

**458 Morse Road  
Bennington, VT 05201**

# **REAL ESTATE BIDDERS PACKET**



**The following materials are furnished solely for information purposes. No warranties or representations are made by either the mortgage holder or the auction company as to the accuracy, completeness or usefulness of these materials or the information contained therein. Prospective purchasers should make their own investigations and inspections and draw their own independent conclusions. These materials and the information contained therein are also subject to possible change prior to or at the time of the scheduled sale.**

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## *Property and Tax Information*



**458 Morse Road**  
**Bennington, Vermont**  
*Absolute Auction of Real Estate*

**65,000 +/- Sq. Ft. Industrial Building on 17 +/- Acres**

**Highlights:**

- 65,000 +/- SF Industrial Building including NEW 15,000 +/- SF Clear Span Steel Frame Addition and 5,600 +/- SF Office
- Additional 8,300 +/- SF Maintenance Building including 1,900 +/- SF Cold Storage
- Loading Dock and (9) Overhead Doors in Manufacturing Building
- (5) Overhead Doors in Maintenance Building
- Bridge Cranes 5 - 15 Ton
- Ceiling Heights from 18' to 30'
- Municipal Sewer and Water
- 3-Phase Electrical
- Fully Insulated
- Clean Coal Burning Furnace
- Located in Historic Bennington, VT
  - Bennington Iron Works is located in Morse Industrial Park
  - Less than 175 Miles from NYC, Boston and the Canadian Border
  - Nestled in the Foothills of 4 great ranges; Berkshires, Green Mountains, Adirondacks and the Catskills
  - Less than 1 Hour from Saratoga, Tanglewood and (5) major Ski Resorts
  - Located directly off Route 279
  - Convenient Interstate access via Route 7 and Route 9
  - Industry Friendly, Highly-Trained Workforce

**Terms of Sale**

15% Buyer's premium applies. A deposit of Fifty Thousand Dollars (\$50,000) is required by cash, certified or bank cashier's check at time and place of sale. The balance is due by certified or bank cashier's check. Closing on the property must be within forty-five (45) days of the date of the sale. Minimum 2% Brokers Participation applies. Other terms to be announced at the time of sale.



**458 Morse Road**  
**Bennington, Vermont**  
*Absolute Auction of Real Estate*

**65,000 +/- Sq. Ft. Industrial Building on 17 +/- Acres**

Tax Information as obtained at the Bennington Town Hall on 5/10/11:

**Parcel # 35505800**

**Assessed Value:** \$1,624,400.00

**Town of Bennington Taxes:** \$40,199.03

**Parcel # 35504502**

**Assessed Value:** \$108,000.00

**Town of Bennington Taxes:** \$2,672.67

## Parcel

Parcel Number : 35505800  
 Owner Name : BENNINGTON IRON WORKS  
 OwnerAdd : PO BOX 798  
 City : BENNINGTON  
 State : VT  
  
 St/Road : MORSE RD  
 St/Road # : 458  
 Pr Zip Code : 05201

## Section 1

Total Area 62,030  
 Number of Stories(Section) 2  
 Number of Stories(Building) 2  
 Perimeter 1,590  
 Shape ApprxSq  
 Age 24  
 Base Date (yyyy/mmm) 1998/04

## Occupancy (section 1)

Name	Class	Height	Rank
81% Industrials, Light Mftg.	S	23	2.00
11% Industrials, Light Mftg.	S	22	2.00
8% Office Building	C	10	2.50

## Component (section 1)

Name	Units/%	Other
	0	
Single -Metal on Steel Frame	92%	
Brick with Block Back-up	8%	
Complete HVAC	8%	
Space Heater	92%	

## Section 2

Total Area 9,984  
 Number of Stories(Section) 1  
 Number of Stories(Building) 1  
 Perimeter 452  
 Shape ApprxSq

Age	35
Base Date (yyyy/mm)	1998/04
Overall Depreciation	50.00%

## Occupancy (section 2)

Name	Class	Height	Rank
100% Storage Warehouse	C	16	2.00

## Component (section 2)

Name	Units/%	Other
	1	
Concrete Block	100%	
Space Heater	100%	

## Cost Section 1

Description	Units/%	Cost	Total
Basic Structure			
Base Cost	62,030	27.61	1,712,648
Exterior Walls	62,030	3.85	238,816
Heating & Cooling	62,030	3.92	243,158
Basic Structure Cost	62,030	35.38	2,194,622
Less Depreciation			
Physical & Functional	49%	0.00	1,080,193
Depreciated Cost	62,030	17.97	1,114,429

## Cost Section 2

Description	Units/%	Cost	Total
Basic Structure			
Base Cost	9,984	17.41	173,821
Exterior Walls	9,984	7.08	70,687
Heating & Cooling	9,984	2.05	20,467
Basic Structure Cost	9,984	26.54	264,975
Less Depreciation			
Physical & Functional	50%	0.00	132,488
Depreciated Cost	9,984	13.27	132,487

## Land Values

LAND	Size	Nbhd Mult	Grade	Depth	Cost
AC Bldg Lot	7.96	5.00	1.00		249,000

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AC Other	6.00	5.00	0.75	112,500
SITE IMPS	Quantity	Quality		
Water	Typical	Average		4,000
Sewer	Typical	Average		6,000
Landscape	Typical	Average		6,000

**Total Property Value**

Basic Structure Cost	2,459,600
Total Super Structure Cost	2,459,600
Building Cost New	2,459,600
Replacement Cost New	2,459,600
Depreciated Cost	1,246,900
Total Building Cost	1,246,900
Land, Site Imp. Etc.	377,500
Total Property Cost	1,624,400

Notes: 2008 - Section 2 - Construction of 90 x 38 CB Addition to Existing 6,564 S/F Maintenance Bldg (Total 9,984 S/F).

