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**THIS PACKAGE CONTAINS INFORMATION AVAILABLE TO THE FORECLOSING MORTGAGEE AND IT IS BELIEVED TO BE TRUE. THE FORECLOSING MORTGAGEE MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE INFORMATION SET FORTH HEREIN.**

## EXHIBIT A

### MORTGAGEE'S NOTICE OF SALE OF REAL ESTATE

By virtue and in execution of the power of sale contained in a certain Mortgage, Security Agreement and Assignment of Rents and Leases dated March 19, 2013, given by 7 BAY CORP. to UNITED BANK (the "Mortgagee") and recorded with the Plymouth County Registry of Deeds (the "Registry") in Book 42826, Page 329 (the "Mortgage"), and of which Mortgage the undersigned is the present holder, for breach of the conditions of the Mortgage and for the purpose of foreclosing the same, will be sold at Public Auction at 2:00 P.M., on Thursday, the 17<sup>th</sup> day of December, 2015, at the premises hereinafter described, all and singular the premises described in the Mortgage, together with the land and all buildings known as and numbered 7 Bay Street, Hull, Massachusetts and all buildings, structures and improvements now or hereafter constructed and existing thereon; all rights of way or use, servitudes, licenses, tenements, hereditaments, appurtenances, easements and other rights now or thereafter existing, belonging or pertaining thereto; all right, title and interest in and to any award or payment upon any condemnation; all fixtures and other articles of every kind and nature whatsoever now or hereafter owned or leased by 7 Bay Corp., insofar as the same are part of the real estate, including, without limiting the generality of the foregoing, any and all boilers, pumps, tanks, electric panel switchboards, lighting equipment and wiring, heating, plumbing and ventilating apparatus, sprinklers, if any, elevators, escalators, refrigerating, air conditioning and air-cooling equipment and other building service equipment (collectively, the "Premises"), to wit:

"PREMISES: 7 Bay Street, Hull, Plymouth County, Massachusetts

That certain parcel of land being known and numbered as 7 Bay Street, Hull, MA situated at the intersection of Bay Street and George Washington Blvd. and being shown as parcel #34-002 in the records of the Hull Assessors and on the town atlas. Said property contains eighty four one hundredths (84/100) of one acre as currently constituted and shown on said Atlas, together with such riparian rights and lands as have accreted and may from time to time accrete thereto and ownership of all adjoining tidal lands to the low water mark thereof.

For title reference see Deed Book 35319, Page 163."

The Premises are now known as The Estuary Condominium, a condominium established by Master Deed dated April 22, 2015 and recorded with the Registry in Book 45472, Page 275 ("Master Deed"). Excepting from the Premises Condominium Unit No. 1 of The Estuary Condominium as described in a Condominium Unit Deed dated May 6, 2015 and recorded with the Registry in Book 45519, Page 30, which Unit No. 1 was released from the Mortgage pursuant to a Partial Release dated April 23, 2015 from United Bank and recorded with the Registry in Book 45519, Page 28.

The Premises will be sold and conveyed subject to and with the benefit of the terms, conditions and provisions of each of:

- a. the Master Deed;

b. all of the right, title and interest of 7 Bay Corp. under the Master Deed and, if any, under The Estuary Condominium Declaration of Trust dated April 22, 2015 and recorded with the Registry in Book 45472, Page 292 (including, without limitation, the rights, if any, of 7 Bay Corp. as Declarant including all of Declarant's reserved rights), including any amendments and the related documents thereto;

c. a Subordination and Collateral Assignment Agreement dated April 23, 2015 by and between United Bank and 7 Bay Corp., recorded with the Registry in Book 45519, Page 22; and

d. any and all restrictions, easements, improvements, outstanding tax titles, municipal and other public taxes, assessments, liens, or claims in the nature of liens and existing encumbrances of record created prior to the Mortgage or to which the Mortgage is subordinated of record, if any, whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Foreclosure Deed.

The Mortgagee reserves the right to sell the Premises in whole or in part.

Terms of sale: A deposit of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) by certified or bank check will be required to be paid by the purchaser at the time and place of sale and an additional deposit will be required to be paid by the purchaser within five (5) business days from the date of the sale, which additional deposit shall aggregate, with the initial deposit made by the purchaser, ten percent (10%) of the successful bid. The balance is to be paid by certified or bank check at Bowditch & Dewey, LLP, 311 Main Street, Worcester, Massachusetts 01608 within thirty (30) days from the date of sale. The successful bidder shall be required to sign a Memorandum of Sale containing the above terms (and any additional terms) at the time and place of sale.

In the event of an error in this Notice of Sale, the description of the Premises contained in the Mortgage shall control.

Other terms, if any, to be announced at the sale.

UNITED BANK  
Present Holder of Mortgage

Richard A. Sheils, Jr., Esq.  
Bowditch & Dewey, LLP  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01615-0156  
Attorneys for United Bank

Published: November 19 and 26 and December 3, 2015

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

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- (a) the Master Deed;
- (b) all of the right, title and interest of 7 Bay Corp. under the Master Deed and, if any, under The Estuary Condominium Declaration of Trust dated April 22, 2015 and recorded with the Registry in Book 45472, Page 292 (including, without limitation, the rights, if any, of 7 Bay Corp. as Declarant including all of Declarant's reserved rights), including any amendments and the related documents thereto;
- (c) a Subordination and Collateral Assignment Agreement dated April 23, 2015 by and between United Bank and 7 Bay Corp., recorded with the Registry in Book 45519, Page 22; and
- (d) any and all restrictions, easements, improvements, outstanding tax titles, municipal and other public taxes, assessments, liens, or claims in the nature of liens and existing encumbrances of record created prior to the Mortgage or to which the Mortgage is subordinated of record, if any, whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Foreclosure Deed.

The Mortgagee reserves the right to sell the Premises in whole or in part.

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Other terms, if any, to be announced at the sale.

UNITED BANK  
Present Holder of Mortgage  
Richard A. Sheils, Jr., Esq.  
Bowditch & Dewey, LLP  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01615-0156  
Attorneys for United Bank

[Published: 11/19, 11/26 & 12/3/15]

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

By virtue and in execution of the Power of Sale contained in a certain mortgage given by John T. Sharp to Mortgage Electronic Registration Systems, Inc. as nominee for Countrywide Bank, FSB dated September 18, 2007, recorded with the Plymouth County Registry of Deeds in Book 35107, Page 289; said mortgage was then assigned to BAC Home Loans Servicing, LP by virtue of an assignment dated October 28, 2009, and recorded in Book 37940, at Page 192, and further assigned to Nationstar Mortgage LLC by virtue of an assignment dated September 10, 2013, and recorded in Book 43638, at Page 5, of which mortgage the undersigned is the present holder for breach of conditions of said mortgage and for the purpose of foreclosing the same will be sold at PUBLIC AUCTION at 10:00 AM on December 2, 2015, on the mortgaged premises. The entire mortgaged premises, all and singular, the premises as described in said mortgage:

A certain parcel of land with all the buildings thereon situated on Packard Avenue in that part of the Town of Hull, Plymouth County, Massachusetts, known as Kenberma and being bounded and described as follows: NORTHERLY: By Packard Avenue, forty and 12/100 (40.12) feet; EASTERLY: By Lot C as shown on plan hereinafter mentioned, fifty-two and 7/100 (52.07) feet; SOUTHERLY: By land of owners unknown, forty (40) feet; and WESTERLY: By Lot A on plan hereinafter mentioned, forty-nine and 3/100 (49.03) feet. Containing according to said plan 2022 square feet, be all said measurements more or less, or however otherwise bounded, measured or described. This parcel is shown as Lot B on plan of land being "Subdivision of Lots 201-202-203-249-250 and one half (1/2) of 204 on a plan of Kenberma by E.B. & C.L. Hayward, C.E., 1912, owned by Jacob Grossman, May 1926, Scale 30 ft = 1 inch Frederick E. Tupper, C.E., Quincy," said plan being recorded in Plymouth Deeds as Plan 898 in Page Book 4. Meaning and intending to mortgage the same premises conveyed to the herein named mortgagor(s) by Deed dated 11/09/92 and recorded with the Plymouth Registry of Deeds at Book 11409, Page 144.

Subject to and with the benefit of easements, reservation, restrictions, and taking of record, if any, insofar as the same are now in force and applicable. In the event of any typographical error set forth herein in the legal description of the premises, the description as set forth and contained in the mortgage shall control by reference.

This property has the address of 94 Packard Av-

enue, Hull, MA 02045

Together with all the improvements now or hereafter erected on the property and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this sale.

Terms of Sale: Said premises will be sold subject to any and all unpaid taxes and assessments, tax sales, tax titles and other municipal liens and water or sewer liens and State or County transfer fees, if any there are, and TEN THOUSAND DOLLARS (\$10,000.00) in cashier's or certified check will be required to be paid by the purchaser at the time and place of the sale as a deposit and the balance in cashier's or certified check will be due in thirty (30) days, at the offices of Doonan, Graves & Longoria, LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, time being of the essence.

The Mortgagee reserves the right to postpone the sale to a later date by public proclamation at the time and date appointed for the sale and to further postpone at any adjourned sale date by public proclamation at the time and date appointed for the adjourned sale date.

