

Real Estate Auction

Terms and Conditions

The undersigned (the “Bidder”) has advised Beechworth Windows LLC (the “Owner”) of its desire to register and participate in the auction (the “Auction”) to be held by PPL Acquisition Group VI, LLC and Cincinnati Industrial Auctioneers, Inc. (collectively, the “Auctioneer”) on June 19, 2019 at 12:00 pm (Central Standard Time) for the improved real property commonly known as 1100 Barnett Road, Ladysmith, Wisconsin, as more fully described in Appendix A attached hereto, together with certain related intangible property (collectively, the “Real Property”).

As a condition to Bidder’s participation in the Auction, Owner has required that Bidder agree to and acknowledge the following terms and conditions for the Auction of the Real Property and make certain representations and warranties regarding their viability to consummate and complete the transaction for the purchase of the Real Property in the event that Bidder is the High Bidder (as defined herein) at the Auction. Bidder acknowledges and agrees: (1) the execution of these Terms and Conditions is critical to the Auction process; (2) these Terms and Conditions are binding on Bidder in all respects, unless otherwise modified in accordance with the terms hereof; and (3) Owner’s decision to allow Bidder to participate in the Auction is in substantial reliance of the representations made by Bidder herein.

1. **AUCTION PROCEDURE.** For purposes of the Auction, the Real Property will be offered in one parcel as identified on a parcel map. The sell price shall be determined by competitive bidding. Bids remain open until the Auctioneer declares the bidding closed. **A 6% BUYER’S PREMIUM WILL BE ADDED TO THE HIGH BID (“HIGH BID”) TO DETERMINE THE TOTAL SALES PRICE (“TOTAL SALES PRICE”) TO BE PAID BY THE HIGH BIDDER UNDER THE REAL ESTATE PURCHASE AND SALE AGREEMENT TO BE EXECUTED BY THE HIGH BIDDER AND OWNER (THE “PURCHASE AND SALE AGREEMENT”).** Should any dispute arise between bidders, the Auctioneer shall have the right to make the final decision to either determine the successful bidder (the “High Bidder”) or to re-sell the Real Property that is in dispute.
2. **BIDDER REGISTRATION.** This Auction is for registered bidders only. In order to register for the Auction, Bidder must provide the registration information requested herein, execute the Bidder’s Statement attached hereto as Appendix B (the “Bidder’s Statement”), as well as provide the Auctioneer sufficient evidence (e.g., bank letter or equivalent) that Bidder has adequate and readily available funds to close on the Real Property on or before the scheduled closing date under the Purchase and Sale Agreement (the “Closing Date”). All determinations of the Bidder’s financial adequacy shall be at the sole and absolute discretion of the Owner, which reserves the right to request additional supporting documentation from Bidder at any time prior to the Auction. Bidder registration will be confirmed by email, sent to the email address furnished during the bidder registration process (“Bidder Confirmation”). A prospective bidder must receive Bidder Confirmation in order to be permitted to bid at the Auction.

3. **RIGHT TO ACCEPT AND REJECT.** The Real Property is being offered for sale subject to Owner's acceptance. Owner reserves the right to accept or reject any and all bids for any reason whatsoever.

4. **PROPERTY INFORMATION.**

(a) **Document Center.** Information concerning the Real Property is available for review on the on-line document center ("Document Center"). Access to the Document Center shall be made available to a bidder upon completion of the bidder registration process set forth in Section 2 above. The Document Center includes available information concerning the Real Property, including the form of Purchase and Sale Agreement, and may also include some or all of the following: preliminary commitment(s) for title insurance, copies of documents of record, survey(s), real estate tax information, environmental inspection reports, if any, other available property information and local market data. **BIDDERS ARE STRONGLY ENCOURAGED TO HAVE ALL DOCUMENTS IN THE DOCUMENT CENTER, INCLUDING WITHOUT LIMITATION, THE FORM OF PURCHASE AND SALE AGREEMENT, REVIEWED BY AN ATTORNEY.** Please refer to the form of Purchase and Sale Agreement in the Document Center for specific terms and conditions of the closing.

(b) **Property Inspection.** The Real Property will be available for physical inspection by Bidder and its respective contractors, consultants, engineers, architects and agents upon request. During the inspection, a representative of Owner or Auctioneer will be available, either personally or by phone, to address any questions about the Real Property or the Auction process. **BIDDERS WILL BE REQUIRED TO ACKNOWLEDGE THAT THEY HAVE INSPECTED THE REAL PROPERTY PRIOR TO THE AUCTION BY SIGNING A BIDDER'S STATEMENT PRIOR TO COMMENCEMENT OF THE AUCTION.** No other access upon or invasive testing of the Property will be permitted without Owner's express prior written consent, which may be given or withheld in its sole and absolute discretion, and Owner may in any event condition its willingness to grant any such consent on Bidder's execution and delivery of an access and indemnity agreement in form and substance acceptable to Owner.