# Detailed Report

## Parcel

Parcel Number : 35504502  
Owner Name : BENNINGTON IRON WORKS  
OwnerAdd : PO BOX 798  
City : BENNINGTON  
State : VT  
  
St/Road : MORSE RD  
St/Road # :  
Pr Zip Code : 05201

## Land Values

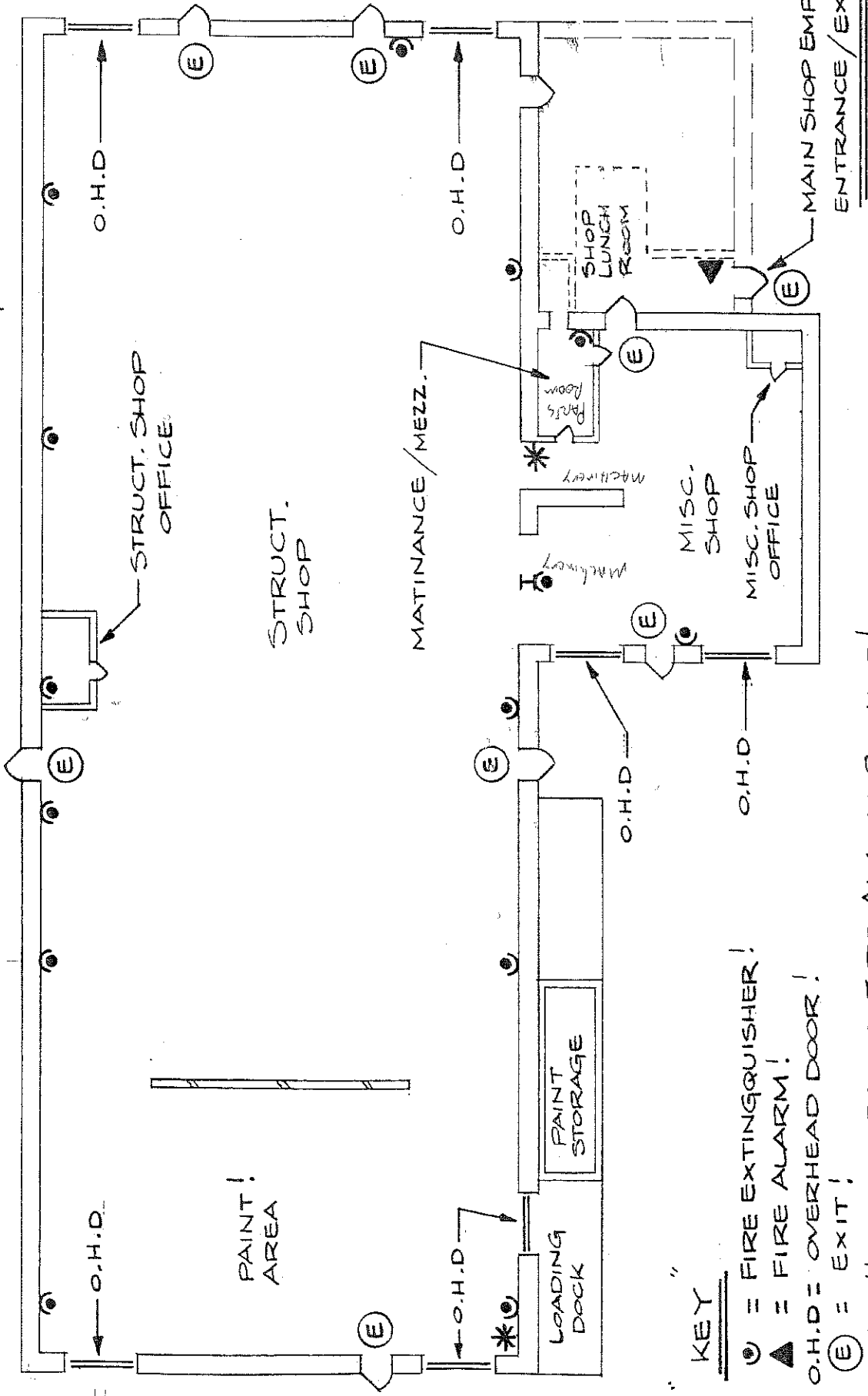
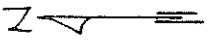
LAND	Size	Nbhd Mult	Grade	Depth	Cost
SI Bldg Lot	2.00	5.00	1.00		100,000
AC Other	1.00	5.00	0.25		6,800
SITE IMPS	Quantity	Quality			
Water	Minimal	Low Cost			600
Water	Minimal	Low Cost			600

## Total Property Value

Total Property Cost 108,000

1.30.96 A5.

" BENNINGTON IRON WORKS, INC. "

