

**TOWN OF WINSLOW, MAINE
REGULAR COUNCIL MEETING
& PUBLIC HEARING
December 14, 2015
7:00 p.m.**

PUBLIC HEARING

1. Ordinance No. 12-2015: Providing for an Amendment to the Town of Winslow Code, Chapter 2, Article 5 of the Municipal Library Code by deleting the Mission Statement and replacing it with the language in the attached document.

REGULAR COUNCIL MEETING

1. Roll Call
2. Recite the Pledge of Allegiance
3. Approval of Minutes of Previous Meeting (November 9).
4. Communications
 - a. Legislative Report
 - b. Recycling Survey Results
5. Reports of Committees and Commission
 - a. Town Manager's Report
 - b. Department Reports
 - c. Finance Committee Report (Treasurer's Warrants)
 - d. Financial Report.

UNFINISHED BUSINESS

1. Ordinance No. 12-2015: Providing for an Amendment to the Town of Winslow Code, Chapter 2, Article 5 of the Municipal Library Code by deleting the Mission Statement and replacing it with the language in the attached document. (Second Reading) Sponsored by Gerald Saint Amand.

NEW BUSINESS

1. Ordinance No. 13-2015: Providing for Regulating all Medium Scale Principal Solar Energy Systems (MSPSES), whereas the Winslow Zoning Ordinance does not address MSPSES. (First Reading) Sponsored by Gerald Saint Amand.
2. Ordinance No. 14-2015: Providing for an Amendment to the Winslow Zoning Ordinance Sec. 14-84, Definitions, by adding the underlined (underlined) and deleting the strikethrough (~~strikethrough~~) language in the attached provision of the Zoning Ordinance. (First Reading) Sponsored by Gerald Saint Amand.

3. Ordinance No. 15-2015: Providing for an Amendment to the Winslow Code Book, Chapter 14 Zoning Districts by adding Medium Scale Principal Solar Energy Systems as a Principal Use. (First Reading) Sponsored by Gerald Saint Amand.
4. Order No. 14-2015: Providing for Authorization for the Tax Collector to Apply a Tax Payment or a Sewer Payment to the Oldest Outstanding Unpaid Tax or Sewer Bill. (First Reading) Sponsored by Gerald Saint Amand.
5. Order No. 15-2015: Providing for the Abatement of Taxes on an Account that has been Deemed Out of Business. (First Reading) Sponsored by Gerald Saint Amand.
6. Order No. 16-2015: Providing for the Authorization for the Town Manager to Sign a Lease between the Town, as Landlord and Johnny's Selected Seeds, as Tenant. (First Reading) Sponsored by Gerald Saint Amand.

DISCUSSION

- Noise Ordinance
- School Budget preparation schedule

ADJOURN COUNCIL MEETING



Town Manager's Report to the Town Council

Submitted by:
Michael W. Heavener
December 8, 2015

Town of Winslow - In the heart of Central Maine representing People, Pride and Progress.

JOHNNY'S SELECTED SEEDS LEASE

Last month I reported that I met with representatives from Johnny's Selected Seeds regarding their lease which will expire on June 30, 2016. They indicated they would like to renew the lease with the same terms and conditions of their existing lease. The proposed renewal term, therefore, for the new lease reads in-part as follows:

***Renewal Terms.** The initial term will be for six (6) years and the tenant shall have the right to renew this lease for four (4) consecutive terms of three (3) years each.*

As a result the lease could run 18 years or until 2034.

The lease payment in the current lease increased 2% every other year. Therefore, the proposed annual lease payments over the initial six year term of the proposed lease will be as follows:

Through 6/30/2017 = \$102,576

Through 6/30/2019= \$104,628

Through 6/30/2021 = \$106,720

Through 6/30/2022 = \$108,854

In addition, please note that in Section 17.5 of the lease our subordination amount has increased from 2 million to 4.5 million. Order No. 16-215, if approved, will authorize me to sign the proposed lease.

FY2017 BUDGET PREPARATION SCHEDULE

Attached to this report is a proposed FY2017 budget preparation schedule. Please review the schedule and let me know if any of the proposed dates will need to be changed.

MSW COMMITTEE UPDATE

Increasing our recycling rate from 5% to

25% could save us money. Therefore, our MSW Committee worked with Committee Member Wilma Lombardi and some Unity College Students to conduct a recycling survey at the Polls during the last election. The students will be sharing the results of the survey at the Council meeting on December 14th.

Councilor Kenneth Fletcher will also give a brief update on the MRC's timeline for waste disposal post 2018.

GENERAL PUBLIC COMMENT

Over the past few months we have periodically added "General Public Comment" to the Council agenda. If we intend to make this a permanent agenda item then we should amend our Rules and Procedures of Council Meetings, which was last amended in 2012.

Attached to this report are excerpts from our current rules and procedures. As you will see, the public can comment on matters before the Council provided permission is first obtained from the Council Chair.

If we add "General Public Comment" to the agenda permanently then I suggest the following be added to the section titled "Manner of Addressing Council: Time Limit":

- Speakers will not be permitted to address or question the Town Attorney or any town staff member directly.
- Profanity, personal attacks, derogatory remarks and lewd or other inappropriate language or gestures will not be permitted.
- The Town Council is a policy making body; therefore, they cannot take action or investigate employee issues. Employee matters are the sole responsibility of the Town Manager; therefore, if you have a complaint about town staff, please contact the Town Manager during normal business hours.

FY 2016 / 2017 Proposed Budget Preparation Schedule

<p>Tuesday March 15th at 7:00 pm</p> <p>Assessing 9 Emergency Mgt. 15 Codes 16 General Assistance 24 Fire 14 Education 23</p>	<p>Wednesday March 16th at 7:00 pm</p> <p>Public Works 19 Sewer Dept. 20 Sanitation 21 Recreation 22 Community Services 26 Library 11</p>	<p>Monday March 21st at 7:00 pm</p> <p>Police 13 Elections 10 Debt. Service 27 Info. Technology 12 Town Council 8 Capital Improvement 38</p>	<p>Wednesday March 23rd at 7:00 pm</p> <p>Organization Support 18 Revenues 28-37 Other Town Util 17 Administration 7 Insurance & Pen 25 TIF Accts 39</p>	<p>Monday March 28th at 7:00 pm</p> <p>Finalize Budget</p>	<p>Monday April 11th at 7:00 pm</p> <p>Council Meeting 1st Reading</p>	<p>Monday May 9th at 7:00 pm</p> <p>Council Meeting 2nd Reading</p>	<p>Tuesday June 14th</p> <p>School Budget Validation Vote</p>
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Dated 12/08/2015

EXCERPTS FROM THE RULES AND PROCEDURES OF COUNCIL MEETINGS
Adopted in 1970 and last amended in 2012

ORDER OF BUSINESS:

3) All meetings of the Council shall be open to the public. Promptly at the hour set on the day of each regular meeting, the members of the Council, the Town Clerk, and Town Manager, shall take regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition in the following order:

1. Roll Call
2. Pledge of allegiance
3. Approval of minutes of previous meeting.
4. Appointments.
5. Communications.
6. Report of Committees and Commission
7. Unfinished business
8. New business
9. Discussion Items
10. Adjournment

PROCEDURE FOR ADDRESSING THE COUNCIL:

12) Any person wishing to verbally address the Council on any matter before it may do so, provided permission is first obtained from the Council Chair. Any person wishing to address the Council in writing on any matter before it may do so by providing the Town Clerk with the writing or other document prior to the meeting. The Clerk will then make copies for all Councilors and will provide a copy to any member of the public requesting one. If the written submission is lengthy, the Clerk may require the submitting party to pay a reasonable copying fee.

MANNER OF ADDRESSING COUNCIL: TIME LIMIT:

13) Each person addressing the Council shall stand and give the person's name and address in an audible tone of voice for the record and shall limit remarks to the time allotted by the Council Chair. All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a Councilor, without the permission of the Council Chair. No question shall be asked a Councilor except through the Council Chair.



Timeline

2015

October

Draft contracts mailed to member communities for review

October - November

MRC works with member communities to review and receive feedback on contract key provisions and terms

December

MRC Annual Meeting; presentation on its post-2018 solution

Board finalizes Site Lease, Master Waste Supply and municipal Joinder Agreements and sends to members

Upcoming Meetings:

October 28 MRC Board Meeting, 10 AM, Lincoln Event Center, 8 Prince St., Lincoln

November 5 Update for Members, 6 PM, Orono Town Office, 58 Main St., Orono

December 16 MRC Annual Meeting, 3 PM, Cross Insurance Center, 515 Main St., Bangor

2016

January - May

Communities hold formal votes. MRC will work with member communities to place to the agreements before the local legislative body (town/city council meetings and annual town meetings) for approval

May

Achieve financial close of the transaction – 150,000 ton minimum reached

June

\$5M Construction Funds released for site road and infrastructure, construction complete sufficient to accommodate site development and facility construction

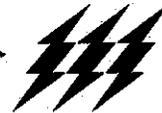
October-November

Fiberight commences sitework and facility construction

Fiberight will:



Recyclables
+/- 20%



Energy
+/- 60%



Residuals
+/- 20%

As a leading edge technology company Fiberight focuses on transforming MSW into next generation biofuels.

2017 - 2018

Facility constructed/equipment installed

Performance Test conducted to confirm facility is ready for commercial operation

April 1, 2018

Facility begins accepting MSW from the Joining Municipalities

Send Questions and Comments to:

Greg Louder, Executive Director

395 State Street

Ellsworth, Maine 04605

Phone: (207) 664-1700

Email: grounder@mrcmaine.org

WHY FIBERIGHT?

After extensive analysis, in 2014 the MRC Board resolved to work with Fiberight on an exclusive basis to implement a facility in Maine using their proprietary process. The MRC's decision considered the following:

- ✓ Fiberight's process offers an approach that increases the capture of recyclables
- ✓ Fiberight's process offers a much higher rate of conversion of organic materials to high-value and readily-marketable products than either anaerobic digestion or large-scale composting
- ✓ Fiberight operates economically at a scale that fits the MRC region and does not rely on out-of-state waste to run
- ✓ Fiberight will build, finance, own and operate the facility, which reduces the financial risks to the MRC and the member communities

Three legal documents will govern the arrangement:

Joinder Agreements Between the MRC and each community that opts to participate. This agreement references the legal agreements MRC will have with Fiberight.

MRC is seeking local legislative approval of members between January—May 2016

Master Waste Supply Agreement and Site Lease Between MRC and Fiberight. MRC to provide a minimum of 150,000 tons of MSW annually and govern Fiberight's right to build on and use MRC owned land.

MRC Members will receive the draft documents in October 2015 and the final documents in late December 2015 for approval between January 2016—May 2016.

KEY PROVISIONS: WHAT YOU NEED TO KNOW

Term 15 years, with extension opportunities

Construction MRC will own the land and will build the access road and providing water supply and sewer service. Fiberight will finance, construct and own the processing facility.

Disposal Contingencies MRC has a long-term contract with Waste Management to accept residuals from the Fiberight facility as well as to dispose of MSW from Joining Members under a variety of circumstances.

- If PERC closes early or Fiberight is delayed past April 1, 2018 in accepting waste through no fault of its own, communities will arrange for delivery of their MSW to the Crossroads Landfill and pay a tip fee of \$62 per ton.
- If Fiberight is delayed as a result of its own actions, Joining Members will pay the tip fee specified in the Joinder Agreement and Fiberight will arrange and pay for transportation to Crossroads Landfill.

