

# MEMORANDUM

To: Selectboard  
From: Peter B. Elwell, Town Manager  
Re: Administrative Report  
Date: March 28, 2016



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The following will summarize the proposed motions for the Selectboard's annual organizational meeting on Wednesday, March 30, 2016. The Board will meet at 5:30pm in the Selectboard Meeting Room.

### 3. INTERNAL BUSINESS

- B. Election of Officers
- (i) *Chair of the Board*
  - (ii) *Vice Chair of the Board*
  - (iii) *Clerk of the Board*

The Board is asked to elect its officers for 2016-2017.

**POTENTIAL MOTIONS: TBD**

### 5. NEW BUSINESS

- A. Police-Fire Facilities Project
- (i) *Potential Authorization to Exercise Option to Purchase 62 Black Mountain Road*

If no valid petition has been received by close of business on March 29 calling for a Townwide referendum on the FY17 Budget, the Board will be asked to authorize the Town Manager and Town Attorney to move forward with acquisition of the land and building at 62 Black Mountain Road. If the Town does not exercise this option prior to close of business on March 31, we will have to make an additional payment of \$10,000 on April 1 to extend the Town's option to purchase the property until June 30, 2016. Attached for reference are a draft letter by which the Town would exercise its option and the "Option Agreement to Purchase Real Estate" that was approved by the Selectboard on November 17, 2015.

**POTENTIAL MOTION: TO AUTHORIZE THE TOWN MANAGER AND TOWN ATTORNEY TO EXERCISE THE TOWN'S OPTION TO PURCHASE THE LAND AND BUILDING AT 62 BLACK MOUNTAIN ROAD (INCLUDING PAYMENT OF A DEPOSIT IN THE AMOUNT OF \$35,000) AND TO INITIATE ANY ADDITIONAL ACTIONS NECESSARY TO PROCEED TOWARD THE TOWN'S ULTIMATE PURCHASE OF THAT PROPERTY.**

PBE:

# **FISHER & FISHER**

**LAW OFFICES, P.C.**

**114 MAIN STREET**

**P.O. BOX 621**

**BRATTLEBORO, VERMONT 05302-0621**

**(802)254-4488**

**(802)254-6148 fax**

**ROBERT M. FISHER**

**MICHAEL McGILLION**

**KENNETH V. FISHER, JR.,**  
**(1936-2010)**

**Dover Office:**

**118 Route 100 North**

**P.O. Box 1708**

**West Dover, VT 05356-1708**

**(802)464-3276**

**(802)464-3187 fax**

**E-Mail:**

**[Bob@FisherandFisherlaw.com](mailto:Bob@FisherandFisherlaw.com)**

March 31, 2016

Attn: Marshall Anstandig, General Counsel  
Media News Group, Inc., d/b/a Digital First Media  
c/o California Newspapers Partnership  
4 North Second Street, Suite 800  
San Jose, California 95113

[manstandig@bayareanewsgroup.com](mailto:manstandig@bayareanewsgroup.com)

Twenty Lake Holdings  
Attn: Joseph Miller, President  
708 Third Avenue, 19<sup>th</sup> Floor  
New York, New York 10017

[jmiller@twentylake.com](mailto:jmiller@twentylake.com)

Venable LLP  
Attn: Geoffrey C. Etnire, Esq.  
8010 Tower Crescent Drive, Suite 300  
Tysons Corner, VA 22182

[getnire@venable.com](mailto:getnire@venable.com)

Re: EXERCISE OF OPTION BY TOWN OF BRATTLEBORO FOR 62 BLACK  
MOUNTAIN ROAD, BRATTLEBORO, VERMONT

Dear Attorney Anstandig:

Pursuant to Article II- Exercise of Option, Section 6 of the Option Agreement To Purchase Real Estate between the Brattleboro Publishing Company, Inc. and the Town of Brattleboro, Vermont, notice is hereby given that the Town of Brattleboro exercises the option to purchase 62 Black Mountain Road, Brattleboro, Vermont (known as APN 00070524.000) for the total purchase price of Seven Hundred Twenty Thousand Dollars (\$720,000).

The closing shall take place no later than August 10, 2016 after the inspection period has expired, and after the contingency for the Town to obtain bond bank financing by August 1, 2016 has expired. Closing may occur earlier by mutual consent of the parties.

Please Respond to: X Brattleboro Office \_\_\_ Dover Office

Enclosed herewith is a check in the amount of Thirty-Five Thousand Dollars (\$35,000) representing the deposit required by Article III, Section 8 of the Option Agreement.

Please be in touch with me concerning access to the building and the site for purposes of commencing the necessary inspections. I would very much appreciate knowing who the appropriate contact person will be for purposes of the inspections and the Town's due diligence.

The Town of Brattleboro appreciates the opportunity given by the Option Agreement and is, again, happy to provide notice of its exercise of the Option.

Sincerely,

Robert M. Fisher, Esq.

Cc: Peter Elwell, Town Manager  
John O'Connor, Finance Director  
Brattleboro Selectboard  
Geoffrey Etnire, Esq.  
Joseph Miller

## OPTION AGREEMENT TO PURCHASE REAL ESTATE

THIS OPTION AGREEMENT TO PURCHASE REAL ESTATE (the "*Agreement*") is made and entered into as of November \_\_\_\_, 2015 (the "*Effective Date*"), by and between Brattleboro Publishing Company, Inc., a Delaware corporation ("*Seller*"), and the Town of Brattleboro, a Vermont chartered municipality, with a mailing address of 230 Main Street, Brattleboro, Vermont ("*Buyer*"). Seller and Buyer may each be individually referred to herein as a "*Party*" and together as the "*Parties*" to this Agreement.

### ARTICLE I – OPTION TO PURCHASE

1. Grant of Option. Subject to the terms and conditions of this Agreement, Seller hereby grants to Buyer three (3) options (each, an "*Option*") for the periods set forth on **Schedule A** attached hereto (each, an "*Option Period*"), to purchase the real property commonly known as 62 Black Mountain Road, Brattleboro ("*City*"), Windham County ("*County*"), Vermont, also commonly referred to as APN 00070524.000, and as more fully described herein and on **Schedule B** attached hereto, for the total Purchase Price of Seven Hundred Twenty Thousand Dollars (\$720,000) (the "*Purchase Price*").

2. Property. The Property shall consist of all of the following: (a) all that certain real property described in paragraph 1 above (the "*Land*"); (b) the interest of Seller, if any, in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals and oil, gas and other hydrocarbon substances on and under the Land, rights of way; and all other appurtenances used in connection with the beneficial use and enjoyment of the Land (all of which are collectively referred to as the "*Appurtenances*"); and (c) all buildings ("*Buildings*") and all structures and improvements situated on the Land ("*Improvements*"), together with the interest of Seller in all fixtures located therein or used in connection with the operation or occupancy thereof, including, without limitation, the HVAC, plumbing, electrical, sprinkler and fire/life safety systems servicing or comprising part of any Buildings and/or Improvements and cooling system. The Land, Appurtenances, Buildings and Improvements are collectively referred to herein as the "*Property*". The terms "*Property*" and "*Improvements*" shall not include trade fixtures and the personal property of Seller.

3. Payment of Option Consideration. Buyer shall pay Seller the amounts set forth on **Schedule A** attached hereto (the "*Option Consideration*"). The Option Consideration shall be due and payable in full on the dates set forth on **Schedule A** attached hereto (the "*Option Schedule*"). Except as may be otherwise set forth herein, if this Agreement terminates or expires without being exercised by Buyer, the Option Consideration shall be retained by Seller.