The premises is to be sold subject to and with the benefit of all easements, restrictions, leases, tenancies, and rights of possession, building and zoning laws, encumbrances, condominium liens, if any and all other claim in the nature of liens, if any there be.

In the event that the successful bidder at the foreclosure sale shall default in purchasing the within described property according to the terms of this Notice of Sale and/or the terms of the Memorandum of Sale executed at the time of foreclosure, the Mortgagee reserves the right to sell the property by foreclosure deed to the second highest bidder, providing that said second highest bidder shall deposit with the Mortgagee's attorneys, DOONAN, GRAVES, & LONGORIA LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, the amount of the required deposit as set forth herein within three (3) business days after written notice of the default of the previous highest bidder and title shall be conveyed to the said second highest bidder within thirty (30) days of said written notice.

If the second highest bidder declines to purchase the within described property, the Mortgagee reserves the right to purchase the within described property at the amount bid by the second highest bidder.

The foreclosure deed and the consideration paid by the successful bidder shall be held in escrow by DOONAN, GRAVES, & LONGORIA LLC, (hereinafter called the "Escrow Agent") until the deed shall be released from escrow to the successful bidder at the same time as the consideration is released to the Mortgagee, thirty (30) days after the date of sale, whereupon all obligations of the Escrow Agent shall be deemed to have been properly fulfilled and the Escrow Agent shall be discharged.

Other terms to be announced at the sale.  
Dated: October 16, 2015 Nationstar Mortgage LLC  
By: Reneau J Longoria, Esq., DOONAN, GRAVES, & LONGORIA LLC 100 Cummings Center, Suite 225D Beverly, MA 01915 (978) 921-2670  
50241 (SHARP) FEI # 1078.01281 11/05/2015, 11/12/2015, 11/19/2015  
[Published: 11/5, 11/12 & 11/19/15]

CANDLEPIN BOWLING THURSDAY			
MEN'S MERCHANTS LEAGUE AS OF 11/13			
Team	Wins	Losses	
Country Club High Rollers	54	26	
Twice The Ice	52	28	
Lobster Express	47	33	
East Coast Telecom Sol.	42	38	
Raffael's Riff Raff	41	39	
Red Parrot Masters	38	42	
R-Chee Plumbing & Heating	37	43	
Red Parrot's Naked Oyster	34	46	
Barefoot Bob's Slingers	28	52	
Stars of Hingham Harbor	25	55	
High over average - Brian McEachern, +39			

**ADDITIONAL TERMS AND CONDITIONS**  
**OF THE MORTGAGEE'S SALE**

1. ALL PERSONS ARE UPON THE PROPERTY AT THEIR OWN RISK. BY BIDDING AT THE AUCTION, ALL BIDDERS SHALL BE DEEMED TO HAVE AGREED TO THE ADDITIONAL TERMS AND CONDITIONS OF THE MORTGAGEE'S SALE.
2. The real estate described in the Mortgagee's Notice of Sale of Real Estate (the "Property") is being sold today at public auction in a single lot to the highest bidder. The successful bidder shall be required to execute a Memorandum of Sale upon acceptance of his, her or its bid. The second highest bidder shall be asked to execute a Secondary Memorandum of Sale.
3. The auction sale is subject to a 5% buyer's premium. Five percent of the bid price will be added to each of the accepted highest and second highest bids to determine the total purchase price.
4. The Auctioneer will prequalify bidders by inspecting their deposit checks and requiring reasonable identification. The successful bidder shall deposit the required deposit with the Mortgagee's attorney which deposit shall be forfeited if the successful bidder shall refuse to execute a Memorandum of Sale, or if, after signing, the successful bidder does not perform in accordance with the terms, provisions and conditions set forth in the Memorandum of Sale. In case of forfeiture, the deposit shall become the property of the Mortgagee and such forfeiture will not release the successful bidder from his, her or its agreement. The successful bidder guarantees payment and performance of the Buyer's obligations under the Memorandum of Sale.
5. No adjustment shall be made for real estate taxes, assessments, or other municipal charges, liens or claims in the nature of liens, as the successful bidder shall take the Property subject to all taxes, charges, rents, security deposits, assessments and liens up to the date of delivery of the deed. The Mortgagee makes no representations or warranties with respect to any such matter.
6. The Property is being sold and conveyed (a) **AS IS, WHERE IS**, subject to known and unknown defects, if any, (b) subject to the present manner of use and occupancy, (c) without representation or warranty of any kind as to condition, construction, or fitness for occupancy, and (d) without regard to compliance with any applicable federal, state or local health, building, zoning, environmental, sanitary, or other laws, by-laws, codes or regulations.
7. The Auctioneer reserves the right to accept or reject any and all bids. The Auctioneer reserves the right to bid for or on behalf of the Mortgagee.

8. The Mortgagee reserves the right to adjourn, postpone or cancel this sale up until the moment the Auctioneer accepts the highest bid and declares the Property sold.
9. Bids shall only be accepted in increments acceptable to the Auctioneer.
10. In the event of a default by the successful bidder at today's auction sale, the Mortgagee reserves the right to sell the Property to the second highest bidder, at his, her or its last highest bid, under substantially the same terms and conditions as were offered at today's foreclosure auction and without re-offering the Property at foreclosure sale. Said second highest bidder will have three (3) business days after notification by the Mortgagee or its attorneys to make the required deposit pursuant to the Secondary Memorandum of Sale, and shall have thirty (30) days following the date of written notice of default of the highest registered bidder by the Mortgagee or its attorneys to accept the deed and pay the purchase price for the Property.



## MEMORANDUM OF SALE

This Memorandum of Sale is made this 17<sup>th</sup> day of December, 2015 by and among **UNITED BANK**, a Connecticut state chartered bank with an office at 33 Waldo Street, Worcester, Massachusetts 01608 (the "Seller"), **AARON POSNIK & CO., INC.**, of 31 Capital Drive, West Springfield, Massachusetts 01089 (the "Auctioneer") and \_\_\_\_\_ or nominee (the "Buyer").

### 1. MORTGAGEE'S SALE AT PUBLIC AUCTION

Pursuant to a public auction conducted December 17, 2015 by the Auctioneer on behalf of the Seller as foreclosing mortgagee, in exercise of the Power of Sale contained in a Mortgage, Security Agreement and Assignment of Rents and Leases dated March 19, 2013, given by 7 BAY CORP. to the Seller and recorded with the Plymouth County Registry of Deeds (the "Registry") in Book 42826, Page 329 (the "Mortgage"), the Buyer as the highest bidder agrees to purchase the property described below (the "Property") in accordance with the terms hereof and in accordance with the Additional Terms and Conditions of the Mortgagee's Sale (the "Terms and Conditions") as announced at the time and place of sale, which Terms and Conditions are incorporated herein by reference.

### 2. DESCRIPTION OF THE PROPERTY

The Property shall mean the property described in the Mortgagee's Notice of Sale of Real Estate, a copy of which is attached hereto as Exhibit A (the "Notice"), being known as property at 7 Bay Street, The Estuary Condominium, Hull, Massachusetts

### 3. TRANSFER OF THE PROPERTY

The Property shall be conveyed by a mortgagee's foreclosure deed (the "Deed") in substantially the form of the usual foreclosure deed contained in Massachusetts General Laws, Chapter 183, Appendix Form 11, under the statutory power of sale, subject to:

- a. provisions of building codes and local zoning laws, if any;
- b. such taxes and municipal betterment assessments outstanding on the date of the delivery of the Deed;
- c. all easements, restrictions and rights of way of record, if any, which may be enforced against the Seller;
- d. the provisions of Massachusetts General Laws, Chapter 21E;
- e. the tenancy of any present occupant to the extent such tenancy may be enforced against the rights of the Seller;
- f. any other liens, claims or existing encumbrances of record created prior to the Mortgage or to which the Mortgage has been subordinated of record, including the Master Deed and related condominium documents set forth in the Notice;



- g. the Subordination and Collateral Assignment Agreement dated April 23, 2015 (the "Collateral Assignment") by and between United Bank and 7 Bay Corp., recorded with the Registry in Book 45519, Page 22 (the Seller's rights under the Collateral Assignment being assigned without recourse to and accepted and assumed by the Buyer); and
- h. all of the terms, conditions and provisions of the documents, laws, regulations, declarations, restrictions, easements, rules or interests set forth in the Notice.

Excepting from the Property Condominium Unit No. 1 of The Estuary Condominium as described in a Condominium Unit Deed dated May 6, 2015 and recorded with the Registry in Book 45519, Page 30, which Unit No. 1 was released from the Mortgage pursuant to a Partial Release dated April 23, 2015 from United Bank and recorded with the Registry in Book 45519, Page 28.

The total bid price will be set forth as the consideration in the Deed to the Property.