Acceptable Waste Same as the definition in the PERC Waste Disposal Agreement.

Tip Fee and Rebate Formula The tip fee will start at \$70 per ton and escalate annually with CPI. Rebates are anticipated, however, the revenue sharing language has not yet been finalized.

Waste Obligation The obligation to provide MSW to Fiberight is on MRC, in cooperation with individual Joining Members per the Municipal Joinder Agreement.

Recycling and Organics There are no set requirements regarding recycling, thus providing Joining Members local flexibility. The Fiberight process capitalizes on the organic content of MSW to produce valuable products for market.

- Joining Members can keep their existing programs unchanged. Or, Members can continue their recycling programs and have the recyclables delivered to the Fiberight facility for a yet to be determined tip fee that will be lower than the MSW tip fee rate.
- Fiberight will process MSW and capture recyclables missed at local level.
- The Fiberight process utilizes the organic matter in MSW to generate bio gas for sale in the local gas distribution system. Other organic residuals will be used to create biomass to fuel the facility. While the contract does not limit a Member's ability to start or enhance local yard waste or composting programs, it does prohibit establishment of new commercial grade facilities.

Did you know that the MRC is available to answer your questions and help you with the review and action process through general public presentations and through responses to individual inquiries?

Contact Greg Lounder by phone: (207) 664-1700 or e-mail: glounder@mrcmaine.org for help!



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114 Benton Avenue
Winslow, ME 04901

PUBLIC HEARING _____

TOWN COUNCIL

ORDINANCE NO. 13-2015

AN ORDINANCE

Providing for: Regulating all Medium Scale Principal Solar Energy Systems (MSPSES),
whereas the Winslow Zoning Ordinance does not address MSPSES.

BE IT ORDAINED by the Town Council of the Town of Winslow as follows:

WHEREAS, the cost to install solar energy is declining; and

WHEREAS, the Town's Solar Committee has prepared a Medium Scale Principal
Solar Energy Systems Ordinance; and

WHEREAS, the Planning Board has reviewed the Ordinance and recommends the
newly developed Medium Scale Principal Solar Energy Systems be
added to Chapter 14 Article 6. Sec. 14-65C of the Winslow Zoning
Ordinance; now therefore,

BE IT ORDAINED by the Town Council of the Town of Winslow, Maine, that the Winslow
Zoning Ordinance Section 14-65D regulating all Medium Scale Principal Solar
Energy Systems be incorporated in Chapter 14 Zoning.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____ , 2015	First Reading, _____	_____
		accepted rejected
_____ , 2016	Second Reading, _____	_____
		adopted rejected

Town Clerk

APPROVED: _____, 2016

CHAIRMAN: _____

- (2) LSPSES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

Sec. 14-65 D Medium Scale Principal Solar Energy Systems (MPSES)

(a) Regulations Applicable to All Medium Scale Principal Solar Energy Systems:

- (1) General Provisions, Administration and Permits – Articles 1, 2 and 3 of this chapter apply to this section.
- (2) Permit Fee – The Permit Fee is \$.50 per kW installed with a minimum fee of \$25.00.
- (2) MPSES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to any existing MPSES, whether or not existing prior to the effective date of this Section that expands the MPSES shall require approval under this Ordinance. Routine maintenance or replacements do not require a permit.
- (3) The MPSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory(ETL),Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with Municipality's Building Code, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
- (4) All on-site utility transmission lines and plumbing shall be placed underground. If, however, the applicant can demonstrate that this would not be feasible, then this requirement may be waived by the reviewing authority.
- (5) The owner of a MPSES shall provide the CEO written confirmation that the public utility company to which the MPSES will be connected has been informed of the customer's intent to install a grid connected system. The owner shall provide a copy of the final inspection report and connection approval from the utility company to the CEO prior to the issuance of a certificate of use and occupancy for the MPSES.
- (6) If a MPSES is being used as an accessory use for commercial/industrial activity on another property, then the CEO shall be informed of the intent of the MPSES.

(7) All MPSES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

(8) All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.

(b) Ground Mounted Medium Principal Solar Energy Systems:

(1) Minimum Lot Size and Lot Frontage

(a) The MPSES shall meet the lot size requirements of the applicable zoning district.

(b) The MPSES is exempt from the applicable zoning district's lot frontage requirement.

(2) Setbacks

(a) MPSES shall be setback a minimum of 20 feet from the property lines.

(3) Height

(a) Ground mounted MPSES shall comply with the building height restrictions for principal buildings of the applicable zoning district.

(4) Ground mounted MPSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system. Exception, MPSES may be placed within a legal easement that is specifically provided for MPSES.

(5) If a ground mounted MPSES is removed, any earth disturbance must be graded and re-seeded.

(6) The MPSES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare.

(c) Roof Mounted Medium Principal Solar Energy Systems:

(1) The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the MPSES.

(2) MPSES mounted on roofs of any building shall be subject to the maximum height

regulations specified for principal and accessory buildings within the applicable zoning district.

Sec. 14-65 E: Companion Animal Care Center

1. A Companion Animal Care Center shall be carried on wholly within the Principal building or within a building or other structure accessory to it. Keeping companion animals outside during the period beginning from 6:01 PM to 5:59 AM shall be prohibited.
2. The hours of operation shall be between the hours of 5:00 AM to 9:00 PM. The keeping of Companion animals overnight is prohibited.
3. A Companion Animal Care Center shall employ no more than one person other than family members residing in the home at any one time.
4. A Companion Animal Care Center shall not alter the residential character of the structure or neighborhood, nor change the character of the lot from its principal use as a residence.
5. The minimum lot size for a Companion Animal Care Center is 2 Acres with a 200 foot lot Width, and a separation of 75 feet from any dwelling unit and 50 feet from any property line.
6. One non-illuminated sign, no larger than 4 square feet may be erected on the premises.
7. A Companion Animal Care Center shall not create unreasonable traffic for the area in which it is located. This use must comply with the Town's Parking Review Codes, (chapter 14 section 58) plus the reviewing authority shall have the right to place condition(s) including additional parking requirements, related to site conditions and the use.
8. A Companion Animal Care Center may not violate the Town's nuisance dog ordinance (Chapter 3, sec. 3-5). If there are 3 or more violations of the nuisance dog ordinance in any given 12 month period, then the Code Enforcement Officer may revoke the permit. The permit may also be revoked if a condition of the permit is violated.
9. A Companion Animal Care Center with one operator may care for no more than twenty (20) companion animals at any one time. A Companion Animal Care Center with two or More operators, or with one operator and one or more helpers, may care for no more than 30 companion animals at any one time.
10. Animal waste must be bagged daily with plastic bags. At the end of each day the bags must be tied closed and placed in a commercial dumpster. The dumpster must be emptied at least once a week.



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PUBLIC HEARING _____

TOWN COUNCIL

ORDINANCE NO. 14-2015

AN ORDINANCE

Providing for: An Amendment to the Winslow Zoning Ordinance Sec. 14-84, Definitions, by adding the underlined (underlined) and deleting the strikethrough (~~strikethrough~~) language in the attached provision of the Zoning Ordinance.

BE IT ORDAINED by the Town Council of the Town of Winslow as follows:

WHEREAS, the Solar Ordinance Committee and the Planning Board has reviewed our definitions for Medium Scale Principal Solar Energy Systems: and

WHEREAS, the Solar Ordinance Committee and the Planning Board has determined Winslow Zoning Ordinance must be amended; now therefore,

BE IT ORDAINED by the Town Council of the Town of Winslow, Maine, that the Winslow Zoning Ordinance Section 14-84 be amended to include the attached amendments for Medium Scale Principal Solar Energy Systems.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____ , 2015	First Reading, _____	_____
		accepted rejected
_____ , 2016	Second Reading, _____	_____
		adopted rejected

Town Clerk

APPROVED: _____, 2016

CHAIRMAN: _____

For the purpose of interpreting this chapter, the following terms, phrases, words and their derivations shall have following meanings:

OWNER:

Any person, agent, firm, corporation or other legal entity having a legal or equitable interest in a vacant building, including but not limited to a mortgage in possession, the beneficiary of a trust, or the holder of a life estate.

PROPERTY MANAGER:

A Maine-based entity, corporation, or individual or the designee of the owner that is responsible for maintaining, securing, and inspecting vacant buildings.

VACANT BUILDING

Any building or other structure that is unoccupied by a person or occupied by unauthorized persons for one hundred eighty (180) days, excepting permitted garages or accessory buildings.

(h) Penalties.

Any person who is found to be in violation of any provision or requirement of this ordinance shall be subject to a civil penalty as set forth in 30-A M.R.S.A ss 4452. Each violation of a separate provision or requirement, and each day of violation, shall constitute a separate offense.

Article 10 – Definitions

Sec. 14-84 Definitions

As used in this chapter:

Accessory Solar Energy Systems (ASES). An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power: (a) primarily; or (b) solely for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted, solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. ASES's generally occupy 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about less than 10 kW DC or less). ASES only require an electrical permit.

Accessory use or structure. Use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Addition. An extension or increase in floor area or height of a building or structure.

conducted as a business.

Laboratories. A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Large Scale Principal Solar Energy Systems (LSPSES). LSPSES generally occupy more than ~~4,750~~19,500 square feet of surface area (equivalent to a rated nameplate capacity of more than ~~40~~250 kW DC).

Light Manufacturing. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Living Area. The total living area bounded by the exterior walls of a building at the front levels, but not including unfinished basements, utility rooms, garages, porches, breezeways, and unfinished attics.

Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.

Lot. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open space as are herein required. The word lot includes the words "plot" or "parcel".

Lot Width. The width of a parcel of land measured at the street right-of-way equal to the specified street yard distance. The lot width shall not include any part of the lot for which a right-of-way has been granted which denies to the owner the right of exclusive use of the ground surface of such right-of-way for pedestrian or motor vehicle use or otherwise, or which interest in such right-of-way the owner has transferred to another, either fully or partially.

Medium Scale Principal Solar Energy Systems (MSPSES). MSPSES generally occupy 19,500 square feet or less of surface area (equivalent to a rated nameplate capacity of between 10 to 250 kW DC).

Mineral Extraction. Any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transport, the product removed, away from the extraction site.

Minor Repairs. Application or notice to the Code Enforcement Officer is not required for ordinary repairs to structures, but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the



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PUBLIC HEARING

TOWN COUNCIL

ORDINANCE NO. 15-2015

AN ORDINANCE

Providing for: An Amendment to the Winslow Code Book, Chapter 14, Zoning Districts by adding Medium Scale Principal Solar Energy Systems as a Principal Use.

BE IT ORDAINED by the Town Council of the Town of Winslow as follows:

WHEREAS, the Solar Committee and the Planning board created a Medium Scale Principal Solar Energy Systems (MSPSES) Ordinance; and

WHEREAS, the Planning Board wants to add MSPSES as a Principal Use in the following districts: High, Medium and Low Density Residential, Mixed Use, Rural, Conservation and Industrial; now therefore,

BE IT ORDAINED by the Town Council of the Town of Winslow that the following Districts in Chapter 14 be amended to add MSPSES as a Principal Use: High, Medium and Low Density Residential, Mixed Use, Rural, Conservation and Industrial.