4. Termination. If it has not previously terminated or been previously exercised by Buyer, this Agreement and the Options herein granted shall automatically terminate: (a) upon Buyer's failure to pay the applicable Option Consideration to Seller by the date such Option Consideration is due pursuant to the Option Schedule; or (b) following the end of the third Option Period. Upon any such termination, Seller shall be entitled to retain all Option Consideration previously paid hereunder, and the Parties shall have no further rights or obligations hereunder. If Buyer does not exercise an Option to purchase the Property in accordance with the provisions set forth in this Agreement, then the Option Consideration shall be non-refundable to Buyer, but if an Option to purchase the Property is exercised, fifty percent (50%) of the Option Consideration that has been paid to Seller as of the date such Option is exercised shall be credited against the Purchase Price. Subject to Buyer's payment of all Option Consideration to Seller when due, and subject to Seller's right to rescind this Agreement pursuant to paragraph 17(b), Seller shall not have the right to terminate an Option Period in any other circumstances.

5. Permits. Buyer shall have the right to seek all permits, licenses, zoning changes, approvals and the like, including any appeals therefrom whether administrative or in the courts, that Buyer in Buyer's sole judgment may deem necessary or convenient for its proposed use of the Property, with all state and local government agencies and entities, and any relevant federal agencies (collectively, the "*Permits*"), throughout the Option Period. Seller agrees to reasonably cooperate with Buyer's applications for such Permits, provided that

Seller shall not be required to expend any funds in connection with such applications. If, at the end of the third Option Period, Buyer is diligently pursuing any such Permits, Buyer may request an extension of the third Option Period ("*Extension Request*") for a reasonable period of time ("*Option Extension*") in order that Buyer may receive a decision thereon, provided that such Extension Request may be approved, conditioned or denied in Seller's sole discretion. In the event Seller grants such an Option Extension, Buyer shall pay to Seller a pro rata share of the Option Consideration due for the third Option Period based on the length of the Option Extension. For all purposes under this Agreement, none of the Permits shall be deemed to have been granted unless and until they have been granted in writing by the pertinent governmental authorities, (including all state, local and any relevant federal agencies), and all appeal periods relating thereto shall have expired without an appeal being taken, or, if one or more appeals are taken, until all such appeals and all further proceedings after such appeals have been finally resolved in favor of granting such Permits.

## ARTICLE II – EXERCISE OF OPTION

6. Exercise of Option. Buyer may exercise an Option to purchase the Property by giving written notice of such exercise (the "*Notice*") within the Option Period, as the same may be extended, in any of the following manners: (a) by letter of Buyer addressed and posted in the U.S. Mail by certified or registered mail, return receipt requested; or (b) by recognized overnight carrier such as FedEx or Express Mail, addressed in any event to Seller at its address stated below (or such other address as Seller may from time to time designate by notice in writing to Buyer). Notice shall be effective when mailed or sent by Buyer in accordance with the foregoing sentence. The Notice shall include the date and time set for Closing, which shall be held not more than ten (10) days after the end of the Inspection Period, at the offices of Fisher and Fisher Law Offices, P.C., or at another location agreeable to both Parties. Buyer agrees to exercise the Option, if at all, within thirty (30) days after all Permits have been granted, as described more fully in paragraph 5 above.

If to Seller:

Attn: Marshall Anstandig, General Counsel  
Media News Group, Inc. d/b/a Digital First Media  
c/o California Newspapers Partnership  
4 North Second Street, Suite 800  
San Jose, California 95113  
Tel: 408.920.5790  
Email: manstandig@bayareanewsgroup.com

With Copies to:

Twenty Lake Holdings  
Attn: Joseph Miller, President  
708 Third Avenue, 19th Floor  
New York, New York 10017  
Tel: 646.664.4020  
Email: jmiller@twentylake.com

and:

Venable LLP  
Attn: Geoffrey C. Etnire, Esq.  
8010 Tower Crescent Drive, Suite 300  
Tysons Corner, VA 22182  
Tel: 408.799.2992  
Email: getnire@venable.com

### ARTICLE III -- PURCHASE AND SALE

If an Option to purchase the Property is exercised, then in consideration of the terms, covenants and conditions contained herein, the Parties mutually agree as follows:

7. Purchase and Sale Agreement. Upon the giving of the above-mentioned Notice of exercise of an Option, but not before, Seller shall thereby be bound to sell and Buyer shall thereby be bound to purchase the Property, upon the terms and conditions set forth herein, and this Agreement shall represent a Purchase and Sale Agreement for the transfer of said Property. The purchase and sale of the Property is thereupon contingent upon the following: (a) Buyer obtaining all town meeting voter approval for the purchase of the Property and for the approval of the bonds therefor; (b) bond bank financing no later than August 1, 2016; (c) subject to the terms and conditions of paragraph 16, an Environmental Phase I inspection and, if applicable, an Environmental Phase II inspection; (d) engineering inspections of the Building; (e) executed Lease between Buyer and Seller for the portion of the Property leased back to Seller; (f) all state and local Permits necessary for the Property to be used as a Town Police Station.

8. Deposit. Upon Seller's delivery of its Notice of exercise of an Option, Buyer shall pay Seller a deposit in the amount of Thirty-Five Thousand Dollars (\$35,000) (the "*Deposit*"). Upon the expiration of the Inspection Period (as defined below), and provided this Agreement is not terminated on or before the expiration of the Inspection Period, and Seller is not otherwise in default under this Agreement, the Deposit shall become non-refundable to Buyer. In the event this Agreement terminates prior to the Closing hereunder because of a default by Seller, then the Deposit shall be promptly returned to Buyer. The Deposit shall be credited to Buyer at Closing (as defined below) and will become part of the Purchase Price.

9. Closing. The closing and settlement of this transaction ("*Closing*") shall occur within ten (10) days following the termination of the Inspection Period and at the place set forth in paragraph 6 above, or at such earlier time or other place as the Parties may mutually agree in writing (the "*Closing Date*"). Closing costs shall be shared as follows: (a) Seller shall pay for the cost of a standard CLTA policy of title insurance, the State of Vermont non-resident withholding taxes, and any land gains taxes applicable to the property, and one-half of the escrow and recording fees; and (b) Buyer shall pay the additional increase in cost associated with any ALTA extended coverage policy of title insurance, if obtained by Buyer as of the Closing, the cost of title endorsements requested by Buyer, any applicable Vermont Property Transfer Tax and one-half of the escrow and recording fees.

10. Possession; Leaseback. Buyer shall be entitled to full possession of the Property at Closing, free from any tenants and personal Property. Notwithstanding the foregoing sentence, Seller, as Tenant, shall lease back from Buyer, as Landlord, (the "*Leaseback*") a portion of the Property in accordance with the fundamental Leaseback terms set forth on **Schedule C** attached hereto (the "*Fundamental Lease Terms*") and pursuant to a definitive lease agreement to be entered into between the Parties prior to Closing (the "*Lease*").

11. Buyer's Conditions to Closing. Buyer shall not be obligated to proceed with the Closing unless and until each of the following conditions have been fulfilled or otherwise waived in writing by Buyer:

(a) On the Closing Date, all of the covenants and agreements to be complied with or performed by Seller under this Agreement on or before the Closing shall have been complied with or performed in all material respects.

(b) The representations and warranties made by Seller in this Agreement shall be true and complete in all material respects on and as of the Closing Date.

(c) The Property shall be in substantially the same condition and state of repair as existed on the Effective Date, ordinary wear and tear excepted.

(d) The Title Company is unconditionally prepared and committed to issue the Title Policy insuring that title to the Real Property is vested in Buyer (or its permitted assignee) subject only to the Permitted Exceptions.

If any of the conditions precedent set forth in this paragraph are not satisfied, deemed satisfied or waived in writing by Buyer at or prior to Closing (subject to any express rights which Seller may have under this Agreement to adjourn Closing), Buyer shall have the right, at Buyer's sole option (by written notice to Seller) to (i) terminate this Agreement, in which event, the Deposit will be returned to Buyer, and neither Party shall have any other obligations hereunder other than those which, by their express terms, survive such termination, or (ii) complete Closing, without a price adjustment, notwithstanding the unsatisfied condition.