4. PRICE AND DEPOSIT

The price bid by the Buyer for the Property is \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) and the 5% Buyer's Premium is \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), for a total purchase price to be paid by the Buyer of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), of which TWENTY-FIVE THOUSAND and 00/100 DOLLARS (\$25,000.00) have been paid this day in accordance with the terms of the auction sale. The Buyer agrees to pay an additional deposit (the "Additional Deposit") within five (5) business days from the date hereof, which additional deposit will aggregate, with the initial deposit made by the Buyer, ten percent (10%) of the successful bid, with the balance to be paid by wire transfer or certified or bank check within thirty (30) days from the date hereof. Funds paid with this Memorandum and the Additional Deposit shall be held in a non-interest bearing escrow account by the firm of Bowditch & Dewey, LLP, Attorneys for the Seller, 311 Main Street, Worcester, Massachusetts, in accordance with the terms hereof. The Seller 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. CLOSING

The Deed and related documents shall be delivered and the balance of the consideration paid at the offices of Bowditch & Dewey, LLP, 311 Main Street, Worcester, Massachusetts, on the thirtieth (30<sup>th</sup>) day following the date hereof or such other time and place as may be mutually agreed upon in writing by the Seller and the Buyer (the "Closing"). Time is of the essence hereof.

6. TITLE

If the Seller cannot convey title to the Property as stipulated, the deposit shall be refunded and all rights hereunder shall cease; and the Buyer shall have no recourse against the Seller or its employees, agents and representatives, whether at law or in equity; provided, however, that Buyer shall have the election to accept such title as the Seller can deliver to the Property in its

then condition and to pay therefor the purchase price without deduction, in which event the Seller shall convey such title. Any certificate of title and title insurance policy obtained by the Buyer shall be at the Buyer's sole cost and expense.

7. RISK OF LOSS

The Seller shall be under no obligation to maintain casualty insurance covering the Property. If the Property is damaged by fire or other casualty prior to the Closing, Buyer shall accept a deed to the Property and an assignment of so much of any insurance proceeds as may be payable to the Seller under any policy of insurance as has not been used in the restoration of the Property prior to the Closing, paying therefor the full bid price.

8. DELIVERY OF DEED

The delivery of a deed to the Property to the Buyer or Buyer's nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed or arising out of the public auction on the part of the Seller to be performed or observed.

9. CONDITION OF THE PROPERTY

**THE PROPERTY SHALL BE CONVEYED IN "AS-IS" CONDITION, SUBJECT TO KNOWN AND UNKNOWN DEFECTS, IF ANY, AND SUBJECT TO THE PRESENT MANNER OF USE AND OCCUPANCY OF THE PROPERTY. THE SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE PROPERTY, OR TO ITS USE AND OCCUPANCY. THE BUYER ACKNOWLEDGES THAT BUYER HAS NOT BEEN INFLUENCED TO ENTER THIS TRANSACTION BY, NOR HAS IT RELIED UPON, ANY REPRESENTATIONS OR WARRANTIES OF THE SELLER OR THE AUCTIONEER, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS OR WARRANTIES CONCERNING COMPLIANCE WITH ANY HEALTH, BUILDING, ZONING, ENVIRONMENTAL OR OTHER LAW, ORDINANCE, BY-LAW OR REGULATION (FEDERAL, STATE OR LOCAL) WHICH MAY AFFECT THE TRANSFER OF THE PROPERTY OR THE BUYER'S USE AND/OR ENJOYMENT OF THE PROPERTY, EACH OF WHICH REPRESENTATIONS AND WARRANTIES IS EXPRESSLY DISCLAIMED.**

The Buyer acknowledges that it has had the opportunity to investigate the condition of the Property and to examine such public records pertaining to the Property as it has deemed necessary. The Buyer acknowledges that the cost of any inspections of the Property necessary for compliance with Title 5 of the Massachusetts Environmental Code shall be the responsibility of the Buyer solely, and that Seller shall have no responsibility therefor whatsoever. If the Property is serviced by such a system, the Buyer agrees to comply with the provisions of 310 CMR 15.301 requiring inspection of the system within six months after the date of this Memorandum of Sale. The Buyer agrees that such inspection will be made at the Buyer's sole expense.

The Buyer agrees that the cost of any inspections of the Property necessary for compliance with any state, federal or local law, ordinance, by-law or regulation will be the

Buyer's responsibility solely, and that Seller shall have no liability or responsibility therefor whatsoever.

The Buyer acknowledges that the Seller shall be under no obligation to comply with any statute, by-law or regulation, including, without limitation, Massachusetts General Laws c. 148, §§26F, 26G and 28 concerning installation of smoke detectors, carbon monoxide detectors or automatic fire suppression or sprinkler systems, which obligations the Buyer specifically assumes.

10. BUYER'S DEFAULT; DAMAGES

If the Buyer shall fail to fulfill the Buyer's agreements herein, all deposits made hereunder by the Buyer shall be retained by the Seller and the Seller shall be free to sell the Property to the second highest bidder at the public auction in accordance with the terms announced at the public auction or at a subsequent public auction. The Buyer shall reimburse the Seller for all costs and expenses incurred by the Seller, in excess of the amount of the deposit, due to the Buyer's default, including the costs and expenses of subsequent sales of the Property or any portion thereof and attorneys' and auctioneers' fees in connection therewith and herewith. The Buyer hereby guarantees payment of the amount bid and entered on this Memorandum of Sale and performance hereunder. If the Seller shall subsequently sell the Property for a price higher than the bid price contained in this Memorandum, the Buyer shall have no claim to any excess of the resale price of the Property over the bid price contained in this Memorandum of Sale. In addition, the Seller reserves all remedies at law and in equity against the Buyer for any default by the Buyer under this Memorandum of Sale.

11. BROKERAGE

Each party represents and warrants to the other that (a) this Memorandum has been entered into pursuant to a public auction without the intervention of any real estate broker, and (b) it will indemnify the other and hold it harmless against and in respect of any claim for brokerage or other commissions relative to this Memorandum, or to the transactions contemplated thereby, in violation of the foregoing representation and warranty.

12. DEED STAMPS AND RECORDING FEES

The Buyer shall pay for and cancel for the benefit of the Seller the excise tax stamps required to be affixed to the foreclosure deed by the law of The Commonwealth of Massachusetts. The Buyer shall pay all recording fees in connection with the transfer of the Property.

13. CONSTRUCTION OF AGREEMENT

This instrument, executed in triplicate, 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 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 Seller 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 to it.

IN WITNESS WHEREOF, the parties have executed this Memorandum as a sealed instrument as of the date first written above.

UNITED BANK

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

Name:

Title:

AARON POSNIK & CO., INC

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

Name:

Title:

\_\_\_\_\_ [BUYER]

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Taxpayer Identification Number

## SECONDARY MEMORANDUM OF SALE

This Secondary Memorandum of Sale is made this 17<sup>th</sup> day of December, 2015 by and among **UNITED BANK**, a Connecticut state chartered bank with an office at 33 Waldo Street, Worcester, Massachusetts 01608 (the "Seller"), **AARON POSNIK & CO., INC.**, of 31 Capital Drive, West Springfield, Massachusetts 01089 (the "Auctioneer") and \_\_\_\_\_ or nominee (the "Buyer").

### 1. MORTGAGEE'S SALE AT PUBLIC AUCTION

Pursuant to a public auction conducted December 17, 2015 by the Auctioneer on behalf of the Seller as foreclosing mortgagee, in exercise of the Power of Sale contained in a Mortgage, Security Agreement and Assignment of Rents and Leases dated March 19, 2013, given by 7 BAY CORP. to the Seller and recorded with the Plymouth County Registry of Deeds (the "Registry") in Book 42826, Page 329 (the "Mortgage"), the Buyer as the highest bidder agrees to purchase the property described below (the "Property") in accordance with the terms hereof and in accordance with the Additional Terms and Conditions of the Mortgagee's Sale (the "Terms and Conditions") as announced at the time and place of sale, which Terms and Conditions are incorporated herein by reference was sold to: \_\_\_\_\_

\_\_\_\_\_ as the highest registered bidder. Buyer, as the next highest bidder, hereby agrees to purchase the Property for the amount of the next highest bid price set forth below in accordance with the terms hereof if the highest registered bidder fails to purchase the Property in accordance with the terms of the Memorandum of Sale signed by the highest registered bidder as those terms may be amended at the discretion of Seller.

Notwithstanding this Secondary Memorandum of Sale, Buyer agrees that Seller may sell the Property to the highest registered bidder on whatever terms and conditions it deems acceptable in amendment of the terms of the Memorandum of Sale executed by Seller and the highest registered bidder.

Upon completion of a sale and transfer of the Property to the highest registered bidder or the nominee of the highest registered bidder, any deposit tendered by Buyer hereunder and any interest earned on the deposit shall be refunded and all rights hereunder shall cease.

### 2. DESCRIPTION OF THE PROPERTY

The Property shall mean the property described in the Mortgagee's Notice of Sale of Real Estate, a copy of which is attached hereto as Exhibit A (the "Notice"), being known as property at 7 Bay Street, The Estuary Condominium, Hull, Massachusetts

### 3. TRANSFER OF THE PROPERTY

The Property shall be conveyed by a mortgagee's foreclosure deed (the "Deed") in substantially the form of the usual foreclosure deed contained in Massachusetts General Laws, Chapter 183, Appendix Form 11, under the statutory power of sale, subject to:

- a. provisions of building codes and local zoning laws, if any;

- b. such taxes and municipal betterment assessments outstanding on the date of the delivery of the Deed;
- c. all easements, restrictions and rights of way of record, if any, which may be enforced against the Seller;
- d. the provisions of Massachusetts General Laws, Chapter 21E;
- e. the tenancy of any present occupant to the extent such tenancy may be enforced against the rights of the Seller;
- f. any other liens, claims or existing encumbrances of record created prior to the Mortgage or to which the Mortgage has been subordinated of record, including the Master Deed and related condominium documents set forth in the Notice;
- g. the Subordination and Collateral Assignment Agreement dated April 23, 2015 (the "Collateral Assignment") by and between United Bank and 7 Bay Corp., recorded with the Registry in Book 45519, Page 22 (the Seller's rights under the Collateral Assignment being assigned without recourse to and accepted and assumed by the Buyer); and
- h. all of the terms, conditions and provisions of the documents, laws, regulations, declarations, restrictions, easements, rules or interests set forth in the Notice.