SPONSORED BY: Gerald Saint Amand

_____, 2015

First Reading,

_____ accepted _____ rejected

_____, 2016

Second Reading,

_____ adopted _____ rejected

Town Clerk

APPROVED: _____, 2016

CHAIRMAN: _____



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TOWN COUNCIL

ORDER NO. 14-2015

AN ORDER

Providing for: Authorization for the Tax Collector to Apply a Tax Payment or a Sewer Payment to the Oldest Outstanding Unpaid Tax or Sewer Bill.

BE IT ORDERED by the Town Council of the Town of Winslow as follows:

WHEREAS, the Tax Collector is requesting the authority to apply payments to the oldest outstanding unpaid bill; now, therefore,

BE IT ORDERED by the Town Council that the Tax Collector is hereby authorized to apply any tax payment or sewer payment received from an individual as payment for any property tax or sewer bill against outstanding or delinquent bills due on said property in chronological order beginning with the oldest unpaid bill, provided, however, that no such payment may be applied to any tax or sewer bill for which an abatement application or appeal is pending unless approved in writing by the taxpayer.

SPONSORED BY Gerald Saint Amand

IN THE TOWN COUNCIL

_____, 2015

First Reading, _____
accepted rejected

_____, 2016

Second Reading _____
adopted rejected

APPROVED: _____, 2016

Town Clerk

CHAIRMAN: _____



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TOWN COUNCIL

ORDER NO. 15-2015

AN ORDER

Providing for: The Abatement of Taxes on an Account that has been Deemed Out of Business.

BE IT ORDERED by the Town Council of the Town of Winslow as follows:

WHEREAS, the Tax Collector has learned that the Red Barn Drive Thru (acct 9094) went out of business in 2013; and

WHEREAS, the Assessor assessed personal property taxes for 2014 totaling \$285.20; now, therefore

BE IT ORDERED that the municipal officers of the town of Winslow hereby authorize the Tax Collector to issue a tax abatement to the Red Barn Drive Thru (acct 9094) in the amount of \$285.20, plus interest and fees.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____, 2015

First Reading, _____
accepted rejected

_____, 2016

Second Reading, _____
adopted rejected

Town Clerk

APPROVED: _____, 2016

CHAIRMAN: _____



TOWN OF WINSLOW
CUSTOMER STATEMENT

12/07/2015 10:45
159mhea

CURRENT ADDRESS:
BENEDICT LAURA
RED BARN DRIVE THRU
RED BARN DRIVE THRU
50 BAY STREET
WINSLOW ME 04901-0000

LOCATION:
50 BAY STREET
PROPERTY CODE:
9094

CUSTOMER ID: 15183

INTEREST DATE: 12/07/2015

YEAR TYPE	CHARGE	BILLED	PRIN DUE	INT DUE	FEE/PEN DUE	TOTAL DUE
2014 PP-R 1	PERSONAL P	71.30	71.30	10.76	.00	82.06
2014 PP-R 2	PERSONAL P	71.30	71.30	9.90	.00	81.20
2014 PP-R 3	PERSONAL P	71.30	71.30	8.66	.00	79.96
2014 PP-R 4	PERSONAL P	71.30	71.30	7.41	.00	78.71
BILL#	28	285.20	285.20	36.73	.00	321.93
CUSTOMER TOTALS		285.20	285.20	36.73	.00	321.93



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TOWN COUNCIL

ORDER NO. 16-2015

AN ORDER

Providing for: The authorization for the Town Manager to Sign a Lease between the Town, as Landlord, and Johnny's Selected Seeds, as Tenant.

BE IT ORDERED by the Town Council of the Town of Winslow as follows:

WHEREAS, the Town of Winslow has been leasing a portion of the Industrial Building to Johnny's Selected Seeds; and

WHEREAS, the existing lease has an expiration date of June 30, 2016; now, therefore

BE IT ORDERED that the Town Manager is hereby authorized to sign the attached lease between the Town of Winslow, as landlord, and Johnny's Selected Seeds, as tenant.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____, 2015

First Reading, _____

accepted

rejected

_____, 2016

Second Reading _____

adopted

rejected

APPROVED: _____, 2016

Town Clerk

CHAIRMAN: _____

LEASE

BETWEEN

**TOWN OF WINSLOW,
AS LANDLORD**

AND

**JOHNNY'S SELECTED SEEDS,
AS TENANT**

DATED: July 1, ~~2010~~2016

LEASE

THIS LEASE (this "Lease") dated as of the 1st day of July, ~~2010-2016~~ (the "Commencement Date"), is by and between the **TOWN OF WINSLOW** ("Landlord") and **JOHNNY'S SELECTED SEEDS**, a Maine corporation with a place of business in Winslow, Maine ("Tenant").

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION and the mutual covenants contained herein, and intending to be legally bound hereby, Landlord and Tenant hereby agree as follows:

ARTICLE 1

LEASED PREMISES AND IMPROVEMENTS THEREON

Section 1.1.

(a) **Leased Premises.** Landlord hereby grants, demises, and lets to Tenant, and Tenant hereby takes and hires from Landlord, on the terms, covenants, provisions, and agreements hereinafter provided:

Approximately 45,900 square feet of space (the "Building B Leased Premises") in that certain building marked "Building B" on **Exhibit A** attached hereto ("Building B") located on that certain tract or parcel of land on Benton Avenue in the Town of Winslow, Maine described in **Exhibit B** attached hereto (the "**Land**"), consisting of (i) approximately 18,384 square feet of office space, and (ii) approximately 27,516 square feet of warehouse space, together with the right, in common with others, to use the Common Areas (as hereinafter defined), but subject to the rights of any current or future tenant to the space in Building A and the remaining space in Building B so long as those rights do not materially interfere with the use, access and rights of Tenant in and to the Building B Leased Premises, and to use the common areas appurtenant thereto (the "Leased Premises").

TO HAVE AND TO HOLD the Leased Premises for and during the Term (as hereinafter defined).

ARTICLE 2

CERTAIN DEFINITIONS

In addition to those terms defined elsewhere in this Lease, the following terms shall have the following meanings when used herein:

"Additional Rent" shall mean all payments required to be made by Tenant to Landlord hereunder other than Base Rent.

"Base Rent" shall have the meaning set forth in Section 4.1 hereof.

"Building A" shall mean the building marked "Building A" on Exhibit A attached hereto.

"Buildings" shall mean Building A and Building B.

"Business Equipment" shall mean all tangible equipment including fixtures now or hereafter owned or leased by Tenant used or held for use in connection with the operation use or occupancy of the Leased Premises, or stored therein and shall include, by way of example and without limitation, manufacturing equipment, tanks, pumps, maintenance equipment, racks and shelving, furniture, trade fixtures, computer equipment, but specifically excluding any and all accounts and inventory.

"Common Areas" shall mean the parking areas intended by Landlord for use by occupants of the Leased Premises, accesses thereto and to all parts of the Leased Premises, curb cuts, roadways, driveways, sidewalks, delivery areas, and accesses thereto, trash removal areas, landscaped areas, public hallways, lobbies and washrooms, and all other areas or improvements located on the Land and any additions thereto (excluding the Buildings) that may be provided by Landlord for the common use of the tenants of the Land, the Buildings or any part thereof. The Common Areas currently provided by Landlord are shown generally on **Exhibit B**, and Landlord covenants and agrees that Landlord shall not grant to other parties (including without limit other tenants on the Land) rights in and/or alter or modify any of the Common Areas in such a fashion as to materially interfere with or materially inconvenience Tenant in its use of the Leased Premises and/or the operations of its business thereupon.

"Tenant's Proportionate Building B Share" shall mean the percentage equivalent of a fraction, the numerator of which is the total area of the Leased Premises, and the denominator of which is total area of Building B. The parties acknowledge and agree that as of the Commencement Date, the total area of Building B is 81,500 square feet, and the total area of the Leased Premises is 45,900, which yields a Tenant's Proportionate Building B Share equal to 56.32%. This percentage may be revised from time to time to reflect any additions to Building B or other changes to the space in Building B.

"Remaining Building B Space" shall mean approximately 35,600 square feet of warehouse space located in Building B, being all of the remaining space in Building B not included in the Leased Premises.

"Tenant's Impositions Proportionate Share" shall mean the percentage equivalent of a fraction, the numerator of which is the total area of the Leased Premises leased by Tenant from time to time, and the denominator of which is the total area of the Buildings from time to time.

"Rent" shall mean Base Rent plus Additional Rent.

ARTICLE 3
TERM; HOLDOVER

3.1. Term. The term of this Lease shall be for a period beginning on the Commencement Date and ending on June 30, ~~2016~~2022 (the "Term").

3.2. Renewal Terms. Provided Tenant is not in default of any of the covenants and conditions herein, Tenant shall have the right to renew this lease for ~~two~~four (24) consecutive terms of three (3) years each. Said options shall be exercised by written notice from Tenant to Landlord and delivered no less than 120 days prior to the expiration of the then current term. Upon notice as aforesaid, Landlord and Tenant shall enter into good faith negotiations to discuss the Base Rent for any renewal term. It is hereby agreed that the Base Rent for any renewal term shall be capped so that any agreed upon escalations will not exceed an increase of five (5%) percent per annum. All terms that may be agreed to shall be committed to writing so as to bind the parties to the terms agreed upon. In the absence of a signed written agreement, this Lease shall terminate at the expiration of the then current Term.

3.3. Holdover. If Tenant or any party claiming through or under Tenant shall remain or continue to be in possession of the Leased Premises or any part thereof after the termination of this Lease, then, at Landlord's option, Tenant or such party or both shall be deemed to be improperly retaining possession or Tenant or such party or both shall be deemed to be a month to month tenant of the Leased Premises on all of the terms and conditions of this Lease, except that the Base Rent payable hereunder shall be 150% of the amount of the Base Rent due for the year immediately preceding the termination of this Lease. Nothing herein shall be construed to limit Landlord's rights to obtain possession of the Leased Premises upon termination of this Lease by lawful proceedings in the event that Landlord does not exercise its option to treat the continued possession by Tenant or any party claiming through or under Tenant as a month to month tenancy.

3.4. Surrender. Tenant covenants and agrees with Landlord that upon termination of this Lease, whether by lapse of time or because of the conditions or provisions contained herein, Tenant will peaceably and quietly quit and surrender, the Leased Premises and all improvements thereon, to Landlord, together with any fixtures thereon, exclusive of Tenant's Business Equipment, Landlord agreeing that all Business Equipment is and shall remain the personal property of Tenant and may be removed by Tenant notwithstanding anything to the contrary contained herein, except that Tenant's Business Equipment is expressly subject to the security interest of Landlord and Tenant's other lenders described elsewhere in this Lease. Upon such termination, all permanently affixed property, exclusive of Tenant's Business Equipment and other trade fixtures and similar installations, shall become the property of Landlord without any additional consideration and without the necessity of a bill of sale or any other instrument of conveyance. Notwithstanding the foregoing, upon termination of this Lease, Tenant may remove any modular self contained environmentally controlled storage areas that it installs in the Leased Premises during the Term, or any extension term, of this Lease, provided that such removal does not cause any damage to the Leased Premises or Tenant repairs any such damage. At Landlord's request, Tenant shall execute and deliver an instrument in recordable form evidencing the termination of this Lease.

