

**TERMS AND CONDITIONS OF MORTGAGEE'S SALE  
PURSUANT TO 14 M.R.S.A. § 6323**

**Place of Sale:** 36 Brunswick Avenue, Gardiner, Maine

**Date and Time of Sale:** Wednesday, October 14, 2020 at 11:00 AM

1. This sale is conducted by virtue and in execution of and in accordance with the Consent Judgment of Foreclosure and Order of Sale entered April 17, 2020 by the Maine District Court in the case of People's United Bank, N.A. v. Gregg M. Donovan-Kaloust, et al. Docket No. AUGDC-RE-2019-068 ("Judgment"), and wherein the Court adjudged a foreclosure of a Mortgage Deed recorded in the Kennebec County Registry of Deeds in Book 11259, Page 56 ("Mortgage"), for property located at 36 Brunswick Ave., City of Gardiner, County of Kennebec and State of Maine (the "Property"), the period of redemption from said Judgment having been expired. The sale is made in accordance with, and subject to, the Notice of Real Estate Foreclosure Auction Pursuant to 14 M.R.S.A. § 6323 published in the Kennebec Journal, a newspaper of general circulation in Kennebec County on September 11, 18 & 25, 2020.

2. The sale is conducted by People's United Bank, N.A. ("Seller") pursuant to the Judgment and 14 M.R.S.A. §§ 6321 - 6325.

3. The Property is described in the Mortgage and shall be sold free and clear of any superior mortgage held by People's United Bank, N.A., if any.

4. The Property shall be sold subject to:

a. any exception, reservation, restriction, easement or condition set out in Exhibit A attached to the form Purchase and Sale Agreement;

b. any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records;

c. any lien relating to hazardous materials or hazardous substance sites, including, without limitation, any liens pursuant to 38 M.R.S.A. §§ 1731, *et seq.*, imposed by law and not shown by the public records;

d. any and all provisions of existing environmental, building, zoning planning, and land use laws and any matters covered or governed by any of the same;

e. any and all other real property taxes and municipal or quasi-municipal charges and assessments, which taxes, charges and assessments Purchaser hereby assumes and agrees to pay;

f. rights of redemption of the United States of America, Internal Revenue Service pursuant to 28 U.S.C. § 2410(c), and any other rights of redemption with respect to the interests of governmental or quasi-governmental units, agencies or entities, including, without limitation, taxing authorities holding liens against the Property;

g. discrepancies, conflicts in boundary lines, shortages in area, encroachments or any other matters as would be revealed by a physical inspection of the Property or an accurate survey thereof;

h. all rights, restrictions, easements, encumbrances, improvements, outstanding tax titles, municipal or other public taxes, assessments, liens or claims in the nature of liens and existing encumbrances of record created prior to the Mortgage as well as any benefit thereof to the extent in force and applicable;

i all matters set forth in the Judgment; and

j. any other matters announced orally at the sale

5. The Property is sold subject to leases, tenancies, occupants and parties-in-possession, if any. The Property is also sold subject to easements, rights, restrictions and encumbrances affecting the Property to the extent in force and applicable, and also subject to any conditions or state of affairs as would be revealed by a physical inspection of the Property or by a survey of the Property.

6. The deed to the Purchaser will be a Quitclaim Deed Without Covenant from Seller as mortgagee. Purchaser agrees to pay all transfer or stamp taxes that may be due in connection with the transfer and/or the recording of the Quitclaim Deed Without Covenant, including without limitation, State of Maine transfer taxes assessed to both “grantor” and “grantee.”

7. The Property shall be sold at public sale to the highest qualified bidder. Any and all persons wishing to bid for the Property must, prior to the start of the auction, register with Keenan Auction Co., Inc. sign an agreement to be bound by the terms of sale and pay a deposit in cash or certified funds made payable to James R. St. Jean Auctioneers (“Auctioneer”) in the amount of Five Thousand Dollars (\$5,000.00) (“Deposit”). The successful bidder must increase the Deposit to ten percent (10%) of the purchase price within five (5) business days of the public sale by cash or certified funds to be received by Auctioneer. Unsuccessful bidders shall receive a refund of their deposit immediately following the auction. As to the successful bidder (the “Purchaser”), the Deposit shall be nonrefundable, and it will be credited to the purchase price. The Purchaser will be required to sign a Purchase and Sale Agreement at the conclusion of the auction in the form provided by the Seller. The balance of the purchase price shall be due and payable in certified funds at closing which shall occur on or before **Friday, November 13, 2020** at a time of day and place to be designated by Seller. At said closing, the Seller shall present the Purchaser with a Quitclaim Deed Without Covenant thereby releasing the Property to the Purchaser. If the Purchaser fails to pay the Purchase Price within the time set forth or otherwise fails to perform in accordance with the terms or provisions of the Purchase and Sale Agreement, the Seller shall retain all deposits paid thereunder as liquidated damages. In addition, the Property may be resold in any manner to any party and any deficiency, together with expenses and costs of re-sale, including reasonable attorneys’ fees and costs, will be paid by the defaulting successful bidder. Without limiting the generality of the foregoing, upon default by the Purchaser, the Seller shall also have the right, at its sole option, to purchase the Purchaser’s rights under the Purchase and Sale Agreement for the sum of \$1.00 and resell the Property as assignee of the defaulting Purchaser’s rights thereunder free and clear of all claims of the defaulting successful bidder, such successful bidder hereby assigning effective as of the date of such default all his right, title, and interest under

this contract to the Seller conditioned upon the Seller's depositing in the U.S. Mails postage prepaid, cash or check for \$1.00 addressed to the defaulting successful bidder at the address provided in the Purchase and Sale Agreement. Seller may also in its discretion enter into a Purchase and Sale Agreement with the next highest bidder at the public sale.

