Finance Inc., servicer for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D named in the foregoing deed, make oath and say that the principal and interest mentioned in the above-described mortgage were not paid or tendered or performed when due prior to the sale and that

I caused to be published on August 22, 2007, August 29, 2007 and September 5, 2007, in the Hampshire Gazette, a newspaper published or by its title page purporting to be published in Northampton, MA or having a general circulation in such city/town, a notice of which a true copy is attached hereto as Exhibit A and made a part hereof.

I also complied with Chapter 244, Section 14 of the Massachusetts General Laws, as amended, by mailing the required notices by registered mail, return receipt requested.

Pursuant to said notice at the time and place therein appointed, Capmark Finance Inc. as servicer on behalf of US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D sold the mortgaged premises at public auction by Aaron Posnik & Company, Inc., of Springfield, MA, a licensed auctioneer, to _____ for _____ bid by said _____, being the highest bid made therefore at said auction.

Executed under seal this _____ .

By _____

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this _____, 2007 before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, namely the person was [known to me, identified by affirmation of a credible witness, or identified in _____], to be the person whose name is signed on the preceding or attached document and acknowledged to me that such person is the duly authorized _____ of Capmark Finance Inc., servicer for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D and that such person signed such document voluntarily as such person's free act and deed for its stated purpose on behalf of such Capmark Finance Inc., servicer for US Bank National Association as Trustee for Registered Holders of the FMAC Loan Receivables Trust 1998-D.

_____ sign and stamp

Exhibit A

Attach Tear Sheet

Exhibit B

NOTICE OF MORTGAGEE'S SALE OF REAL ESTATE AND COLLATERAL

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Sondocatt Investments, LLC, a Massachusetts limited liability company, ("Mortgagor") to Franchise Mortgage Acceptance Company, a Delaware corporation ("Original Mortgagee") dated September 29, 1998, and recorded with the Hampshire County Registry of Deeds at Book 5497, Page 291 (the "Mortgage"), and pursuant to a Security Agreement of the same date from the Mortgagor to the Original Mortgagee (the "Security Agreement," referred to with the Mortgage collectively as the "Mortgage Documents"), which Mortgage Documents were assigned to the FMAC Loan Receivables Trust 1998-D ("FMLT Trust") and reassigned by the FMLT Trust to US Bank National Association as Trustee for Registered Holders of the FMLT Trust (the "Mortgage Holder"), pursuant to an Assignment dated December 4, 1998, and recorded in said Registry at Book 5579, Page 2,

for breach of the conditions of said Mortgage Documents and for the purpose of foreclosing the same, the premises described in said Mortgage Documents, all and singular, will be sold at Public Auction AT 11:00 a.m. on Thursday, September 20, 2007, at the mortgaged premises known as 203 King Street, Northampton, Massachusetts, more particularly described below, in the following order:

First, the mortgaged premises described below all and singular, together with the Collateral as described in the Security Agreement, will be sold in their entirety; Second, the mortgaged premises described below all and singular will be sold alone; Third, the Collateral will be sold in its entirety; and Fourth, the Collateral will be sold individually or in lots, each sale to follow immediately after the conclusion of the preceding sale. If the highest bid for the mortgaged premises and the Collateral in their entirety shall equal or exceed the cumulative total of the highest bids at which the individual mortgaged premises and Collateral are sold in the remaining sales, then such entirety sale shall prevail and the other sales shall be voided. If the entirety bid is not the highest bid, then if the bid for the Collateral in its entirety shall equal or exceed the cumulative total of the highest bids at which the lots of the Collateral are sold in the remaining sales, then such entirety Collateral sale shall prevail and the individual lot sales shall be voided. The Mortgage Holder reserves the right to revise the order and method of sale.

The mortgaged premises consist of the following:

(Parcel 1)

The land in Northampton, Hampshire County, Massachusetts, bounded and described as follows:

Beginning at an iron pin on the East side of King Street, which iron pin marks the southwesterly corner of land now or formerly of McDonald's Corporation; thence Southerly along the Easterly line of King Street a distance of one hundred fifty and eight-two one hundredths (150.82) feet, more or less, to a point which is forty (40) feet Northerly, measured along the Easterly line of King Street from an iron pin which marks the Northwesterly corner of land now or formerly of Northampton Electric Lighting company; thence Easterly in a line parallel with the Northerly line of said Northampton Electric Lighting Company and said Northerly line extended Easterly and forty (40) feet distance therefrom, a distance of one hundred fifty (150) feet to a point; thence Northerly a distance of one hundred fifty and eighty-two one hundredths (150.82) feet, more or less, to an iron pin which marks the Southeasterly corner of land now or formerly of McDonald's Corporation (the last town courses are along other land of Anthony J. Blyda); thence S. 80° 14' 35" W. along land of McDonald's Corporation, a distance of one hundred fifty (150) feet to the iron pin at the point of beginning.