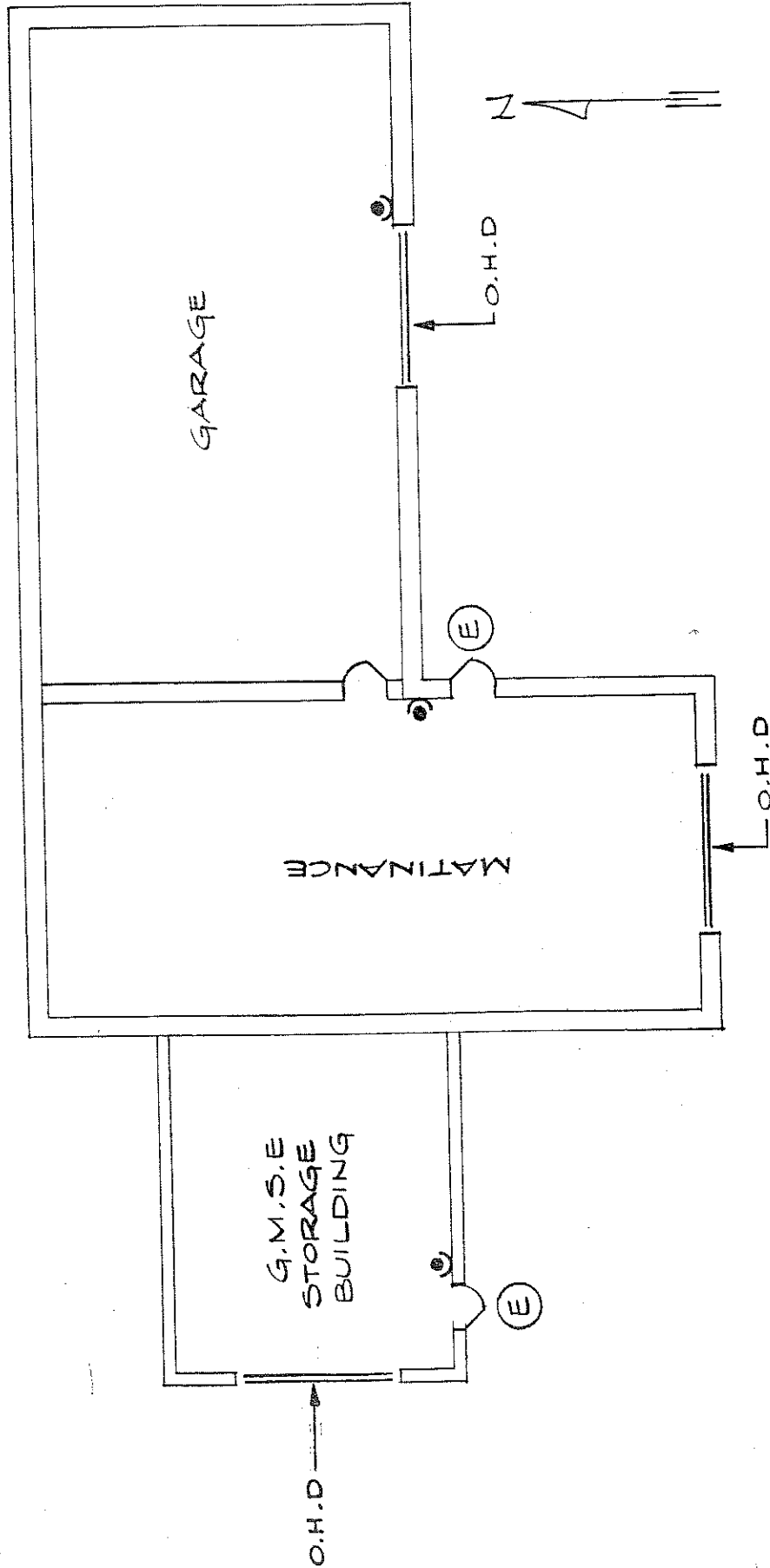


- KEY
- ⊙ = FIRE EXTINGUISHER!
  - ▲ = FIRE ALARM!
  - O.H.D. = OVERHEAD DOOR!
  - ⊙ E = EXIT!
  - \* = HAND OPERATED FIRE ALARM BACKUP!

FABRICATION SHOP LAYOUT

" KEY "  
BENNINGTON IRON WORKS, INC.

- ⓔ INDICATES AN EXIT!
- O.H.D INDICATES OVERHEAD DOOR.
- ⦿ INDICATES A FIRE EXTINGUISHER!



MATINANCE GARAGE / STORAGE BUILDING

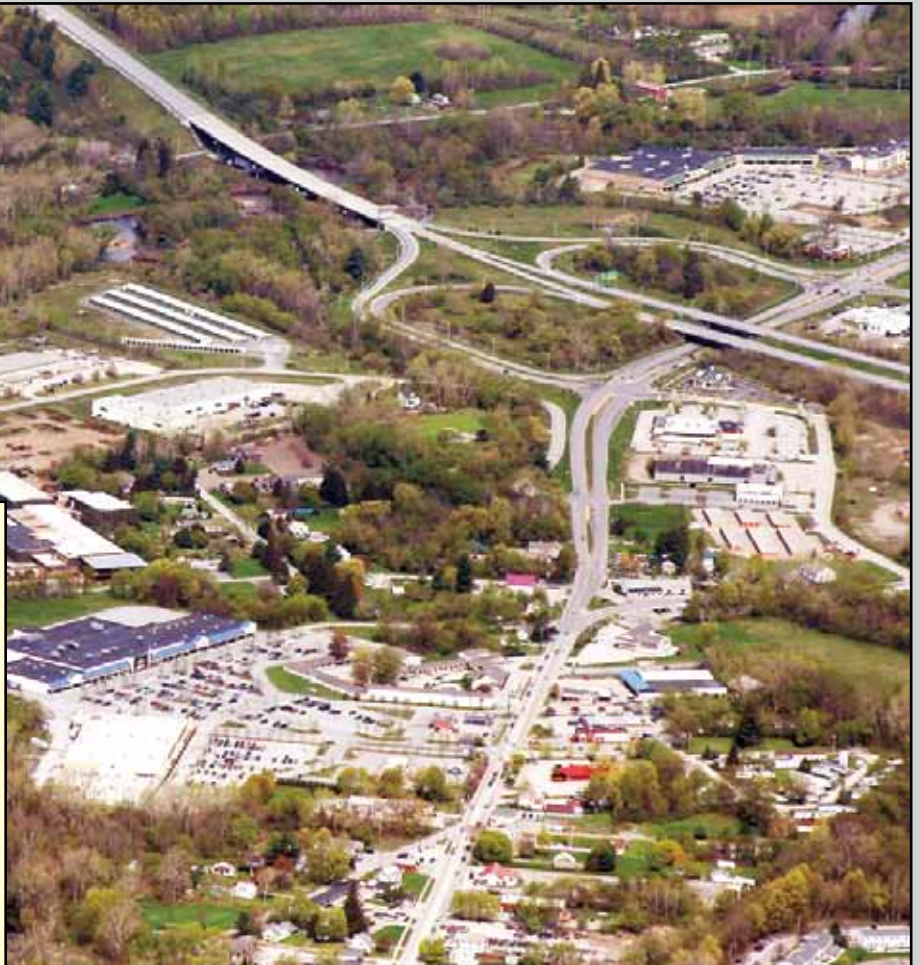
*Photos, Maps, and Advertisements*



# REAL ESTATE TO BE SOLD AT 2:00 P.M.

## REAL ESTATE HIGHLIGHTS

- 65,000± Sq. Ft. Industrial Building Including New 15,000 Sq. Ft. Clear Span Steel Frame Addition & 5,600± Sq. Ft. Office Space on 17± Acres
- Additional 8,300± Sq. Ft. Maintenance Building Including 1,900± Sq. Ft. Cold Storage
- Loading Dock & (9) Overhead Doors in Manufacturing Building
- (5) Overhead Doors in Maintenance Building
- Bridge Cranes 5- to 15-Ton
- Ceiling Heights From 18'-30'
- Municipal Sewer & Water
- 3-Phase Electrical
- Fully Insulated
- Clean Coal Burning Furnace



SAMPLE CLEAR SPAN STEEL BUILDING IN COMPLEX

# ABSOLUTE AUCTION! NO RESERVES



## Historic Bennington, Vermont

### FEATURES:

- Bennington Iron Works is Located in Morse Industrial Park
- Less Than 175 Miles From NYC, Boston, & the Canadian Border
- Nestled in the Foothills of Four Great Ranges: Berkshires, Green Mountains, Adirondacks, & The Catskills
- Less Than One Hour From Saratoga, Tanglewood, & Five Major Ski Resorts
- Located Directly Off Route 279
- Convenient Interstate Access Via Route 7 & Route 9
- Industry-Friendly; Highly-Trained Workforce

### REAL ESTATE TERMS:

\$50,000 deposit required in cash or certified funds. A buyer's premium of 15% will apply. Minimum 2% broker's participation applies. Please refer to [crgauction.com](http://crgauction.com) for all other terms and conditions. Bidder's packet available upon request.

