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## **BIDDER'S INFORMATIONAL PACKAGE**

### **26 RED GATE ROAD TYNGSBORO, MASSACHUSETTS**

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**THE FOLLOWING MATERIALS ARE FURNISHED SOLELY FOR INFORMATIONAL PURPOSES. NO WARRANTIES OR REPRESENTATIONS ARE MADE BY EITHER THE TRUSTEE, OR THE AUCTION COMPANY AS TO THE ACCURACY, COMPLETENESS OR USEFULNESS OF THESE MATERIALS OR THE INFORMATION CONTAINED THEREIN. PROSPECTIVE PURCHASERS SHOULD MAKE THEIR OWN INVESTIGATIONS AND INSPECTIONS AND DRAW THEIR OWN INDEPENDENT CONCLUSIONS. THESE MATERIALS AND THE INFORMATION CONTAINED THEREIN ARE ALSO SUBJECT TO POSSIBLE CHANGE PRIOR TO OR AT THE TIME OF THE SCHEDULED SALE.**

TRUSTEE'S MEMORANDUM OF SALE

This Memorandum of Sale is made this \_\_\_\_ day of April, 2012 by and among Steven Weiss, in his capacity as Trustee for the bankruptcy estate of Kellyann Lamoureux, Case No. 11-45192-HJB, with a place of business c/o Shatz, Schwartz and Fentin, P.C., 1441 Main Street, Springfield, MA; Janice Marsh, in her capacity as Trustee for the bankruptcy estate of Michael T. Lamoureux, Case No. 10-46163-HJB, with a place of business at c/o The Marsh Law Firm, 446 Main Street, 19<sup>th</sup> Floor, Worcester, MA (together, the "Trustees"); Aaron Posnik and Co., Inc. (the "Auctioneer"); and \_\_\_\_\_ of \_\_\_\_\_ (the "Buyer").

1. TRUSTEE'S SALE AT PUBLIC AUCTION. Pursuant to a public auction (the "Auction") conducted on April 30, 2012 by the Auctioneer on behalf of the Trustees pursuant to orders issued by the United States Bankruptcy Court for the District of Massachusetts dated March \_\_, 2012 and April 4, 2012 (the "Orders") copies of which are annexed hereto as Exhibit A, 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 Realty. A certain parcel of land with the buildings thereon situated at 26 Red Gate Road, Tyngsboro, Massachusetts, Middlesex County, Massachusetts, as more particularly described in Exhibit B annexed hereto.

b. The Personalty. The Trustees' right, title and interest in and to any equipment and fixtures which may be situated on the Property to the extent they are part of the realty.

c. 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 Trustee 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 Realty /Property shall be conveyed by Trustee's deed, substantially in the form set forth in attached Exhibit B.

4. PRICE AND DEPOSIT. The bid price for which the Property has been sold to the Buyer is \_\_\_\_\_ of which \$10,000.00 has been paid this day in escrow to the Trustee. The Trustee 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.

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 the thirtieth day following the date hereof, time being of the essence, unless the Trustee otherwise agrees (the "Closing").

6. TITLE. Buyer acknowledges that it has reviewed the contents of the Bidder's Package with respect to the Property and the materials contained therein, including, without limitation, this Memorandum of Sale, the Municipal Lien Certificate (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 Trustees 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 Trustees or their employees, agents and representatives, whether at law or in equity; provided, however, that at the election of the Buyer and the Trustees, Buyer may accept such title as the Trustees can deliver to the Property in its then condition and to pay therefor the purchase price without deduction.

7. RISK OF LOSS/INJURY.

a. The Trustees 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 Trustees, 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 Trustee. In the event the Trustee, in its sole and exclusive discretion, permits the Buyer or its agents to enter upon the Property, Buyer indemnifies the Trustee 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 Trustees to be performed or observed. The Trustees 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. TRUSTEE WILL MAKE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE THE PROPERTY. TRUSTEE 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 TRUSTEE 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 residence.

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 Trustees harmless from all liability and expenses, including reasonable attorney's fees, incurred by the Trustee 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, the Trustees shall be entitled, at their 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 or otherwise, together with costs of resale and any costs of maintaining or owning the Property. In the event the Trustees resell 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 Trustees.

12. DEED STAMPS AND 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 detector certificates, any condominium fees, real estate taxes, tax titles, any agricultural or recreational tax 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 Trustee 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. The parties agree that the Bankruptcy Court shall have jurisdiction to adjudicate any disputes under this Agreement.