ARTICLE 4
RENT

4.1. Base Rent. Tenant covenants and agrees to pay to Landlord at the address set forth herein, or at such other place or places as Landlord shall from time to time designate in writing, commencing on July 1, ~~2010-2016~~ (the "Base Rent Commencement Date") and for and throughout each Rent Year of this Lease, a net annual base rental in the amount as set forth below, such annual rent being referred to herein as the "Base Rent," which Base Rent shall be payable in monthly installments in the amount set forth below:

Lease Period:	Annualized Base Rent:	Monthly Base Rent:
Commencement Date through June 30, 2011 2017	\$96,660.00 <u>102,576.00</u>	\$8,055.00 <u>8,548.00</u>
July 1, 2011 2017 through June 30, 2013 2019	\$98,592.00 <u>104,628.00</u>	\$8,216.00 <u>8,719.00</u>
July 1, 2013 2019 through June 30, 2015 2021	\$100,560.00 <u>106,720.00</u>	\$8,893.33 <u>8,380.00</u>
July 1, 2015 2021 through June 30, 2022 , 2016	\$102,576.00 <u>108,854.00</u>	\$8,548.00 <u>9,071.17</u>

Such payment of the Base Rent shall be in addition to and above all the other sums and all other additional rents and payments to be made and paid by Tenant as set forth in this Lease.

4.2. Payment of Base Rent. The Base Rent shall be payable in monthly installments in advance, commencing on the Base Rent Commencement Date and continuing on the first day of each calendar month thereafter during the Term.

4.3. Net to Landlord. It is the intention of the parties hereto that the Rent payable hereunder shall be net to Landlord so that this Lease shall yield to Landlord the net Base Rent specified herein during the Term, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Leased Premises shall be paid by Tenant, except as specifically otherwise provided herein. In addition to the Base Rent received pursuant to Section 4.1, as adjusted as provided herein, Tenant shall be responsible for all costs, charges and expenses relating to the Leased Premises accruing during this Term, including without limitation, all Impositions, as hereinafter defined, insurance premiums, operating charges, maintenance charges, and any other charges, costs and expenses that are payable by Tenant pursuant to, or that may be contemplated as payable by Tenant under, any provision of this Lease during the Term

hereof, except as provided in Section 8.1 hereof. All such charges, costs and expenses shall constitute Additional Rent, and upon the failure of Tenant to pay any of such costs, charges or expenses, Landlord shall have the same rights and remedies as otherwise provided in this Lease for failure of Tenant to pay Base Rent.

Notwithstanding the above, with respect to such costs and expenses for ordinary and necessary completed repairs, replacements, restorations and maintenance improvements to the Leased Premises that are capital in nature, as determined in accordance with customary accounting practice (hereinafter, the "Capital Costs"), Tenant shall pay as Additional Rent at the time Base Rent is due each month 1/12th of its annual share of such Capital Costs, that share being an amount equal to the Tenant's share of the total cost of such repairs, replacements, restorations and maintenance as amortized over the useful economic life of such improvement as determined by Landlord in its reasonable discretion and based on customary accounting practice, with only the annual amortized portion of such Capital Costs being included in Additional Rent in any calendar year. For purposes of this Section 4.4, determination of Tenant's share of Capital Costs shall be based on the location of such improvements, such that if such improvement is conducted solely on Building A, Tenant's share for purposes of this Section shall be 0% of the annual amortized portion of such Cost, and if such improvement is conducted on Building B and benefits the entire Building B, then Tenant's share for purposes of this Section shall be Tenant's Proportionate Building B Share of the annual amortized portion of such Cost, provided that Tenant shall never be liable to pay for any Capital Costs or capital repairs that solely benefit any portion of the Land or any improvements thereon that are not part of the Leased Premises. By way of non-exhaustive example, if there is a capital roof replacement required to the entirety of Building B during the term hereof, and its useful life is 15 years, Tenant shall be thereafter liable to pay monthly over the course of each year of the then-remaining portion of the term of the Lease Tenant's Proportionate Building B Share of 1/15th of the cost of such roof replacement, with appropriate adjustment for partial years.

4.4. Interest on Late Payments. All past due payments required of Tenant hereunder shall bear interest from the date due until paid at the rate of ten percent (10%) per annum.

ARTICLE 5

SALE OF PROPERTY

5.1 Sale of Property. Subject to the right of first refusal to purchase contained in the Orion Ropeworks lease, Tenant has the following purchase rights: If Landlord decides to sell the property described in Exhibit B attached hereto, Tenant will be given the right to purchase the property at Landlord's asking price. To exercise this right, Tenant must give Landlord written notice of its intention to purchase the property and a non-refundable earnest money deposit of \$25,000.00 within 15 days of being given written notice by Landlord of its intent to

sell and must complete the purchase of the property within 90 days of Landlord's written notice of intent to sell. If Tenant fails to give Landlord written notice and pay the earnest money deposit within the 15 days, Tenant's right to purchase is terminated. If Tenant fails to complete the purchase within the 90 days, the earnest money deposit is forfeited and the right to purchase is terminated.

ARTICLE 6

ALTERATIONS

6.1. Alterations. Subject to the provisions of this Article 5, Tenant shall have the right, at all times during the Term at its own cost and expense, to make such changes, improvements, alterations, additions to the Leased Premises as Tenant may desire, provided that with respect to any change, improvements, alterations or additions costing more than \$10,000.00, Landlord's prior approval of plans and specifications for such work shall be required, which approval shall not be unreasonably withheld, conditioned or delayed. In any event, where Landlord's approval is required, such approval shall be deemed to have been given unless Landlord expressly disapproves such plans and specifications within thirty (30) days after receipt of the same.

6.2. Mechanics Liens. Tenant shall not suffer or permit any mechanic's liens to be filed against the Leased Premises by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding any interest in the Leased Premises or any part thereof through or under Tenant. If any such mechanic's lien shall at any time be filed against the Leased Premises, Tenant shall, within thirty (30) days after actual notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or material man for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Leased Premises or any part thereof, nor as giving Tenant a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's lien against Landlord's interest in the Leased Premises

ARTICLE 7

USE; EXCLUSIVE RIGHTS; SIGNS

7.1. Use of the Leased Premises. Tenant shall use and occupy the Leased Premises for warehousing and shipping, a retail seed store, and related office and administrative uses for the operations of a seed company. Tenant shall not use, nor permit the use of, the Leased Premises or the improvements in any manner that would create a nuisance.

7.2. Signage. Tenant may, without cost or expense to Landlord, at any time and from time to time, place, or permit to be placed, signs and advertising matter in, on or about the Leased Premises, and to remove them or permit them to be removed, provided the same is

done in full compliance with all requirements of law pertaining thereto.

ARTICLE 8
COMPLIANCE WITH LAWS AND COVENANTS

8.1. Compliance With Laws. Throughout the Term of this Lease, Tenant agrees that all improvements on the Leased Premises will be operated and maintained in accordance with all laws, ordinances, rules and regulations and requirements of any and all governmental authorities, agencies, or departments, having jurisdiction thereof, without cost or expense to Landlord except as specifically provided elsewhere in this Lease, including without limitation all federal, state and local laws addressing handicapped access. Tenant shall indemnify Landlord against the cost thereof and all liability in connection therewith.

8.2 Hazardous Materials. Landlord represents and warrants that it has not received written notice of any violation or threatened violations of any Environmental Laws upon the Land or at the Leased Premises. Without limiting the provisions of Section 7.1 of this Lease, Tenant covenants that it will not introduce or permit to be introduced on the Leased Premises any Hazardous Materials, as hereafter described, except such materials as are used in the ordinary conduct of Tenant's business in compliance with all applicable Environmental Laws as hereafter described and Tenant shall, and hereby does totally and completely defend, save, and hold harmless Landlord from and against all claims, demands, actions, losses, penalties, costs, expenses and damages, including reasonable attorneys' fees incurred by or asserted against the Landlord by reason of the inaccuracy or breach of the covenant contained in this subparagraph. As used herein, "Hazardous Materials" shall mean any flammable explosives, radioactive materials, hazardous materials, hazardous waste, petroleum or petroleum products, hazardous matter, hazardous or toxic substances, or toxic pollutants, oil or waste oil as any of those terms are used or defined 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, as amended (49 U.S.C. §§ 2802, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901, et seq.), applicable Maine statutes or any similar federal, state or local law (such Acts, statutes, and laws being referred to in this Lease as "Environmental Laws). "Hazardous Materials" shall not for the purposes hereof include any materials or substances in amounts or concentrations insufficient to require any remedial action under any applicable law, order, rule or regulation of the federal, state or local governments. Landlord acknowledges and agrees that notwithstanding anything to the contrary contained in this Lease, Tenant shall not be liable to Landlord for any costs arising from the presence and/or release of Hazardous Materials upon the Leased Premises and/or the Land by Landlord or any other party other than Tenant, its successors and assigns and Tenant's invitees, contractors and employees, or any other party for whose conduct Tenant is legally responsible. Landlord shall, and hereby does totally and completely defend, save, and hold harmless Tenant from and against all claims, demands, actions, losses, penalties, costs, expenses and damages, including reasonable attorneys' fees, incurred by or asserted against the Tenant by reason of any violations of any Environmental Laws upon the Land or at the Leased Premises prior to the Commencement Date.

8.3. Contest. Tenant shall have the right, after prior written notice to Landlord, to contest by appropriate legal proceedings which shall be conducted diligently and in good faith

in the name of Landlord or Tenant or both and without cost or expense to Landlord, the validity or applicability of any law, ordinance, order, rule, or regulation affecting the Leased Premises. Tenant shall have the right to delay observance thereof and compliance therewith until such contest is finally determined and is no longer subject to appeal, provided that (i) observance and compliance therewith pending the prosecution of such proceeding may be legally delayed without subjecting Landlord to any liability or fine; (ii) Tenant shall diligently prosecute such contest to a determination by the court, department or governmental authority or body having jurisdiction over such contest; and (iii) Tenant shall indemnify Landlord against the cost thereof and all liability in connection therewith except as provided elsewhere in this Lease.

ARTICLE 9

TAXES AND ASSESSMENTS; UTILITIES

9.1. Payment of Impositions. As part of the consideration for this Lease, and in addition to the Base Rent set forth, Tenant covenants and agrees to pay to Landlord, commencing on July 1, 2007, and semiannually thereafter on April 15 and October 15 of each year during the Term, an amount equal to (i) Tenant's Proportionate Building B Share of all such Impositions (as that term is hereinafter defined) related or attributable to Building B, plus (ii) Tenant's Impositions Proportionate Share of all such Impositions related or attributable to the Land and the Common Areas thereto such that Tenant shall be responsible for such Impositions attributable only to the Leased Premises. The term "Impositions" shall mean real estate taxes and governmental impositions, such as license tax, water and sewer charges, and all real estate tax assessments that would be levied or assessed against the Land, the Buildings, and any and all other improvements on the Land during the Term hereof but for the Landlord's ownership of the Leased Premises. All real estate tax Impositions shall be calculated by the Landlord based upon an imputed assessed valuation of \$2,000,000.00 (the "Imputed Valuation") for the Land and Building B, the tax amount to be based on the Landlord's effective mil rate, as the same may change from time to time, provided, however, that the Imputed Valuation may be increased by Landlord from time to time to reflect the value of any improvements to the Leased Premises and Building B, whether constructed by Tenant or others. The assessment or imposition of any increase and valuation of any such improvements and the allocation of values between buildings and land shall be determined in accordance with the Landlord's customary valuation and assessment procedures. Any Impositions for the year in which the Commencement Date occurs and for the year in which the Term expires shall be paid *pro rata* by Tenant, based on the number of days in such tax year for which Tenant is liable under this Lease for such Impositions. It is acknowledged that Tenant shall not be liable under this provision for any Impositions attributable to any period prior to the Commencement Date of this Lease.