For complete bidder's package and more information visit [crgauction.com](http://crgauction.com)  
or call 1.800.300.6852

*Phase 1 Environmental*

**PHASE I ENVIRONMENTAL SITE ASSESSMENT**

**Bennington Iron Works  
458 Morse Road  
Bennington, Vermont**

*Prepared For:*

**Assignment for the Benefit of Bennington Iron Works Creditors**

c/o Mr. Robert Wexler  
The Tron Group  
155 Federal Street, 5<sup>th</sup> Floor  
Boston, Massachusetts 02110

*Prepared By:*

**CUSHING, JAMMALLO & WHEELER, INC.**

*464 High Street  
Clinton, Massachusetts 01510*

*85 Constitution Lane, Suite 3B4  
Danvers, Massachusetts 01923*

**June 13, 2011**

Project No. 5491

## **EXECUTIVE SUMMARY AND CONCLUSIONS**

The objective of this Phase I Environmental Site Assessment was to identify “recognized environmental conditions” associated with the property located at 458 Morse Road, Bennington, Vermont (the Site), presently occupied by Bennington Iron Works (BIW)] in accordance with the Phase I Environmental Site Assessment process established by ASTM International (ASTM), E 1527-05, and based on: (1) information obtained from interviews with people knowledgeable about the Site regarding its current and former operations/uses; (2) records/databases that we are able to obtain from a computer database search of available environmental information; and (3) from visual observations of Site-specific and surrounding features and conditions.

During our Site visit, Cushing, Jammallo & Wheeler, Inc. (CJW) did not observe a condition or conditions that would indicate an existing release, a past release, or a material threat of a release of hazardous substances or petroleum products into the ground, groundwater, or surface water of the property.

It should be noted that there was a significant amount of environmental information obtained for this Site, particularly from the Town of Bennington’s files and from the Vermont Department of Environmental Conservation’s (VTDEC) website. Some of this information, as noted below, is associated soil and/or groundwater contamination identified in the past at the Site (Items 1, 2, and 3). The conditions associated with these three particular contamination issues, however, were ultimately considered by the VTDEC as (more detailed information is provided in the items below);

- ◆ Requiring no further management since the source of the contamination was determined to be an entity and at a location other than BIW;
- ◆ Allowable such that contaminated soil was re-used on Site; and/or
- ◆ Deemed “closed”.

Based on the work related to this environmental site assessment, it is CJW’s opinion that the assessment has revealed no evidence of recognized environmental conditions in connection with the Site except for the following past items which although identified as Recognize Environmental Conditions have been resolved or deemed “closed”:

1. The presence of hazardous substances from a past release – In 1998, tetrachloroethylene (also known as tetrachloroethene, PCE or PERC) was identified in groundwater generally on the northern part of the Site. Further assessment (the installation, sampling and testing of six groundwater monitoring wells) was performed at the BIW property and monitoring wells were installed at many other locations in the surrounding area to identify the source of the PCE. In March 2005, the VTDEC provided BIW with the designation “SMAC” which is given to “sites which the VTDEC has determined require no further management. VTDEC stated that it “has completed its investigation into the

source of the PCE contamination that has migrated onto [BIW] property” and “has determined that the source of this contamination is from an old dry cleaning operation which operated in the 1960s and 1970s at the Monument Plaza Shopping Center”.

2. The presence of petroleum from a past release - Petroleum-impacted soil was discovered in September 1998 during the removal of three underground storage tanks (USTs). A report notes that the extent of the petroleum impacted soil was not defined. Petroleum impacted soil was excavated and with authorization from VTDEC, a “significant portion of the...soils...was...reintroduced to the grave of the former USTs while backfilling around the new 15,000 gallon UST” that was installed and the remaining petroleum-impacted soil was “spread under the foundation slab of a new building addition west of the [BIW] facility”.
3. In 1992, approximately 200 gallons of #2 fuel oil was released from a truck making a delivery at BIW. The insurance company for the trucking company cleaned up the spill in accordance with VTDEC requirements.
4. Pictures of the BIW facility located within the Town files show numerous 55-gallon drums along the exterior of BIW building. During the reconnaissance visit conducted for this ESA, no indication of the presence of release was noted.
5. An 11,000 gallon heating oil UST was located east of the Manufacturing Building/Offices. According to VTDEC records, this UST was removed in 1987, the VTDEC note this tank to have been in “good” condition. According to Curt Morin of BIW, when this UST was removed, it was determined to be in good condition and was not leaking. However, documentation exists on conditions when the UST was removed

*Purchase and Sale Agreement*

**458 Morse Road  
Bennington, VT 05201**

# ***PURCHASE AND SALE AGREEMENT***

## **REAL ESTATE**

This Purchase and Sale Agreement is made this 23<sup>rd</sup> day of June, 2011, by and between The Tron Group, Assignee (Hereinafter called "Seller") and

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(Hereinafter called "Buyer"), who agree as follows:

1. **Description of Real Estate (hereinafter called "Property")**. The Seller agrees to sell to the Buyer, and the Buyer agrees to purchase from the Seller, the real property located at 458 Morse Road, Bennington, Vermont, 05201, which property is more particularly described in LEGAL DESCRIPTION (SCHEDULE A) attached hereto and incorporated herein by reference. Such transaction is subject to the terms and conditions set forth in TERMS AND CONDITIONS OF SALE (SCHEDULE B) attached hereto and incorporated herein by reference. Buyer hereby acknowledges that said schedules have been carefully read and are fully understood.

