

EOD MAR - 6 2003

autoline/order-sale-chicago-re-to-mark prop/pm

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION



0311411144

In re )  
)  
AUTOLINE INDUSTRIES, INC., et al., )  
)  
)  
)  
)  
Debtors. )

Chapter 11  
Case No. 02 B 26690  
(Jointly Administered)  
Hon. Bruce W. Black  
Date: March 6, 2003  
Time: 11:00 a.m.

Eugene "Gene" Moore Fee: \$60.00  
Cook County Recorder of Deeds  
Date: 04/24/2003 10:43 AM Pg: 1 of 19

ORDER AUTHORIZING AND APPROVING PRIVATE SALE  
OF CHICAGO REAL ESTATE TO MARK PROPERTIES, INC.

The case coming to be heard on the Motion For Order (A) Authorizing Private Sale of Real Estate Pursuant to 11 U.S.C. §§ 363(b) and (f); (B) Setting Hearing Date; (C) Limiting Notice; and (D) Granting Other Related Relief (the "Sale Motion") filed by Autoline Industries, Inc., debtor and debtor in possession (the "Debtor"), requesting, among other things, the entry of an order authorizing the Debtor to sell certain real property located at 2443-45 S. Quinn/840 W. 31<sup>st</sup> Street, Chicago, Illinois (the "Chicago Real Estate") to Mark Properties, Inc. ("MPI" or the "Purchaser") pursuant to the terms and conditions of a certain Purchase and Sale Agreement dated February 4, 2003 (the "Sale Agreement"), and the Court having considered the Sale Motion and all other matters of record pertaining thereto, as well as the representations and statements of counsel made at the hearing, and, the Court, being fully advised in the premises, makes the following findings of fact and conclusions of law:

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1. On July 12, 2002, the Debtor, together with Argyle Industries, Inc., Autoline Industries East, Inc., Autoline Industries West, Inc., Autoline Industries AAR, Inc., and RMW Properties, Inc. (collectively, the "Related Debtors"), filed voluntary petitions seeking relief under chapter 11 of title 11, United States Code (the "Bankruptcy Code"). The cases of the Debtor and the Related Debtors are being jointly administered.

2. No trustee has been appointed herein, and pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor and the Related Debtors remain in possession of their assets and are authorized to manage their affairs as debtors in possession.

3. On September 12, 2002, pursuant to order of this Court, the Debtor and the Related Debtors sold a substantial portion of their operating assets to Cardone Industries, Inc. At that time, the Debtor and the Related Debtors ceased all of their manufacturing operations.

4. The Debtor is the fee simple owner of the Chicago Real Estate which is improved with a commercial building formerly used by the Debtor as a warehouse/manufacturing facility.

5. On October 8, 2002, this Court entered an order authorizing the Debtor to employ Alligas Realty (the "Broker") as a real estate broker pursuant to the terms of an Exclusive Listing Agreement to procure a buyer for the Chicago Real Estate in "AS IS" condition for a price of \$550,000.00 or such other terms as the Debtor would accept.

6. The Debtor has obtained an appraisal report from Price Associates Incorporated which estimated the market value of the Chicago Real Estate as vacant land only and available for development, as of November 27, 2002, to be \$600,000.00, less the costs of demolition and

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exclusive of any factors relating to environmental remediation and costs associated therewith.

7. After several months of marketing the Chicago Real Estate, the Broker found the Purchaser, which was interested in acquiring the property for commercial development.

8. The Debtor has negotiated and entered into the Sale Agreement with the Purchaser for the sale of the Chicago Real Estate. A copy of the Sale Agreement is attached hereto as Exhibit A.

9. The Sale Agreement is the product of good faith, arms' length negotiations between the Debtor and MPI.

10. The terms and conditions of the Sale Agreement are fair and reasonable.

11. The purchase price is fair and reasonable and represents maximum market value for the Chicago Real Estate under the circumstances.

12. The Debtor has articulated sound business reasons justifying the private sale of the Chicago Real Estate to MPI.

13. MPI is purchasing the Chicago Real Estate in good faith and for value.

14. Except as otherwise expressly provided in the Sale Agreement, MPI is acquiring the Chicago Real Estate "AS IS" and without any representations or warranties, express or implied, regarding the property, including, without limitation, the environmental condition of the Chicago Real Estate.

15. Notice of the Sale Motion and of the hearing thereon, as well as the deadline for filing and serving objections to the Sale Motion, was sent by mail on February 13, 2003 to all persons on the Service List in accordance with this Court's prior order dated February 13, 2003, and proof of service is supported by an affidavit duly filed herein on that same date.

