

**MEMORANDUM OF TRUSTEES' SALE**

THIS MEMORANDUM OF TRUSTEES' SALE is made this 12th day of August, 2020, by and between the undersigned purchaser (the "Purchaser") and Bryson J. Hunter, Peter M. Pearl, and F. B. Webster Day, Substitute Trustees ("Substitute Trustees").

As used herein:

"Purchaser" means \_\_\_\_\_ ;

"Property" means: 1708 US Highway 19, Lebanon, Virginia ;  
Tax Map/ID 119L-IE-1283C5

All of that certain parcel of land situate, lying and being in the Lebanon Magisterial District of Russell County, Virginia, designated as Parcel "D", containing 1.0435 acres, more or less, on that certain plat dated January 4, 1990, and revised January 10, 1990, as prepared by L.K. Addison, C.L.S., and entitled "PROPERTY OF LEONARD CENTERS, INC., DAVID A. LEONARD OWNER SITUATED AT HANSONVILLE, LEBANON MAG. DIST.," and being more particularly described by metes and bounds as follows:

PARCEL "D": BEGINNING at a point in the southeast edge of a 50-foot right of way; thence, continuing along said 50-foot right of way, N 35 degrees 08' 19" E. 200.00 feet to a point; thence, with the line of Parcel "E", S 38 degrees 33' 44" E 250.13 feet to a point; thence, with the line of Parcel "G", S 38 degrees 28' 14" W 184.81 feet to a point; thence, with the line of Parcel "C", N 41 degrees 26' 56" W 235.76 feet to the point of BEGINNING, containing 1.0435 acres, more or less.

TOGETHER with a non-exclusive 50-foot wide right of way easement for purposes of ingress and egress to and from State Route No. 19 as described in deed dated April 15, 2009 and of record in Deed Book 704, Page 208.

BEING the same property conveyed to Advance Diagnostic & Truck Repairs, L.L.C., a Virginia Limited Liability Company, by Deed from D. Carter McGlothlin, dated April 15, 2009, filed for record in the Clerk's Office of the Circuit Court of Russell County, Virginia in Deed Book 704, Page 208. Reference is further made to that deed to Advanced Diagnostic and Truck Repairs, Inc., a Virginia Corporation, dated December 27, 2013 and to be filed for record in the aforesaid Clerk's Office prior to this deed of trust.

There is further granted and conveyed a non-exclusive 50-foot-wide right of way and easement to be shared with other owners of land along with Leonard Centers, Ltd., for purposes of ingress and egress to and from State Route No. 19, being a four-lane highway, the property hereinabove conveyed. This 50-foot-wide right of way and easement is to be shared for purposes of ingress and egress to other properties of Leonard Centers, Ltd., and is designated and described on that certain plat hereinabove referred to and is more particularly described by metes and bounds in the aforesaid deed to D. Carter McGlothlin, reference to which is hereby made and which are incorporated herein for a more full and complete description of said right of way.

"Beneficiary" means: Truist Bank, f/k/a Branch Banking and Trust Company.

"Purchase Price" means \$ \_\_\_\_\_ ;

"Deposit" means \$ \_\_\_\_\_ .

**WITNESSETH:**

In execution of and pursuant to a Deed of Trust dated January 9, 2014, recorded in the Clerk's Office of the Circuit Court of Russell County, Virginia, as Instrument No. 1400056, and in execution of and pursuant to that certain Substitution of Trustee installing Bryson J. Hunter, Peter M. Pearl and F. B. Webster Day, any one of whom may act, as Substitute Trustees, which was recorded in the foregoing Clerk's Office in as Instrument No. 2001227 (collectively, hereinafter the "Deed of Trust"), securing among other things, the payment of indebtedness in the principal amount of \$372,000.00 and conveying certain real property more particularly described or included in said Deed of Trust, the Purchaser does hereby agree to purchase the Property from the Substitute Trustees for a sum equal to the Purchase Price, in cash, in accordance with the Notice of Trustee's Sale attached and the terms of this Memorandum.