9.2. Payment of Utilities. Tenant covenants and agrees to pay or cause to be paid during the Term all expenses of heat, light, water, gas, sewer, and any and all other utilities servicing the Leased Premises, and for the setting and repairing of meters in and for any improvements hereafter erected by Tenant and any hookup or connection fees incurred with respect to any such utilities.

ARTICLE 10
INSURANCE

10.1. Liability Insurance. During the Term of this Lease, Tenant covenants and agrees, at its sole cost and expense, to obtain, keep, and maintain in full force and effect for the mutual benefit of Landlord and Tenant, the following policies of insurance:

(a) A commercial general liability policy with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence with respect to bodily injury, death or property damage, and an aggregate limit of not less than Five Million Dollars (\$5,000,000.00); and

(b) During any repairing or alteration of the improvements, Tenant shall keep in force, or cause its contractor to keep in force, for the protection of Landlord and Tenant, workers' compensation insurance coverage with an insurance carrier licensed to do business in the State of Maine, covering all persons employed by Tenant, or its contractors, in connection with the construction of the improvements and satisfying the requirements of the statutes of the State of Maine.

10.2. Hazard or Property Insurance. During the Term of this Lease, Tenant covenants and agrees, at its sole cost and expense, to obtain, keep, and maintain in full force and effect for the mutual benefit of Landlord and Tenant, the following policies of insurance:

(a) During the repairing or alteration of any improvements on the Leased Premises, builders all risk insurance covering the "Full Insurable Value" (as such term is defined below) of the improvements; and

(b) Fire and casualty insurance, with extended coverage, in amounts not less than 100% of the Full Insurable Value of the improvements that are part of the Leased Premises.

10.3. Business Interruption Insurance. During the Term hereof, Tenant covenants and agrees, at its sole cost and expense, to obtain, keep and maintain in full force and effect, insurance against business interruption under an insurance policy covering risk of loss due to the fire or other casualty in an amount sufficient to prevent Landlord and Tenant from becoming coinsurers, and in any event, in an amount not less than the aggregate requirements for the period of at least six (6) months following the occurrence of the insurance casualty for (i) the Base Rent; and (ii) all Impositions and (iii) premiums on insurance required to be carried pursuant to this Section.

10.4. Full Insurable Value. For purposes of this Lease, the term "Full Insurable Value" with respect to any improvements shall mean the actual replacement value thereof, exclusive of cost of excavation, foundations and footings.

10.5. Insurance Requirements. All insurance required under this Article 9 shall be

effected under valid enforceable policies issued by insurers of recognized responsibility and authorized to do business in the State of Maine. All liability insurance policies shall list Landlord as an additional insured and list any mortgagee of Landlord and/or Tenant (provided Tenant has received a written notice setting forth the name of Landlord's mortgagees) as an additional insured. Upon the execution of this Lease, evidence of such policies procured by Tenant pursuant to this Article 9 shall be delivered to Landlord. Prior to the expiration date of any policy of insurance required to be procured by Tenant under this Article 9, evidence of the renewal policy for such insurance shall be delivered by Tenant to Landlord. All policies referred to in this Article 9 shall, to the extent obtainable, contain agreements by the insurers that such policies shall not be canceled except upon thirty (30) days' prior written notice to each named insured and additional insured, as the case may be.

10.6. Insurance Waivers. To the extent obtainable, all insurance policies carried by either party covering the Leased Premises or the improvements, including but not limited to contents, fire, casualty, and other insurance, shall expressly waive any right of the insurer against the other party and the holders of the mortgages described in Article 14 hereof. The parties hereto agree that their insurance policies will include such waiver clause or endorsement so long as the same shall be obtainable without extra cost, or if extra cost shall be charged therefor, so long as the other party pays such extra cost. If extra cost shall be chargeable therefor, each party shall advise the other thereof and of the amount of the extra cost and the other party, at its election, may pay the same, but shall not be obligated to do so.

ARTICLE 11

DAMAGE CLAUSE

11.1. Casualty Loss.

(a) If the Leased Premises shall be damaged by fire or other casualty but not thereby rendered untenable in whole or in part, Landlord shall promptly cause such damage to be repaired to the extent of available insurance proceeds under the policies maintained by Tenant pursuant to this Lease, and the rent payable hereunder shall not be abated.

(b) If by reason of such occurrence, the Leased Premises shall be rendered untenable in whole or in part, Landlord shall cause the damage to be repaired to a condition and configuration as close as practicable as it was prior to such damage and limited by the amount of available insurance proceeds under the policies maintained by Tenant pursuant to this Lease, and the rent payable hereunder shall be abated proportionally as to the portion of the Leased Premises rendered unusable to Tenant in the reasonable conduct of its business until delivery of possession of the restored premises. There shall be no abatement of rent hereunder by reason of any portion of the Premises being untenable for a period of fifteen (15) days or less, or to the extent the Leased Premises are not fully restored due to insufficient insurance proceeds under the policies required to be maintained by Tenant pursuant to this Lease. If, however, such damage shall be so great that an architect jointly selected by Landlord and Tenant shall certify in writing to Landlord and Tenant that the

Leased Premises, with the exercise of reasonable diligence, but without the payment of overtime or other premiums, cannot be restored within one hundred and twenty (120) days from the happening of the fire or other casualty, then Landlord or Tenant shall have the right, to be exercised by notice in writing delivered to the other within twenty (20) business days after the receipt of such certification from such architect, to elect to terminate this Lease. In such event, any unearned rent paid in advance by Tenant shall be refunded, and any amounts due hereunder from Tenant through the date of termination shall be paid by Tenant. In the event that no such election is timely made, then this Lease shall remain in full force and effect, except that if the Lease is not terminated as aforesaid, and restoration and rebuilding is not completed by Landlord within one hundred eighty (180) days from the date of such casualty or damage (which period shall be extended to account for any delay caused by the act or omission of Tenant), Tenant may thereafter terminate this Lease and the amounts of unearned rent previously paid by Tenant and/or payable under this Lease shall be appropriately refunded and abated, as the case may be.

(c) All merchandise, equipment, trade fixtures, effects and property of every kind, nature and description belonging to Tenant or any other person on or about the Leased Premises shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be stolen, damaged or destroyed by fire, air, water or steam or by breakage or bursting of water pipes, steam pipes, or other pipes, or by leaking roofs, or by any other cause whatsoever, except as a result of or due to the willful acts or omissions of Landlord, no part of any loss resulting is to be charged to or borne by Landlord.

ARTICLE 12

RELEASE AND INDEMNITY

12.1. Release. Tenant covenants and agrees that from and after the Commencement Date of the Lease, Landlord shall, except as specifically provided for elsewhere in this Lease, have no, and Tenant hereby releases Landlord from any, liability or responsibility for damages for any personal injury or injuries, death(s), damages, or losses to any person(s) or property or business that may be suffered or sustained by Tenant or subtenant(s) or any of their respective agents, *servants*, employees, patrons, customers, invitees, visitors, licensees, departments, and concessionaires or by any other person or persons in, on or about the Leased Premises or any part thereof.

12.2. Indemnity.

(a) Except to the extent caused by Landlord's intentional or negligent acts or omissions, Tenant covenants and agrees to indemnify and save Landlord harmless from and against any and all liability, costs and expenses, including reasonable attorneys' fees, for damages, losses, injuries, or death to persons or damages or losses to property which may be imposed upon or incurred by or asserted against Landlord relating to Tenant's use or occupancy of the Leased Premises. In case any action or proceeding is brought against Landlord by reason of any such claim, Tenant upon notice and request from Landlord shall

defend the same at Tenant's expense.

(b) Except to the extent caused by Tenant's intentional or negligent acts or omissions, and in addition to and not in derogation of any other indemnification obligations of Landlord contained elsewhere in this Lease, Landlord covenants and agrees to indemnify and save Tenant harmless from and against any and all liability, costs and expenses, including reasonable attorneys' fees, for damages, losses, injuries, or death to persons or damages or losses to property that may be imposed upon or incurred by or asserted against Tenant relating to the exercise by Landlord of any of its rights hereunder and/or Landlord's breach of this Lease and/or Landlord's negligent or intentional acts or omissions. In case any action or proceeding is brought against Tenant by reason of any such claim, Landlord upon notice and request from Tenant shall defend the same at Landlord's expense.

ARTICLE 13 **CONDEMNATION**

13.1. Complete Condemnation. If the entire Leased Premises is taken by the exercise of the right of eminent domain, or by private purchase in lieu thereof, then this Lease shall terminate as of the date of taking of possession by the condemning authorities with the same force and effect as if said date had been originally fixed herein as the expiration date of the Term of this Lease. In the event the Lease shall terminate or be terminated, the rental shall, if and when necessary, be prorated to the day of the taking (or purchase).

13.2. Partial Condemnation. If only a portion of the Leased Premises and/or Common Areas be taken under the right of eminent domain or condemnation, this Lease shall continue in effect as to the remainder of the Leased Premises, with appropriate adjustment in Rent to account for the impact of the lost land and/or improvements, unless so much of the Leased Premises and/or Common Areas shall be so taken or condemned so as to render the balance inaccessible or in the reasonable opinion of Tenant, so as to render said balance materially unusable or commercially impractical for Tenant's continued operations at the Leased Premises, taking into account any offer by Landlord to reconfigure the Leased Premises. In such latter events, Tenant shall have the option to terminate this Lease as of the date of taking of possession by the condemning authority by giving written notice to Landlord of Tenant's election to so terminate within ninety (90) days after such possession is taken. Upon delivery of such notice of termination, this Lease shall terminate as to the date of such partial taking. If Tenant does not deliver such notice of termination within the above 90-day period, this Lease shall continue in full force and effect and Tenant's right of termination shall expire as to that particular partial condemnation event. Section 3.3 shall not apply to Tenant's occupancy during said ninety (90)-day period.

ARTICLE 14
MAINTENANCE

14.1 Tenant's Maintenance of Building B Leased Premises. Tenant will, at its sole cost and expense, maintain the Building B Leased Premises, and make non-capital repairs, restorations, and replacements to the same, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, and plumbing systems, structure, roof, walls, and foundations, and the fixtures and appurtenances to the Leased Premises as and when needed to preserve them in as good a condition as they are in on the Commencement Date, or such better condition as they may be put into thereafter, reasonable wear and tear and casualty excepted, and regardless of whether the repairs, restorations, and replacements are ordinary or extraordinary, foreseeable or unforeseeable, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations, and replacements will be in quality and class equal to the original work or installations. If Tenant defaults beyond applicable cure periods in its obligation to maintain the Building B Leased Premises as aforesaid, Landlord may make them at the expense of Tenant and the expense will be collectible as Additional Rent due and payable by Tenant within fifteen (15) days after delivery of a statement for the expense. Landlord agrees to be responsible to promptly perform any and all capital repairs, replacements, restorations and maintenance required to keep the Building B Leased Premises in as good a condition as they are on the date hereof and the systems thereof in working order, including repairs, replacements, restorations and maintenance to and of the heating, ventilating, air conditioning, mechanical, electrical, and plumbing systems, structure, roof (keeping the same watertight), walls, and foundations, paving and parking, and the fixtures and appurtenances thereof. The cost of the repairs, etc. described in the foregoing sentence shall be Landlord's responsibility; provided, Tenant shall be responsible to pay Landlord Tenant's share of such costs as set forth elsewhere in this Lease.