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16. No objections to the Sale Motion were filed within the time fixed by this Court's order dated February 13, 2003, or at any time thereafter.

17. Any and all of the foregoing findings of fact which are conclusions of law shall be deemed to be and constitute conclusions of law.

## II.

### CONCLUSION OF LAW

A. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157(a) and 1334. The Sale Motion is a core proceeding under 28 U.S.C. § 157(b).

B. Due and proper notice of the Sale Motion and the hearing thereon, as well as the deadline for filing objections to the Sale Motion, has been given to all persons entitled thereto in accordance with the Court's prior order dated February 13, 2003.

C. Notice of the Sale Motion and the hearing thereon was fair and adequate under the circumstances and no other or further notice was necessary or appropriate.

D. The private sale of the Chicago Real Estate free and clear of all liens, claims, interests, and encumbrances pursuant to the terms and conditions of the Sale Agreement is authorized and may be consummated pursuant to sections 363(b) and (f) of the Bankruptcy Code.

E. The Sale Agreement and consummation of the sale transaction contemplated thereby are in the best interest of the Debtor's estate and its creditors.

F. MPI is a good faith purchaser for value within the meaning of section 363(m) of the Bankruptcy Code and is entitled to all the protections afforded thereunder.

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G. Any and all of the foregoing conclusions of law which are findings of fact shall be deemed to be and constitute findings of fact.

**NOW, THEREFORE**, based upon the foregoing findings and conclusions, **IT IS HEREBY ORDERED** that:

1. The Sale Motion is granted in all respects.
2. The terms and conditions of, as well as the transaction contemplated by, the Sale Agreement are hereby approved in all respects, and the private sale of the Chicago Real Estate to MPI pursuant to the terms and conditions of the Sale Agreement is hereby authorized and approved under sections 363(b) and (f) of the Bankruptcy Code.
3. Pursuant to sections 363(b) and (f) of the Bankruptcy Code, the Debtor is hereby authorized, directed, and empowered to perform, effectuate, and consummate the Sale Agreement, and to execute all instruments and documents that may be necessary or desirable to implement said Agreement and to consummate the transaction contemplated thereby, including, without limitation, the execution, acknowledgement, and delivery of the Deed, and to take all further actions as may be reasonably necessary or appropriate to satisfy and effectuate the terms and conditions of the Sale Agreement.
4. The Debtor is authorized and directed to pay the Broker, at closing, a commission in the amount provided for in the Exclusive Listing Agreement approved by prior order of this Court dated October 8, 2002.
5. Nothing contained in any plan of reorganization (or liquidation) confirmed in this case or the order of confirmation confirming any such plan of reorganization (or liquidation) shall conflict with or derogate from the provisions of the Sale Agreement or the terms of this Order.

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6. MPI is a purchaser in good faith of the Chicago Real Estate and is and shall be entitled to the protections afforded by section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification of this Order on appeal will not affect the validity of the sale of the Chicago Real Estate to MPI, as authorized by this Order, unless this Order and the sale authorized herein are stayed pending appeal.

7. Except as otherwise expressly provided in the Sale Agreement, MPI is acquiring the Chicago Real Estate "AS IS" and without any representations or warranties, express or implied, regarding the property, including, without limitation, the environmental condition of the Chicago Real Estate, all such representations and warranties being expressly disclaimed by the Debtor.

8. The terms and provisions of the Sale Agreement, as approved by this Order, shall be binding in all respects upon, and shall inure to the benefit of the Debtor, its estate and creditors, MPI, and their respective successors and assigns, including any trustee appointed under any chapter of the Bankruptcy Code, as to which trustee such terms and provisions likewise shall be binding in all respects.

9. As to the Sale Agreement and the Chicago Real Estate transferred thereby, this Order is and shall be binding upon and govern the acts of all entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Chicago Real Estate or any portion thereof.

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10. Any and all liens, claims, interests, and encumbrances in or against the Chicago Real Estate (other than those liens, claims, and encumbrances to be paid and satisfied at closing) shall no longer be valid and enforceable against the Chicago Real Estate, but shall attach to the proceeds of the sale of the Chicago Real Estate with the same force, validity, effect, priority, and enforceability as such liens, claims, interests, or encumbrances had prior to such sale. Any issues regarding the extent, validity, perfection, priority and enforceability of such liens, security interests, claims, and encumbrances with respect to such proceeds shall be determined by the Court upon proper application at a later date.

