**TERMS OF SALE**

 Pursuant to that certain Pledge and Security Agreement, dated May 9, 2022 (the “ **Pledge**”) given by 432 FF&E Mezz LLC, a Delaware limited liability company (the “**Pledgor**”) in favor of 56th and Park (NY) Owner, LLC, a Delaware limited liability company (“**Secured Party**”) and the applicable provisions of the Uniform Commercial Code as enacted in New York or any other applicable jurisdiction, Secured Party shall, at the date, time and place set forth below, sell, at public auction, all collateral pledged to Secured Party by Pledgor, consisting of (i) Pledgor’s right, title and interest, whether now owned or hereafter acquired, in 432 FF&E LLC, a Delaware limited liability company (including, without limitation, Pledgor’s shares of the profits, losses and capital of 432 FF&E LLC, and the right to vote, take actions or consent to actions in accordance with 432 FF&E LLC’s limited liability company operating agreement, and to participate in the operation of 432 FF&E LLC, if any) (“**432 FF&E**”), and in all instruments, whether heretofore or hereafter acquired, evidencing such rights and interests, (ii) in all dividends, money and other distributions (whether in cash or in kind) and all interest in respect of, and all proceeds of, any instrument or interest constituting part of Pledgor’s interest in 432 FF&E, of whatever kind or description, real or personal, whether in the ordinary course or in partial or total liquidation or dissolution, or any recapitalization, reclassification of capital, or reorganization or reduction of capital, or otherwise, (iii) in the proceeds (including claims against third parties), products, offspring, rents, revenues, issues, profits, royalties, income, benefits, additions and accessions of the foregoing, (iv) in all replacements and substitutions of the foregoing, (v) in all books and records (including computerized records, software and disks) relating to any of the foregoing and (vi) in all instruments, certificates or other evidence of the foregoing (all of the foregoing in clauses (i) through (vi), the “**Collateral**”).

Based upon information provided by Pledgor and its affiliates, Secured Party’s understanding (made without any representation or warranty by Secured Party as to the accuracy or completeness of the following matters) is that: (i) Pledgor owns 100% of the limited liability company membership interests in 432 FF&E and (ii) the principal asset of the 432 FF&E is that certain fee interest in real property commonly known as 432 Park Avenue, Unit 78A, New York, New York 10022 (“**Unit 78A**”); and (iii) Unit 78A is encumbered by and subject to, among other things, a first priority mortgage held by Secured Party securing indebtedness in the original principal amount of $155,000.00.

The Collateral will be sold to the qualified bidder submitting the highest and best bid; provided, however, that Secured Party reserves the right to (i) for itself and any assignee, bid (whether by cash and/or by crediting some or all of its secured claim) and to become the purchaser at the sale, (ii) reject any and all bids, (iii) cancel the sale in its entirety, and/or (iv) adjourn the sale. The sale is being held to enforce Secured Party’s rights in the Collateral which secures payment of outstanding indebtedness owing from Pledgor to Secured Party, following Pledgor’s defaults under the Pledge and certain other related documents evidencing the loan secured by the Pledge (collectively, the “**Loan Documents**”).

Date of Public Auction: October 11, 2023

Time of Public Auction: 2:30 p.m. (Eastern Time)

Location of Public Auction: Alston & Bird LLP

 90 Park Avenue, 15th Floor

 New York, New York 10016

Zoom Meeting Information: Meeting link: <https://bit.ly/432ParkUCC> (case sensitive)

Meeting ID: 864 7417 7472

Passcode: 571617

One Tap +16469313860,,86474177472#,,,,\*571617# US

Mobile: +16465588656,,86474177472#,,,,\*571617# US (NY)

Dial by your

location: +1 646 931 3860 US

**Terms and Conditions of the Sale**

The terms and conditions of the public sale are as follows:

1. The sale shall be a public auction to the highest qualified bidder (the “**Sale**”).

1. The Collateral will be sold for cash at such price and on such other commercially reasonable terms as the Secured Party may determine. The minimum bidding increments will be $1,000.00 or such other amount as Secured Party may announce at the Sale. Higher bids will continue to be entertained until the Secured Party has determined that it has received the highest bid from a qualified bidder. The Secured Party will be permitted to assign its bid, bid at the Sale, and, notwithstanding any requirement herein that the sale of the Collateral be for cash, the Secured Party may credit bid all or any portion of the outstanding balance of the amounts due to the Secured Party under the Loan Documents and become the purchaser of the Collateral. The Secured Party reserves the right to (a) reject all bids and terminate the sale or adjourn the sale to such other date and time as the Secured Party may deem proper, by announcement prior to the date of sale or on the date of sale either before or during the auction proceeding, and any subsequent adjournment thereof, without further publication, and (b) impose any other commercially reasonable conditions upon the sale of the Collateral as the Secured Party may deem proper in order to yield the highest and best price for the Collateral.
2. The Collateral is offered “**AS-IS, WHERE IS**”, with all faults, and there is no warranty by the Secured Party relating to title, possession, quiet enjoyment, merchantability, fitness or the like in this disposition. Secured Party makes no guarantee, representation or warranty, express or implied, as to the existence or nonexistence of other liens, the quantity, quality, condition or description of the Collateral, the value of the Collateral, the Pledgor’s rights in the Collateral or any matter relating to the status of the Collateral. The transfer of the Collateral will be made without recourse and without representation or warranty of any kind by the Secured Party, and subject to all defenses by the Secured Party. Without limiting the foregoing, any successful bidder must purchase the Collateral subject to the terms of the governing documents of the Pledgor (including its limited liability company operating agreements).
3. Prospective bidders are hereby advised that (a) the Secured Party may be in possession of information which prospective bidders may not have, and (b) the Collateral consists of, among other things, Pledgor’s right, title and interest as the sole member of 432 FF&E, which, in turn, owns Unit 78A,which are subject to a mortgage in the original principal amount of $155,000.00, held by Secured Party. Prospective bidders are hereby advised that, although Secured Party may have provided access to the above-referenced Loan Documents and related documents on an online data site, there is no assurance that Secured Party does not have information that it is contractually or legally prohibited from providing to prospective bidders due to restrictions in confidentiality agreements or otherwise, or that it has disclosed all information in its possession relating to the Pledgor or the Collateral. **Prospective bidders are encouraged to perform such due diligence as they deem necessary**.
4. In order for a prospective bidder (other than the Secured Party) to be a “qualified bidder” and eligible to bid at the Sale, each such prospective bidder must do the following:

(a) by 4:00 p.m. New York time on October 9, 2023, or such later date as may be established by Secured Party, register to bid by contacting OFFICIAL (“**Official**”), attention Tal Alexander, (212) 951-0071, tal@officialparnters.com, or North Point Real Estate Group (“**North Point**”), attention Greg Corbin, (212) 419-8101, greg@northpointreg.com and delivering to either of them (i) a duly executed Bidder Registration Form, (ii) a duly executed Securities Certification (defined below) and (iii) a duly executed copy of these Terms of Sale reflecting his/her/its acceptance thereof;

(b) by 2:00 p.m. New York time on October 10, 2023, deliver (i) a good faith deposit, via wire transfer, the amount of $150,000.00 (the “**Initial Deposit**”) and (ii) documentation, reasonably satisfactory to Secured Party, demonstrating its financial ability to tender payment for the Collateral if it is selected as the winning bidder or a back-up bidder (“**Proof of Funds**”). Only qualified bidders will be permitted to bid. Persons interested in bidding should contact Official or North Point to obtain wire transfer instructions. If a prospective bidder is a special purpose entity or an entity with creditworthiness that is, in Secured Party’s reasonable judgment, insufficient to support the requirements herein, Secured Party reserves the right to require additional credit support by a creditworthy affiliate of such prospective bidder in the form of a guaranty or indemnity by a creditworthy affiliate of such prospective bidder or other appropriate credit support; and

(c) be present at the Sale either in person at the offices of Alston & Bird LLP or via Zoom.

1. At the beginning of the Auction, the Auctioneer shall announce the starting bid amount (the “**Minimum Bid Amount**”).
2. Secured Party reserves the right to modify these Terms of Sale in advance of the Sale. Moreover, the Secured Party retains the discretion to permit prospective bidders that fail to meet the requirements of a “qualified bidder” to participate in the Sale.
3. All prospective bidders are advised that following the sale of the Collateral, the full amount of any remaining indebtedness under Loan Documents shall continue to be secured by the Loan Documents, including the Pledge. The Secured Party reserves its right to exercise remedies or take any action permitted under the Loan Documents. Nothing contained herein shall be construed as a modification of the Loan Documents or as a waiver of any deficiency, delinquency, breach, default or event of default under the Loan Documents or as a waiver, modification or limitation of any of Secured Party’s rights or remedies, all of which are hereby expressly reserved.
4. The term “Securities Certification” means a written certification by which a prospective bidder represents and warrants to the Secured Party, among other things, that he/she/it; (i) is acquiring the Collateral for investment purposes, solely for the purchaser’s own account and not with a view to distribution or resale of the Collateral; (ii) has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of investment and has sufficient financial means to afford the risk of investment in the Collateral; (iii) will not resell or otherwise hypothecate the Collateral without a valid registration under applicable federal or state laws, including, without limitation, the Securities Act or an available exemption therefrom. The Securities Certification shall also contain a provision requiring the prospective bidder to indemnify the Secured Party with respect to any claim and/or out-of-pocket loss, liability or expense (including, without limitation, attorneys’ fees) resulting from any misrepresentation or inaccuracy contained in the information in such Securities Certification.
5. No offers may be withdrawn once made during the Sale, but no sale shall be final until accepted in writing by the Secured Party, which writing may be an email communication from Secured Party or its attorneys.