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

STEVEN WEISS, TRUSTEE FOR KELLYANN  
LAMOUREUX

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

JANICE MARSH, TRUSTEE FOR MICHAEL  
LAMOUREUX

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

BUYER

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

AUCTIONEER

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

Received from Buyer the sum of \$10,000.00 as a deposit on account of the above Memorandum, subject to the terms and conditions of sale hereinabove set forth.

Exhibits

- A - Court Order
- B - Form of Deed

12\0021\Memo sale.1601

Above for Registry Use Only

**TRUSTEE DEED**

Know all by these presents that Steven Weiss of Springfield, Massachusetts, the duly appointed Trustee in Bankruptcy for the bankruptcy estate of Kellyann Lamoureux, United States Bankruptcy Court for the District of Massachusetts (the "Court"), Case No. No. 11-45192-HJB and Janice Marsh, the duly appointed Trustee in Bankruptcy for the bankruptcy estate of Michael T. Lamoureux, Case No. 10-46163-HJB also filed in said Court, pursuant to orders (the "Orders") from the Bankruptcy Court dated March 21, 2012 and April 4, 2012, herewith grant to \_\_\_\_\_ as \_\_\_\_\_ tenants, for consideration paid of \_\_\_\_\_, without covenants of title, the interest of the Trustees in the property in Tyngsboro, Middlesex County, Massachusetts, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Premises").

For the Trustee's authority to sell the Premises, see the Order recorded prior hereto.

Executed as a sealed instrument this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Steven Weiss, Trustee as aforesaid  
but not individually

\_\_\_\_\_  
Janice Marsh, Trustee as aforesaid  
but not individually

COMMONWEALTH OF MASSACHUSETTS

County of Hampden

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012 before me, the undersigned notary public, personally appeared Steven Weiss, proved to me through satisfactory evidence of identification, namely he was known to me to be the person whose name is signed on the preceding document and acknowledged to me that he signed it voluntarily as his free act and deed for its stated purpose as Trustee for Kellyann Lamoureux.

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Notary Public  
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Worcester

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012 before me, the undersigned notary public, personally appeared Janice Marsh, proved to me through satisfactory evidence of identification, namely she was known to me to be the person whose name is signed on the preceding document and acknowledged to me that she signed it voluntarily as her free act and deed for its stated purpose as Trustee for Michael T. Lamoureux.



### EXHIBIT A

The land in Tyngsboro, Middlesex County, Massachusetts, with the buildings thereon, situated on the southeasterly side of Red Gate Road, containing 49,270.58 square feet of land and being shown as Lot 8 on a plan entitled, "Subdivision Plan of Land, Red Gate Road, Tyngsboro, Mass., surveyed for Hazel Lorman, October 1979, W. Robert Nolte & Associates, Nashua, N.H.", which plan is recorded with Middlesex North District Registry of Deeds, Plan Book 130, Plan 3, and thus bounded and described:

NORTHWESTERLY by said Red Gate Road, 220.89 feet;;

NORTHEASTERLY by Lot 2 as shown on said plan, 255.72 feet;

SOUTHEASTERLY by land, now or formerly, of Hazel H. Lorman, 192.57 feet; and

SOUTHWESTERLY by land, now or formerly, of Hazel H. Lorman, 210.08 feet.

There is also conveyed herewith any interest Kellyann Lamoureux, Michael T. Lamoureux and the Trustees may have in that portion of land lying northwesterly of said lot and southeasterly of said Red Gate Road and which is bounded by the extension of the northeasterly and southwesterly lines of said Lot 8.

Being the same premises conveyed to Kellyann Lamoureux and Michael T. Lamoureux by deed recorded with Middlesex North District Registry of Deeds in Book 16375, Page 69.

11\0079\Trustee Deed.12001

MUNICIPAL LIEN CERTIFICATE  
THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE COLLECTOR OF TAXES  
TOWN OF TYNGSBOROUGH  
25 BRYANT LANE  
TYNGSBOROUGH MA 01879-1042  
978-649-2300

NUMBER: 2012-388

- Quarterly Billing -

Issued: April 25, 2012

I certify from available information that all taxes, assessments and charges now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on April 23, 2012 are listed below.