2. **Purchase price**. The purchase price of said Property is (Bid Amount plus a Fifteen (15%) Percent Buyer's Premium) \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Buyer has this day deposited, in cash, bank check or certified funds the amount of Fifty Thousand and 00/100 (\$50,000.00) Dollars. Deposit amount will increase within twenty-four (24) hours of the execution of this Agreement by \_\_\_\_\_ Dollars (\$\_\_\_\_\_), which in addition to original deposit of Fifty Thousand and 00/100 (\$50,000.00) Dollars, equals ten (10%) percent of the purchase price, the receipt of which non-refundable deposit is acknowledged by the Auctioneer's signature below.

(i) Buyer is required to pay an additional amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), which amount shall be paid in cash or certified United States funds at closing.

3. **Closing**. Closing shall occur no more than thirty (30) days following the date of this Agreement and shall take place at the offices of Jason P. Morrissey, Attorney at Law, 217 Union Street, Bennington, Vermont 05201. Seller and Buyer mutually agree that time is of the essence with respect to this Agreement and the closing.

4. **Title**. Seller will convey good and marketable title to said Property, free and clear of all encumbrances, except building and/or zoning restriction of record, restrictive covenants of record, usual public utilities associated with servicing of property and easement/rights-of-way which exist on the face of the earth, subject to the procedures set forth in Schedule B, attached hereto.

5. **Costs and Expenses**. Buyer will assume responsibility and all associated costs of Title search and/or examination; title insurance coverage; Buyer's share of pro-rated real estate taxes; Buyer's pro-rated share of fuel, water and/or other utility charges, if any; and representation by legal counsel. Buyer shall be exclusively responsible for the payment of the Property Transfer Tax.

Seller will assume responsibility and all associated costs of Seller's share of pro-rated real estate taxes; auction fees and/or commissions payable to Capital Recovery Group, LLC; document preparation and processing fees; and representation by legal counsel.

6. **Warranties.** No warranties are made concerning the condition of said Property. All warranties are disclaimed with respect to any improvements located on said property, including improvements located underground and the location and/or boundaries of said Property.
  
7. **Risk of Defects.** The Buyer shall assume risk for any defects. Each bidder for said Property expressly acknowledges and agrees that the amount bid reflects the "AS IS, WHERE IS" condition of said Property and the assumption of all risks relating to undisclosed defects. Each bidder further acknowledges and agrees that such bidder in no way relies on representations made by Seller or Auctioneer.
  
8. **Deed of Conveyance.** Seller shall, at closing, execute and deliver a Limited Warranty Deed at the time of closing where the Seller shall covenant to warrant and defend against claims and demand made only against the seller, but no other.
  
9. **Entire Agreement.** This agreement and attached Schedules A and B constitute the entire agreement between the Seller and Buyer, supersedes all prior negotiations and understandings, and shall not be altered or amended except by written amendment signed by Seller and Buyer. This Agreement shall be governed by VT Law.

IN WITNESS WHEREOF, the Buyer and Seller have executed this Agreement in triplicate originals on the day, month and year first above written.

**Witness:**

**Capital Recovery Group, LLC**

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

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

**Seller:**

THE TRON GROUP, LLC

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

Robert Wexler, duly authorized agent of  
 The Tron Group, LLC

**Buyer:**

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

SSN: \_\_\_\_\_

# *Legal Description*

## Schedule A

**SCHEDULE A**  
**458 Morse Road, Bennington, VT**

PARCEL 1:

Being all and the same lands and premises conveyed to Bennington Iron Works, Inc., a corporation organized and existing under the laws of Delaware, by Warranty Deed from Geraldine Cohen, individually and as Trustee under Trust Agreements dated July 25, 1978 for the benefit of Cheryl Maureen Cohen and Derek Baker Cohen, dated January 29, 1988 and recorded January 29, 1988 at Book 0-270, Page 121 of the Land Records of the Town of Bennington, Vermont, in which deed the lands and premises hereby mortgaged were more particularly described as follows:

“PARCEL A: Being all and the same lands and premises which were conveyed to the Grantor by warranty deed of Bennington Iron Works, Inc. dated July 25, 1978 and recorded at Book 0-223, Page 165 of the Bennington Land Records, and which were therein more particularly described as follows:

“Being all and the same lands and premises which were conveyed to Bennington Iron Works, Inc. by warranty deed of Marion Morse dated April 15, 1976 and recorded on May 18, 1976 at Book 0-213, Page 165 of the Bennington Land Records, and which were therein more particularly described as follows:

“Beginning at a pin 33 feet westerly of the Harmon Road centerline marking the southeasterly corner of James and Mary Brillon and a northeast corner of the herein described parcel; thence N 85° 30' W along the southerly line of Brillon 378.19 feet to a pin; thence N 11° 33' E 148.33 feet to a pin; thence N 85° 52' W on a course being partially marked by an old fenceline 375.31 feet to a pin; thence S 11° 06' W 480.77 feet to a pin; thence S 85° 30' E 752.04 feet to a pin being 33 feet westerly of the Harmon Road centerline; thence N 11° 06' E 335.00 feet to the point of beginning. Said parcel contains 7.00 acres, be the same more or less, together with any right the grantor may have in the public highway known as Harmon Road where it front upon the above described premises.

“Being part of the same lands and premises as those deeded to William H. and Marion Morse by warranty deed of Walter L. and Lewis H.H. Davis, dated October 4, 1967 and recorded in Book 0-180 at Page 170 of the Land Records, to which reference is hereby made.

The hereinconveyed Parcel A is subject to the terms and conditions of State of Vermont Land Use Permit No. 8B0131.”

“PARCEL B: Being all and the same lands and premises which were conveyed to the Grantor by warranty deed of Marion Morse dated July 25, 1978 and recorded at Book 0-223, Page 223 of the Bennington Land Records, and which were therein described as follows:

“Lots numbered 12 and 14 situated westerly of land of Bennington Iron Works, Inc. and easterly of Morse Road, so-called, all as shown on Plan of Morse Commercial Industrial Park

Lots dated December 1976 and subsequently revised to and including revision of July 27, 1977, made by Cadiz Consulting, Inc. of said Bennington and on file in the records of the Town of Bennington.

“The lots hereby conveyed may be fully described as follows:

“Lot #12. Beginning at an iron pin marking the northwest corner of lands of the Bennington Iron Works, said pin marking the northeast corner of the herein described parcel; thence S 81° 08 1/4' W along the southerly line of Lot #10 381.05 feet to the easterly of Morse Road; thence S 12° 33' E 203.42 feet to the northwest corner of Lot #14; thence N 85° 48' E 286.72 to the westerly line of said Iron Works; thence N 11° 06' E 240.77 feet to the point of beginning. Said parcel contains 1.65 acres, be the same more or less.