Excepting from the Property Condominium Unit No. 1 of The Estuary Condominium as described in a Condominium Unit Deed dated May 6, 2015 and recorded with the Registry in Book 45519, Page 30, which Unit No. 1 was released from the Mortgage pursuant to a Partial Release dated April 23, 2015 from United Bank and recorded with the Registry in Book 45519, Page 28.

The total bid price will be set forth as the consideration in the Deed to the Property.

#### 4. PRICE AND DEPOSIT

The price bid by the Buyer for the Property is \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) and the 5% Buyer's Premium is \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), for a total purchase price to be paid by the Buyer if the Property is not sold to the highest registered bidder of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), of which TWENTY-FIVE THOUSAND and 00/100 DOLLARS (\$25,000.00) have been paid this day in accordance with the terms of the auction sale. The Buyer agrees to pay an additional deposit (the "Additional Deposit") within five (5) business days from the date hereof, which additional deposit will aggregate, with the initial deposit made by the Buyer, ten percent (10%) of the successful bid, with the balance to be paid by wire transfer or certified or bank check within thirty (30) days from the date hereof. Funds paid with this Memorandum and the Additional Deposit shall be held in a non-interest bearing escrow account by the firm of Bowditch & Dewey, LLP, Attorneys for the Seller, 311 Main Street, Worcester, Massachusetts, in accordance with the terms hereof. The Seller 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. CLOSING

The Deed and related documents shall be delivered and the balance of the consideration paid at the offices of Bowditch & Dewey, LLP, 311 Main Street, Worcester, Massachusetts, on the thirtieth (30<sup>th</sup>) day following the date of the written notice of default of the highest registered bidder or such other time and place as may be mutually agreed upon in writing by the Seller and the Buyer (the "Closing"). Time is of the essence hereof.

6. TITLE

If the Seller cannot convey title to the Property as stipulated, the deposit shall be refunded and all rights hereunder shall cease; and the Buyer shall have no recourse against the Seller or its employees, agents and representatives, whether at law or in equity; provided, however, that Buyer shall have the election to accept such title as the Seller can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which event the Seller shall convey such title. Any certificate of title and title insurance policy obtained by the Buyer shall be at the Buyer's sole cost and expense.

7. RISK OF LOSS

The Seller shall be under no obligation to maintain casualty insurance covering the Property. If the Property is damaged by fire or other casualty prior to the Closing, Buyer shall accept a deed to the Property and an assignment of so much of any insurance proceeds as may be payable to the Seller under any policy of insurance as has not been used in the restoration of the Property prior to the Closing, paying therefor the full bid price.

8. DELIVERY OF DEED

The delivery of a deed to the Property to the Buyer or Buyer's nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed or arising out of the public auction on the part of the Seller to be performed or observed.

9. CONDITION OF THE PROPERTY

**THE PROPERTY SHALL BE CONVEYED IN "AS-IS" CONDITION, SUBJECT TO KNOWN AND UNKNOWN DEFECTS, IF ANY, AND SUBJECT TO THE PRESENT MANNER OF USE AND OCCUPANCY OF THE PROPERTY. THE SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE PROPERTY, OR TO ITS USE AND OCCUPANCY. THE BUYER ACKNOWLEDGES THAT BUYER HAS NOT BEEN INFLUENCED TO ENTER THIS TRANSACTION BY, NOR HAS IT RELIED UPON, ANY REPRESENTATIONS OR WARRANTIES OF THE SELLER OR THE AUCTIONEER, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS OR WARRANTIES CONCERNING COMPLIANCE WITH ANY HEALTH, BUILDING, ZONING, ENVIRONMENTAL OR OTHER LAW, ORDINANCE, BY-LAW OR REGULATION (FEDERAL, STATE OR LOCAL) WHICH MAY AFFECT THE TRANSFER OF THE PROPERTY OR THE BUYER'S USE**

**AND/OR ENJOYMENT OF THE PROPERTY, EACH OF WHICH REPRESENTATIONS AND WARRANTIES IS EXPRESSLY DISCLAIMED.**

The Buyer acknowledges that it has had the opportunity to investigate the condition of the Property and to examine such public records pertaining to the Property as it has deemed necessary. The Buyer acknowledges that the cost of any inspections of the Property necessary for compliance with Title 5 of the Massachusetts Environmental Code shall be the responsibility of the Buyer solely, and that Seller shall have no responsibility therefor whatsoever. If the Property is serviced by such a system, the Buyer agrees to comply with the provisions of 310 CMR 15.301 requiring inspection of the system within six months after the date of this Secondary Memorandum of Sale. The Buyer agrees that such inspection will be made at the Buyer's sole expense.

The Buyer agrees that the cost of any inspections of the Property necessary for compliance with any state, federal or local law, ordinance, by-law or regulation will be the Buyer's responsibility solely, and that Seller shall have no liability or responsibility therefor whatsoever.

The Buyer acknowledges that the Seller shall be under no obligation to comply with any statute, by-law or regulation, including, without limitation, Massachusetts General Laws c. 148, §§26F, 26G and 28 concerning installation of smoke detectors, carbon monoxide detectors or automatic fire suppression or sprinkler systems, which obligations the Buyer specifically assumes.

**10. BUYER'S DEFAULT; DAMAGES**

If the Buyer shall fail to make the deposit required by Section 4 within the time required therein, the Seller may declare this Agreement to be void and of no further force and effect. If the Buyer shall fail to fulfill the Buyer's agreements herein after making the deposit required by Section 4, all deposits made hereunder by the Buyer shall be retained by the Seller as a portion of damages. The Buyer hereby guarantees payment of the amount bid and entered on this Secondary Memorandum of Sale and performance hereunder; the Buyer shall have no claim to any excess of the sale price of the Property over the amount bid. In addition, the Seller reserves all remedies at law and in equity for any default by the Buyer under this Secondary Memorandum of Sale.

**11. BROKERAGE**

Each party represents and warrants to the other that (a) this Secondary Memorandum has been entered into pursuant to a public auction without the intervention of any real estate broker, and (b) it will indemnify the other and hold it harmless against and in respect of any claim for brokerage or other commissions relative to this Secondary Memorandum, or to the transactions contemplated thereby, in violation of the foregoing representation and warranty.



12. DEED STAMPS AND RECORDING FEES

The Buyer shall pay for and cancel for the benefit of the Seller the excise tax stamps required to be affixed to the foreclosure deed by the law of the Commonwealth of Massachusetts. The Buyer shall pay all recording fees in connection with the transfer of the Property.

13. CONSTRUCTION OF AGREEMENT

This instrument, executed in triplicate, 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 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 Seller 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 Secondary Memorandum or to be used in determining the intent of the parties to it.

IN WITNESS WHEREOF, the parties have executed this Secondary Memorandum of Sale as a sealed instrument as of the date first written above.

*THIS SPACE INTENTIONALLY LEFT BLANK;  
SIGNATURES ON THE FOLLOWING PAGE*

UNITED BANK

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

Name:

Title:

AARON POSNIK & CO., INC

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

Name:

Title:

\_\_\_\_\_ [BUYER]

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Taxpayer Identification Number





FOR REGISTRY USE ONLY

Professional Seal  
No. 53 and 60

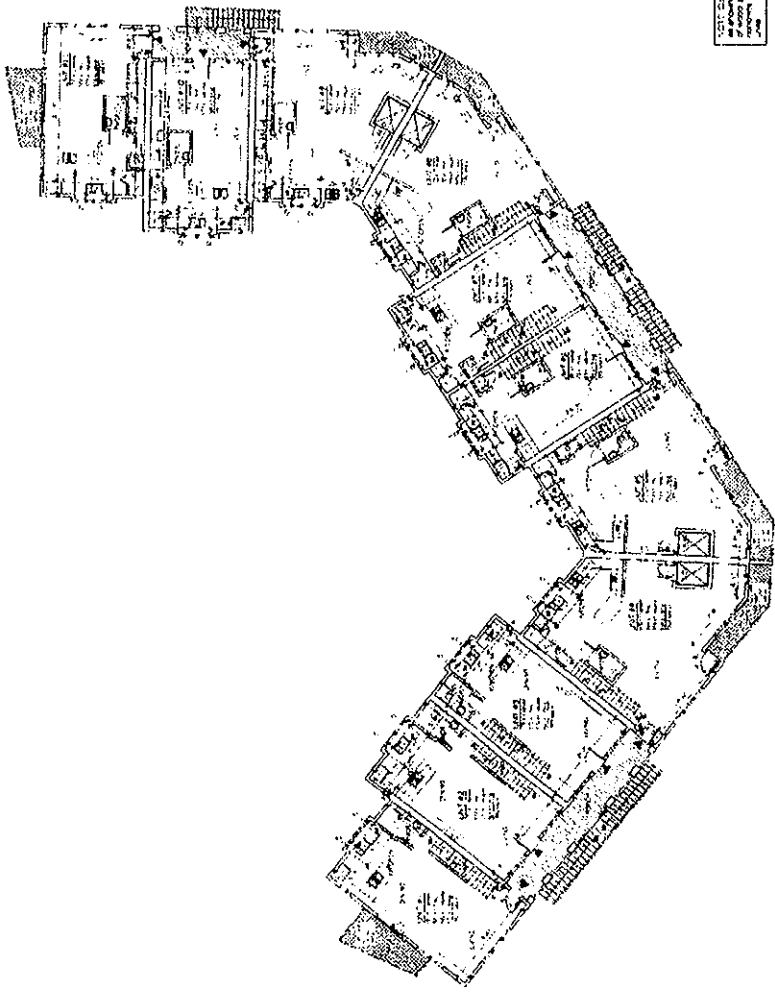
- UNIT #1: 1921 S.F.
- UNIT #2: 1888 S.F.
- UNIT #3: 1885 S.F.
- UNIT #4: 2068 S.F.
- UNIT #5: 2970 S.F.
- UNIT #6: 1892 S.F.
- UNIT #7: 1738 S.F.
- UNIT #8: 2713 S.F.
- UNIT #10: 1891 S.F.
- UNIT #11: 1921 S.F.