12. Seller's Conditions to Closing. Seller shall not be obligated to proceed with the Closing unless and until each of the following conditions have been fulfilled or otherwise waived in writing by Seller:

(a) Buyer has paid the balance of the Purchase Price and Buyer's share of all other Closing costs and prorations pursuant to the provisions of this Agreement;

(b) Buyer shall have executed and delivered to Seller all of the documents required of Buyer under this Agreement;

(c) On the Closing Date, all of the covenants and agreements to be complied with or performed by Buyer under this Agreement on or before the Closing shall have been complied with or performed in all material respects; and

(d) The representations and warranties made by Buyer in this Agreement shall be true and complete in all material respects on and as of the Closing Date.

If any of the conditions precedent set forth in this paragraph are not satisfied, deemed satisfied or waived by Seller at or prior to Closing, Seller shall have the right, at Seller's sole option (by written notice to Buyer) to terminate this Agreement, in which event neither Party shall have any obligations hereunder other than those which, by their express terms, survive such termination, and if such failure of a condition constitutes a default by Buyer hereunder, then the terms of paragraph 23 shall apply.

13. Payment of Purchase Price. At Closing, Buyer agrees to pay to Seller in good and immediately available funds, the Purchase Price set forth herein, against which fifty percent (50%) of the Option Consideration paid to date shall be credited.

14. Delivery of Deed; Title to Property. At Closing, Seller shall deliver to Buyer a Vermont Limited Warranty deed for recordation at Closing, conveying marketable title to the Property, as defined by Vermont law. The Parties hereby acknowledge and agree to the form of the Vermont Limited Warranty Deed attached hereto as **Exhibit 1**. Seller shall provide its proposed deed five (5) business days in advance of the Closing for Buyer's review and comment. Seller shall be entitled to use the proceeds of the sale to pay at Closing any monetary encumbrances on the Property. Seller also agrees to execute and deliver to Buyer at closing a standard Seller's affidavit and indemnity agreement for title insurance purposes, a Vermont Property transfer tax form, and any customary transfer tax documents that may be required by any applicable law, as well as an Act 250 Disclosure Statement and an assignment of any Permits that may have been issued in Seller's name.

15. Condition of Title.

(a) At Closing, Seller shall convey and transfer to Buyer such title to the Property as will enable the Title Company to issue to Buyer a CLTA Policy of Title Insurance covering the Property (the "*Title Policy*"), in the full amount of the Purchase Price, subject only to the Permitted Exceptions (as hereinafter defined).

(b) Within five (5) business days of the commencement of the Inspection Period, Seller shall obtain, at Seller's sole cost and expense, order a current title commitment and copies of all exceptions referred to therein (collectively, "**Title Report**") from Title Company. Buyer shall examine the Title Report and the exceptions to title listed therein, as well as all underlying title documents and shall, no later than fifteen (15) days after the Effective Date notify Seller in writing ("**Title Objection Notice**") of any easement, right-of-way, encroachment, conflict, protrusion or other matter affecting the Property which is shown on a Survey, and of any exceptions which appear in the Title Report (other than the Permitted Exceptions, as defined below) that are unacceptable to Buyer in its sole and absolute discretion (collectively, "**Title Objections**"), and Buyer shall state in the Title Objection Notice which, if any, of the objectionable matters may be cured by Seller obtaining, at Seller's expense, an endorsement to Buyer's Title Policy issued at Closing, and any lender's title insurance policy issued to Buyer's lender at Closing, deleting such matter as an exception from the policy. Except as otherwise agreed by Seller pursuant to the provisions of this Agreement, Seller shall have no obligations to take any steps, or to bring any action or proceeding, or to otherwise incur any effort or expense whatsoever to eliminate or modify any of the Title Objections, except that (i) Seller agrees to remove at Seller's expense at or prior to Closing any deed of trust or mortgage created by Seller (or any affiliate or predecessor of Seller), any mechanic's and/or materialmen liens and judgment liens and any other monetary lien of an ascertainable amount affecting the Property (other than current real property taxes and assessments, not delinquent, which shall be prorated between the Parties at the Closing, as provided below, unless Seller, as tenant under the Lease is obligated to pay such real property taxes and assessments, in which event Seller shall pay the same to the extent provided in the Lease) (collectively, "**Monetary Liens**"), whether or not Buyer includes such Monetary Liens among the Title Objections; (ii) Seller shall terminate, or cause to be terminated, all leases and third Party occupancy agreements and cause all tenants, if any, to vacate the Property prior to the Closing hereunder and (iii) Seller shall execute and deliver to Title Company an owner's affidavit and/or indemnity in such form and content as may be requested by Title Company in order to remove from the Title Policy exceptions relating to Parties in possession (other than pursuant to the leases delivered to Buyer as part of the Property Information, as defined below) and claims to mechanics liens arising from work performed at the Property other than by or for Buyer. Except as provided above, any title insurance endorsements requested by Buyer, lender's policy of insurance, or the incremental title premium allocable to extended coverage policy (such as an ALTA extended coverage policy) shall be at Buyer's sole cost and expense; however, Buyer's election to obtain any title insurance endorsements requested by Buyer, lender's policy of insurance, ALTA extended coverage policy of title insurance shall not delay the Closing and Buyer's inability to obtain the same shall not be deemed to be a failure of any Buyer's condition to Closing.

(c) If Buyer properly delivers a Title Objection Notice as set forth in paragraph 13(b) above, and Seller does not provide Buyer with written notice of its election to cause all the Buyer's Title Objections to be removed from title to the Property within five (5) business days of Seller's receipt of the Title Objection Notice (the "**Objection Cure Period**"), then it shall be deemed that Seller has elected to not cause all Buyer's Title Objections to be removed from title, except that, in all events, Seller shall remove at Seller's expense all Monetary Liens at or prior to Closing and Seller shall terminate, or cause to be terminated, all leases and third Party occupancy agreements affecting the Property, or applicable portion thereof, and cause all tenants, if any, to vacate the Property prior to the Closing hereunder. If Seller does not elect, or is deemed to have not elected to remove all the Buyer's Title Objections (other than Monetary Liens, which will be removed by Seller in all events) from title to the Property, then Buyer may either (i) waive its disapproval of any exception Seller has not agreed to eliminate and proceed to Closing in accordance with the terms and conditions of this Agreement without any reduction in the Purchase Price, or (ii) as its sole and exclusive remedy, terminate this Agreement by delivering written notice thereof in writing to Seller on or before the expiration of the Inspection Period, in which event, the Deposit then on hand with the Escrow Agent will be returned to Buyer, and neither Party shall have any obligations hereunder other than those which, by their express terms, survive such termination.

(d) The term "**Permitted Exception**" means (i) items (other than Monetary Liens) reflected in the Title Report and (a) not objected to by Buyer or (b) waived in writing or deemed waived by Buyer in accordance with paragraphs 13(b) and 13(c) above, including any easements, rights of way, encroachments,

conflicts, discrepancies, overlapping of improvements, protrusions, liens or encumbrances (other than Monetary Liens), restrictions, conditions, covenants, exceptions or other matters with respect to the Property shown on the Title Report or Survey, if any, objected to by Buyer but which Seller has not elected to eliminate and have been waived in writing or deemed waived by Buyer in accordance paragraphs 13(b) and 13(c) above; (ii) the Title Company's standard printed conditions, exceptions and exclusions (other than exceptions relating to Parties in possession (other than the Lease to be entered into between Seller and Buyer) and claims to mechanics and/or materialmen liens arising from work performed at the Property other than by or for Buyer); (iii) liens for real property taxes and assessments not then delinquent (subject to Seller's obligation to pay such taxes and assessments allocable to the period prior to the Closing hereunder and following the Closing to the extent expressly provided in the Lease); and (iv) any matters affecting the condition of title to the Property created by or with the written consent of Buyer, or which otherwise arise from, or are unable to be removed due to, the acts or omissions of a Buyer or its employees, agents, affiliates, consultants, contractors, brokers, investigators or advisors.

(e) Nothing contained herein shall be construed as a representation by Seller of the state of title to the Property. Any attempt by Seller to cure a Title Objection shall not be construed as an admission by Seller that such objection is a timely title objection under this Agreement. The Parties agree that, without limiting any other provisions of this Agreement, including, without limitation, the Deed, Seller makes no express or implied warranties regarding the condition of title to the Property.