1. By no later than one business day immediately following the date of the Auction, the successful bidder (unless the successful bidder is the Secured Party) must deliver to the Secured Party, by wire transfer pursuant to instructions to be supplied by the Secured Party, an additional amount equal to the difference between 10% of the amount of the winning bid and the Initial Deposit (“**Successful Bidder Deposit**”), which amount shall be nonrefundable, and execute the Memorandum of Sale attached hereto as Exhibit 1. The balance of the purchase price for the Collateral must be paid by wire transfer no later than Monday, November 14, 2023, time being of the essence (such date and time, the “**Outside Date**”). The sale will be consummated upon receipt of payment by the Secured Party in immediately available funds of the full bid price, taking into account the Initial Deposit and Successful Bidder Deposit together with all amounts due for sales or transfer taxes, if any, related to the sale of the Collateral, which amounts shall be determined by the Secured Party in its sole discretion and paid by the successful bidder. Upon payment in full, the successful bidder shall receive the Collateral purchased and a transfer statement, in form and substance acceptable to the Secured Party, transferring the Collateral, without guaranty of signatures, without payment of any transfer or other tax (which shall be the sole responsibility of the successful bidder), without warranty by or recourse to the Secured Party, its agents or its representatives, and subject to all defenses. If the successful bidder is the Secured Party, then the foregoing requirements will not apply and payment for the Collateral may be made by applying against the purchase price the amounts due to the Secured Party under the Loan Documents.
2. If the Secured Party is not the highest qualified bidder for the Collateral, the Secured Party reserves the right to designate a back-up bidder (the “**Back-up Bidder**”). If a back-up bidder is selected, and such bidder agrees to serve as a Back-Up Bidder, the Back-up bidder shall deliver a deposit in the amount equal to the difference between 10% of the amount of the back-up bid and the Initial Deposit (the “**Back-up Bidder Deposit**”), which deposit will be transferred to the Secured Party and become nonrefundable two days after the Back-Up Bidder is sent the Back-up Bidder Notice (as defined herein). If the highest qualified bidder closes on the sale of the Collateral, the back-up bidder’s deposit will be promptly returned to the Back-up Bidder. If the highest qualified bidder does not fund the balance of the purchase price by the Outside Date, then the Back-up Bidder shall be notified in writing within three (3) business days (the “**Back-Up Bidder Notice**”), and shall be obligated, by no later than 30 days after the receipt of the Back-Up Bidder Notice, time being of the essence, to fund the balance of the purchase price for the Collateral by wire transfer of immediately available funds and to execute a confirmation of sale in a form to be provided by the Secured Party. The sale of the Collateral to a Back-up Bidder will otherwise be consummated on the same terms as applicable to the successful bidder at the Sale. If the Back-up Bidder for the Collateral is the Secured Party, the foregoing requirements will not apply and payment for the Collateral may be made by applying against the purchase price the amounts due under the Loan Documents.
3. If the highest qualified bidder does not fund the balance of the purchase price by the Outside Date and either (a) no back-up bidder has been designated or (b) a back-up bidder has been designated but fails to fund the balance of the purchase price as and when required by the foregoing paragraph, then the Secured Party, in its sole and absolute discretion, may re-notice the sale of the Collateral as and when the Secured Party determines, subject only to any requirements of the applicable law.
4. If the Secured Party is unable for any reason to consummate the sale of the Collateral to a successful bidder at the public sale, its sole obligation to the successful bidder shall be the return of the principal amount of such bidder’s deposit(s), with any interest accrued thereon. If the successful bidder is unable for any reason to fund the balance of the purchase price by the Outside Date, the Secured Party shall retain the deposit paid by the successful bidder as liquidated damages for the costs of the sale and for its loss of bargain, in lieu of all other damages, and the Secured Party may accept the next highest qualified bid at the public sale of the Collateral. If the back-up bidder is unable for any reason to fund the balance of the purchase price within 30 days after receiving the Back-Up Bidder Notice, the Secured Party shall retain the deposit paid by such bidder as liquidated damages for the costs of the sale and for its loss of bargain, in lieu of all other damages. By bidding at the sale, each bidder acknowledges that it would not be possible to ascertain the Secured Party’s actual damages under the circumstances described in the preceding two sentences. A successful bidder or back-up bidder shall have no right to postpone or nullify a sale of the Collateral if it is unable to meet any of the requirements under the Loan Documents or any other document relating to the Collateral.
5. The successful bidder shall be responsible for the payment of all transfer taxes, stamp duties and similar taxes incurred in connection with the purchase of the Collateral.
6. Time is of the essence as to each item of required performance by each bidder, back-up bidder or successful bidder hereunder.
7. The use in these Terms of Sale of the singular or plural forms of such words as “sale,” “Collateral,” “bidder,” “closing,” and the like are used solely for convenience and shall not limit the rights of Secured Party to conduct a sale on any commercially reasonable terms.
8. A. Each bidder and each of its past, present, and former affiliates, parent companies, subsidiaries, predecessors-in-interest, successors-in-interest, representatives, assigns, administrators, executors, and all of their respective officers, directors, shareholders, managers, members, agents, representatives, employees, attorneys, advisors, heirs, and assignees (collectively, the “**Releasors**”) hereby release, remise, discharge, and acquit Secured Party, Auctioneer, Official, North Point, and each of its/their past, present, and future affiliates, parent companies, subsidiaries, predecessors-in-interest, successors-in-interest, representatives, assigns, administrators, executors, and all of their respective officers, directors, shareholders, managers, members, agents, representatives, employees, attorneys, advisors, heirs, and assigns (each, a “**Secured Party Releasee**” and collectively the “**Secured Party Releasees**”) of and from any and all claims, demands, causes of action, suits, debts, obligations, promises, costs, expenses, damages and liabilities, and irrevocably waive and relinquish any and all rights of setoff, counterclaims, and defenses, whether known or unknown, contingent or absolute, liquidated or unliquidated or otherwise, arising from or related to any act or omission of any Secured Party Releasee with respect to or in connection with these Terms of Sale or any matters relating thereto, including without limitation, any notices, conversations, communications, negotiations, disputes, litigation or other contacts regarding any of the foregoing.