LEGEND  
 A FINISH  
 B CONDO UNIT  
 C EXISTING PORT TO  
 D UNIT WALLS PER UNIT  
 E UNIT WALLS TO  
 F UNIT WALLS TO

CERTIFICATION FOR CONDOMINIUM PLANS OF MASTER DEED

I hereby certify that the above Unit, Unit  
 descriptions and the other information contained herein  
 were prepared in accordance with the provisions of  
 the Massachusetts Uniform Condominium Act, Chapter 18A,  
 and the Uniform Condominium Act, Chapter 18B, of the  
 Commonwealth of Massachusetts.

UNIT #10: 1891 S.F.  
 UNIT #11: 1921 S.F.  
 UNIT #12: 1891 S.F.  
 UNIT #13: 1921 S.F.  
 UNIT #14: 1891 S.F.  
 UNIT #15: 1921 S.F.



NO. 53 and 60

**SUTPHIN ARCHITECTS**  
 187 BAY STREET SUITE 2000  
 P.O. BOX 280000  
 CHARLESTON, VA 02128

PHONE: 817.337.5285  
 FAX: 817.337.5197  
 E-MAIL: S.THREASID@GMAIL.COM

PROJECT: ESTUARY CONDOMINIUMS  
 7 BAY STREET  
 HULL, MA

SIT: 4-24-2015  
 AS NOTED  
 PROJECT

REVISIONS

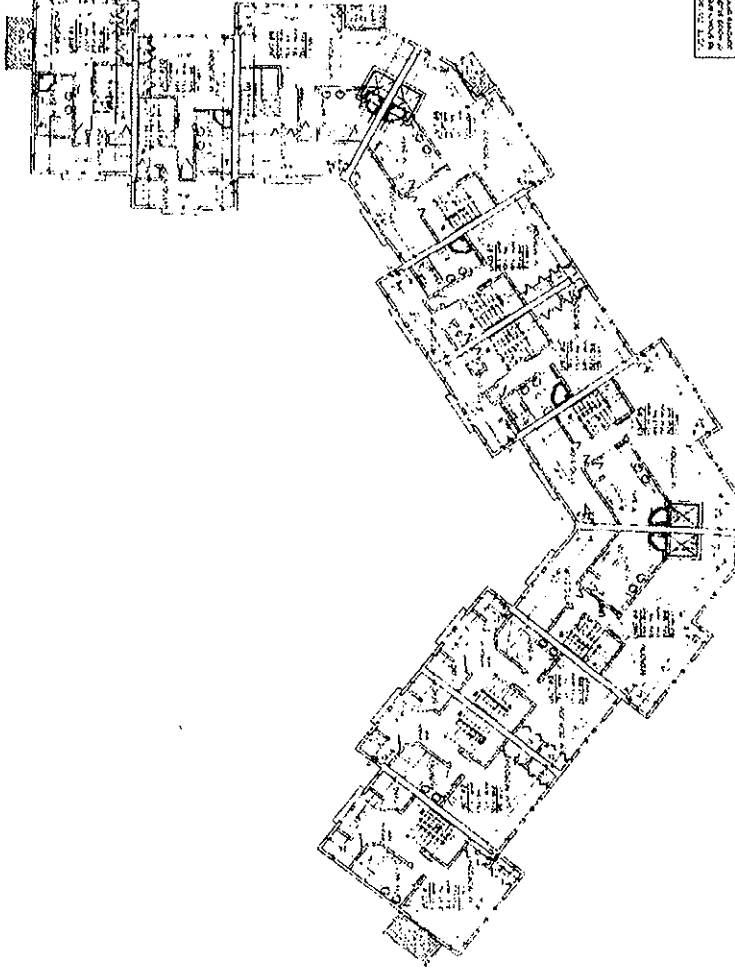
TITLE: MASTER DEED PLAN  
 FIRST FLOOR PLANS  
 A-2

DRAWING NO. 15-111 Cont.

137



FOR REGISTRY USE ONLY



- UNIT #1 1921 S F
- UNIT #2 1986 S C
- UNIT #3 1988 S F
- UNIT #4 2070 S F
- UNIT #5 1862 S F
- UNIT #6 1876 S F
- UNIT #7 2736 S F
- UNIT #8 2713 S F
- UNIT #9 1981 S F
- UNIT #11 1921 S F

LEGEND  
 A. WALLS  
 B. DOORS  
 C. COMMON AREAS  
 D. STAIRS  
 E. ELEVATORS  
 F. MECHANICAL ROOMS  
 G. ELECTRICAL ROOMS  
 H. PLUMBING ROOMS  
 I. TELEPHONE ROOMS  
 J. STORAGE ROOMS  
 K. JANITORY ROOMS  
 L. GARAGE

CERTIFICATION FOR CONDOMINIUM PLANS OF MASTER DEED

I hereby certify that the above described plans and specifications were prepared by me or under my direct supervision and that I am a duly licensed architect in the State of Massachusetts. I am a duly licensed architect in the State of Massachusetts. I am a duly licensed architect in the State of Massachusetts.



DATE: 02/28/2015

TITLE: MASTER DEED PLAN THIRD FLOOR PLANS A-4  
 DRAWING NO: 15-191 (copy)

REVISIONS	DATE	BY	AS NOTED
	02/28/2015		AS NOTED

PROJECT: ESTUARY CONDOMINIUMS  
 7 BAY STREET  
 HULL, MA

SUTPHIN ARCHITECTS  
 PHONE: 617-337-5808  
 FAX: 617-337-5101  
 C-MAIL: SUTPHIN@GMAIL.COM

127 DEKAY STREET SUITE 2100  
 P.O. BOX 280008  
 CHARLESTON, VA 23728

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**CHANGE ENDORSEMENT**  
**ATTACHED TO LOAN POLICY NO. 1521-0125**  
**ISSUED BY**  
**Chicago Title Insurance Company**

The Policy is hereby changed as follows:

1. Schedule A, Item No. 4 is amended to add the following:  
  
"; as affected by Subordination And Collateral Assignment Agreement dated as of April 23, 2015 by and between United Bank and 7 Bay Corp. and recorded on May 7, 2015 in Book 45519, Page 22."
2. Schedule B, Part I, Item No. 4 is amended by deleting "2013" and substituting "2015" in place thereof.
3. The following is added to Schedule B, Part I, Item No. 5:  
  
"The Master Deed of The Estuary Condominium is dated April 22, 2015 is recorded in Book 45472, Page 275 and Declaration of The Estuary Condominium Trust is dated April 22, 2015 and recorded in Book 45472, Page 292."
4. Schedule B, Part I, Item No. 9 is hereby deleted.
5. Schedule B, Part II, 7 Bay Street, Item No. 1 (Mortgage recorded in Book 35319, Page 165) is hereby deleted as it was discharged in Book 43178, Page 76.
6. Schedule B, Part II, 7 Bay Street, Item Nos. 2 and 3 are amended by adding the following:
  2. "; as affected by Certificate of Compliance recorded in Book 45472, Page 272."
  3. "; as affected by Certificate of Compliance recorded in Book 45472, Page 269."
7. The following new Item Nos. 4, 5, 6, 7 and 8 are added to Schedule B, Part II:
  - "4. Notice of Contract by Dennis P. Gisner & Sones, Inc. d/b/a Atlas Systems of NE recorded in Book 43302, Page 304; as affected by Statement of Account recorded in Book 43302, Page 305; as affected by Complaint recorded in Book 43640, Page 214; as affected by Release of Lien Bond by unites Stated Surety Company dated March 25, 2015 and recorded in Book 45472, Page 266 (Affects 7 Bay Street).
  5. Credit Agreement by 7 Bay Corp. to National Lumber Company in the original principal amount of \$243,000.00, dated October 15, 2014 and recorded in Book 44842, Page 180; as affected by Consent To Master Deed by National Lumber Company dated April 22, 2015 and recorded in Book 45472, Page 333 (Affects 7 Bay Street).
  6. Mortgage from 7 Bay Corp. to Avidia Bank in the original principal amount of \$250,000.00, dated March 19, 2015 and recorded in Book 45341, Page 42; as





affected by Consent To Master Deed by Avidia Bank, dated April 15, 2015 and recorded in Book 45473, Page 22 (Affects 7 Bay Street).