ARTICLE 15
MORTGAGE OF LANDLORD'S INTEREST

15.1. Landlord's Right to Mortgage. Landlord shall have the unfettered right to execute a mortgage on the Leased Premises (a "Fee Mortgage"). Landlord shall have the right to assign this Lease and the rentals and other sums payable hereunder as further collateral security for such Fee Mortgage or otherwise, and Tenant agrees and Landlord hereby irrevocably authorizes Tenant to honor such assignment from and after receipt of an executed copy thereof and, upon request of the holder of any such Fee Mortgage or collateral assignment and said holder's agreement to recognize the rights of Tenant under this Lease, to attorn to the holder of any such Fee Mortgage.

ARTICLE 16
ASSIGNMENT AND SUBLETTING

16.1. Tenant's Assignment.

(a) Except as provided in Section 15.1(b) below, this Lease may not be mortgaged, pledged, encumbered, hypothecated, or assigned in whole or in part, and Tenant may not sublet all or any portion of the Leased Premises without the prior written consent of Landlord, which consent shall not unreasonably be withheld, delayed or conditioned.

(b) Notwithstanding anything contained herein to the contrary, Tenant may assign or, in the case of (iii) mortgage, pledge or collaterally assign, its interest in this Lease or sublet all or any part of the Leased Premises, without the prior written consent of Landlord to:

(i) any corporation or other entity into which or with which Tenant merges or consolidates; or

(ii) any parent, subsidiary, successor of Tenant or to any person or entity that controls, is controlled by or is under common control with Tenant.

(iii) Tenant's current lender and its successors and assigns, and any subsequent replacement or substitute financing lender.

Any such assignment or sublease under this subsection (b) shall not relieve the assignor Tenant from any liability under this Lease.

(c) Tenant shall make a written request to Landlord for consent to each proposed assignment or sublease, which request shall include the following information: (i) the name and address of Tenant's proposed assignee or sublessee; (ii) a description of the nature of the business to be conducted in the Leased Premises by Tenant's proposed assignee or sublessee; (iii) financial information concerning the financial ability of the proposed assignee or subtenant to perform its obligations under the proposed sublease or assignment; and (iv) a description of the business experience of the proposed assignee or sublessee with respect to the business to be operated at the Leased Premises.

(d) Landlord's consent shall be deemed reasonably withheld if in Landlord's reasonable business judgment (i) Tenant's proposed assignee or sublessee (and any proposed guarantor of such assignee or sublessee) has a net worth of less than \$1,000,000 or annual revenues of less than \$5,000,000 or (ii) Tenant's proposed assignee or sublessee would use the Leased Premises for any purpose not permitted under this Lease or (iii) Tenant's proposed assignee or sublessee does not have adequate business experience to successfully operate the Leased Premises for the proposed use.

16.2. Landlord's Assignment. Landlord shall have the right to sell, convey or

transfer its fee title in the Leased Premises; provided that the purchaser, transferee or assignee expressly assumes all liabilities and obligations of Landlord under this Lease. Upon assignment of this Lease in compliance with the foregoing sentence, Landlord shall be released from the performance of all obligations on the part of the Landlord to be performed from and after such date.

ARTICLE 17
DEFAULT AND REMEDIES

17.1. Default of Tenant. The following shall constitute defaults of Tenant hereunder:

(a) failure to pay any installment of Base Rent when due and such default shall continue for a period of ten (10) days after written notice that the same are due and payable;

(b) failure to pay any amounts due under this Lease other than Base Rent for a period of ten (10) days or more after written notice that the same are due and payable;

(c) the issuance of any attachment, execution or other process against Tenant whereby the Leased Premises or the improvements shall be taken or occupied or attempted to be taken or occupied by someone other than Tenant unless such process shall be discharged within sixty (60) days;

(d) any of the following actions taken by or against Tenant (i) applying for the appointment of a receiver, trustee or liquidator of Tenant or of a substantial part of Tenant's assets, (ii) making a general assignment for the benefit of creditors; (iii) the voluntary filing of a petition in bankruptcy, a petition seeking reorganization under any bankruptcy or insolvency law, a petition seeking an arrangement with creditors, or a petition seeking to take advantage of any insolvency law; or (iv) the involuntary filing of any of the foregoing petitions unless the same shall be discharged within sixty (60) days after the filing thereof;

(e) failure to perform any covenant, obligation or agreement of Tenant hereunder other than the events specified in subsection (a) through (d) hereof, and other than a covenant, obligation, or agreement set forth herein that specifically provides for written notice or cure period in the event of a failure to perform, for a period of thirty (30) days after notice, except that if such performance can be completed by Tenant with the exercise of reasonable diligence but cannot be completed within such thirty (30) day period, Tenant shall not be in default if Tenant shall commence such performance within such period and shall thereafter prosecute the same with diligence and continuity;

(f) failure to pay when due any personal property tax obligation of Tenant to Landlord.

17.2. Rights and Remedies of Landlord. In the event of Tenant's default hereunder that is not cured within any applicable cure period, and without limiting any other rights of Landlord at law or in equity, Landlord shall have the following rights at Landlord's option, at any time thereafter and while any such default shall continue beyond any such cure period:

(a) Landlord may terminate this Lease and all of Tenant's rights hereunder by giving written notice of Landlord's election to terminate to Tenant, which notice shall specify the date of such termination not less than ten (10) days nor more than fifteen (15) days after such notice. Upon termination of this Lease by Landlord as provided in this Section or elsewhere in this Lease, all rights granted Tenant hereunder (but not Tenant's liability hereunder) shall cease and expire, and Tenant hereby covenants to yield up and surrender peaceably and quietly to Landlord the Leased Premises free and clear of any claim whatsoever of Tenant. Tenant further agrees to execute and deliver to Landlord such instrument or instruments as shall be required by Landlord to properly evidence termination of Tenant's rights hereunder. In the event of termination of this Lease as provided in this Section or elsewhere in this Lease, Landlord shall have the right to sue for and recover all rents and other sums accrued up to the time of such termination. In addition, Landlord, shall be entitled to recover upon demand any amounts owed by Tenant after the date of termination, and an amount equal to the then present value of the Base Rent and Additional Rent for the balance of the Term, subject to Landlord's obligation to mitigate under State law.

(b) Landlord may, without resuming possession of the Leased Premises or terminating this Lease, sue for and recover all rents and other sums, including damages, at any time and from time to time accruing hereunder, subject to Landlord's duty to mitigate as provided below.

(c) Landlord may, without terminating this Lease, but subject to the provisions hereinafter set forth in this Section, enter and take possession of the Leased Premises without process of law or through a suit or proceeding using such force as is necessary to dispossess Tenant thereof. After such reentry, Landlord may make alterations to the Leased Premises in such manner as Landlord may deem desirable or advisable and shall use its good faith efforts to relet the Leased Premises, or any part thereof, for the whole or any part of the remainder of the term of this Lease in Landlord's name, or as agent of Tenant, and collect the rentals arising from such reletting. If the rentals so collected by Landlord are not sufficient to satisfy the full amount of the Base Rent, the balance of the deficiency shall be paid by Tenant on demand.

17.3. Tenant's Payment Default. If Tenant shall default in making any payment required to be made by Tenant hereunder or shall default in performing any other obligations of Tenant hereunder, Landlord, after passage without cure of the cure periods set forth herein, may, but shall not be obligated to make such payment or expend such sum as may be necessary to perform such obligation. All sums so paid or expended by Landlord,

shall be payable by Tenant immediately upon demand of Landlord. No payment or expenditure under the provisions of this Section shall be deemed to be a waiver of the underlying default nor shall it affect any other remedy of Landlord.

17.4. Waiver of Default. The receipt of rent by Landlord with knowledge of any default of Tenant shall not be deemed to be a waiver of any provision of this Lease. No failure of Landlord or Tenant to enforce the provisions of this Lease upon any default by the other shall be construed as creating a custom of deferring payment or as modifying in any way the terms of this Lease or as a waiver of the enforcing party's remedies under this Lease, or of the enforcing party's right to enforce the provisions hereof for any subsequent default. No payment by Tenant, or receipt by Landlord, of a lesser amount than the rent due hereunder shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy available to Landlord. Time is of the essence hereof.

17.5 Landlord's Lien. To secure the payment of all Rent and its performance of this Lease, Tenant grants to Landlord an express lien and security interest on all Business Equipment, and also upon all proceeds of any insurance that may accrue to Tenant by reason of the destruction or damage of that property, subject only to and subordinate to a prior security interest in favor of ~~Banger Savings Bank~~ TD Bank, its successors and assigns, securing loan obligations of up to ~~\$2,000,000.00~~ \$4,500,000.00 (the "Priority Loans") and all replacements, refinancings, renewals, modifications and amendments to and of the Priority Loans. Tenant will not remove that property from the Premises (except in the ordinary course of business and/or as required by the Priority Loans) without the written consent of Landlord until all arrearages in Rent have been paid. Upon the occurrence of a default uncured within applicable grace periods, these liens may be foreclosed with or without court proceedings by public or private sale, so long as Landlord gives Tenant at least twenty (20) days notice of the time and place of the sale. Landlord will have the right to become the purchaser if it is the highest bidder at the sale. Contemporaneously with its execution of this Lease, and if requested by Landlord after such execution, Tenant will execute and deliver to Landlord Uniform Commercial Code financing statements in form and substance sufficient (upon proper filing) to perfect the security interest granted in this paragraph. If requested by Landlord, Tenant will also execute and deliver to Landlord Uniform Commercial Code continuation statements in form and substance sufficient to reflect any proper amendment of, modification in, or extension of the security interest granted in this Section.

17.6. Landlord Default. In the event of any default by Landlord in the observance or performance of any obligation on Landlord's part to be observed or performed under this Lease ("Landlord Default"), Tenant shall give Landlord written notice specifying such Landlord Default and Landlord shall thereupon have thirty (30) days in which to cure any such Landlord Default; provided, however, that if the nature of the Landlord Default is such that more than thirty (30) days are required for its cure, then Landlord shall not be defaulted if Landlord commences performance within said thirty (30) days and thereafter diligently prosecutes the same to completion. If Landlord shall default in performing any obligations of

Landlord hereunder, Tenant, after reasonable notice to Landlord, may, but shall not be obligated to expend such sum as may be necessary to perform such obligation. All sums so paid or expended by Tenant, shall be payable by Landlord immediately upon demand of Tenant. No payment or expenditure under the provisions of this Section shall be deemed to be a waiver of the underlying default nor shall it affect any other remedy of Tenant.