Lot #14. Beginning at a point in the easterly line of Morse Road; said point marking the southwest corner of Lot #12 and the northwest corner of the herein described parcel; thence S 12° 33' E 204.00 feet to a point marking the northwest corner of Lot #16; thence S 85° 30' E 196.02 feet to a pin marking the southwest corner of the Bennington Iron Works; thence N 11° 06' E 240.00 feet to the southeast corner of Lot #12; thence S 85° 48' W 286.72 feet to the point of beginning. Said parcel contains 1.20 acres, be the same more or less.

“The foregoing lot descriptions are taken from a survey map entitled ‘Bennington Iron Works - Morse, Bennington, Vermont, 1' = 100, June 1978.’ prepared by Cadiz Consultants, Inc., Bennington, Vermont.

“Morse Road, hereinabove referred to, has not yet been accepted as a highway by the Town of Bennington. A right of way is hereby granted to the within Grantee as a part of the conveyed premises to pass and repass along said road in common with others until the Town accepts said highway.

“PARCEL C: Being all and the same lands and premises which were conveyed to the Grantor by warranty deed of Marion Morse dated May 1, 1980 and recorded at Book 0-232, page 25 of the Bennington Land Records, and which were therein described as follows:

“Lots numbered 16, 18, 20 and 24 situated on the northerly side of Morse Road, so-called, all as shown on Plan of Morse Commercial Industrial Park Lots dated December 1976 and subsequently revised to and including revision of July 27, 1977, made by Cadiz Consultants, Inc. of said Bennington and on file in the records of the Town of Bennington.

“The lots hereby conveyed are more particularly described as follows:

“Lot #16: Beginning at a pin set in the northerly line of the right of way known as Morse Road, which leads from Harmon Road, and then northerly, through Morse Commercial Industrial park, so-called; which pin lies 25 feet, measured perpendicularly, northerly from the centerline of the said Morse Road, and marks the southwest corner of Lot #18 and the southeast corner of Lot #16; thence North 6° 28 1/2' East 242.07 feet along the westerly line of Lot #18 to a point in the

southerly line of a parcel of land now of the within grantee, which was conveyed by the within grantor to Bennington Iron Works, Inc. by deed dated May 18, 1976 and recorded at Book 0-213, Page 165 of the Bennington Land Records; thence North 85° 30' West, along the southerly line of the said parcel now of this grantee and of Lot #14, also now of this grantee, a total distance of 216.34 feet to a pin set in the easterly line of the aforementioned Morse Road; thence along the easterly and northerly line of said Morse Road the following three courses and distances:

1. South 12° 33' East 190.99 feet to a point of curvature; whence
2. Southeasterly on a curve to the left having an arc length of 99.34 feet to a point of tangency; whence
3. South 83° 31 ½' East 78.13 feet to the point of beginning.

Containing 41,438 square feet of land, be the same more or less.

“Lot #18: Beginning at a pin set in the northerly line of the right of way known as Morse Road, which leads westerly from Harmon Road, and then northerly, through Morse Commercial Industrial Park, so-called; which pin lies 25 feet, measured perpendicularly, northerly from the centerline of the said Morse Road, and marks the southwest corner of Lot #20 and the southeast corner of Lot #18; thence North 6° 28 ½' East 248.45 feet along the westerly line of Lot #20 to a point in the southerly line of a parcel of land now of the within grantee, which was conveyed by the within grantor to Bennington Iron Works, Inc. By deed dated May 18, 1976 and recorded at Book 0-213, Page 165 of the Bennington Land Records; thence North 85° 30' West 185.12 feet along the southerly line of said parcel now of this grantee to the northeast corner of Lot #16; thence South 6° 28 ½' West 242.07 feet along the easterly line of Lot #16 to a pin set in the northerly line of Morse Road; thence South 83° 31 ½' East 185.01 feet to the point of beginning. Containing 45,375 square feet of land, be the same more or less.

“Lot #20: Beginning at a steel fence post set in the northerly line of the right of way known as Morse Road, which leads westerly from Harmon Road, and then northerly through Morse Commercial Industrial Park, so-called, which post lies 25 feet, measured perpendicularly, northerly from the centerline of the said Morse Road, and marks the southwest corner of Lot #22, now of Arken Industries, Inc., and the southeast corner of Lot #20; thence North 6° 28 ½' East 254.68 feet along the westerly line of Lot #22 to a pin in the southerly line of a parcel of land now of the within grantee, which was conveyed by the within grantor to Bennington Iron Works, Inc. by deed dated May 18, 1976 and recorded at Book 0-213, Page 165 of the Bennington Land Records; thence North 85° 30' West 180.90 feet along the southerly line of the said parcel now of this grantee to the northeast corner of Lot #18; thence South 6° 28 ½' West 248.45 feet along the easterly line of Lot #18 to a pin set in the northerly line of Morse Road; thence South 83° 31 ½' East 180.79 feet to the point of beginning. Containing 45,480 square feet of land, be the same more or less.

“Lot #24: Beginning at a pin set in the westerly line of the town highway known as Harmon Road, which pin marks the northeast corner of Lot #24 of Morse Commercial Industrial

Park and the southeast corner of a parcel [of] land now of the within grantee, which was conveyed by the within grantor to Bennington Iron Works, Inc. by deed dated May 18, 1976 and recorded at Book 0-213, Page 165 of the Bennington Land Records; thence N 85° 30' West 188.75 feet along the southerly line of the said parcel now of this grantee to a pin which marks the northeast corner of Lot #22, now of Arken Industries, Inc.; thence South 6° 28 ½' West 260.78 feet along the easterly line of Lot #22 to a pin set in the northerly line of the right-of-way known as Morse Road; thence South 83° 31 ½' East 167.02 feet along the northerly line of said Morse Road to a pin marking the point of intersection of the said northerly line of Morse Road and the westerly line of the aforementioned Harmon Road; thence North 11° 06' East 268.16 feet along the westerly line of Harmon Road to the point of beginning. Containing 46,919 square feet of land, be the same more or less.

“The foregoing lot descriptions are taken from a survey map entitled ‘Geraldine Cohen, Trustee, Bennington, Vermont, 1" = 100', April 1980, prepared by Cadiz Consultants, Inc., Bennington, Vermont.’