TO:

AARON POSNIK & CO INC  
83 STATE STREET  
SPRINGFIELD MA 01103

DESCRIPTION OF PROPERTY

Parcel Id: Map 15 Block: 84 Lot 0  
Location: 26 RED GATE RD  
Acreage: 1.130  
Legal Reference: 16375-069  
Assessed Owner(s): LAMOUREUX MICHAEL &  
KELLY ANN  
Supposed Owner:

| MISCELLANEOUS UNPAIDS | VALUATION DETAIL | TAX/\$1000      |
|-----------------------|------------------|-----------------|
|                       | Residential      | 362,700 @ 15.29 |
|                       | Open Space       | 0 @ 15.29       |
|                       | Commercial       | 0 @ 15.29       |
|                       | Industrial       | 0 @ 15.29       |
|                       | Exempt           | 0 @ 0.00        |
|                       | Agr. Credits     | 0               |

BETTERMENT / LIEN DETAIL

| 2 0 1 2 | Amount | Com Int | 2 0 1 1 | Amount | Com Int | 2 0 1 0 | Amount | Com Int |
|---------|--------|---------|---------|--------|---------|---------|--------|---------|
| W LIEN  | 786.50 | 0.00    | CPA     | 111.67 | 0.00    | CPA     | 112.70 | 0.00    |
| CPA     | 120.50 | 0.00    | N/A     | 0.00   | 0.00    | N/A     | 0.00   | 0.00    |
| N/A     | 0.00   | 0.00    | N/A     | 0.00   | 0.00    | N/A     | 0.00   | 0.00    |
| N/A     | 0.00   | 0.00    | N/A     | 0.00   | 0.00    | N/A     | 0.00   | 0.00    |

ASSESSMENT DETAIL - Quarterly Billing -

| ASSESSMENTS                     | 2 0 1 2            | 2 0 1 1     | 2 0 1 0     |
|---------------------------------|--------------------|-------------|-------------|
| Preliminary 1st Due: 08/01/2011 | 1,284.86           | 1,287.93    | 1,272.26    |
| Preliminary 2nd Due: 11/01/2011 | 1,284.86           | 1,287.93    | 1,272.26    |
| Actual 1st/3rd Due: 02/01/2012  | 1,487.98           | 1,281.80    | 1,303.61    |
| Actual 2nd/4th Due: 05/01/2012  | 1,487.98           | 1,281.80    | 1,303.61    |
| District/Supplemental           | 0.00               | 0.00        | 0.00        |
| Betterment and Liens            | 907.00             | 111.67      | 112.70      |
| Committed Interest              | 0.00               | 0.00        | 0.00        |
| Interest To: 04/25/2012         | 0.00               | 0.00        | 0.00        |
| Charges and Fees                | 0.00               | 0.00        | 0.00        |
| DEFERRALS                       |                    |             |             |
| DEFERRAL                        | 0.00               | 0.00        | 0.00        |
| PAYMENTS                        |                    |             |             |
| Preliminary                     | 0.00               | 0.00        | 0.00        |
| Actual                          | 4,057.70           | 5,139.46    | 5,151.74    |
| District/Supplemental           | 0.00               | 0.00        | 0.00        |
| Betterments/Liens               | 874.67             | 111.67      | 112.70      |
| Committed Interest              | 0.00               | 0.00        | 0.00        |
| Interest Paid                   | 0.00               | 0.00        | 0.00        |
| Charges and Fees                | 0.00               | 0.00        | 0.00        |
| Abatement/Exemption             | 0.00               | 0.00        | 0.00        |
| Deferral, Tax Title Transfer    | 0.00               | 0.00        | 0.00        |
| CURRENT UNPAID TAXES (PER DIEM) | 1,520.31 (0.00)    | 0.00 (0.00) | 0.00 (0.00) |
| TOTAL AMOUNT DUE                | \$ 1,520.31 (0.00) |             |             |

NOTATIONS & COMMENTS

The 3% COMMUNITY PRESERVATION ACT TAX is indicated above as a District Tax and included in the TOTAL AMOUNT DUE. Tyngsborough real estate parcels are subject to SUPPLEMENTAL TAX ASSESSMENTS under M.G.L. Ch. 59: S 2D.

The 4th Quarter Tax (including CPA) due 5/1/12, is indicated above.

No Tyngsborough municipal water or sewer at this time.

APPORTIONED BETTERMENT ASSESSMENTS NOT YET DUE \$ 0.00 WITH INTEREST TO BE ADDED.

I have no knowledge of any other lien outstanding.

Gene R. Spickler, Collector of Taxes  
TOWN OF TYNGSBOROUGH