- 7. Attachment by Santander Bank against Steven J. Buckley in the principal amount of \$110,000.00, dated February 3, 2014 and recorded in Book 44051, Page 298 (Affects 51 Manomet Avenue).
- 8. Mortgage from Steven J. Buckley to National Lumber Company dated April 22, 2015 and recorded in Book 45472, Page 336 (Affects 51 Manomet Avenue)."
- 8. The amount of the policy (\$2,975,000.00) remains unchanged.
- 9. The date of the policy is extended to May 7, 2015 at 9:54 A.M.

The total liability of the Company under said policy, and under this and any prior endorsements thereto, shall not exceed, in the aggregate, the amount of liability assumed thereunder, as the same may have been specifically amended in dollar amount by this or any prior endorsements, and the costs which the Company is obligated to pay under the Provisions of the policy.

This endorsement is made a part of said policy and is subject to the schedules, conditions, stipulations and terms thereof except as modified by the provisions hereof.

Unless expressly stated, nothing herein contained shall be construed as assuming liability for taxes or assessments becoming a lien or accruing subsequent to the Date of Policy as originally shown in Schedule A nor for any state of facts occurring subsequent to such original Date of Policy as would be disclosed by a current accurate survey and inspection of the premises.

**IN WITNESS WHEREOF**, the Company has caused this endorsement to be signed and sealed as of May 7, 2015, to be valid when countersigned by an authorized officer or licensed agent of the Company, all in accordance with its By-Laws.

**Chicago Title Insurance Company**

Countersigned:

By:

Authorized Officer or Agent



By:

*(Handwritten Signature)*

President

Attest:

*(Handwritten Signature)*

Secretary



# Chicago Title Insurance Company

POLICY NO.: MA3819-46-Buckley-2013.72307-88501865

## LOAN POLICY OF TITLE INSURANCE

Issued by

*Chicago Title Insurance Company*

*Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 17 of the Conditions.*

### COVERED RISKS

*SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures as of Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:*

1. *Title being vested other than as stated in Schedule A.*
2. *Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from*
  - (a) *A defect in the Title caused by*
    - (i) *forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;*
    - (ii) *failure of any person or Entity to have authorized a transfer or conveyance;*
    - (iii) *a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;*
    - (iv) *failure to perform those acts necessary to create a document by electronic means authorized by law;*
    - (v) *a document executed under a falsified, expired, or otherwise invalid power of attorney;*
    - (vi) *a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or*
    - (vii) *a defective judicial or administrative proceeding.*
  - (b) *The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.*
  - (c) *Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.*
3. *Unmarketable Title.*
4. *No right of access to and from the Land.*
5. *The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to*
  - (a) *the occupancy, use, or enjoyment of the Land;*
  - (b) *the character, dimensions, or location of any improvement erected on the Land;*
  - (c) *the subdivision of land; or*
  - (d) *environmental protection**if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.*
6. *An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.*
7. *The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.*
8. *Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.*
9. *The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage*
  - (a) *forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;*
  - (b) *failure of any person or Entity to have authorized a transfer or conveyance;*
  - (c) *the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;*
  - (d) *failure to perform those acts necessary to create a document by electronic means authorized by law;*
  - (e) *a document executed under a falsified, expired, or otherwise invalid power of attorney;*
  - (f) *a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or*
  - (g) *a defective judicial or administrative proceeding.*

72307 (6/06)

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ALTA Loan Policy (6/17/06)



10. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.
11. The lack of priority of the lien of the Insured Mortgage upon the Title
  - (a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either
    - (i) contracted for or commenced on or before Date of Policy; or
    - (ii) contracted for, commenced or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; and
  - (b) over the lien of any assessments for street improvements under construction or completed at Date of Policy.
12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the named Insured assignee free and clear of all liens.
13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title
  - (a) resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

MA3819 Buckley  
 Gordon, Mond & Ott, P.C.  
 One Batterymarch Park, Suite 312  
 Quincy, MA 02169  
 Tel: (617) 786-0800  
 Fax: (617) 786-9772

CHICAGO TITLE INSURANCE COMPANY



By: *[Signature]*  
 ATTORNEY  
 SECRETARY

Countersigned: *[Signature]*  
 Authorized Signatory  
 Barry J. Gordon



## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b) or decreased by Section 10 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Indebtedness": The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of

- (i) the amount of the principal disbursed as of Date of Policy;
- (ii) the amount of the principal disbursed subsequent to Date of Policy;
- (iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance;
- (iv) interest on the loan;

(v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law;

(vi) the expenses of foreclosure and any other costs of enforcement;

(vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title;

(viii) the amounts to pay taxes and insurance; and

(ix) the reasonable amounts expended to prevent deterioration of improvements;

but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured.

(e) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) the owner of the Indebtedness and each successor in ownership of the Indebtedness, whether the owner or successor owns the Indebtedness for its own account or as a trustee or other fiduciary, except a successor who is an obligor under the provisions of Section 12(c) of these Conditions;

(B) the person or Entity who has "control" of the "transferable record," if the Indebtedness is evidenced by a "transferable record," as these terms are defined by applicable electronic transactions law;

(C) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

72307 (6/06)

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ALTA Loan Policy (6/17/06)



(D) successors to an Insured by its conversion to another kind of Entity;

(E) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured, or

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity;

(F) any government agency or instrumentality that is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness secured by the Insured Mortgage, or any part of it, whether named as an Insured or not;

(ii) With regard to (A), (B), (C), (D), and (E) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured, unless the successor acquired the Indebtedness as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, or other matter insured against by this policy.

(f) "Insured Claimant": An Insured claiming loss or damage.

(g) "Insured Mortgage": The Mortgage described in paragraph 4 of Schedule A.

(h) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(i) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(j) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(k) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(l) "Title": The estate or interest described in Schedule A.

(m) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title or a prospective purchaser of the Insured Mortgage to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

## 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured after acquisition of the Title by an Insured or after conveyance by an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the

Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

## 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured of any claim of title or interest that is adverse to the Title or the lien of the Insured Mortgage, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title or the lien of the Insured Mortgage, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

## 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

## 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title or the lien of the Insured Mortgage, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.



## 6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title, the lien of the Insured Mortgage, or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

## 7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or

(ii) To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of purchase and that the Company is obligated to pay.

When the Company purchases the Indebtedness, the Insured shall transfer, assign, and convey to the Company the Indebtedness and the Insured Mortgage, together with any collateral security.

Upon the exercise by the Company of either of the options provided for in subsections (a)(i) or (ii), all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in those subsections, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

## 8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the least of

(i) the Amount of Insurance,

(ii) the Indebtedness,

(iii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy, or

(iv) if a government agency or instrumentality is the Insured Claimant, the amount it paid in the acquisition of the Title or the Insured Mortgage in satisfaction of its insurance contract or guaranty.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In the event the Insured has acquired the Title in the manner described in Section 2 of these Conditions or has conveyed the Title, then the extent of liability of the Company shall continue as set forth in Section 8(a) of these Conditions.

(d) In addition to the extent of liability under (a), (b), and (c), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

## 9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, or establishes the lien of the Insured Mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with

respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title or to the lien of the Insured Mortgage, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

#### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment. However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Amount of Insurance afforded under this policy except to the extent that the payments reduce the Indebtedness.

(b) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company except as provided in Section 2 of these Conditions.

#### 11. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

#### 12. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

##### (a) The Company's Right to Recover

Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title or Insured Mortgage and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

##### (b) The Insured's Rights and Limitations

(i) The owner of the Indebtedness may release or substitute the personal liability of any debtor or guarantor, extend or otherwise modify the terms of payment, release a portion of the Title from the lien of the Insured Mortgage, or release any collateral security for the Indebtedness, if it does not affect the enforceability or priority of the lien of the Insured Mortgage.

(ii) If the Insured exercises a right provided in (b)(i), but has knowledge of any claim adverse to the Title or the lien of the Insured Mortgage insured against by this policy, the Company shall be required to pay only that part of any losses insured against by this policy that shall exceed the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of the Company's

right of subrogation.

##### (c) The Company's Rights Against Noninsured Obligors

The Company's right of subrogation includes the Insured's rights against noninsured obligors including the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

The Company's right of subrogation shall not be avoided by acquisition of the Insured Mortgage by an obligor (except an obligor described in Section 1(e)(i)(F) of these Conditions) who acquires the Insured Mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond, and the obligor will not be an Insured under this policy.