“Morse Road, hereinabove referred to, has not yet been accepted as a highway by the Town of Bennington. A right of way is hereby granted to the within Grantee as a part of the conveyed premises to pass and repass along said road in common with others until the Town accepts said highway.

“The herein conveyed Parcels B and C are subject to the terms and condition of State of Vermont Land Use Permit No. 8B0157, including the following covenants and restrictions which shall be binding upon the within named Grantee, its successors and assigns:

- (a) The first floor elevation of all structures shall be at the level specified in the plan by Cadiz Consultants; latest revision July 27, 1977; which contains certified floor grades by lot number.
- (b) The floodway of the Walloomsac shall remain as a natural area and shall not be disturbed, with said area being that land on the Walloomsac River side of the orange line contained in Applicant’s exhibit #1, a map titled ‘Morse-Davis Property,’ prepared by Cadiz Consultants, Inc. dated March 1969;
- (c) The storage of materials or equipment to include the storage of flammable or hazardous liquids or gases above or below ground shall not be permitted in the floodway and may only be located in the floodway fringe area of not subject to damage by floodwaters and firmly anchored or secured to prevent flotation. The floodway, as used above, is that land between the Walloomsac River and the orange line, and the floodway fringe is that land between the orange and blue lines, both as shown on a map titled “Morse-Davis Property,” by Cadiz Consultants, Inc., dated March 1969.

“The hereinconveyed Parcels A, B and C are conveyed subject to the Zoning and Planning Regulations of the Town of Bennington and applicable laws of the State of Vermont,

and to any public utility easements now existing or of record which may affect these premises.”

Being known as Lot 35505800 in the Town of Bennington Tax Records.

PARCEL 2:

Being all and the same lands and premises conveyed to Bennington Iron Works, Inc. by warranty deed of Bennington County Industrial Corporation dated January 20, 1992 and recorded January 24, 1992 at Book 0-295, Page 14 of the Land Records of the Town of Bennington, Vermont, in which deed this parcel is was more particularly described as follows:

“Being the same lands and premises conveyed unto Grantor herein by Warranty Deed of William H. Morse dated October 16, 1986 and recorded October 17, 1986 in Book 0-261, Page 7 of the Bennington Land Records and therein described as follows:

“Being Lots No. 8 and 10 of Morse Commercial Industrial Park, so-called, situated on the easterly side of the town highway known as Morse Road, and more particularly described as follows:

“Beginning at a point in the easterly line of Morse Road, said point being at the northwest corner of Lot No. 12 (now or formerly owned by Cohen); thence North  $12^{\circ} 33'$  West 300.00 feet along the easterly line of Morse Road to the southwest corner of Lot No. 6; thence North  $77^{\circ} 27'$  East 426.11 feet along the southerly line of Lot No. 6 to the southeast corner thereof; thence South  $12^{\circ} 08'$  East 339.14 feet to an iron pipe in the northerly line of lands now or formerly of Bennington Iron Works, Inc.; thence North  $85^{\circ} 52'$  West 45.31 feet along the northerly line of said Bennington Iron Works lands to an iron pin marking the northwest corner thereof and the northeast corner of Lot No. 12; thence South  $81^{\circ} 08' 25''$  West 381.05 feet along the northerly line of Lot No. 12 to the point of beginning; containing 134,219 square feet of land, be the same more or less.

“Being a portion of the lands and premises which were decreed to William H. Morse from the Estate of Marion Morse, deceased, by a Bennington Probate Court Decree of Partial Distribution recorded on November 12, 1984 at Book 0-249, Page 52 of the Bennington Land Records

“The within conveyed premises are subject to the following covenants and restrictions which shall be binding upon the within named grantee, in whatever capacity, and its heirs, executors, administrators, successors and assigns:

- (a) The first floor elevation of all structures shall be at the level specified in the plan by Cadiz Consultants; latest revision July 27, 1977; which contains certified floor grades by lot number.
- (b) The floodway of the Walloomsac shall remain as a natural area and shall not be disturbed, with said area being that land on the Walloomsac River side of the

orange line contained in Applicant's exhibit #1, a map titled 'Morse-Davis Property,' prepared by Cadiz Consultants, Inc. dated March 1969;

- (c) The storage of materials or equipment to include the storage of flammable or hazardous liquids or gases above or below ground shall not be permitted in the floodway and may only be located in the floodway fringe area of not subject to damage by floodwaters and firmly anchored or secured to prevent flotation. The floodway, as used above, is that land between the Walloomsac River and the orange line, and the floodway fringe is that land between the orange and blue lines, both as shown on a map titled "Morse-Davis Property," by Cadiz Consultants, Inc., dated March 1969.

"All as set out in land use permit for Case No. 8B0157, dated August 12, 1977 and issued by District Environmental Commission No. 8. Said premises are further subject to the Zoning and Planning Regulations of the Town of Bennington and applicable laws of the State of Vermont.

"The hereinabove premises are conveyed subject to any public utility easements now existing or of record which may affect them."

Being known as Lot 35504502 in the Town of Bennington Tax Records.

The above described Parcels 1 and 2 are subject to the following additional encumbrances:

- The terms and conditions of Vermont Land Use Permits No. 8B0131, 8B0157, and 8B0533;
- Vermont Underground Tank notifications, recorded at Book 0-256, Page 209 (as modified by Notice of Partial Removal recorded at Book 0-267, Page 84) and at Book 0-350, Page 90 of the Bennington Land Records;
- Application for Town of Bennington Building and Zoning Permit dated September 18, 1998 and recorded September 24, 1998 at Book 0-345, Page 217;
- Application for Town of Bennington Building and Zoning Permit dated December 4, 2002 and recorded December 5, 2002 at Book 389, Page 40;
- Application for Town of Bennington Building and Zoning Permit dated August 21, 2007 and recorded August 27, 2007 at Book 447, Page 123;
- Any public utility easements now existing or of record which may affect said Parcels, including but not limited to the easement granted by Marion Morse to Central Vermont Public Service Corporation and new England Telephone and Telegraph Company dated August 28, 1979 and recorded at Book 0-229, Page 146 of the said Land Records.

