(Revised 10-08-15)(Word with Checkboxes)

At a term of Supreme Court of the State of New York held in and for the County of _____, at the _____County Courthouse, _____, New York, on the ____ day of _____, 20__.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

PRESENT: HON. _____

_____

Plaintiff,

-v-

Defendant(s).

_____

JUDGMENT OF FORECLOSURE AND SALE

Index No:
RJI No:

Property Address:

[***PLAINTIFF'S COUNSEL MUST CHECK AND COMPLETE ALL APPLICABLE ENTRIES IN THIS JUDGMENT OF FORECLOSURE EXCEPT AS OTHERWISE NOTED***]

Plaintiff having moved this Court for a Judgment of Foreclosure and Sale,

NOW, upon plaintiff's ☐ ex parte application or ☐ motion heard on _____

at which time ☐ plaintiff / ☐ defendant appeared, ☐ or no appearances were required, and upon all prior proceedings herein, and upon

1) the Summons and Complaint filed on _____;

2) the Notice of Pendency filed on _____;

3) the Affirmation of _____ affirmed on _____, with Exhibits ___ - ___ annexed;

4) the Affidavit of _____ dated _____, with Exhibits ___ - ____ annexed;

5) the Report of the Referee, _____, Esq. dated _____, by which Report it appears that the sum of $_____ was due as of _____, and the mortgaged premises should be sold in

☐ one parcel or ☐ _____;

6) proof of service upon all parties entitled to notice of this application for a Judgment of Foreclosure and Sale:

7) other [specify]: _____;

it is hereby

Ratification of Referee's Report

ORDERED, ADJUDGED and DECREED that to the extent provided for herein the Report of Referee _____, Esq. dated _____ be and the same hereby is ratified and confirmed; and it is further

Sale Instructions

ORDERED, ADJUDGED and DECREED that the above-described mortgaged premises, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the Real Property Actions and Proceedings Law, be sold in

☐ one parcel or ☐ _____ at public auction

on the Second Floor of the _____Courthouse, _____, _____, New York in the public meeting area located outside the main entrance of the _____ County Clerk's Office by and under the direction of the Referee who is appointed herein for that purpose, and

the Referee shall set the date of sale and give public notice of the time and place of sale in accordance with RPAPL §231 in the Syracuse Post-Standard; and

[*The Court Will Initial the Applicable Provision Below*]

☐ the Referee shall conduct the foreclosure sale within 90 days of entry of this Judgment of Foreclosure;

☐ the Referee shall conduct the foreclosure sale on or before _____;

and it is further

Initial Bid Instructions

ORDERED, ADJUDGED and DECREED that the Referee shall accept at such sale the highest bid offered by a bidder who shall be identified upon the court record and shall require that such successful bidder immediately execute Terms of Sale for the purchase of the premises and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the successful bidder is the plaintiff in which case no deposit against the purchase price shall be required;
and it is further

Subsequent Bid Instructions

ORDERED, ADJUDGED and DECREED that in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject premises or fails to immediately pay the ten percent (10%) deposit as required, the premises shall immediately and on the same day be reoffered at auction; and it is further

Closing of Title

ORDERED, ADJUDGED and DECREED that the closing of title shall take place at the office of the Referee or at such other location as the Referee shall determine and the closing of title and filing of the Referee's deed shall be made within forty-five (45) days after such sale unless otherwise

stipulated to by all parties. The Referee shall transfer title only to the successful bidder at the auction. Any delay or adjournment of the closing date beyond forty-five (45) days may be stipulated to by the parties with the Referee's consent up to ninety (90) days from the date of sale. Any adjournment beyond ninety (90) days may be set only with approval of this Court; and it is further

Deposit of Funds

ORDERED, ADJUDGED and DECREED that the Referee shall deposit all funds received pursuant to this Judgement of Foreclosure and Sale in the Referee's IOLA account; and it is further

Payments from Funds

ORDERED, ADJUDGED and DECREED that the Referee on receiving the proceeds of such sale shall cause to be paid promptly therefrom:

FIRST: The statutory fees and commissions of the Referee pursuant to CPLR §8003(b) in the amount of $500.00. In the event a scheduled sale is cancelled or postponed by a person or entity other than the Referee, or the action is discontinued, pursuant to CPLR §8003(a) the plaintiff shall pay to the Referee the sum of $350.00 for each adjournment or cancellation, and for any discontinuance. Such compensation may be recouped from the proceeds of sale as a cost to plaintiff. This Judgement of Foreclosure and Sale constitutes the necessary prior authorization for compensation as set forth herein. No compensation totaling in excess of $750.00, including compensation authorized pursuant to CPLR §8003(a) for computation of the sum due to plaintiff, may be accepted by the Referee without Court approval and compliance with the provisions of 22 NYCRR §36.4.

SECOND: The reasonable expenses of the sale, including the cost of advertising as shown on the bills presented and certified by the Referee to be correct, copies of which shall be annexed to the Report of Sale. The Referee shall not be held responsible for the payment of penalties or fees

pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed.

THIRD: Pursuant to RPAPL §1354 in accordance with their priority according to law, all taxes, assessments, sewer rents, water rates and any other charges placed upon the premises by any municipal authorities having priority over the foreclosed mortgage and which are liens on the premises at the time of sale, with such interest or penalties that lawfully may have accrued thereon to the date of payment.

FOURTH: as limited herein, to the plaintiff or its attorneys

(a) [*to be inserted by the Clerk*] the sum of $_____ for costs and disbursements in this action to be taxed by the Clerk, with interest from the date hereof;

(b) the sum of $_____, the amount reported by the Referee and/or approved by the Court as due, together with interest thereon pursuant to the terms of the Note from _____, the date to which interest was calculated in the Report of the Referee through the date of entry of this Judgment of Foreclosure and Sale, and thereafter at the statutory post-judgment rate to the date of transfer of title, or so much thereof as the purchase money of the mortgaged premises will pay of the same;

(c) [*to be inserted by the Court*] the sum of $_____ hereby awarded to the plaintiff as reasonable legal fees as provided for in the Mortgage;

(d) the amount of any advances provided for in the Note and Mortgage that plaintiff may have made for taxes and insurance, and amounts due to prior mortgagors, upon presentation to the Referee of receipts for these expenditures;

(e) the amount of any advances provided for in the Note and Mortgage that plaintiff reasonably may have made to maintain the premises pending consummation of the foreclosure sale upon presentation to the Referee of receipts for these expenditures.

Notwithstanding sub-paragraphs **FOURTH(b)** and **FOURTH(e)** above, plaintiff may recover interest for only ninety (90) days after the date of this Judgment of Foreclosure and Sale, and plaintiff may recover up to a maximum of only $250.00 for any maintenance or premise preservation expenses after the date of this Judgment of Foreclosure; and it is further

Report of Sale

ORDERED, ADJUDGED and DECREED that the Referee shall timely file the Referee's Report of Sale and plaintiff shall timely move to confirm the Referee's Report of Sale pursuant to RPAPL §1355; and it is further

Plaintiff as Purchaser

ORDERED, ADJUDGED and DECREED that in the event plaintiff purchases the mortgaged premises at the sale, the Referee shall not require the plaintiff to pay in cash the entire amount bid at the sale but shall execute and deliver to the plaintiff a deed of the premises sold upon payment to the Referee of the sum awarded under the above provisions marked "FIRST," "SECOND," and "THIRD," if such expenses were paid by the Referee, or in lieu of the payment of the last mentioned amounts, upon filing with the Referee receipts of the proper municipal authorities showing payment thereof. The balance of the amount bid, after deducting therefrom the aforementioned payments to the Referee shall be allowed to the plaintiff and applied by the Referee upon the amounts due to the plaintiff as specified in item marked "FOURTH." If upon applying the balance of the amount bid, there is a surplus over and above the amounts due to plaintiff, then upon delivery to plaintiff of the Referee's deed, plaintiff shall pay to the Referee the amount of such surplus, which amount shall be applied by the Referee, upon motion made pursuant to RPAPL §1351(3), and proof satisfactory to the Referee of the sums due thereon, to any subordinate mortgage duly recorded against the premises pursuant to RPAPL §1354(3), which payment shall be reported in the Referee's Report of Sale. Any surplus remaining after all

payments as herein provided shall be deposited into Court in accordance with RPAPL §1354(4) and the Referee shall immediately give notice of such surplus to the owner of the mortgaged premises as identified by plaintiff at the time of the sale; and it is further