5. **CONDITIONS OF SALE; BIDDING PROCESS; DEPOSIT.**

(a) **Online Bidding Process.** Prior to the commencement of the online Auction, all bidders will be required to: (i) electronically register; (ii) sign a Bidder's Statement stating, among other things, that they have inspected the Real Property and that they have the ability (including, without limitation, access to readily available funds) to complete the purchase of the Real Property; (iii) complete the Purchase and Sale Agreement except for those provisions relating to the Total Sales Price, Buyer's Premium, and Earnest Money Deposit, which shall be completed by Owner or Auctioneer as the High Bidder's attorney-in-fact (and by signing below, Bidder hereby appoints Owner and/or Auctioneer as its attorney-in-fact for the sole purpose of completing the Purchase and Sale Agreement as contemplated herein); and (iv) execute the Purchase and Sale Agreement and forward it by email to the Auctioneer or another designated representative of Owner within forty-eight

(48) hours after completion of the Auction. Bidders will receive an e-mail with the Bidder Confirmation, which will include log-in information for bidders to use to log into the Auction website (the "Website") for the purpose of submitting bids. Bids submitted by bidders must be submitted not later than the stated closing time and date of the online Auction. The High Bidder must be available by phone, at the phone number provided in the Bidder Registration, to be contacted after the close of the Auction by a representative of Auctioneer.

(b) All Cash; Earnest Money Deposit. The terms and conditions for the sale of the Real Property are set forth in the Purchase and Sale Agreement, which must be executed by the High Bidder and delivered to Auctioneer within 48 hours of the Auction. Copies of the Purchase and Sale Agreement will be available for review in the Document Center prior to the Auction. The purchase of the Real Property shall be for cash only and no financing contingency or financing terms will be available. The High Bidder will also be required to provide a minimum earnest money deposit of 10% of the Total Sale Price within 48 hours of the Auction (the "Earnest Money Deposit"), which Earnest Money Deposit shall be made via wire transfer or electronic funds (ACH) transfer, certified or cashier's check. The Earnest Money Deposit shall be held in escrow with the title company designated in the Purchase and Sale Agreement. Information regarding the Earnest Money Deposit and escrow agent can be found in the Purchase and Sale Agreement. As between Owner and the High Bidder, the Purchase and Sale Agreement shall serve as the controlling document for the sale for the Real Property and in the event of any conflict between the terms of the Purchase and Sale Agreement and any and all other documents or information (including, without limitation, these Terms and Conditions), the terms of the Purchase and Sale Agreement shall prevail.

(c) High Bidder Default. If a High Bidder fails to timely sign and deliver the Purchase and Sale Agreement, to pay the Earnest Money Deposit or to close the purchase of the Real Property in accordance with the terms of the Purchase and Sale Agreement (a "High Bidder Default"), the High Bidder's bid may be declared void and Owner may, in its sole and absolute discretion, accept another bidder's bid for the Real Property, without any liability or obligation of any kind to the High Bidder. Furthermore, upon a High Bidder Default, any Earnest Money Deposit delivered by the High Bidder shall be paid and disbursed to Owner as liquidated damages, and not as a penalty, and Owner shall thereafter have the right to pursue and any all remedies available to Owner at law or in equity.

6. CONDITION OF PROPERTY. Bidder acknowledges and agrees: (i) that the Real Property to be sold at the Auction is being sold "**AS IS, WHERE IS, WITH ALL FAULTS,**" without any representation or warranty, express or implied, made by Owner or otherwise; (ii) the Bidder has not relied and will not rely on, and Owner has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Real Property or relating thereto made or furnished by Owner; (iii) the Bidder is a knowledgeable, experienced and sophisticated purchaser of real estate and that it is relying solely on its own expertise in bidding on, and potentially purchasing, the Real Property and has made an independent verification of the

accuracy of any documents or information provided by Owner; (iv) the Owner has afforded Bidder a full opportunity to conduct such investigations of the Real Property as Bidder deemed necessary to satisfy itself as to the condition of the Real Property and the existence or non-existence or curative action to be taken with respect to any hazardous substances on or discharged from the Real Property, and will rely solely upon the same and not upon any information provided by or on behalf of Owner; and (v) Owner does not make any representation, warranty or covenant with respect to the existence or nonexistence of any pollutants, contaminants or hazardous waste prohibited by federal, state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances, at, from or into the Real Property and that upon the closing of the Purchase and Sale Agreement, the purchaser of the Real Property shall assume the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Bidder's inspections and investigations.