(Parcel 2)

A certain parcel of land located behind a parcel known and numbered 203 King Street, easterly of King Street in Northampton, Massachusetts shown as "Parcel 2" on a plan (the "Plan") entitled: "NEW ENGLAND POWER SERVICE COMPANY PART OF NEW ENGLAND ELECTRIC SYSTEM, BOSTON, MASS. PLAN SHOWING LAND IN NORTHAMPTON, MASSACHUSETTS TO BE CONVEYED TO MASSACHUSETTS ELECTRIC COMPANY BY ANTHONY J. BLYDA SCALE 1"=100 FT. DATE JULY 15, 1969 D-7189", recorded in the Hampshire County Registry of Deeds in Plan Book 74, Plan 21, reference to which Plan is made for a more particular description.

There is also included in the sale all equipment and fixtures situated on the premises to the extent they are part of the realty as well as all Collateral (as defined in the Security Agreement) including without limitation: all of Mortgagor's personal property owned, acquired, held, used, sold or consumed at the mortgaged premises including Goods (including Inventory and Equipment), General Intangibles, Accounts, Chattel Paper, Instruments, Documents, certificates of title, securities, and money, and all writings relating thereto and records thereof, and books of record or account, as such terms are defined in the Massachusetts Uniform Commercial Code. Said Collateral is sold subject to prior liens and encumbrances, if any.

Said mortgaged premises will be sold and conveyed subject to and with the benefit of the following, if any there be, insofar as in force and applicable and having priority over the Mortgage Documents: any and all restrictions, easements, improvements, covenants, unpaid taxes, tax titles, municipal liens, assessments, other liens or claims in the nature of liens, attachments and encumbrances, boundary line disputes, overlaps, encroachments and any matters which would be disclosed by an accurate survey and inspection of the premises.

Said mortgaged premises will also be sold subject to and with the benefit of the following, to the extent the same are in force and applicable: Encumbrances set forth in a deed recorded in said Registry at Book 1333, Page 409; rights over a right of way as described in Book 1556, Page 327; Deed restrictions described in a deed recorded at Book 5497, Page 274; Right of First Refusal recorded at Book 5497, Page 283.

TERMS OF SALE. The successful bidder in any single sale will be required to make a deposit at the sale as follows: The deposit for the first sale of the mortgaged premises and the Collateral in their entirety and the deposit for the second sale of the mortgaged premises, shall be \$50,000 and, within three (3) business days after the sale an additional deposit shall be paid by the successful bidder sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price. The deposit for each of the third and fourth sales of the Collateral shall be twenty-five (25%) percent of the respective bid prices. Each deposit shall be paid by the successful bidder to Shatz, Schwartz and Fentin, P.C. ("Escrow Agent") at the time and place of sale as earnest money, by certified or bank cashier's check, unless otherwise announced at the sale. The balance of the purchase price is to be paid within thirty (30) days from the date of sale. The high bidder at the first sale of the mortgaged premises and the Collateral or the second sale of the mortgaged premises shall be responsible for paying a 3.5% commission payment to the auctioneer in addition to the bid price. The high bidder at the third and fourth sales of the Collateral shall be responsible for paying a 10% commission payment to the auctioneer, in addition to the bid price. TIME WILL BE OF THE ESSENCE.

In the event that the successful bidder at the public auction shall default in purchasing the within described property according to the terms of this Notice of Mortgagee's Sale and/or the terms of the Memorandum of Sale executed at the public auction, the Mortgage Holder reserves all of its rights against such successful bidder and in addition, Mortgage Holder may, at its election, purchase the property for the amount bid by the successful bidder or sell the property to the second highest bidder at the public auction, provided that Mortgage Holder in

its discretion may require, (i) said second highest bidder to deposit with the Escrow Agent the amount of the required deposit as set forth herein within three (3) business days after written notice to the second highest bidder of the default of the previous highest bidder, (ii) the second highest bidder to execute a Memorandum of Sale and (iii) the closing to occur within twenty (20) days of said written notice, time being of the essence unless the Mortgage Holder agrees otherwise.

The Mortgage Holder reserves the right to sell any parcel or Collateral or any portion thereof separately, or in any order that Mortgage Holder may choose and/or to postpone this sale to a later time or date by public proclamation at the time and date appointed for the sale and to further postpone any adjourned sale date by public proclamation at the time and date appointed for the adjourned sale date. The description for the premises contained in said Mortgage shall control in the event of a typographical error in this publication.

The successful bidder shall pay all recording fees and documentary stamps in connection with the transfer of the premises, any costs of obtaining smoke and carbon monoxide detector certificates and the transfer or issuance of any licenses, all real estate taxes, tax titles, and municipal charges due as of the date of sale and those due thereafter through the date of Closing, as well as all of its costs in connection with the transaction, including but not limited to title examinations and title premiums. No adjustments whatsoever will be made, whether for taxes, municipal charges, utilities or otherwise.

Other terms, if any, will be announced at the sale and these terms may be revised by announcement at the day of sale. The successful bidder will be required to sign at the auction sale a Memorandum of Sale containing the terms of sale.

Date: August 22, 2007

Capmark Finance Inc.
Servicing Agent for U.S. Bank National Association,
Trustee for the FMAC Loan Receivables Trust 1998-D
Present holder of said Mortgage Documents
By Shatz, Schwartz and Fentin, P.C.
Its attorneys
Gary S. Fentin, Esquire
1441 Main Street
Springfield, MA 01103
(413) 737-1131

07\0292\Foreclosure docs\05 Memo of Sale & attachmentsNH