(f) If any new or additional items appear of record after the date of the Title Report, the Title Company shall deliver to Buyer a supplemental title report, including copies of all instruments reflected as exceptions in the supplemental title report (collectively, the "**Supplemental Report**"). Thereafter, the Parties shall comply with the provisions of paragraphs 13(b) and 13(c) above, except that the time to give a Title Objection Notice for any Supplemental Report shall be three (3) business days after Buyer receives the Supplemental Report and copies of all Exceptions therein, the Objection Cure Period shall be three (3) business days, and Buyer shall have three (3) business days after the Objection Cure Period to notify Seller of its election, if applicable, to waive those new Exceptions to which Buyer has objected and which Seller has not agreed to remove. If necessary, the Closing shall be extended to give each Party the full benefit of such election and decision times.

16. Inspection Period.

(a) Buyer shall have a period commencing on the date it provides Notice of exercise of an Option and ending ninety (90) days thereafter (the "**Inspection Period**") within which to inspect the physical condition of the Property and make such non-invasive engineering, surveys, tests, and market, environmental and other studies as Buyer may elect, including any Phase I Environmental Site Assessment. Buyer shall have the right to choose the third-party Environmental Site Assessment engineer or company and shall not be required to rely upon prior site assessments performed by Seller. In the event that the Phase I Environmental Site Assessment Report the "**Phase I Report**") recommends a Phase II investigation and Buyer requests such investigation at Buyer's sole expense, the Inspection Period shall be extended for the limited purpose of the completion of the Phase II investigation and Buyer's review of the Phase II report (the "**Phase II Report**"). The extension of the Inspection Period shall be twenty (20) days after Buyer's receipt of the Phase II Report. The Inspection Period may be extended as described herein only if Buyer provides Seller with a written waiver of all inspection and other contingencies except for Buyer's satisfaction with the Phase II Report. Any environmental and property condition report conducted by Buyer shall be prepared for and shall name the Buyer as the reliance party, and shall constitute part of the Property Information (as defined below). Buyer shall conduct such inspections and studies at its sole cost and risk. Buyer shall provide Seller with twenty-four (24) hours' advance notice (written or email) that it or its agents, consultants and/or contractors desire to conduct such inspections and studies on the Property. Seller shall have a right to be present on the Property during Buyer's inspection of the Property.

(b) Within three (3) business days following the commencement of the Inspection Period, Seller shall deliver to Buyer or make reasonably available to Buyer at the Property for inspecting and photocopying, copies of the following, to the extent such documents are within the possession or control of Seller (the "*Property Information*"): (i) any and all environmental reports and soil, groundwater and geotechnical reports, studies and analyses, including that certain Phase I Environmental Site Assessment Report by Partner Engineering and Science, Inc. dated December 5, 2013; (ii) any lease files; (iii) all agreements or other obligations to which Seller is Party for the rendering of operating, maintenance and/or repair services at the Property, or applicable portion thereof, including copies of all, equipment, service, security, and maintenance contracts (collectively, "*Service Contracts*"); it being understood and agreed that, prior to the expiration of the Inspection Period, Buyer shall notify Seller in writing which Service Contracts, if any, Buyer agrees to assume as of the Close of Escrow and all other Service Contracts shall be terminated by Seller effective as of the expiration or earlier termination of the Lease to be entered into between Buyer, as landlord, and Seller, as tenant; and (iv) copies of all warranties and guaranties covering the Property or any part thereof.

(c) Until the Close of Escrow, Seller shall promptly disclose to Buyer, in writing, all changes in the information previously delivered by Seller to Buyer. Seller will promptly make available to Buyer for inspection and copying, copies of all Property Information. If this Agreement is terminated, Buyer shall promptly return the Property Information to Seller. Notwithstanding the foregoing, in no event shall the Property Information include nor shall Seller be required to provide to Buyer: (i) any confidential internal memorandum of Seller with respect to the Property or other documents relating to Seller or (ii) any loan documents of Seller or any correspondence between Seller and Seller's lenders. Buyer expressly agrees that Seller is furnishing copies of all Property Information to Buyer for informational purposes only and without representation or warranty as to the accuracy or completeness of the contents of such materials.

(d) In connection with its inspections, Buyer shall keep the Property free and clear of any liens and will indemnify (to the extent that the Buyer has legal authority to do so), defend, and hold Seller Parties (as defined below) harmless from all Claims (as defined below) asserted by third parties against any Seller Parties or otherwise incurred by any Seller Parties as a result of Buyer's entry onto or testing of the Property by Buyer, its agents, employees or contractors. Buyer shall not undertake any intrusive investigations without the advance written consent of Seller, which may be withheld in Seller's sole discretion. If any inspection or test undertaken by Buyer or any of its agents, employees, contractors or consultants damages the Property, Buyer will restore the Property to its condition before any such inspection or test as commercially practicable; or Buyer shall reimburse Seller for all reasonable expenses incurred by Seller in repairing such damages if Buyer does not promptly repair such damages after written notice of such damages has been delivered by Seller to Buyer. This paragraph 14(d) shall survive Closing and any termination of this Agreement.

(e) If in Buyer's sole discretion, Buyer decides that it will proceed with the purchase of the Property, Buyer shall give Seller written notice of such fact on or before expiration of the Inspection Period (the "*Approval Notice*"). Except for reasons pertaining to the condition of title of the Property, which shall be governed by paragraph 15 above, if Buyer is not satisfied for any or no reason with the Property, in Buyer's sole and absolute discretion, Buyer may elect to terminate this Agreement by giving written notice to Seller on or before the expiration of the Inspection Period. If Buyer timely terminates this Agreement on or before the expiration of the Inspection Period or fails to timely deliver the Approval Notice to Seller, then this Agreement shall terminate, the Deposit then on hand with Escrow Agent (less the Independent Consideration) shall be immediately returned to Buyer, less Buyer's share, if any, of any cancellation fees and charges imposed by Escrow Agent, without further instruction and neither Party shall have any further liability or obligations hereunder, except for those obligations expressly stated to survive the termination of this Agreement.

(f) As used herein, "*Seller Parties*" shall mean collectively, Seller, each and all of its officers, directors, employees, shareholders, affiliates, subsidiaries, principals, parents, trustees, attorneys, joint venturers, related Parties and entities, contractors and agents, each and all of the predecessors, legal representatives, heirs, successors and assigns of any of the foregoing and their respective subsidiaries, parents, affiliates, joint venturers, directors, officers, members, principals, investors, shareholders, trustees, designees,

lenders, beneficiaries, employees, agents, brokers, property managers, asset managers, representatives, predecessors, successors, assigns, contractors, subcontractors, fiduciaries, insurers, heirs, estates, servants, other related Parties and persons, and attorneys, past and present.

(g) As used herein, "**Claims**" shall mean any and all actual or threatened claims, detriments, rights, remediation, counterclaims, liens, controversies, obligations, agreements, executions, debts, covenants, promises, suits, causes of action, actions, demands, liabilities, losses, damages, assessments, judgments, fines, penalties, threats, sums of money, accounts, costs, expenses, known or unknown, direct or indirect, at law or in equity (including, without limitation, reasonable attorneys' fees and other professional fees of attorneys and professionals selected by the protected Party), whether incurred in connection with an investigation, non-judicial, quasi-judicial, judicial, mediative, arbitative, or administrative actions or proceedings or otherwise (including pretrial, trial, appellate, administrative, bankruptcy or insolvency proceedings) or in settlement or in any other proceeding and whether or not suit was filed thereon. Notwithstanding the foregoing, in no event shall "**Claims**" include any of the foregoing that relate to or arise from any environmental act, omission, event or condition at, on, under or about the Property prior to Closing (collectively, a "**Pre-Closing Environmental Claim**," except for such matters that are the result of contamination negligently caused (as opposed to merely discovered) by Buyer or Buyer's employees, agents, representatives or contractors).