8. The sale is subject to all of the terms set forth in the Purchase and Sale Agreement, the form of which is included in the Property Information Package.

9. Seller reserves the right to bid at the auction without making the required deposit and, should the Seller, its successors and/or assigns be the successful high bidder, to pay for the property with credit against the indebtedness owed to the Seller. Seller also reserves the right to make a junior bid at the completion of the auction proceedings. Seller reserves the right to take recesses in the auction process from time to time as Seller sees fit and/or to modify or amend the terms of sale in the Seller's discretion, either orally or in writing. Seller reserves the right to refuse to accept any irregular bid or bids that do not comply with the terms of sale.

10. The public sale may be adjourned, for any time not exceeding 60 days, by announcement to those present at any such adjournment. Auctioneer is authorized to enter bids on behalf of the Seller at the Seller's direction. Seller is not required to pay a deposit to bid.

11. Auction Procedure: Open and verbal. Unless otherwise stated, announcements made on the day of the sale will be subject to all printed material. The method, order of sale, and bidding increments shall be at the sole discretion of the Auctioneer. The Auctioneer will acknowledge the high bidder at the conclusion of the sale. The high bidder will be required to enter into a purchase and sale agreement with the Seller at the conclusion of the auction.

12. The risk of loss or damage to the Property by fire or otherwise from and after the date of the public sale is assumed by the Purchaser.

13. Disclaimer. The Property is sold **WITHOUT RECOURSE** and on an **"AS IS", "WHERE IS" "AND WITH ALL FAULTS"** basis. **SELLER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** Neither Seller nor any of its agents makes any representation or warranty of any kind or nature regarding the Property. Purchaser acknowledges that Purchaser has been given the opportunity to and has made such physical inspection of the Property and such inspection of all public records regarding the Property as Purchaser deems fit, and that no representations or warranties concerning the title to the Property or its compliance with any applicable zoning, environmental or land use regulations, laws or ordinances have been made or are being made by Seller or any of its agents or representatives on behalf of Seller. The Purchaser shall assume responsibility and expense for any title search, title examination or title insurance. **THE SELLER/AUCTIONEER EXPRESSLY AND SPECIFICALLY MAKES NO, AND SHALL MAKE NO, REPRESENTATIONS OR WARRANTIES REGARDING HAZARDOUS OR TOXIC WASTE, SUBSTANCES, MATTERS OR MATERIALS, AS THOSE TERMS MAY BE DEFINED FROM TIME TO TIME BY APPLICABLE STATE, LOCAL AND FEDERAL LAWS, STORED OR OTHERWISE LOCATED ON THE PROPERTY.**

14. Bidder's Card: By signing for a bid number, the bidder has signed a written and binding contract agreeing to all of the terms and conditions set forth herein. If you do not agree

with any of the terms or conditions set forth above, please return your bid number to the auctioneer immediately. **If you do not agree to these terms, please return your bidding card to the auctioneer at this time.** This sale shall be governed by 14 M.R.S.A. §§ 6321, *et seq.* and the procedures shall be governed by 11 M.R.S.A. § 2-328 to the extent not otherwise provided in these terms of sale and 14 M.R.S.A. §§ 6321, *et seq.* Maine auctions are under the jurisdiction of the State of Maine Department of Professional and Financial Regulations, Board of Licensure of Auctioneers, 35 State House Station, Augusta, Maine 04330.

15. **Absentee Bids:** Absentee or Proxy Bids are subject to all Terms and Conditions of Sale as listed herein or announced at the public sale. Any party submitting a proxy bid must be available, or have a representative available, to execute a Purchase and Sale Agreement at the time of the Sale, and such representative must provide documentation satisfactory to Auctioneer and/or Seller that the representative is duly and appropriately authorized to act on behalf of the parties submitting the proxy bid.

16. **Conflict With Purchase and Sale Agreement:** In the event of a conflict between these Terms and Conditions of Sale and the terms of the Purchase and Sale Agreement executed by the Seller and the successful bidder, the Purchase and Sale Agreement shall control.

17. **Public Auction Bid Price Disclosure:** The Seller and all bidders authorize the Auctioneer, its agents and employees, to disclose the public auction bid prices to any party prior to the actual closing date, and in the event of a non-confirmed, canceled, or defaulted sale.

18. **No Broker Commissions.** Seller will not pay a commission to a broker or agent representing the successful Purchaser.

19. **Lead-based Paint and/or Lead-based Paint Hazards:** Purchaser hereby acknowledges that he/she/it has waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards and has received a copy of the U.S. Environmental Protection Agency's pamphlet entitled "Protect Your Family From Lead In Your Home."