The Substitute Trustees hereby acknowledge receipt from Purchaser of the Deposit, which shall be applied against the Purchase Price at settlement. In connection with such sale, Purchaser acknowledges and agrees to the terms and conditions as stated in the Notice of Trustee's Sale and further agrees:

- (1) The Property is sold "AS IS" without any representation or warranty as to the condition of the Property or the fitness of such property for any particular purpose and subject to the rights of any parties in possession and to such covenants, declarations, conditions, easements, restrictions, reservations, encumbrances, deeds of trust, defects, delinquent assessments, adverse claims and liens, whether filed or inchoate, if any, superior to the lien of the Deed of Trust affecting such Property, duly of record and constituting constructive notice. In addition, the Property shall be conveyed subject to such matters as would be disclosed by a physical inspection of the Property or any such matters that would be disclosed by an accurate and current physical survey of the Property. Purchaser is responsible for evicting holdover tenants, if any. The sale shall be in gross and not by the acre;
- (2) The risk of loss from fire, casualty, or otherwise, and all liabilities of ownership of the Property passed to, and shall remain with, Purchaser upon his making the successful bid;
- (3) The Substitute Trustees will by special warranty deed convey title to Purchaser, subject to all existing easements, restrictive covenants, obligations, and tenancies as the same may lawfully apply to the Property to the extent any of them have priority over the lien of the Deed of Trust. The expense associated with the preparation of the special warranty deed shall be borne by Purchaser;
- (4) If the Substitute Trustees are unable to convey title to the subject Property for any reason, the sole remedy of Purchaser is the return of the Deposit. Reasons of such inability to convey include, but are not limited to, the filing of a bankruptcy petition prior to the sale and reinstatement or payoff of the loan without the knowledge of the Substitute Trustees. If the validity of the sale is challenged by a party in interest, the Substitute Trustees, in their sole discretion, if they believe the challenge to have merit, may declare the sale to be void and return the Deposit. Purchaser will have no further remedy;
- (5) Settlement will be conducted by a settlement agent or attorney selected by Purchaser and at a location selected by Purchaser, with both the settlement agent and location subject to Substitute Trustees' approval, which shall not be unreasonably withheld, on or before on or before **September 12, 2020**. Time is of the essence in the settling of this transaction. All real estate taxes constituting a lien on the Property shall be pro-rated as of the date of this Memorandum. The Purchaser shall be responsible for any land use or roll-back taxes, if any. All other recordation taxes and fees including Grantor's tax on the deed, costs of title insurance, express mail and courier charges, and all other costs of settlement are to be borne by Purchaser. The balance of the Purchase Price shall be paid by Purchaser by cashier's check, certified check or by wire transfer (same day funds);
- (6) Obtaining possession of the Property shall be at the sole cost, risk, and expense of Purchaser;
- (7) No personal property is included with the sale of the Property.

Should Purchaser default in making settlement, the Deposit will be forfeited and applied to the costs and expenses of sale and then to the balance of the Note, and the Property will be resold at the risk and expense of Purchaser. Purchaser shall be liable to the Substitute Trustees (i) for any deficiency resulting from the resale of the Property at a lower price, (ii) for all costs and expenses incurred by the Substitute Trustees and Beneficiary in connection with the original sale, and (iii) all costs and expenses incurred by the Substitute Trustees and Beneficiary in connection with reselling the Property, including any and all attorney's fees incurred by the Substitute Trustees and Beneficiary arising out of this sale, including, but not limited to, the cost of and attorney's fees and expenses associated with any action to enforce the terms of this agreement.

Purchaser must sign this memorandum to evidence Purchaser's understanding of its terms and to evidence Purchaser's agreement to comply fully with its terms.

**THESE TERMS HAVE BEEN ANNOUNCED AT SALE.**

WITNESS the following signatures and seals this 12th day of August, 2020.