17. Environmental Conditions. Subject to the terms and conditions of this paragraph, Seller shall not be responsible for the remediation of Hazardous Materials on the Property, except that Seller shall be responsible for effecting (a) any cure recommended in the Phase I Report or, if applicable, the Phase II Report, and (b) the clean-up and remediation of any and all Hazardous Materials first released, spilled, discharged or caused to be present on, in or under the Property, or applicable portion thereof, following the Effective Date by Seller or any of the Seller Parties, including, without limitation, any Hazardous Materials first released, spilled, discharged or caused to be present on, in or under the Property, or applicable portion thereof, during the term of the Lease by Seller or any of the Seller Parties.

(a) In the event the Inspection Period is extended by twenty (20) days after Buyer's receipt of the Phase II Report pursuant to paragraph 16, Seller shall deliver to Buyer a corrective action plan/remediation plan (the "**Remediation Plan**") that addresses any existing environmental conditions revealed by any Phase II investigation or Phase II Report ("**Existing Environmental Conditions**"). The Remediation Plan shall describe: (i) any remedial actions required or recommended by any governmental authority with respect to such Existing Environmental Conditions in order to ensure the Property is not in violation of applicable laws; (ii) whether Seller will enter the Vermont Voluntary Cleanup Program after the Inspection Period; (iii) any remedial actions necessary to achieve the soil and groundwater Cleanup Standards set forth in the Vermont Department of Environmental Conservation Cleanup Standards for Soil and Groundwater for Existing Environmental Conditions; (iv) Seller's estimate as to when it might obtain from the Vermont Department of Environmental Conservation a closure certificate; (v) any maintenance and monitoring activities that are required under the Voluntary Cleanup Program in connection with Existing Environmental Conditions; and (vi) any other remedial action for such Existing Environmental Conditions as may be required by applicable law.

(b) In the event any Phase II investigation or Phase II Report reveals any Existing Environmental Conditions the remediation of which Seller reasonably believes will cost more than Fifty Thousand Dollars (\$50,000), Seller shall have the sole and absolute right to rescind this Agreement, in which case the Deposit shall be returned to Buyer. This paragraph shall survive the Closing.

(c) In the event Seller is obligated to perform any remedial actions under this Agreement, the Parties shall mutually agree upon any proposed remedial actions set forth in the Remediation Plan, but such approval shall not affect Seller's obligations as provided herein. In the event Seller obtains such approval, Seller shall have the right of reasonable access to the Property for the purpose of conducting such remedial actions and complying with the terms of this Agreement; provided, however, that Seller shall: (i) notify Buyer in

writing at least two (2) days prior to any proposed entry on the Property (which notice shall detail the proposed scope of work to be performed) and afford Buyer an opportunity to observe such activities; (ii) undertake all activities required in connection with this Agreement in a manner so as to not disrupt tenants and other occupants of the Property; and (iii) promptly after entry onto the Property, and in no event later than two (2) days after each entry or earlier if required to ensure site safety, restore or repair to its original condition any damage thereto caused by or otherwise arising from any act or omission by Seller, its agents, representatives or contractors. To the extent that any remedial action is performed by Seller which involves any physical intrusion on the Property, Seller shall obtain Buyer's written approval prior to the commencement of such activities, including, without limitation, approval of the schedule, design, location, installation, and operation of any remediation facilities; such approval shall not be unreasonably withheld, provided that the activities do not disrupt tenants and other occupants at the Property. Seller shall keep the Property free from all liens and claims, including liens and claims of mechanics and materialmen as a result of Seller's activities at the Property in connection with this Agreement. Seller shall provide Buyer, promptly upon receipt, with copies of all notices, correspondence, reports, and other information and matters received or sent relating to Existing Environmental Conditions or Seller's participation in the Voluntary Cleanup Program. This paragraph shall survive Closing.

18. AS-IS PURCHASE. Except as may be expressly provided in this Agreement, and to the maximum extent permitted by applicable law, (i) the sale of the Property as provided for herein is made on an "AS-IS" and "WITH ALL FAULTS" basis, and (ii) Seller has no obligations to make any repairs, replacements or improvements. Except as may be expressly provided in this Agreement, Buyer agrees that it will accept the Property from and after closing, in its then existing condition "AS-IS" and "WITH ALL FAULTS", including without limitation, any faults and conditions specifically referenced in this Agreement. No person acting on behalf of Seller or any other Seller Party is authorized to make, and by execution hereof, Buyer acknowledges and agrees that, except as specifically provided in this Agreement (and the exhibits attached hereto), Seller and all other Seller Parties have not made, do not make and specifically negate and disclaim any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to: (a) the value of the Property; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Buyer may conduct thereon, including any development of the Property; (d) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (e) the manner, quality, state of repair or lack of repair of the Property; (f) the nature, quality or condition of the Property, including without limitation, the water, soil and geology; (g) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (h) the manner, condition or quality of the construction or materials, if any, incorporated into the Property; (i) compliance with any environmental laws or other environmental protection, pollution or land use laws, rules, regulation, orders or requirements, including but not limited to, the Endangered Species Act, Title III of the Americans With Disabilities Act of 1990 or any other law, rule or regulation governing access by disabled persons, the Federal Water Pollution Control Act, the Federal Resource Conservation and Recovery Act, the U.S. Environmental Protection Agency regulations at 40 C.F.R., part 261, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Resources Conservation and Recovery Act of 1976, the Clean Water Act, the Safe Drinking Water Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, and regulations promulgated under any of the foregoing; (j) the presence or absence of Hazardous Materials at, on, under, about or adjacent to the Property; (k) the content, completeness or accuracy of the due diligence materials, including any informational package, cost to complete estimate or other materials prepared by Seller or provided by Seller or any other Seller Party to Buyer; (l) the conformity of the improvements to any plans or specifications for the Property, including any plans and specifications that may have been or may be provided to Buyer; (m) the conformity of the Property to past, current or future applicable zoning or building requirements; (n) deficiency of any undershoring; (o) deficiency of any drainage; (p) the fact that all or a portion of the Property may be located on or near an earthquake fault line or located in an *alquist-priolo* special study zone; (q) the existence of vested land use, zoning or building entitlements affecting the Property, or (r) with respect to any other matter concerning the Property, including any and all such matters referenced, discussed or disclosed in any due diligence materials delivered by Seller to Buyer, in any public

records of any governmental agency or entity or utility company, or in any other documents available to Buyer, except as may be otherwise expressly stated herein.

Buyer further acknowledges and agrees that having been given the opportunity in this Agreement to further inspect the Property and review information and documentation affecting the Property, Buyer is relying solely on its own investigation of the Property and review of such information and documentation, and Seller's representations and warranties set forth in this Agreement. Buyer acknowledges and agrees that any information made available to Buyer or provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information prepared by third parties except as may otherwise be provided herein. Buyer hereby represents and warrants to Seller that: (a) Buyer is represented by legal counsel in connection with the transaction contemplated by this Agreement; and (b) Buyer is purchasing the Property for business and commercial development or other similar purpose. Buyer waives any and all rights or remedies it may have or be entitled to, deriving from disparity in size or from any significant disparate bargaining position in relation to Seller.