B. If Secured Party or any of Secured Party Releasees is made a party, or is threatened to be made a party to any action, suit, alternative dispute resolution proceeding, investigation, arbitration, inquiry, and/or proceeding, whether civil, criminal, administrative, or investigative, arising out of or related to the these Terms of Sale, including without limitation, any documents executed and/or delivered in connection with any of the foregoing, then Releasors shall indemnify and hold harmless Secured Party and any Secured Party Releasees from and against, and be jointly and severally liable to Secured Party and any Secured Party Releasees for, any and all costs (including attorneys’ fees), expenses, liabilities, judgments, awards, damages, losses, and amounts paid or to be paid in settlement incurred or suffered by Secured Party or any of the Secured Party Releasees.

C. The release and indemnities in this Section shall survive the termination of these Terms of Sale.

1. By executing and returning these Terms of Sale, each prospective bidder acknowledges and agrees that (i) the timing of the sale is commercially reasonable, (ii) the form and procedures for the sale are commercially reasonable, (iii) the amounts, and time for posting, of deposits as to the sale are commercially reasonable, (iv) the requirements for the timing of the steps in the sale process, including without limitation as to closing, are commercially reasonable, (v) these Terms of Sale, more generally, are commercially reasonable, and (vi) whether or not such a prospective bidder becomes a successful bidder, it shall not, directly or indirectly, by its own actions or those of any affiliate or other party acting in concert with it or as an agent thereof, judicially challenge, fail to perform, cause delay in performance or otherwise attempt or cause to be voided, enjoined, stayed or impaired the timely and full completion of any one or more sales conducted hereunder, and shall indemnify Secured Party for any cost, delay or other harm caused by any breach of such agreement.
2. The Secured Party, Auctioneer, Official, North Point, and its/their respective attorneys, agents and employees, shall not be liable or bound by any verbal or written statements, representations, promises, guarantees or information pertaining to the Collateral, except as specifically set forth herein. All understandings and agreements between the parties are merged into these Terms of Sale, which alone fully and completely express their agreement.

BIDDER:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:

Name:

**EXHIBIT 1**

**MEMORANDUM OF SALE**

The undersigned has this \_\_\_\_\_\_\_\_\_, 2023, agreed to purchase the Collateral described in the foregoing Terms of Sale for the sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_/100 Dollars ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) and hereby promises and agrees to comply with the foregoing Terms of Sale.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023

**SUCCESSFUL BIDDER:**

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECEIVED from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Successful Bidder, the sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_/100 DOLLARS ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) for the property sold by me.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023

 **AUCTIONEER**:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_