ARTICLE 18

ARBITRATION

18.1. Requirement of Arbitration. In such cases where a dispute shall arise between Landlord and Tenant with respect to the rights and obligations of the parties under this Lease, the same shall be settled and finally determined by arbitration conducted in the City of Augusta, Maine in accordance with the Rules of the American Arbitration Association, or its successor, then in effect except that the arbitrators shall be selected as provided in herein, and the judgment upon the award rendered therein may be entered in any court having jurisdiction thereof and except as may otherwise be provided herein. Such award shall be final and binding, however, notwithstanding failure of such entry. The persons conducting the arbitration shall not have the right to modify the provisions of this Lease. Such arbitrators shall be given a copy of this Lease and shall be instructed as to whether or not the matter to be arbitrated pertains to a determination of value. If Landlord and Tenant are unable to agree as to whether the matter pertains to a determination of value, then, the arbitrators shall make such determination.

18.2. Conduct of Proceeding. In each instance under this Lease where it shall become necessary or appropriate to resort to arbitration, such arbitration shall be conducted as follows. The party desiring such arbitration shall give notice to that effect to the other party, specifying therein the name and address of the person designated to act as arbitrator on its behalf. Within thirty (30) days after the service of such notice, the other party shall give notice to the first party specifying the name and address of the person designated to act as arbitrator on its behalf. If either party fails to notify the other party of the appointment of its arbitrator, as aforesaid, within or by the time above specified, then the appointment of the second arbitrator shall be made in the same manner as hereinafter provided for the appointment of a third arbitrator in a case where the two arbitrators appointed hereunder and the parties are unable to agree upon such appointment. The arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and if, within thirty (30) days after such first meeting, the said two arbitrators shall be unable to agree upon the decision as to the question being arbitrated, they shall appoint a third arbitrator who shall be a competent and impartial person; and in the event of their being unable to agree upon such appointment within fifteen (15) days after the time aforesaid such third arbitrator shall be selected by the parties if they can agree thereon with a further period of fifteen (15) days. If the parties do not so agree, then either party, on behalf of both, may request such appointment by the then President of the Bar of the State of Maine (or any organization successor thereto), or in his absence or failure, refusal or inability to act within fifteen (15) days, then either party, on behalf of both, may apply to the Chief Justice of the Supreme Judicial Court of Maine for the appointment of such third arbitrator, and the other party shall not raise any question as to the

court's full power and jurisdiction to entertain the application and make the appointment. In the event of the failure, refusal or inability of any arbitrator to act, his successor shall be appointed within ten (10) days by the party who originally appointed him or in the event such party shall fail so to appoint such successor, or in case of the third arbitrator, his successor shall be appointed as herein before provided. Any arbitrator acting on this Section with respect to a determination of value shall be a qualified and designated appraiser and shall be a member of the American Institute of Real Estate Appraisers (or a successor organization), or other national institute, association or society of appraisers, and shall be knowledgeable of real estate values in Kennebec County, Maine. Any arbitrator acting under this Section shall be qualified in the field in which the arbitration is involved. All arbitrators chosen or appointed pursuant to this Section shall be sworn fairly and impartially to perform their duties as such arbitrator.

18.3. Decision of Arbitrators. The decision of the arbitrators shall be given within sixty (60) days after the appointment of such third arbitrator. With respect to arbitration of any matter that pertains to the determination of value, such arbitration shall be conducted in the following manner. If the two arbitrators selected by Landlord and Tenant are unable to agree upon a value, they shall each certify as to their own opinion of such value and then the two of them shall jointly select a third arbitrator in accordance with procedures set forth herein and shall submit their valuations to the third arbitrator. The third arbitrator must select one or the other of such valuations, which selection shall be binding upon the parties hereto. With respect to the arbitration of any matter that does not pertain to the determination of value, a decision in which any two arbitrators concur, or, if two arbitrators do not concur, the decision of the third arbitrator, shall in all cases be binding and conclusive upon the parties. Judgment upon the decision of the arbitrators may be entered in any court having jurisdiction. Each party shall pay the fee and expenses of its respective arbitrator and both shall share the fee and expenses of the third arbitrator, if any.

ARTICLE 19 **WRITTEN NOTICES**

19.1. Initial Addresses. Whenever under the terms of this Lease a written notice is required, or whenever a written notice or communication is sent, the same shall be personally delivered or given by registered or certified mail or nationally recognized overnight delivery service. Any such notice shall be deemed to be given on the earlier of (a) the time that such notice is actually received, or (b) the third day following its deposit in the United States, postage prepaid, addressed as follows:

If intended for Landlord, to:

Town of Winslow
Attn: Michael Heavener, Town Manager
114 Benton Avenue
Winslow, ME 04901

If intended for Tenant, to:

Johnny's Selected Seeds
Attn: Harry Fraser
955 Benton Avenue
Winslow, Maine, 04901

19.2. Change of Address. Any party may change the address to which its future notices shall be sent by notice given by certified mail return receipt requested.

ARTICLE 20

GENERAL PROVISIONS

20.1. Landlord's Right to Show Premises. Tenant shall permit Landlord or its authorized agents or representatives to enter the Leased Premises and any improvements thereon or any part thereof for purposes of showing the Leased Premises to prospective tenants or buyers, inspecting the Leased Premises, the Land and/or the Buildings and/or conducting work and maintenance on the Leased Premises, all at reasonable times during business hours after reasonable prior notice (at least 24 hours being considered reasonable) provided that any such entry shall not unreasonably interfere with the business of the Tenant then being conducted on the Leased Premises. Notwithstanding anything to the contrary contained in this section, in order to protect the confidential business operations and processes of Tenant, Landlord may not show the Leased Premises to any business competitor of Tenant at any time without the express prior written consent of Tenant, which consent may be conditioned by Tenant, such conditions including without limit the right to restrict the timing of such entry and any access to sensitive or confidential areas of Tenant's operations, and to have present during any such access a designated representative of Tenant.

20.2. Estoppel Certificates. Landlord and Tenant shall, without charge at any time and from time to time, within ten (10) days after request by the other party, certify by written instrument in recordable form and deliver to the other party, or any mortgagees selected by the other party: (a) that this Lease is unmodified and in full force and effect, (or, if there has been a modification, that the same is in full force and effect as modified and stating the modification); (b) the dates, if any, to which the Base Rent and additional rent, and other charges hereunder payable to Landlord have been paid in advance; and (c) whether, to the best of such party's knowledge, there is or is not in default in the performance of any covenant, condition or agreement to be performed by the other party and the nature of such default, if any; and (d) such other pertinent information as the requesting party may reasonably request.

20.3. Partial Invalidity. If any term, covenant, condition, or provision of this Lease or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which this Lease is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and

provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

20.4. Binding on Successors and Assigns. Except as otherwise provided in this Lease, all covenants, agreements, provisions, and conditions of this Lease shall be binding on and inure to the benefit of the parties hereto, their respective personal representatives, successors, and assigns. No modification or termination of this Lease shall be binding unless evidenced by an agreement in writing signed by Landlord and Tenant.

20.5. Broker. Landlord and Tenant each warrant to the other and the broker named herein that they have dealt with no other real estate broker in connection with this transaction except Gregg Perkins of Affiliated Realty. Said broker is representing Landlord in this transaction. Landlord agrees to pay Landlord's broker any commission due upon execution of this Lease as well as any future installments that may come due if Tenant renews or extends the lease.

20.6. Definition of Landlord. The term "Landlord," as used in this Lease, means only the owner for the time being of the land and improvements which constitute the Leased Premises, so that in the event of any sale or sales of such land and improvements, or assignment, transfer, or other conveyance of its rights under this Lease, such assigning Landlord shall be entirely freed and relieved of all covenants and obligations of Landlord hereunder, except as hereinafter stated, and it shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and the purchaser at any such sale, or the successor to Landlord by reason of any assignment, transfer, or other conveyance of its rights under this Lease, that such purchaser or successor has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder.

20.7. Limitation of Liability. Notwithstanding anything to the contrary provided in this Lease, for so long as the Town of Winslow is landlord under this Lease, if Landlord shall have any personal liability with respect to any of the terms, covenants and conditions of this Lease, Tenant shall look solely to the equity of Landlord in the Leased Premises, together with all insurance, rents, profits, proceeds, awards, judgments and payments with respect thereto, for the satisfaction of each and every remedy of Tenant in the event of any breach by Landlord of any of the terms, covenants and conditions of this Lease to be performed by Landlord, such exculpation of personal liability to be absolute and without any exception whatsoever.

20.8. No Merger. Notwithstanding any provision of this Lease to the contrary, if at any time or times during the term of this Lease or any renewal(s) or extension(s) thereof, Landlord and Tenant shall be the same person, party, or entity, Landlord's and Tenant's interests shall remain separate and distinct, and shall not be merged into one estate, so as to cancel, terminate, or extinguish this Lease by law or otherwise.

20.9 Captions. The captions of the Sections of this instrument are solely for convenience and shall not be deemed a part of this instrument for the purpose of construing the meaning thereof, or for any other purpose.

20.10 Quiet Enjoyment. Landlord agrees, covenants, and warrants that as long as Tenant faithfully performs the agreements, terms, covenants, and conditions of this Lease within the grace periods, Tenant shall peaceably and quietly have, hold, and enjoy the Leased Premises for the term and extensions thereof hereby granted without molestation or disturbance by or from Landlord or anyone acting by, through or under Landlord.

20.11 No Waiver. No waiver of any covenant or condition contained in this Lease or of any breach of any such covenant or condition shall constitute a waiver of any subsequent breach of such covenant or condition by either party, or justify or authorize the nonobservance on any other occasion of the same or any other covenant or condition hereof of either party.

20.12 Interpretation. This Lease shall be construed in accordance with the law of the State of Maine. Whenever the contents of any provision shall require it, the singular number shall be held to include the plural number, and vice versa. The neuter gender includes the masculine and the feminine.

20.13 Entire Agreement. This Lease contains the entire agreement of the parties hereto with respect to the letting and hiring of the Leased Premises described above and this Lease may not be amended, modified, released, or discharged, in whole or in part, except by an instrument in writing signed by the parties hereto, their respective successors or assigns.

20.14 Recording. Landlord and Tenant agree not to record this Lease, but each party hereto agrees at any time after the Effective Date, upon request of the other, to execute a Memorandum of Lease in recordable form and satisfactory to Landlord and Tenant, and to execute a supplemental Memorandum of Lease in recordable form setting forth the Commencement Date. In no event shall such memorandum set forth the rent or other charges payable by Tenant under this Lease and any such memorandum shall expressly state it is executed pursuant to the provisions contained in this Lease and is not intended to vary the terms or conditions hereof.