**PURCHASER:**

**If purchased by a business:**

Company Name: \_\_\_\_\_

\_\_\_\_\_

Sign: \_\_\_\_\_

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**If purchased by individual:**

Sign: \_\_\_\_\_

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

(Print)

Sign: \_\_\_\_\_

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

(Print)

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Settlement Agent (if known): \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**SUBSTITUTE TRUSTEES:**

\_\_\_\_\_  
Peter M. Pearl, Substitute Trustee  
Spilman Thomas & Battle, PLLC  
310 First Street, Suite 1100  
Roanoke, Virginia 24011  
540-512-1800

Exhibit A  
**NOTICE OF TRUSTEE'S SALE**  
1708 US Highway 19, Lebanon, Virginia 24266  
Tax Map/ID 119L-IE-1283C5  
RUSSELL COUNTY, VA

In execution of a credit line deed of trust dated January 9, 2014 (the "Deed of Trust"), recorded in the Office of the Circuit Court of Russell County, Virginia, as Instrument No. 1400056, the undersigned substitute Trustees, any or all of whom may act, will offer for sale at or near 1708 US Highway 19, Lebanon, Virginia, on **August 12, 2020, at 12:00 o'clock p.m.**, property located at 1708 US Highway 19, Lebanon, Russell County, Virginia, which property is more particularly described as follows:

All of that certain parcel of land situate, lying and being in the Lebanon Magisterial District of Russell County, Virginia, designated as Parcel "D", containing 1.0435 acres, more or less, on that certain plat dated January 4, 1990, and revised January 10, 1990, as prepared by L.K. Addison, C.L.S., and entitled "PROPERTY OF LEONARD CENTERS, INC., DAVID A. LEONARD OWNER SITUATED AT HANSONVILLE, LEBANON MAG. DIST.," and being more particularly described by metes and bounds as follows:

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This sale is subject to all liens, easements, restrictions, conditions, and reservations of record affecting the title to the property hereinabove described, to the extent any of them have priority over the lien of the Deed of Trust.

**TERMS AND CONDITIONS:**

1. Registration: Bids will only be accepted from registered bidders. Your driver's license and a cashier's or certified check in the amount of 10% of the bidder's high bid will be required to register.

2. Deposit: The successful bidders will be required to sign a Memorandum of Sale immediately following the falling of the hammer, and the cashier's or certified check, as described above, will be delivered to the Substitute Trustee. The deposit will be applied to the purchase price at closing. The deposit is non-refundable unless Seller is unable to convey marketable title. Closings are to take place within 30 days of sale. **Time is of the essence.**

3. Deed: The property will be conveyed by Special Warranty Deed.

4. Announcement: Announcements made on the day of sale, take precedence over all prior communications, both verbal and written, concerning the sale or the property.

5. Buyer's Premium: There will be a 5% Buyer's Premium in effect on the day of sale. The Buyer's Premium is added to the high bid amount, to determine the Contract Sale Price. On-line Bidding using the Auction Company's APP 'walkercommercialservices' available if bidder complies with Terms and Conditions for On-Line Auction Bidding and registers on or prior to August 9, 2020 at 5:00 p.m.

6. "As-Is, "Where-Is": The property is being sold "AS-IS", "WHERE-IS". Potential Buyers must perform such independent investigations with respect to the property as they deem necessary to verify information provided by the Auction Company or the Seller.

7. Advertisements: All information provided by Auction Company and the Seller is deemed reliable but is not warranted. The information contained in the advertisement brochure and any advertisements by Auction Company are subject to verification by all parties relying on it. No liability for its accuracy, error or omission is assumed by the Auction Company or the Seller.

8. Representations: Auction Company and its representatives represent the foreclosing party.

9. Bid Increments: Auctioneer reserves the right to set bid increments.

10. Type of Auction: This Auction is an Absolute Auction - regardless of price.

11. Lines on Photographs: The lines drawn on the photographs in the marketing materials are not exact. Refer to the survey for the actual property lines.

Bryson J. Hunter, F. B. Webster Day and Peter M. Pearl, Substitute Trustees

For Information Contact:

Peter M. Pearl

[ppearl@spilmanlaw.com](mailto:ppearl@spilmanlaw.com)

Spilman Thomas & Battle, PLLC

P.O. Box 90

Roanoke, Virginia 24002

540-512-1800 Telephone