19. Assumption and Release. From and after Closing, Buyer, on behalf of Buyer and Buyer's representatives, employees, agents and each of their respective successors and assigns (collectively, including Buyer, the "*Buyer Parties*"), to the maximum extent permitted by law waives, releases, remises, acquits, and forever discharges Seller Parties of and from any and all claims of whatever kind and nature, in law or in equity, known or unknown, which any Buyer Party ever had, now has, hereafter can, shall or may have or acquire or possess, at law or in equity, arising out of or in any way connected with, (i) any Seller Party's use, maintenance, ownership, or operation of the Property prior to closing, or (ii) the physical, economic, or legal condition of the Property, and all other title or due diligence matters described herein. Additionally, upon closing Buyer assumes the risk of all adverse matters with respect to the Property, including adverse physical conditions, defects, construction defects, which may not have been revealed by Buyer's inspections. Notwithstanding the foregoing, in no event does this waiver, release, remise, acquittal or discharge or assumption of risk apply to (i) any environmental claim related to a recognizable environmental condition ("*REC*") described in the Phase II Report and which Seller agrees to cure pursuant to paragraph 17, above, or related to a REC which, after the effective date, Seller agrees in writing to cure, (ii) any breach by Seller of any representation, warranty or covenant set forth in this Agreement, (iii) any breach by Seller of any covenant or agreement set forth in this Agreement or the assignment of warranties, service contracts and intangible Property, (iv) any breach or default by Seller of any indemnification obligation under this Agreement, (v) any breach by Seller of any of its covenants, agreements or obligations under the lease or (vi) any fraud committed by Seller or any of the other Seller Parties. It is understood and agreed that the Purchase Price has been adjusted by prior negotiations to reflect that all of the Property is sold by Seller and purchased by Buyer subject to the foregoing. It is not contemplated that the Purchase Price will be increased if costs to Buyer associated with the Property prove to be less than expected nor will the Purchase Price be reduced if the Buyer's plan for the Property leads to higher cost projections. The provisions of this paragraph 19 shall indefinitely survive the Closing or termination of this Agreement and shall not be merged into the Closing documents.

20. Real Estate Taxes. Real estate taxes and other municipal assessments assessed by the Town of Brattleboro shall be prorated according to its tax year as of the date of Closing (which commences on July 1 each year). In the event Seller has filed one or more real property tax assessment appeals and/or personal property tax appeals and such appeal(s) are pending, or in the event Seller files similar tax appeals for other years, including the current tax year, Seller reserves and retains all rights to prosecute all such appeals. Seller shall bear all the costs associated with such appeals, including, but not limited to, filing fees, legal fees, appraisal fees, and consulting fees (the "*Appeal Costs*"). Seller shall be entitled to receive (a) any and all refunds attributable to the period prior to Closing and (b) a payment from Buyer equal to any credit that Buyer receives (and is not reflected in a reduction in the amount of the taxes paid by Seller as tenant thereafter under the Lease) for real and/or personal property taxes that were paid by Seller and that pertain to the period of time after Closing and prior to the termination of the Leaseback. In the event that Seller's appeal for the current tax year directly produces a reduction in taxes owed by Buyer during the current tax year but after the expiration of the

Lease, and/or should there be, as a result of Seller's appeals, a reduction in subsequent tax years following the expiration of the Lease by action of law, by inclusion in a stipulation or by passage of time, Buyer shall pay to Seller a sum equal to Buyer's prorated share of the Appeal Costs reasonably incurred by Seller associated with the appeal for the respective tax year.

21. Risk of Loss. If, after the Effective Date and prior to the Closing Date (a) any condemnation, eminent domain or similar action is instituted or threatened for the taking or appropriation of all or any part of the Property (a "*Taking*"), or (b) any fire, flood, earthquake, or other casualty destroys or damages all or any part of the Property or the construction, development, use, ownership or operation thereof (a "*Casualty*"), then promptly following Seller's receipt of notice or knowledge thereof, Seller shall give notice to Buyer of such fact and the degree to which such Casualty, if applicable, is covered by insurance (together with complete and accurate copies of all insurance policies providing that coverage). In the case of a Taking, or threatened Taking (other than a Taking: (i) by Buyer; (ii) by the City of Brattleboro; or (iii) a Taking for street widening which does not impair access to the Property or the future development of the Property as determined by Buyer), or in the case of a Casualty, which, in the opinion of an independent adjuster mutually acceptable to Seller and Buyer, will cost more than Fifty Thousand Dollars (\$50,000) (the "*Threshold Amount*" to restore, repair or replace, Buyer shall have the option to terminate this Agreement by giving notice thereof to Seller within fifteen (15) business days after Buyer's receipt of notice (and copies of insurance policies, if applicable) from Seller of such Taking (or threatened Taking) or Casualty, in which event Buyer, as its sole remedy, shall be entitled to receive a refund of the Deposit then on hand with Escrow Agent, and all awards, proceeds and compensation for such Taking or Casualty, as applicable, shall be the property of Seller. Upon such termination, neither Party shall have any further rights or obligations hereunder, except for rights and obligations that, pursuant to the provisions of this Agreement, are expressly made to survive the termination hereof. If Buyer fails to timely notify Seller of its election to terminate this Agreement within the aforesaid period, then Buyer shall be deemed to have elected not to terminate this Agreement by reason of such Taking (or threatened Taking) or such Casualty with respect to which Seller gave Buyer notice. In the event of any Taking (or threatened Taking) that is not materially adverse to Buyer, in Buyer's sole determination (except that actual or threatened street widening of strips of the Real Property less than ten (10) feet wide shall be deemed immaterial for purposes hereof), or in the event of a Casualty where the damages arising therefrom, including the cost to repair or restore the Property, as estimated by an independent adjuster mutually acceptable to Seller and Buyer are equal to or less than the Threshold Amount or in the event of a Taking (or threatened Taking) or a Casualty with respect to which Buyer does not elect to terminate this Agreement as a result thereof, then Seller shall assign and transfer to Buyer, without any representation or warranty by Seller or recourse whatsoever to Seller, all of Seller's right, title and interest in, and any sums actually received or to be received by Seller, if any, with respect to all damages, settlements, awards, proceeds (including insurance proceeds) and compensation arising therefrom, less reasonable amounts expended by Seller prior to Closing for repairs to the Property from the Casualty or Taking that are required by law to be made or were made by Seller to alleviate an imminent risk of damage to the Property or injury to persons, and Seller's costs or collection and prosecuting such claims and awards, and Buyer shall purchase the Property with no reduction in the Purchase Price on account thereof except that Seller shall credit to Buyer at Closing the amount of Seller's deductible under any policy of insurance applicable to such damage to or destruction of the Property, or portion thereof and an amount equal to the estimated cost to repair any Building or Improvements so damaged or destroyed by such Casualty if it is an uninsured Casualty.

22. Transfer Taxes. Buyer shall pay at closing the applicable Vermont Property transfer tax imposed on the sale contemplated hereby. Seller shall be responsible to pay all land gains tax related to the sale and all withholding related thereto. At or prior to Closing, Seller shall provide Buyer with satisfactory proof either that there is no such tax due or that the tax has been paid in full, or shall provide a certificate from the Vermont Department of Taxes specifying the amount of any tax that may be due as a result of the sale. If Seller is a non-resident of Vermont, unless a withholding certificate is issued by the Vermont Commissioner of Taxes in advance of the Closing, Buyer shall withhold two and one-half percent (2.5%) of the total Purchase Price and file a withholding tax return with the Vermont Department of Taxes. In addition, if the sale of the Property subjects Seller to the payment of federal tax under the Foreign Investment in Real Property Tax Act (FIRPTA),

unless a withholding certificate is issued by the Internal Revenue Service, Buyer shall withhold ten percent (10%) of the Purchase Price and file a Withholding Tax Return with the Internal Revenue Service.