7. **CLOSING.** The closing of the sale of the Real Property will occur on the Closing Date in accordance with the terms set forth in the Purchase and Sale Agreement. Purchaser shall pay all closing costs related to the closing of the sale of the Real Property, including title insurance premiums, excise taxes, document preparation fees, local and state transfer taxes, escrow fees and other pro-ratable items.
8. **REPRESENTATIONS AND WARRANTIES OF BIDDER.** Bidder represents and warrants to Owner that: (i) Bidder has all necessary power and authority to enter into these Terms and Conditions and to consummate the transactions contemplated herein, (ii) the individuals executing these Terms and Conditions on behalf of Bidder are duly authorized to execute, deliver and perform these Terms and Conditions on behalf of Bidder and to bind Bidder and (iii) these Terms and Conditions and all documents to be executed by High Bidder and delivered to Owner and/or Auctioneer hereunder (A) are and will be the legal, valid and binding obligations of Bidder, enforceable in accordance with their terms, (B) do not or will not contravene any provision of Bidder's organizational documents or any existing laws and regulations applicable to Bidder and (C) will not conflict with or result in a violation of any agreement, instrument, order, writ, judgment or decree to which Bidder is a party or is subject.
9. **ADDITIONAL TERMS AND CONDITIONS.** All dimensions and descriptions are approximations only based on currently available information and are subject to variation. Bidders should inspect the Real Property and also review all pertinent documents and information available, as Bidder is responsible for evaluating the Real Property. Owner and its parents, employees, officers, directors, agents and affiliates assume no responsibility for any errors or omissions contained in any documentation relative to the Real Property furnished to Bidder. The Real Property is being sold subject to all applicable federal, state and county laws, ordinances and regulations, which may affect the Real Property and its use, including all conditions, restrictions and limitations and other matters of record. No claim will be considered for allowance, adjustment or recession based upon

the failure of the Real Property to correspond to any particular standard or description. Owner, in its sole and absolute discretion, reserves the right to postpone or cancel the Auction for the Real Property or to modify or add any terms and conditions of sale and to announce such modification or additional terms and conditions either prior to or at the time of the Auction. These Terms and Conditions can be modified, cancelled or withdrawn by Owner, in Owner's sole and absolute discretion, at any time without prior notice. This is not an offering or solicitation to residents of states where the offering is prohibited by law. BY USE OF THE WEBSITE, EACH BIDDER REPRESENTS THAT HE, SHE OR IT HAS READ, UNDERSTANDS AND AGREES TO THESE TERMS AND CONDITIONS. If Bidder does not agree to these Terms and Conditions, Bidder may not bid at the Auction or use the Website for purposes of bidding at the Auction or otherwise. Auctioneer will not be liable for interruptions, computer viruses, line failures, errors or delays in the operation of the Website or in the conduct of the on-line Auction. The Website is provided "as is," without representation or warranty, either express or implied, of any kind, including without limitation any warranty of merchantability or fitness for any particular purpose, any such representation or warranty being expressly disclaimed to the fullest extent permitted by law. Auctioneer is providing internet pre-auction and live bidding as a service to Bidder. Bidder acknowledges and understands that this service may or may not function correctly the day of the Auction. Under no circumstances shall Bidder have any kind of claim against Auctioneer or anyone else if the internet service fails to work correctly before or during the live auction. Auctioneer will not be responsible for any missed bids from any source. These terms and conditions shall be governed by, and construed in accordance with, the laws of the State of Illinois. Each party irrevocably submits to the exclusive jurisdiction of the state or federal courts located in Cook County in the State of Illinois for the purposes of any suit, action or other proceeding arising out of these terms and conditions and waives and agrees not to plead or claim any objection to such venue or that any such action, suit or proceeding has been brought in an inconvenient forum. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR CLAIM (WHETHER BASED UPON CONTRACT, TORT, EQUITY OR OTHERWISE) ARISING OUT OF OR IN ANY WAY RELATING TO THESE TERMS AND CONDITIONS AND ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE OTHER PARTY'S ENTERING INTO THIS LETTER AGREEMENT.**

10. **CONFIDENTIALITY.** Except as required by Law (including, without limitation, any securities Laws), Purchaser and Owner will not issue any press release or otherwise make any announcement to the public regarding this Agreement or the transactions contemplated hereby without the prior written consent, which consent will not be unreasonably withheld or delayed, of the other parties to this Agreement. Bidder shall keep these Terms and Condition and the transaction contemplated hereby, and any information received from the Owner in connection herewith, strictly confidential; provided, however, that Bidder may disclose such information to its respective accountants, attorneys, financial institutions and employees who have a need to know such information in order to participate in the

customary activities necessary in order to participant in the Auction. After the Auction, all information relating to the Owner and the Real Property and the transactions contemplated herein will be confidential information; other than as required by law, Bidder will not disclose such confidential information to any third party (other than as required to its professional advisors who are under a duty to keep the information confidential) without the prior written consent of Owner; and Bidder will destroy any such confidential information requested by Owner and not retain any copies thereof.