Surplus Monies

ORDERED, ADJUDGED and DECREED that the Referee shall take and file with the Referee's Report of Sale plaintiff's receipt(s) for the amounts paid as directed in item marked "FOURTH," and the Referee shall deposit the surplus monies, if any, with the _____ County Department of Finance, to the credit of this action, within five (5) days after receipt unless such period is deemed extended by the filing of an application for additional compensation, to be withdrawn only upon order of this Court; and the Referee shall make the Referee's Report of Sale under oath showing the disposition of the proceeds of the sale accompanied by the vouchers of the person(s) to whom payment was made and file it in the _____ County Clerk's Office within thirty (30) days after completing the sale and executing the proper conveyance to the purchaser or within thirty (30) days of a decision of this Court with respect to any application for additional compensation; and it is further

Foreclosure Action Surplus Monies Form

ORDERED, ADJUDGED and DECREED that the Referee shall complete the Foreclosure Action Surplus Monies Form and file it in the _____ County Clerk's Office and deliver a copy to the Court within thirty (30) days of the foreclosure sale; and it is further

Deficiency Judgment Application

ORDERED, ADJUDGED and DECREED that if the proceeds of the sale are insufficient to pay the amount reported by the Referee as due to plaintiff, the plaintiff may apply to the Court to recover the whole or such part of the deficiency as prescribed by RPAPL §1371; and it is further

Possession

ORDERED, ADJUDGED and DECREED that the purchaser(s) at the foreclosure sale be let into possession of the premises on production of the Referee's deed; and it is further

Claims Barred

ORDERED, ADJUDGED and DECREED that the defendant(s) in this action, and all persons claiming under any of them after the filing of the Notice of Pendency of this action, be and hereby forever are barred and foreclosed of all right, claim, lien, title, interest and equity of redemption in the mortgaged premises and each and every part thereof; and it is further

Conditions of Sale

ORDERED, ADJUDGED and DECREED that the premises be sold in "as is" physical order and condition on the day of sale, subject to any state of facts that an inspection of the premises would disclose, any state of facts that an accurate survey of the premises would show, any covenants, restrictions, declarations, reservations, easements, right of way and public utility agreements of record, any building and zoning ordinances of the municipality in which the mortgaged premises are located and possible violations of same, any rights of tenants or persons in possession of the subject premises, prior liens of record, if any, except those liens addressed in RPAPL §1354, and any equity of redemption of the United States of America to redeem the premises within one hundred twenty (120) days from the date of sale. Risk of loss shall not pass to purchaser until closing of title; and it is further

Referee Qualification

ORDERED, ADJUDGED and DECREED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge including but not limited to 22 NYCRR §36.2(c) ("Disqualifications from appointment) and 22 NYCRR §36.2(d) ("Limitations on appointments based upon compensation"); and it is further

Service of Judgment of Foreclosure and Sale

ORDERED, ADJUDGED and DECREED that a copy of this Judgment of Foreclosure and Sale with notice of entry shall be served within twenty (20) days of entry and no less than thirty (30) days prior to sale upon the designated Referee, the owner of the equity of redemption as of the date of this Judgment of Foreclosure and Sale, any tenants named in this action, and any other party entitled to notice; and it is further

Service of Notice of Sale

ORDERED, ADJUDGED and DECREED that plaintiff shall serve a copy of the Notice of Sale upon the owner of equity of redemption at the owner of equity of redemption's last known address and at the property address, and an affidavit of such service shall be filed at least ten (10) days prior to the scheduled sale; and it is further

Transfer of Interest During Pendency

ORDERED, ADJUDGED and DECREED that during the pendency of this action if any interest in the Note and/or Mortgage that is the subject of this action has been or is transferred, the person or entity to whom the interest has been or is transferred shall apply to the Court within thirty (30) days of the transfer to be substituted or joined in this action pursuant to CPLR §1018.

Dated: _____ _____

J.S.C.