#### 13. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons.

Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

#### 14. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or lien of the Insured Mortgage or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

#### 15. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

#### 16. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the

ALTA Loan Policy (6/17/06)



premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title or the lien of the Insured Mortgage that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

#### 17. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.





**CHICAGO TITLE INSURANCE COMPANY  
ALTA LOAN POLICY  
PRO FORMA**

**SCHEDULE A**

Agent's File No. 1334.0059

POLICY NUMBER	DATE & TIME OF POLICY	AMOUNT OF INSURANCE	LOAN PREMIUM
Loan: 72307- 88501865	3/21/2013 @ 12:55pm	\$2,975,000.00	

ISSUED WITH OWNER'S POLICY NUMBER:

Loan No.:

1. Name of Insured: United Bank, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR INTERESTS MAY APPEAR
2. The estate or interest in the Land that is encumbered by the Insured Mortgage is: Fee Simple.
3. Title to the estate or interest in the Land is at Date of Policy vested in:  
7 Bay Corp.  
Steven Buckley
4. The Insured Mortgage and its assignments, if any, are described as follows:

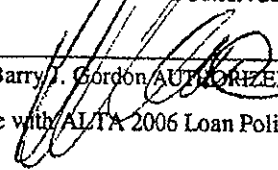
That certain mortgage from 7 Bay Corp. to United Bank, in the original principal amount of \$2,975,000.00, dated 3/19/2013 recorded in the Plymouth County Registry of Deeds on 3/21/2013 at Book 42826, Page 329 and that certain mortgage from Steven Buckley. to United Bank, in the original principal amount of \$2,975,000.00, dated 3/19/2013 recorded in the Plymouth County Registry of Deeds on 3/21/2013 Book 42827, Page 1.

5. The Land referred to in this policy is described as follows:  
Street Address: 7 Bay Street, 51 Manomet Avenue      Lot Number/Unit Number:  
Subdivision/Condominium:      City/Town: Hull  
County: Plymouth      State/Zip: Massachusetts 02045  
and is more specifically described on Exhibit A attached hereto and made a part hereof.

6. This policy incorporates by reference those ALTA endorsements selected below:

- 4-06 (Condominium) – ME, NH and VT only
- 4.1-06 (Condominium) – MA only
- 5-06 (Planned Unit Development)
- 5.1-06 (Planned Unit Development)
- 6-06 (Variable Rate)
- 6.2-06 (Variable Rate – Negative Amortization)
- 8.1-06 (Environmental Protection Lien) (Applies to residential use only) Paragraph b refers to the following state statute(s): MA, NH, CT, VT, RI – “None”; ME – Title 38 MRSA, Section 1370
- 9-06 (Restrictions, Encroachments, Minerals)
- 13.1-06 (Leasehold Loan)
- 14.3-06 (Future Advance-Reverse Mortgage) – Residential only
- 22-06 (Location) The type of improvement is a \_\_\_\_\_, and the street address is as shown above.]
- Secondary Mortgage Market Endorsement (Note: Not an ALTA endorsement form)

**CHICAGO TITLE INSURANCE COMPANY**

BY:   
Barry J. Gordon AUTHORIZED SIGNATORY

For use with ALTA 2006 Loan Policy (6-17-06)

CTIC Form 72307

**CHICAGO TITLE INSURANCE COMPANY  
ALTA LOAN POLICY**

Loan Policy Number 72307-88501865

**SCHEDULE B - PART I  
EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Rights, facts, interests or claims of present tenants, lessees or parties in possession which are not shown by the Public Records, but which could be ascertained by an inspection of said Land or by making inquiry of persons in possession thereof.
2. Any liability for mechanics' or materialmen's liens.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

Plan entitled Existing Conditions Plan 7 Bay Street Hull dated July 21, 200 and most recently revised April 10, 2002

4. Real estate taxes, assessments and water and sewer charges which become due and payable subsequent to the Date of Policy. Taxes are paid through 3/31/2013.

5. IF THE INSURED PREMISES IS A CONDOMINIUM UNIT:

Covenants, conditions, restrictions, reservations, easements, liens for assessments, options, powers of attorney, and limitations on Title, created by the laws of the state of the insured Land or set forth in the Master Deed or Declaration of Condominium, in the related By-Laws, in the Declaration of Trust, or Site Plans and Floor Plans as duly recorded in the appropriate land records office and as the same may have been lawfully amended, and in any instruments creating the estate or interest insured by this policy.

6. There is added after any Special Exception appearing in this Schedule B relative to covenants, conditions and restrictions, the following: "...but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable, state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law."
7. The exact acreage or square footage of the Land will not be insured.

The following Exceptions from Coverage are hereby omitted from the Loan Policy only: [ X ] 1; [ X ] 2; [ X ] 3. None are omitted from the Owner's Policy unless there is an endorsement attached authorizing specific deletions.

[ ] For additional exceptions, if any, see attached Schedule B - Part I Continuation Sheet.

**CHICAGO TITLE INSURANCE COMPANY**

BY: \_\_\_\_\_

*Barry J. Gordon*  
Barry J. Gordon AUTHORIZED SIGNATORY

For use with ALTA 2006 Loan Policy (6-17-06)

CTIC Form 72307

**CHICAGO TITLE INSURANCE COMPANY  
ALTA LOAN POLICY**

Loan Policy Number: 72307-88501865

**SCHEDULE B - PART I  
CONTINUATION SHEET**

9. Pending disbursement of the full proceeds of the loan secured by the insured mortgage, this policy insures only to the extent of the amount actually disbursed, but increases as each disbursement is made in good faith and without knowledge of any defects in or objections to the title up to the face amount of the policy. At the time of each disbursement of the proceeds of the loan the title must be continued down to such time for possible liens or exceptions intervening between the date hereof and date of such disbursement.

**CHICAGO TITLE INSURANCE COMPANY**

BY: 

Barry J. Gordon AUTHORIZED SIGNATORY

**CHICAGO TITLE INSURANCE COMPANY  
ALTA LOAN POLICY**

Loan Policy Number: 72307-88501865

**LEGAL DESCRIPTION – EXHIBIT A**

51 Manomet

The land with the buildings thereon situated in Nantasket, Hull, Massachusetts, and being numbered 51 Manomet Avenue and bounded and described as follows:

A certain parcel of land with the buildings thereon situated in that part of Hull called Kenberma, and being lot #1602 shown on a plan of land of Nantasket Company, dated July 1865 made by F.M. Hersey C.E. and duly recorded with Plymouth Deeds Book of Plans 1 Page 113 bounded and described as follows:

Easterly by the westerly line of Manomet Avenue sixty (60) feet;  
Southerly by Lot #1603 on said plan one hundred seventeen and 84/100 (117.84) feet;  
Westerly by the easterly line of the location of the Nantasket Beach Railroad Company, sixty and 04/100 (60.04) feet and  
Northerly by lot #1601 on said plan one hundred twenty and 05/100 (120.05) feet.

7 Bay Street

The land in Plymouth County, Massachusetts, situated at the corner of Bay Street and George Washington Blvd and known and numbered as 7 Bay Street, Hull, Massachusetts duly recorded with Plymouth Registry of Deeds and bounded and described as follows:

That certain parcel of land being known and numbered as 7 Bay Street, Hull situated at the intersection of Bay Street and George Washington Blvd. And being shown as parcel #34002 in the records of the Hull Assessors and on the town atlas. Said property contains eighty four one hundredths (84/100) of one acre as currently constituted and shown on said Atlas together with such riparian rights and lands as have accreted and may from time to time accrete thereto and ownership of all adjoining tidal land to the low water mark thereof.

End of title legal description:

The insured premises is also more particularly described as follows on the Survey (as defined in Schedule B-Part 1)

A certain parcel of land in Hull, Massachusetts, now known as and numbered 7 Bay Street and shown on a plan entitled Existing Conditions Plan 7 Bay Street Hull dated July 21, 2000 and most recently revised April 10, 2002. Said plan was prepared by Robert E. Hannigan Associates.

The boundaries are more particularly described as follows:

Beginning at a point on the southeasterly sideline of Bay Street at a Massachusetts Highway Bound (MHB);

Thence S 76° 40' 40" W 159.54 feet to a point;  
Thence S 23° 40' 33" W 158.00 feet to a point along a licensed fill line (license #1498);  
Thence S 23° 40' 33" W to the Mean Low Water Line;  
Thence along the Mean Low Water Line to a point;  
Thence N 44° 12' 41" E to a point along a licensed fill line (license \$1398, the points at the ends of the licensed fill are 160 feet more or less apart);  
Thence N 44° 12' 41" E 176.00 feet to a point on the sideline of George Washington Boulevard;  
Thence by George Washington Boulevard along a curve to the right having a radius of 480.00 feet an arc distance of 86.04 feet to a point;  
Thence by Bay Street along a curve to the left having a radius of 25 feet an arc distance of 40.54 feet to the point of beginning.

**CHICAGO TITLE INSURANCE COMPANY  
ALTA LOAN POLICY**

Loan Policy Number: 72307-88501865

**SCHEDULE B – PART II**

In addition to the matters set forth in Part I of this Schedule, the Title to the estate or interest in the Land described or referred to in Exhibit A is subject to the following matters, and the Company insures against loss or damage sustained in the event that such matters are not subordinate to the lien of the Insured Mortgage upon the estate or interest:

**7 Bay Street**

1. Discharge and release of mortgage to Mt. Washington Bank recorded in Book 35319, Page 165.
2. 1. Subject to Order of Conditions recorded in Book 34824, Page 192 , extended to Book 38651, Page 347.
3. 2. Subject to Order of Conditions recorded in Book 37252, Page 72.

**51 Manomet Avenue**

1. Subject to a prior first mortgage to Countrywide Home Loans, Inc. dated 2/9/2004 recorded in Book 27555, Page 264.
2. Subject to a prior mortgage to Direct Federal Credit Union dated 5/18/06 recorded in Book 32795, Page 48.