[REMINDER OF PAGE LEFT INTENTIONALLY BLANK; SIGNATURE ON FOLLOWING PAGE]

IN WITNESS HEREOF, the Bidder hereby confirms and agrees to these Terms and Conditions as of the date set forth below:

BIDDER:

Name: _____

Company: _____

Title: _____

Phone: _____

Email: _____

Appendix A
Bidder's Statement

Bidder Registration Number: _____

Auction Property: 1100 Barnett Road, Ladysmith, WI

The Auction Property (all properties being auctioned in the above-referenced Auction, individually and collectively, are referred to herein as the "Property") is being offered for sale at auction (the "Auction") by PPL Acquisition Group VI, LLC and Cincinnati Industrial Auctioneers, Inc. (collectively, the "Auctioneer"). As a condition to being qualified as a bidder in the Auction and being permitted to bid for the Property, the undersigned represents, warrants, acknowledges and agrees to and for the benefit of the owner of the Property ("Owner") and Auctioneer, as follows:

- (a) The undersigned has physically inspected the Property, has obtained access to the materials concerning the Property available in the Document Center (as such term is defined in the Terms and Conditions of Sale for the Auction) (terms with initial capital letters not defined herein are defined in the Terms and Conditions of Sale for the Auction), which are incorporated herein by this reference), and understands that the Property is being sold "**AS-IS**", "**WHERE-IS**", **WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED.**
- (b) Neither Owner nor any of Owner's agents, employees or representatives (including, without limitation, Auctioneer or any of Auctioneer's agents, employees or representatives) is making any representations or warranties, direct or indirect, oral or written, express or implied, concerning the Property, including, without limitation, the condition thereof, its fitness for any particular purpose, its physical dimensions, its compliance with any laws, any financial information or any financial projections, the status of any leases, or the availability of any land use or development entitlements or any utility service.
- (c) The undersigned is relying upon its own inspection of the Property, its review of documentation available in the Document Center and such other due diligence as the undersigned deems advisable, and not on any representations, statements or other assertions by Owner, Auctioneer, or any of their respective agents, employees or representatives. Auctioneer is not responsible for the accuracy of any information provided by Owner or any third parties concerning the Property, including, without limitation, as to any of the foregoing. The undersigned acknowledges that any information regarding the Property or the condition thereof has been made available to the undersigned only as an accommodation to the undersigned, without representation or warranty as to the accuracy or completeness thereof.
- (d) The undersigned, or individual signing this Bidder's Statement on behalf of the undersigned, is 18 years of age or older and has the legal capacity to enter into an agreement for the

purchase of the Property, and if the undersigned is signing on behalf of a partnership, corporation, limited liability company, trust, or any other person or entity, is duly authorized to do so.

- (e) The undersigned has the ability (including, without limitation, access to readily available funds) to complete the purchase of the Property.
- (f) The undersigned is not, directly or indirectly, an affiliate of Owner or the Auctioneer, or proposing to bid at the Auction collusively or pursuant to any kind of prior agreement or understanding with Owner or Auctioneer.
- (g) If the undersigned is the successful High Bidder (as defined in the Terms and Conditions of Sale for the Auction) and the undersigned's bid is accepted by Owner, the undersigned agrees to (1) tender the Earnest Money Deposit to the Auctioneer, who shall deposit the Earnest Money with Owner's designated escrow holder; (2) verify the sale by signing the bidder's card and tendering it to the Auctioneer; and (3) execute the Purchase and Sale Agreement immediately following the winning round of bidding, in the form made available in the Document Center, or as modified by announcements made by the Auctioneer prior to the commencement of the Auction.
- (h) The undersigned has received a copy, has read and hereby agrees to be bound by the provisions of the Terms and Conditions of Sale for the Auction.
- (i) The undersigned solemnly swears, under the penalty of perjury, that the foregoing information is true and accurate to the best of the undersigned's knowledge.

IN WITNESS WHEREOF, the undersigned has caused this Bidder's Statement to be executed and delivered by its duly authorized representative as of the date first above written.

Signature: _____
Name: _____
Title: _____
Phone: (____) _____
Email: _____