20.15 Exhibits. All Exhibits attached to this Lease are incorporated herein by reference.

20.16 Authority. Landlord and Tenant each warrant that each has full right and authority to enter into this Lease and that upon execution by the persons executing this Lease below, the Lease shall represent the valid and binding obligation of the respective parties.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

WITNESS:

LANDLORD:
TOWN OF WINSLOW

By: _____

Its: _____

Printed Name: _____

WITNESS:

TENANT:
JOHNNY'S SELECTED SEEDS

By: _____

Its: _____

Printed Name: _____

**EXHIBIT A
PLAN OF BUILDING**

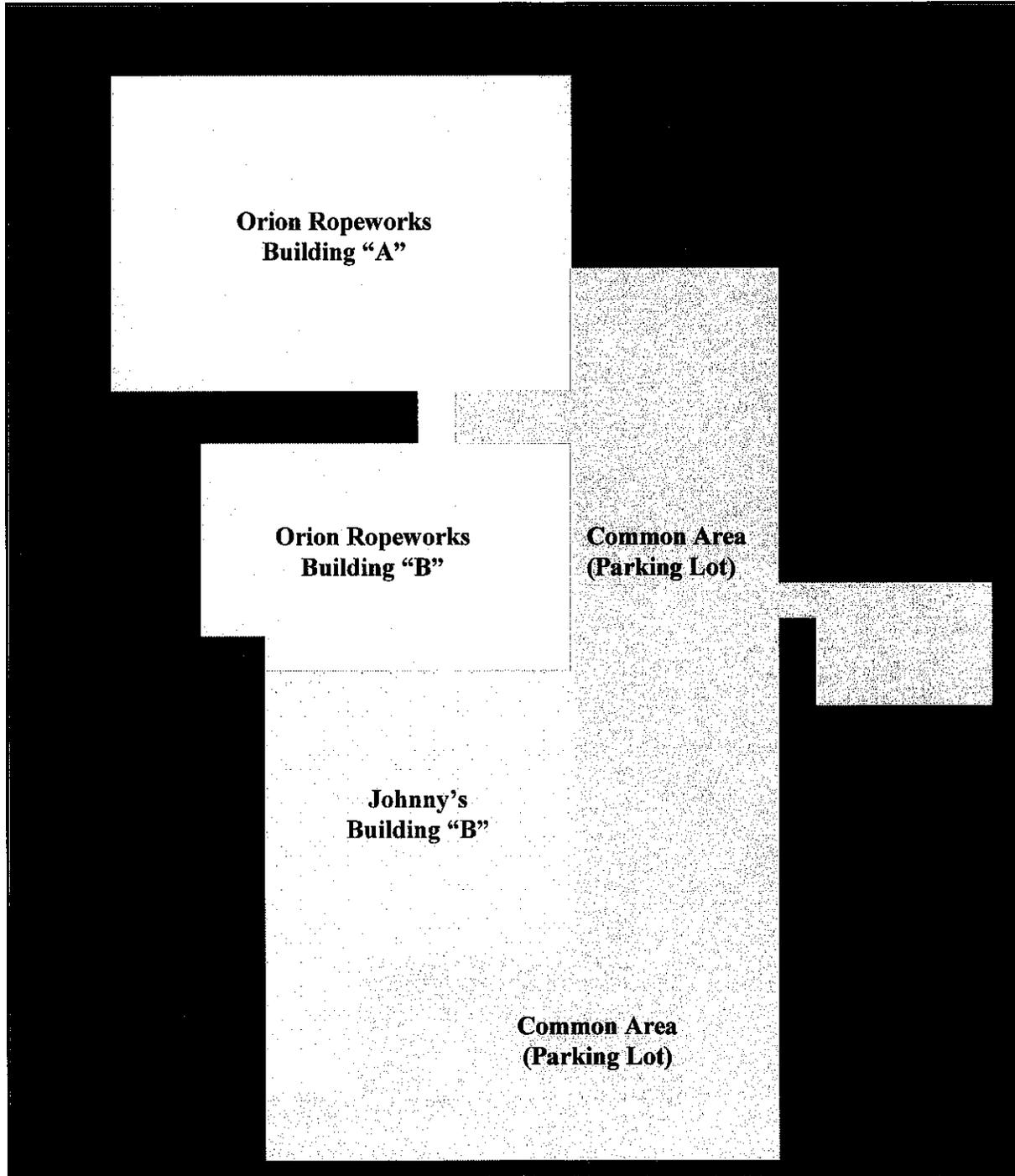


EXHIBIT B
LEGAL DESCRIPTION OF LAND

ALL THOSE CERTAIN lots or parcels of land, together with the buildings and other improvements located thereon, situated on the east side of Benton Avenue and northerly of Haywood Road, Winslow, County of Kennebec and State of Maine, and bounded and described as follows:

PARCEL 1:

BEGINNING at an iron pin in the easterly line of Benton Avenue, which iron pin is twelve feet (12') northerly of the northwest corner of property now or formerly of H. Withee; thence easterly at an interior angle of seventy-four degrees and ten minutes ($74^{\circ} 10'$), a distance of four hundred and sixty-one feet (461') to an iron pin; thence northerly parallel to Benton Avenue a distance of three hundred and thirty-nine feet (339'); thence westerly a distance of four hundred and sixty-one feet (461') to the easterly line of Benton Avenue; thence southerly along said easterly line a distance of three hundred and thirty-nine feet (339') to the point of beginning.

PARCEL 2:

BEGINNING in the north line of Haywood Road at an iron pin in the southwesterly corner of land now or formerly of R. S. Brine, said point being 686.2 feet easterly of the east line of Benton Avenue; thence N. $60-30'$ W. along the north line of said Haywood Road a distance of 396.2 feet to an iron pin at the southeasterly corner of land now or formerly of Adelbert Feeteau; thence northeasterly in said Feeteau's east line a distance of 220.3 feet to an iron pin at said Feeteau's northeasterly corner, thence northeasterly a distance of 205 feet, more or less, to a point in the south line of the premises conveyed by Alex W. Booker and Gladys M. Booker to LaVerdiere Realty Company, dated May 18, 1966, and recorded in the Kennebec Registry of Deeds, Book 1418, Page 464, said point being 233 feet westerly of the southeasterly corner of said LaVerdiere Realty Company; thence southeasterly along the south line of said LaVerdiere Realty Company a distance of 233 feet to an iron pin at the southeasterly corner of LaVerdiere Realty Company; thence southwesterly along the west line of said R. S. Brine and an extension thereof, a distance of 344.7 feet to the point of beginning.

PARCEL 3:

BEGINNING at an iron pin at the northeasterly corner of premises conveyed by Alex W. Booker and Gladys M. Booker to LaVerdiere Realty Company, dated and recorded as aforesaid; thence southeasterly in an extension of the north line of said LaVerdiere Realty Company a distance of 264 feet, more or less, to the west line of a proposed right of way; thence southwesterly along the west line of said right of way a distance of 316.8 feet to the northeasterly corner of land now or formerly of R. S. Brine; thence northwesterly along said Brine north line a distance of 390 feet to said Brine northwesterly corner; thence northeasterly a distance of 54.7 feet to the southeasterly corner of LaVerdiere Realty Company; thence northeasterly along the east line of said LaVerdiere Realty Company a distance of 339 feet to the point of beginning.

PARCEL 4:

BEGINNING at an iron pipe at the northeasterly corner of the land now or formerly owned by LaVerdiere Realty Company; thence South fifty-three degrees and nine minutes East ($S. 53^{\circ} 09' E$) for six hundred and fourteen and eight tenths (614.8) feet along the remaining land now or formerly owned by said Bookers to a steel pin; thence South fifty-six degrees and four minutes West ($S. 56^{\circ} 04' W$) for one hundred and seven and one tenth (107.1) feet along the land of Dionne to an iron pipe

on the west bank of a certain brook; thence South sixty-three degrees and sixteen minutes West (S. 63° 16' W) for three hundred and eleven and one tenth (311.1) feet along the land of Roy and the said brook to an iron pipe; thence North fifty-six degrees and fifty-nine minutes West (N. 56° 59' W) for eighty-nine and nine tenths (89.9) feet along the northerly line of said Roy to an iron pipe; thence North fifty-six degrees West (N. 56° 00' W) for two hundred and ninety-eight and three tenths (298.3) feet along the northerly line of Kenmore Realty to a steel pin; thence South thirty-four degrees and seven minutes West (S. 34° 07' W) for two hundred (200) feet along the westerly line of Kenmore Realty to a steel pin located in the northerly line of Haywood Road; thence North fifty-five degrees and fifty-three minutes West (N. 55° 53' W) for thirty-six and three tenths (36.3) feet along the northerly line of said road to a steel pin; thence North thirty-three degrees and twenty-seven minutes East (N. 33° 27' E) for two hundred and ninety (290) feet along the easterly line of land now or formerly owned by Vaskelionis to a steel pin; thence North thirty-five degrees and five minutes East (N. 35° 05' E) for three hundred and twelve and five tenths (312.5) feet along the easterly line of land now or formerly owned by LaVerdiere Realty Company to the point of beginning.

PARCEL 5:

BEGINNING at an iron pin in the northerly line of Haywood Road, so-called, which iron pin is three hundred ninety-six and twenty-two hundred feet (396.22') easterly of the southeasterly corner of land now or formerly of A. Feeteau; thence northerly at a right angle to the said Haywood Road, a distance of two hundred ninety feet (290'); thence easterly at a right angle, a distance of three hundred ninety feet (390'); thence southerly at a right angle, a distance of two hundred ninety feet (290') to the northerly line of said Haywood Road; thence westerly in said northerly line, a distance of three hundred ninety feet (390') to the point or place of beginning. Containing two and six-tenths (2.6) acres, more or less.

PARCEL 6:

The metes and bounds description for the land below is from a survey by Rowe & Ellis, dated November 9, 1983:

BEGINNING at a point in the easterly line of Benton Avenue, said point marking the northwest corner of land conveyed to The Lach Group by LaVerdiere Enterprises as recorded in the Kennebec County Registry of Deeds in Book 2512, Page 2, said point being located North sixty degrees fifty-one minutes East (N. 60° 51' E) along the easterly line of Benton Avenue a distance of three hundred thirty-eight and five tenths (338.5') feet from an iron pipe marking the southwest corner of land of The Lach Group; thence on a February 1978 magnetic bearing of north fifty-nine degrees twenty-one minutes east (N. 59° 21' E) along the easterly line of Benton Avenue for one hundred fifty and four tenths (150.4') feet to a steel pin set beside a large Sugar Maple tree; thence south forty-nine degrees thirty-six minutes east (S. 49° 36' E) along land of Booker for one thousand three hundred twenty-eight and three tenths (1328.3') feet to a steel pin; thence south fifty-six degrees four minutes west (S. 56° 04' W) along land of Booker for one hundred fifty and four tenths (150.4') feet to a steel pin marking the intersection of the land now or formerly of said Booker with the northwest corner of land of Kenneth C. and Martha Dionne as recorded in the Kennebec County Registry of Deeds in Book 1344, Page 389, and the northeast corner of land of The Lach Group; thence north fifty-three degrees nine minutes west (N. 53° 09' W) along the land of The Lach Group for six hundred thirteen and seven tenths (613.7') feet to an iron pipe; thence north forty-six degrees twenty-three minutes west (N. 46° 23' W) along the land of The Lach Group for seven hundred twenty-five and one tenth (725.1') feet to the point of beginning.

The following restrictions shall also apply: There shall be neither the development of a housing project nor the development of commercial restaurants.

The above-described PARCELS 1-6 are conveyed subject to the restriction contained at #5, Page 8 of the Maine Department of Environmental Protection ("DEP") Site Location Order #L-19212-26-A-N, that the wetlands mitigation areas shown on the Wetland Mitigation Report and on Plans 1, 2, and 3 or 6 in DEP File #L-19212-3 1-A-N ("Wetlands"), all as set forth on Exhibit A, be maintained as wetlands. Any future alterations to the Wetlands must first be approved by DEP. No draining, cutting, agriculture or construction shall occur in the Wetlands. The DEP is hereby authorized to act as enforcing agent of the above restrictions.

BEING the same property conveyed to the Town of Winslow by Deed from Crowe Rope Industries, Limited Liability Company, a Maine limited liability company, dated March 20, 1997, and recorded in the Kennebec County Registry of Deeds in Book 5344, Page 325.