23. Default by Buyer. If Buyer fails to make any payment as agreed after exercise of the Option, then this Agreement shall be terminated and Seller shall retain the Option Consideration previously paid by Buyer as full liquidated damages, and as Seller's sole remedy hereunder. In the event the closing and the consummation of the transactions herein contemplated does not occur as herein provided by reason of any material default of Buyer hereunder, and Buyer does not cure such default within two (2) business days following receipt by Buyer of written notice of such default from Seller, Buyer and Seller agree that it would be impractical and extremely difficult to estimate the damages suffered by Seller as a result of Buyer's material default in its obligation to complete the purchase of the property pursuant to this Agreement, and that under the circumstances existing as of the date of this Agreement, the liquidated damages provided for in this paragraph represent a reasonable estimate of the damages which Seller will incur as a result of such material default; provided, however that this provision will not waive, limit or affect any of the following ("*Non-Liquidated Obligations*"): (i) Seller's right to receive reimbursement for reasonable attorneys' fees under this Agreement, (ii) Buyer's release or indemnity obligations under this Agreement, and (iii) Seller's rights and remedies arising under or with respect to Buyer's release and/or indemnity obligations under this Agreement. Therefore, Buyer and Seller do hereby agree that a reasonable estimate of the total net detriment that Seller would suffer in the event that Buyer materially defaults in its obligation to complete the purchase of the property is an amount equal to the deposit. Said amount will be the full, agreed and liquidated damages for the breach of this Agreement by Buyer and shall be Seller's sole and exclusive remedy (other than Seller's rights and remedies arising under or out of the non-liquidated obligations) in the event of a material default by Buyer of its obligation to purchase the property under this Agreement. The payment of such amount as liquidated damages is not intended as a forfeiture or penalty but is intended to constitute liquidated damages to Seller. Upon material default by Buyer and failure to cure such default within two (2) business days following Buyer's receipt of written notice of such material default, this Agreement will be terminated and, except for Seller's rights and remedies arising under or out of the non-liquidated obligations and Seller's right to collect and retain Buyer's deposit as provided hereunder), neither Party will have any further rights or obligations hereunder, each to the other.

24. Default by Seller. If Seller shall default in any of its obligations to be performed under the terms of this Agreement and if such default shall continue for two (2) business days after notice to Seller, then Buyer's sole right and remedy (in lieu of proceeding with any other legal course of conduct, the right to bring such actions or proceedings being expressly and voluntarily waived by Buyer to the extent legally permissible, following and upon advice of its counsel, and it being expressly acknowledged by Buyer that such waiver is a material inducement to Seller entering into this Agreement) shall be, in the sole discretion of the Buyer, either (i) the return of the Deposit plus reimbursement by Seller of Buyer's actual and reasonable documented third Party costs (inclusive of reasonable legal fees), up to the maximum aggregate amount of One Hundred Thousand Dollars (\$100,000) or (ii) pursue an action for the specific performance of this Agreement provided that Buyer initiates such proceeding no later than ninety (90) days after the later of Seller's alleged default or the Scheduled Closing Date, whichever first occurs, including the recordation or filing of a notice of *lis pendens* or notice of pendency solely in connection with Buyer's action for specific performance hereunder against any portion of the property. If Buyer fails to commence an action for specific performance within such (ninety) 90-day period, Buyer waives its rights to file such action and Buyer's sole remedy shall be to terminate this Agreement and receive a return of the Deposit under clause and Buyer's reasonable documented third Party costs, not to exceed One Hundred Thousand Dollars (\$100,000) as provided above.

25. Real Estate Brokerage. Buyer will not be responsible for any brokerage fees.

26. Seller's Representations. Seller represents that any buildings and improvements on the Property have been constructed according to all local, state and federal laws and regulations at the time of their construction; that no lawsuits or other proceedings are pending (or, to Seller's best knowledge, threatened) with respect to the Property or any portion thereof; and that no part of the Property has been placed in "current use" or has been given any other tax status, that may impose a penalty, or require a payment, in the event that the use

of the Property is changed in the future. To the best of Seller's actual knowledge, except as otherwise disclosed in the Property Information, Seller warrants to Buyer that there are no Hazardous Materials on, in or under the Property in violation of applicable environmental laws and the Property does not contain any underground tanks. For purposes of this Agreement, the term "*Hazardous Materials*" shall mean any chemical, substance, waste, or material which is deemed hazardous, toxic, a pollutant, or a contaminant under any federal, state or local law, statute, ordinance, rule, regulation, or judicial or administrative order or decision, or which has shown to have significant adverse effects on human health or the environment, including, without limitation, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*; and those substances defined as "hazardous wastes" in the Hazardous Materials storage, use or discharge ordinances of the County.

27. Buyer's Representations. Buyer represents and warrants to Seller as follows: (a) the execution and delivery of this Agreement and the performance by Buyer of its obligations hereunder have been duly authorized by all necessary action on the part of Buyer; (b) the execution, delivery and performance of this Agreement do not violate any contract, agreement or commitment to which Buyer is a Party or by which Buyer is bound; (c) the person(s) executing this Agreement on behalf of Buyer is(are) authorized to do so on behalf of Buyer; (d) this Agreement has been duly executed and delivered by Buyer and is a valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, subject to bankruptcy, reorganization and other similar laws affecting the enforcement of creditors' rights generally; (e) Buyer has no knowledge of any action, proceeding, investigation, bankruptcy or insolvency proceeding pending or threatened against Buyer or any of the other Buyer Parties which would affect or impair in any respect Buyer's ability to consummate the transactions contemplated hereby or which questions the validity or enforceability of this Agreement; (f) Buyer has the financial capacity to pay the Purchase Price at the Closing and to otherwise perform its financial obligations under this Agreement; (g) Buyer is not an Ineligible Buyer. For purposes of this Agreement, "*Ineligible Buyer*" means any Person who is, or whose Affiliate is, (i) identified on any of the Lists (defined below), (ii) a "*Designated National*" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515, (iii) a Person designated under Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001), any related enabling legislation, any other similar Executive Order or any similar regulation, (iv) a Person who has been convicted of a felony involving moral turpitude in any state or federal court, (v) a Person who is then the subject of any investigation by any governmental authority or any class action litigation in which it is alleged that it or any of its Affiliates has engaged in "predatory" or other improper lending or servicing or other unethical or improper business conduct, (vi) the Broker (as hereafter defined) or an Affiliate of the Broker, or (vii) an individual or entity who has at any time owned an interest in the Property which interest was foreclosed upon. The representations and warranties of Buyer shall survive for twelve (12) months after the Closing.

28. Limitation on Liability. Notwithstanding anything to the contrary contained in this Agreement, Buyer agrees that its recourse against Seller under this Agreement or under any other agreement, document, certificate or instrument delivered by Seller to Buyer (other than the Lease), or under any law applicable to the Property or this transaction, shall be strictly limited to Seller's interest in the Property and rents and income therefrom and insurance proceeds payable to Seller (or upon consummation of the transaction contemplated hereunder, to the net proceeds of the sale thereof actually received by Seller, but in no event shall Buyer seek or obtain any recovery or judgment against any of Seller's other assets (if any) or against any of Seller's members, partners, or shareholders, as the case may be (or their constituent members, partners, or shareholders, as the case may be) or any director, officer, employee or shareholder of any of the foregoing. Buyer agrees that Seller shall have no liability to Buyer for any breach of Seller's covenants, representations or warranties hereunder or under any other agreement, document, certificate or instrument delivered by Seller to Buyer, or under any law applicable to the Property or this transaction, except to the extent permitted hereunder.

29. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont, and shall be binding on and be for the benefit of all Parties hereto, their respective heirs, successors, and assigns. The use of headings and captions in this Agreement is for purposes of

convenience only, and no caption or paragraph heading shall be construed or interpreted so as to affect in any way the meaning of this Agreement. No invalidity or unenforceability of any provision of this Agreement shall affect in any way the continued validity or enforceability of the remaining terms and provisions hereof. This Agreement shall not be effective unless and until executed and delivered by each of Buyer and Seller. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the Party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. If any provision in this Agreement is found by a court of competent jurisdiction to be in violation of any applicable law, and if such court should declare such provision of this Agreement to be unlawful, void, illegal or unenforceable in any respect, the remainder of this Agreement shall be severable, and the rights, obligations and interests of the Parties hereto under the remainder of this Agreement shall continue in full force and effect. To the extent permitted by applicable law, the Parties hereto waive any provision of law that which prohibits or renders void or unenforceable any provision hereof.

30. Execution. All Parties have signed two originals of this Agreement on the day and year written above. This Agreement may be executed in counterparts or with counterpart signature pages, all of which taken together shall constitute but a single instrument.

31. Recording of Option. The Parties acknowledge and agree that this Agreement may be recorded by either Party upon prior written notice to the other Party; provided, however, that in no event shall any of the Schedules or Exhibits attached hereto be recorded along with the Agreement.