# *Terms and Conditions of Sale*

## **Schedule B**

# ***TERMS AND CONDITIONS OF SALE***

## **SCHEDULE B**

1. Auctioneer is Capital Recovery Group, LLC. The Seller is Robert Wexler – The Tron Group, Assignee.
2. This sale is of certain real property located at 458 Morse Road, Bennington, Vermont 05201, and is being conducted by the assignee.
3. A description of said property to be sold is contained herein. Said real estate is described in a Warranty Deed from Bennington Iron Works to The Tron Group, LLC dated March 11, 2011, and recorded March 15, 2011 in the Bennington, Vermont Land Records in Book 477, at Page 154.
4. This sale may be adjourned from time to time as the Auctioneer may determine.
5. To bid, a bidder must first deposit Fifty Thousand Dollars (\$50,000.00) in cash, certified, cashier's or bank check, or equivalent, payable to Capital Recovery Group, LLC. Escrow Account and register with the Auctioneer. No bid will be considered unless such bidder has first registered with the Auctioneer and deposited with him the required earnest money deposit. Bids will be made orally. The Auctioneer reserves the right to control the increments of the bids. Any bid not in compliance with the terms of sale may be rejected. The high bidder will be required to increase the deposit to ten percent (10%) of the purchase price at the signing of the purchase and sale agreement the day of the auction.
6. The Auctioneer may withdraw the real estate at any time until he announces the completion of the sale.
7. Bidding will be conducted as a public auction. The highest bidder will be the Buyer of the property, subject to the Seller's right to reject any and all bids, including the highest bid. In the event the high bid is acceptable to the Seller, a Fifteen Percent (15%) Buyer's Premium will be added to the highest bid which total will be the purchase price. At the completion of the sale, the highest bidder will sign a Purchase and Sale Agreement in the form of the specimen attached hereto, the terms of which are incorporated herein.
8. The balance of the purchase price payable by the successful bidder shall be made in cash, certified check, cashier's or bank check. Closing is to be held no more than thirty (30) days following the date of a Purchase and Sale Agreement.
9. Seller will convey a Limited Warranty\_ Deed at the time of closing where the Seller shall covenant to warrant and defend against claims and demand made only against the seller, but no other, free and clear of all encumbrances except building and/or zoning restrictions of record, restrictive covenants or record, usual public utilities associated with servicing the property and easement/rights-of-way which exist on the face of the earth.
10. Buyer may examine title for ten (10) days after the day the bid is accepted and shall within that time notify Seller in writing of any defects in title which may render the title unmarketable in accordance with the standards adopted by the VT Real Estate Bar Association. Seller shall have thirty (30) days to cure any defects of title so brought to its attention, which may render the title unmarketable. Buyer shall have the right to rescind and have refunded his deposit where defects of title which render the title unmarketable are not cured by Seller within the above-stated number of days.

11. In the event the highest bidder fails to comply with any of the terms and conditions of sale, said bidder's deposits will be retained by Seller, unless the Auctioneer, in its sole discretion, reopens the bidding and the new highest bidder immediately executes a Purchase and Sale Agreement. Upon close of bidding and compliance with the terms of sale, the Auctioneer shall declare that the terms of the sale have been complied with and that the public sale is closed. If the Buyer fails to perform at closing, the Seller will retain the Buyer's deposit. A bidder or buyer whose deposit is retained under this paragraph shall also be responsible for any and all consequential damages and additional costs, deficiencies, expenses and losses suffered as a result of his failure to perform, including without limitation, any attorney's fees.

12. The Buyer's commitment under the Purchase and Sale Agreement will NOT be contingent upon securing financing or upon any other conditions. The Buyer's deposit will not be refunded due to any inability to obtain financing or any other failure by Buyer to perform, except as to title matters as outlined above.

13. The property is sold "AS IS, WHERE IS" with all existing defects and without any warranties of any kind, including but not limited to fitness for a particular purpose, habitability or merchantability. Bidders are invited to inspect the premises and public records prior to making a bid. No warranties, guarantees or representations of any kind are made; and all warranties are disclaimed with respect to any improvements located underground, the location and/or boundaries of the premises or improvements thereon, environmental compliance, or its compliance with any applicable zoning or land use regulations, laws or ordinances. Buyer is relying upon its own inspection and its own professional advisors in its examination of the property and all improvements thereon. Buyer hereby represents warrants and covenants to Seller that, prior to the Agreement Date; Buyer has conducted Buyer's own investigation of the Property and the physical condition thereof. Buyer agrees that Seller is not giving any express warranty, has no successor liability and is not obligated to give any implied warranties. The Buyer will assume responsibility and expenses for any title search, title examination or title insurance, as set forth in said Purchase and Sale Agreement.

**THE BUYER WILL ASSUME RISK OF ANY DEFECTS, AND EACH BIDDER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE AMOUNT BID REFLECTS THE "AS IS, WHERE IS" CONDITION OF UNDISCLOSED DEFECTS. EACH BIDDER FURTHER ACKNOWLEDGES AND AGREES THAT SUCH BIDDER IN NO WAY RELIES UPON REPRESENTATIONS MADE BY SELLER OR HIS AGENTS.**

14. **Possession And Condition Of Premises.** Full possession of said Property free of all tenants and occupants is to be delivered at the time of the delivery of the deed, said Property to be in the same condition as present, normal wear and tear excepted. The BUYER shall have the right to inspect the Property for compliance with this paragraph 24 hours prior to the delivery of the deed to verify compliance with this clause.

15. In the event of a substantial loss or damage to the property occurring after the execution of the Purchase and Sale Agreement and prior to closing, Buyer shall have the election either to terminate said Purchase and Sale Agreement and receive a refund of the earnest money deposit or to complete the purchase and receive any insurance proceeds or eminent domain award received by Seller on account of the damage or loss.

16. In the case of disputed bidding, the Auctioneer shall be the sole and absolute judge of such dispute.

17. The Auctioneer acts only as agent for the Seller.
18. In the event of any conflict between these Terms and Conditions of Sale and the Purchase and Sale Agreement, the Purchase and Sale Agreement shall control.
19. NOTE: By registering, you have signed a written, binding contract agreeing to these Terms and Conditions of Sale and further agreeing that any bid you make is subject to the Vermont Auction Law. If you do not agree with any of these Terms and Conditions of Sale, return your bidding cards to the clerk immediately.
20. This sale is subject to confirmation by the Seller.
21. Other terms or conditions may be announced at the sale.