

MEMORANDUM OF SALE

This Memorandum of Sale is made this January 16, 2009, by and among California Baptist Foundation, as Fund Manager of the California Baptist Foundation Charitable Church Fund and as Fund Manager of the California Baptist Foundation Church Bond Fund, each formed pursuant to Agreements dated January 2, 2004 establishing the respective funds, such Agreements attached to the Corrective and Confirmatory Assignment of Mortgage, Assignment of Rents and Security Agreement dated January 9, 2009 and recorded prior hereto in the Hampden County Registry of Deeds (referred to collectively, in the singular, as the "Mortgage Holder"), Aaron Posnik & Co., Inc. (the "Auctioneer") and \_\_\_\_\_ of \_\_\_\_\_ (the "Buyer").

1. MORTGAGE HOLDER'S SALE AT PUBLIC AUCTION. Pursuant to a public auction (the "Auction") conducted on January 16, 2009 by the Auctioneer on behalf of the Mortgage Holder as holder of a Mortgage from Praise & Glory Church of God in Christ, Inc. ("Mortgagor") to California Baptist Foundation ("Original Mortgagee") dated June 22, 2007, and recorded with the Hampden County Registry of Deeds in Book 16761, Page 137, as affected by Affidavit recorded with said Registry at Book 17576, Page 499, of which Mortgage the Mortgage Holder are the present holders by assignment dated October 5, 2007 and recorded in said Registry at Book 17142, Page 560, as affected by corrective assignment recorded prior hereto (the "Assignment"), 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 Hampden County, Massachusetts, as more particularly described in the Mortgagee's Notice of Sale ("Mortgagee's Notice") attached to the form of Deed and Affidavit attached as Exhibit A 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, such Deed and Affidavit to be substantially in the form set forth in attached as Exhibit A.

4. PRICE, DEPOSIT, COMMISSION. 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. Within five (5) business days after the date of this Agreement, the Buyer shall pay to Escrow Agent an additional deposit sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price. The Mortgage Holder shall be entitled to any interest earned on the deposit and the amount to be paid by the Buyer shall not be adjusted to reflect any interest earned on the deposit. IN ADDITION THE BUYER SHALL PAY AT CLOSING A 3.5% COMMISSION PAYMENT TO THE AUCTIONEER IN ADDITION TO THE BID PRICE.

5. BALANCE OF PRICE; CLOSING. The deed and associated papers shall be delivered and the balance of the consideration and commission 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 February 16, 2009, 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  
CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Charitable Church Fund

By: \_\_\_\_\_  
Gary S. Fentin its  
Attorney-in-fact

CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Church Bond Fund

By: \_\_\_\_\_  
Gary S. Fentin its  
Attorney-in-fact

BUYER

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

AUCTIONEER  
Aaron Posnik & Co., 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 Holders

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

Exhibit

A Form of Deed and Affidavit and attached Mortgagee's Notice

Exhibit A

Foreclosure Deed

California Baptist Foundation, as Fund Manager of the California Baptist Foundation Charitable Church Fund and as Fund Manager of the California Baptist Foundation Church Bond Fund, each formed pursuant to Agreements dated January 2, 2004 establishing the respective funds, such Agreements attached to the Corrective and Confirmatory Assignment of Mortgage, Assignment of Rents and Security Agreement dated January 9, 2009 and recorded in the Hampden County Registry of Deeds at Book \_\_\_\_, Page \_\_\_\_, (the "Mortgage Holders"), each having a usual place of business at 7084 North Maple Avenue, Fresno, CA 93720-0101, holders of a mortgage

from Praise & Glory Church of God in Christ, Inc.

to California Baptist Foundation

dated June 22, 2007,

and recorded with the Hampden County Registry of Deeds in Book 16761, Page 137, as affected by Affidavit recorded with said Registry at Book 17576, Page 499,

which was assigned to the above-described Mortgage Holders by assignment recorded in said Registry at Book 17142, Page 560, as affected by corrective assignment recorded in said Registry at Book \_\_\_\_, Page \_\_\_\_,

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

the premises conveyed by said mortgage.

Executed under seal this \_\_\_\_\_, 2009.

CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Charitable Church Fund

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

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

CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Church Bond Fund

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

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



STATE OF CALIFORNIA  
COUNTY OF FRESNO

On \_\_\_\_\_, 2009, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ and \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Affidavit of Sale

\_\_\_\_\_, the \_\_\_\_\_ of California Baptist Foundation, as Fund Manager of the California Baptist Foundation Charitable Church Fund and as Fund Manager of the California Baptist Foundation Church Bond Fund, each formed pursuant to Agreements dated January 2, 2004 establishing the respective funds, such Agreements attached to the Corrective and Confirmatory Assignment of Mortgage, Assignment of Rents and Security Agreement dated January 9, 2009 and recorded in the Hampden County Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_, 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 December 22, 2008, December 29, 2008 and January 5, 2009, in the Springfield Republican, a newspaper published or by its title page purporting to be published in Springfield, 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, California Baptist Foundation, as Fund Manager of the California Baptist Foundation Charitable Church Fund and as Fund Manager of the California Baptist Foundation Church Bond Fund, sold the mortgaged premises at public auction by Aaron Posnik & Co., Inc. of Springfield, MA, a licensed auctioneer, to \_\_\_\_\_ for \_\_\_\_\_ bid by said \_\_\_\_\_, being the highest bid made therefor at said auction.

Executed under seal this \_\_\_\_\_, 2009.

CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Charitable Church Fund

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

CALIFORNIA BAPTIST FOUNDATION, as Fund Manager of the California Baptist Foundation Church Bond Fund

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

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

STATE OF CALIFORNIA  
COUNTY OF FRESNO

On \_\_\_\_\_, 2009, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ and \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_