32. Exclusivity. On and after the Effective Date, and continuing until either the Closing occurs or this Option is terminated or expires, Seller agrees that it will not market the Property or enter into or continue any discussions or contracts with any person or entity other than Buyer, regarding a purchase of the Property. The Parties agree that, since Buyer's intended use of the Property does not require use of the entire Property, Buyer will have the right to market both the portion of the Property that Buyer intends to use (the "*Project Property*"), and the portion of the Property that Buyer does not intend to use, excluding that portion of the Property that Seller shall Leaseback from Buyer under the Lease (the "*House Property*"), both separately and together, during the Option Period, so that if an Option is terminated without a sale occurring to Buyer hereunder, Seller will have had the benefit of exposure of the Property in the marketplace. In the event that this Agreement terminates without a sale to Buyer occurring, Buyer agrees to assign to Seller upon request by Seller after such termination, all offers received by Buyer for the Property during the Option Period. Buyer further agrees to share with Seller copies of all offers received by Buyer for the Property (either in whole or in part) during the Option Period, so that Seller will remain informed as to efforts to sell the Property, in the event the sale to Buyer does not occur as contemplated hereunder. The foregoing notwithstanding, the right of Buyer to purchase the Property shall always be superior in right to any right or offer of any other Party, so long as this Agreement remains in effect.

33. No Assignment by Buyer. This Agreement may not be assigned by Buyer without the prior written consent of Seller, which consent may be withheld in Seller's sole and absolute discretion. Notwithstanding the foregoing, Buyer may assign this Agreement to an entity managed and one hundred percent (100%) controlled by Buyer or to any entity controlling, controlled by or in common control with Buyer; provided, however, Buyer shall provide documentation reasonably acceptable to Seller to confirm the management and control of the proposed assignee or that such assignee is an entity controlling, controlled by or in common control with Buyer. Any attempted assignment requiring Seller's consent that is conducted without Seller's required prior written consent will, at Seller's option, be voidable and constitute a material breach of this Agreement. If an assignment requires the consent of Seller and Seller consents to an assignment, the assignment will not be effective against Seller until Buyer delivers to Seller a fully executed copy of the assignment instrument, which instrument must be reasonably satisfactory to Seller in both form and substance, pursuant to which the assignee assumes and agrees to perform for the benefit of Seller the obligations of Buyer under this Agreement accruing from and after the effective date of such assignment, and pursuant to which the assignee makes the warranties and representations required of Buyer under this Agreement. Any such assignment will not release Buyer from any of its obligations under this Agreement. In the event of an

assignment by Buyer of this Agreement, Buyer shall pay one hundred percent (100%) of the transfer taxes, if any, and transaction costs payable in connection with such assignment, if any, and Buyer shall indemnify, hold harmless and, if requested by Seller (in Seller's sole discretion), defend (with counsel approved by Seller) Seller Parties from and against any and all Claims arising from or related to such assignment. Any assignment permitted under this Section shall not be effective until immediately preceding the close of Escrow. The provisions of this Section shall survive Closing.

34. Entire Agreement. This Agreement, together with the Schedules and Exhibits attached hereto, sets forth the entire and exclusive agreement between the Parties as to the subject matter hereof and supersedes all prior and contemporaneous understandings, negotiations and agreements, whether written or oral, between the Parties.

35. Counterparts. This Agreement may be executed in several counterparts, by e-mail and with electronic signatures (e.g., exchanged PDF files), each of which will be deemed an original, and all of which taken together will constitute one single agreement between the Parties with the same effect as if all the signatures were upon the same instrument. An electronic signature shall be as legally effective as an original signature.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**BUYER**

**Town of Brattleboro**

\_\_\_\_\_  
Date

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

Name: Peter B. Elwell

Title: Town Manager

**SELLER**

**Brattleboro Publishing Company, Inc.**

\_\_\_\_\_  
Date

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

Name: Michael Koren

Title: Chief Executive Officer

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, ss \_\_\_\_\_, 2015

Then personally appeared the above-named \_\_\_\_\_ known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they had executed the said instrument as the free act and deed of each of them, and for the purposes as expressed therein.

Before me,

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name  
My Commission Expires: \_\_\_\_\_

**SCHEDULE A**

*Option Schedule*

1. First Option Period. As and for the Option Consideration due to Seller for the first Option Period, Buyer shall pay Seller the Option Consideration of Twenty Thousand Dollars (\$20,000), which shall be due and payable to Seller upon the Effective Date. The first Option Period shall commence on the Effective Date and terminate at midnight on March 31, 2016.
  
2. Second Option Period. As and for the Option Consideration due for the second Option Period, Buyer shall pay Seller the Option Consideration of Ten Thousand Dollars (\$10,000), which shall be due and payable to Seller on April 1, 2016. The second Option Period shall commence on April 1, 2016 and terminate at midnight on June 30, 2016.
  
3. Third Option Period. As and for the Option Consideration due to Seller for the third Option Period, Buyer shall pay Seller the Option Consideration of Ten Thousand Dollars (\$10,000), which shall be due and payable to Seller on July 1, 2016. The third Option Period shall commence on July 1, 2016 and terminate at midnight on September 30, 2016.

**SCHEDULE B**

*Legal Description of Property*

The Property referred to in this Agreement is described as follows:

Commencing at a point marked by an iron pipe set in concrete on the southerly right of way bound of Black Mountain Road and 576.71 feet westerly from the westerly bound of Putney Road, said point marking the northeast corner of the parcel conveyed herein;

thence South 20° 26' 52" west along land of Anthony F. Cersosimo to a distance of 336.11 feet to an iron pipe set in concrete;

thence South 15° 29' 42" west along lands used for banking purposes by the First Vermont Bank and Trust Company, a distance of 240.23 feet to a concrete monument;

thence North 78° 53' 17" west along land of Richard Grossman and Robert Baker, Trustees, a distance of 127.00 feet to a concrete monument;

thence North 67° 17' 36" west along other land of the Grantor a distance of 355.94 feet to a concrete monument on the easterly bound of land of the State of Vermont over which runs the Interstate 91 highway;

thence North 35° 17' 38" east along said land of the State of Vermont a distance of 275.67 feet to an iron pipe;

thence South 70° 51' 24" east along land now or formerly of Marie Thomas a distance of 191.21 feet to an iron pipe;

thence North 19° 08' 36" east along land of the said Marie Thomas a distance of 277.00 feet to an iron pipe in a fenceline on the southerly bound of the old Black Mountain Road now used for access to land of said Thomas;

thence South 79°04' 58" east along the southerly bound of old Black Mountain Road a distance of 156.92 feet to a point;

thence continuing South 79° 04' 58" east along the southerly bound of Black Mountain Road a distance of 50.70 feet to the point of commencement, all bearings being referenced to True North.

Said parcel containing 4.25 acres, more or less.

SCHEDULE C

*Fundamental Lease Terms*

<b>LANDLORD:</b>	Town of Brattleboro, a Vermont chartered municipality
<b>TENANT:</b>	Brattleboro Publishing Company, Inc., a Delaware corporation
<b>PREMISES:</b>	2,000 square feet – 3,000 square feet of office space
<b>FULL SERVICE GROSS:</b>	Landlord shall be responsible for the payment of taxes, repairs and maintenance, operating expenses, capital expenses, insurance, electricity and utilities
<b>LEASE TERM:</b>	The Lease shall commence on the date that a grant deed is recorded vesting title to the Property in Landlord (the " <i>Commencement Date</i> ") and shall continue for a period of three (3) years after the Commencement Date (" <i>Initial Term</i> "). Tenant shall have two (2) separate options to extend the Lease by additional three (3) years terms (collectively, the " <i>Lease Term</i> ")
<b>RENT:</b>	\$12/square foot of office space actually leased under the Lease. Rent shall increase by two percent (2%) per annum during the Lease Term
<b>SECURITY DEPOSIT:</b>	None
<b>USE:</b>	General office use and ancillary uses in connection with the operation of a news and media company