**CHICAGO TITLE INSURANCE COMPANY**

BY: \_\_\_\_\_

  
Barry J. Gordon AUTHORIZED SIGNATORY



Bk: 45519 Pg: 22 Page: 1 of 6  
Recorded: 05/07/2015 09:54 AM  
ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

**SUBORDINATION AND COLLATERAL ASSIGNMENT AGREEMENT**

**THE ESTUARY CONDOMINIUM**

THIS AGREEMENT made as of the 23<sup>rd</sup> day of April, 2015 is by and between UNITED BANK, a Connecticut state chartered bank having a place of business at 95 Elm Street, West Springfield, Massachusetts 01089 and an office at 33 Waldo Street, Worcester, Massachusetts 01608 (hereinafter referred to as "Lender"), and 7 BAY CORP., a Massachusetts corporation with its principal place of business at 51 Manomet Avenue, Hull, Massachusetts 02045 (hereinafter referred to as "Borrower"). All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in a Mortgage, Security Agreement and Assignment of Rents and Leases dated March 19, 2013 from Borrower to Lender and recorded with the Plymouth County Registry of Deeds (the "Registry") in Book 42826, Page 329 (the "Mortgage").

WITNESSETH:

WHEREAS, in order to secure the repayment of all obligations of Borrower to Lender of whatever kind and description, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, due or to become due, or held or to be held by, Lender for its own account or as agent for another or others, whether created directly or acquired by assignment or otherwise and howsoever evidenced, whether now existing or hereafter incurred or acquired and whether by way of loan, guaranty, discount, letter of credit, lease or otherwise, including without limitation, repayment of the Loans (collectively, the "Obligations"), Borrower granted Lender, *inter alia*, a mortgage lien on and security interest in property at 7 Bay Street, Hull, Massachusetts, more particularly described in Exhibit A attached hereto (the "Premises") and in connection therewith executed and delivered to Lender the Mortgage, a Term Promissory Note in the original principal amount of \$2,600,000.00, a Revolving Note in the original principal amount of \$375,000.00, and other instruments and documents (collectively, the "Mortgage Documents"); and

WHEREAS, Borrower has caused to be recorded with the Registry a Master Deed establishing The Estuary Condominium, dated April 22, 2015 and recorded April 27, 2015 in Book 45472, Page 275 (the "Master Deed") and a Declaration of Trust establishing The Estuary Condominium Trust, dated April 22, 2015 and recorded April 27, 2015 in Book 45472, Page 292 (the "Declaration of Trust"), whereby Borrower submitted the Premises to the Massachusetts Condominium Ownership Act, M.G.L. Chapter 183A (the "Act") in order to develop the Premises as a condominium project; and

WHEREAS, Borrower has requested that Lender subordinate its rights under the Mortgage to the Master Deed, and Lender is willing to do so provided that Borrower assigns and grants to Lender a security interest in and to all rights of Borrower under the Master Deed and

Locus: 7 Bay St, Hull, MA 02045.

the Declaration of Trust, including without limitation its rights as Declarant under the Master Deed, as additional security for the Obligations.

**NOW, THEREFORE**, in consideration of the premises and other valuable consideration paid and received, the parties hereto agree as follows:

1. Lender hereby subordinates the lien, operation and effect of only so much of the Mortgage as pertains to the Premises to the covenants, conditions, easements and other provisions of the Master Deed as if the Master Deed was executed and recorded prior to the execution and recordation of the Mortgage.
2. As additional collateral security for the payment, performance and observance of the terms of the Obligations, including the Mortgage Documents, Borrower hereby assigns and grants to Lender a security interest in and to all rights of Borrower under the Master Deed and the Declaration of Trust (including, without limitation, all of Borrower's rights as Declarant including all of Declarant's reserved rights), including any amendments and the related documents thereto.
3. So long as no Event of Default shall exist under the Mortgage, Borrower shall have a license to exercise its rights under the Master Deed and the Declaration of Trust, except as provided in subparagraph 6(b) hereof.
4. If an Event of Default under any of the Mortgage Documents shall occur and not be cured within thirty (30) days, the license referred to in paragraph 3 hereof shall cease and determine, and in such event Lender is authorized to enter and take possession of the Premises by actual physical possession or by notice to Borrower duly given, as Lender may elect, without further authorization, notice or demand, and without the commencement of any action to foreclose the Mortgage.
5. Borrower does hereby constitute and appoint Lender following such entry and taking of possession, irrevocably, with full power of substitution and revocation, its true and lawful attorney for it and in its name, place and stead, to do and perform any or all of the actions that Borrower would be entitled to do and perform as said Declarant as fully and to all intents and purposes as it could do if personally present, hereby ratifying and confirming all that its said attorney or its substitute shall lawfully do or cause to be done by virtue hereof.
6. Borrower covenants and agrees:
  - (a) to observe and perform all covenants of the Master Deed, the Declaration of Trust, and any related documents on the part of Declarant therein to be observed or performed;
  - (b) not to alter or modify the Master Deed or the Declaration or Trust in any respect without obtaining the prior written consent of Lender, which consent shall not be unreasonably withheld.

7. Prior to any entry into and any taking possession of the Premises by Lender, said assignment shall not obligate Lender to perform any of the terms, conditions, covenants or other obligations contained in the Master Deed, the Declaration of Trust, or any related documents nor shall it subject Lender to any liabilities imposed upon a declarant by any of such documents or the Act.

8. Borrower hereby agrees to indemnify and hold Lender harmless against and from (a) any and all liability, loss, damage and expense, including reasonable attorneys' fees, which it may incur or which may be asserted under or in connection with this Agreement, the Master Deed, the Declaration of Trust, or any related documents or by reason of any action taken by Lender under the Mortgage Documents (including without limitation any action which Lender in its discretion may take to protect its interest in the Premises), and (b) any and all claims and demands whatsoever which may be incurred by or asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants and conditions contained in the Master Deed, the Declaration of Trust, or any related documents. Should Lender incur any such liability the amount thereof, together with interest thereon at the highest rate applicable to any of the Obligations, shall be payable by Borrower to Lender immediately upon demand, or at its option, Lender may reimburse itself therefor out of any rents, sales proceeds or other income of Borrower related to the Premises collected by Lender and shall be secured by the Mortgage Documents until paid.

9. Failure of Lender to avail itself of any of the terms, covenants and conditions of this Agreement for any period of time, or at any time or times, shall not be construed or deemed to be a waiver of any of the rights hereunder. The rights and remedies of Lender under this Agreement are cumulative and are not in lieu of but are in addition to any other rights and remedies which Lender has or shall have under or by virtue of the Mortgage Documents. The rights and remedies of Lender hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

10. Lender shall have the right to assign to any subsequent holder of the Mortgage Documents, or to any person acquiring title to the Premises, Lender's rights, title and interest in the Master Deed, the Declaration or Trust and related documents hereby or hereafter assigned, subject, however, to the provisions of this Agreement.

11. Upon payment in full of all of the Obligations, as evidenced by a recorded satisfaction or release of the Mortgage, as well as any sums which may be payable hereunder, the assignment herein by Borrower to Lender of the former rights under the Master Deed, the Declaration of Trust and related documents shall become and be void and of no effect and, in that event, upon the request of Borrower, Lender covenants to execute and deliver to Borrower instruments effective to evidence the termination of said assignment and/or the reassignment to Borrower of the rights, power and authority granted herein.

12. Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter "Notices") shall be deemed sufficient if in writing and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to



receive such Notice at its address set forth above or at such other address as such party may hereafter designate by Notice given in like fashion. Notices shall be deemed given when mailed.

13. All of the provisions of this Agreement shall be deemed and construed to be "conditions" and "covenants" as though the words specifically expressing or importing conditions and covenants were used in each separate provision hereof.

14. No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless Lender shall have consented thereto in writing.

15. The terms, covenants and conditions contained herein shall inure to the benefit of, and bind Borrower and Lender and their respective successors and assigns.

IN WITNESS WHEREOF, Borrower and Lender have caused these presents to be duly executed as an instrument under seal as of the day and year first above written.

7 BAY CORP.

[Signature]  
Witness James R. Babcock

By: [Signature]  
Name: Steven Buckley  
Title: President and Treasurer

UNITED BANK

[Signature]  
Witness to Steven Buckley

By: [Signature]  
Name: James R. Babcock  
Title: Vice President

THE COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss.

On this 6 day of May, 2015, before me, the undersigned notary public, personally appeared Steven Buckley, President and Treasurer of 7 Bay Corp., proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and as his free act and deed as President and Treasurer of 7 Bay Corp.

(official seal)

[Signature]  
Notary Public  
My commission expires: 10-26-18  
JULIO R. HERNANDO  
Notary Public  
Commonwealth of Massachusetts  
My Commission expires on October 26, 2018

THE COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 23<sup>RD</sup> day of April, 2015, before me, the undersigned notary public, personally appeared JAMES R. BASCOCK of United Bank, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and as his free act and deed as VICE-PRESIDENT of United Bank.

 (official seal)

Notary Public

My commission expires



RICHARD A. SHEILS, JR.  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires February 16, 2018

Richard A Sheils JR

exp 2-8-19