11. The failure specifically to include any particular provision of the Sale Agreement in this Order shall not diminish or impair the efficacy of such provision, it being the intent of the Court that the Sale Agreement be authorized and approved in its entirety.

12. The Sale Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement is not material.

13. The sale of the Chicago Real Estate to MPI shall not be subject to taxation under any state or local law imposing a stamp, transfer, or similar tax in accordance with section 1146(c) of the Bankruptcy Code.

14. This Order shall constitute a final and appealable order. This Order shall be effective and enforceable immediately upon entry and shall not be stayed pursuant to Rule 6004(g) of the Federal Rules of Bankruptcy Procedure.

15. This Court retains jurisdiction, even after the closing of the Debtor's bankruptcy case, (a) to enforce and implement the terms and provisions of the Sale Agreement, all

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amendments thereto, any waivers and consents thereunder, and any agreements executed in connection therewith, (b) to resolve any disputes arising under or relating to the Sale Agreement, (c) to adjudicate all issues concerning MPI's acquisition of the Chicago Real Estate free and clear of all liens, claims, interests, and encumbrances, (d) to adjudicate the validity, extent, enforceability and priority of liens, claims, interests or encumbrances, if any, attaching to the proceeds, and (e) to interpret, implement and enforce the provisions of this Order.

Dated: \_\_\_\_\_

*March 6 2003*

Enter: \_\_\_\_\_

*Bruce W. Besh*  
United States Bankruptcy Judge**Order Prepared By:**

AUGUST A. PILATI (03125503)  
 DAVID A. GOLIN (06180517)  
 MICHAEL L. GESAS (06186924)  
 GESAS, PILATI, GESAS AND GOLIN, LTD.  
 53 West Jackson Boulevard, Suite 528  
 Chicago, IL 60604  
 (312) 726-3100  
 Attorneys For Autoline Industries, Inc.  
 Debtor and Debtor In Possession



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Autoline/Chicago contract (Dale)-final

**PURCHASE AND SALE AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into as of the 4<sup>th</sup> day of February, 2003, by and between AUTOLINE INDUSTRIES, INC., an Illinois corporation ("Autoline" or the "Seller") and MARK PROPERTIES, INC., an Illinois corporation (the "Purchaser").

**RECITALS**

A. Seller owns legal title to an approximately 24,600 square-foot parcel of land with a common address of 3043-3045 South Quinn/840 West 31<sup>st</sup> Street, Chicago, Illinois 60608, as legally described on Exhibit A attached hereto (the "Land"). The Land is improved with a commercial building (the "Building"). The Land and the Building are hereinafter together referred to as the "Real Property".

B. Autoline is a debtor-in-possession in a Chapter 11 case pending as Case Number 02 B 26690 in the United States Bankruptcy Court for the Northern District of Illinois, Eastern District (the "Bankruptcy Court").

C. Subject to Bankruptcy Court approval, Seller desires to sell the Real Property to Purchaser, and Purchaser desires to purchase the Real Property from Seller, subject to the terms and provisions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

**AGREEMENTS:****1. AGREEMENT FOR PURCHASE AND SALE**

On the terms and conditions set forth in this Agreement, Seller agrees to sell and Purchaser agrees to purchase the Real Property.

**2. PURCHASE PRICE AND EARNEST MONEY**

(a) The purchase price for the Real Property (the "Purchase Price") shall be SIX HUNDRED THOUSAND 00/100 DOLLARS (\$600,000.00) payable as set forth in subsections (b) and (c) of this Section 2.

**EXHIBIT A**

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(b) Within two (2) business days after Seller accepts this Agreement, Purchaser shall deposit the sum of SIXTY THOUSAND DOLLARS (\$60,000.00) as an earnest money deposit (the "Earnest Money") into an escrow with Alligas Realty. Purchaser shall have the right to receive a return of the Earnest Money if the transaction described herein is not approved by the Bankruptcy Court (as more fully discussed in Section 18 below). The Earnest Money shall be invested at the direction of Purchaser, and except as otherwise provided in this Agreement, interest on the Earnest Money shall be paid to Purchaser. Any provisions in this Agreement providing for the delivery of the Earnest Money to either party shall mean the Earnest Money plus interest.

(c) At the Closing, Purchaser shall pay the balance of the Purchase Price, plus or minus adjustments and prorations (as described in Section 10 below), to Seller by cashier's check or wire transfer of immediately available funds.

### 3. CLOSING

The closing of the purchase of the Real Property (the "Closing") shall take place ten (10) days after the Bankruptcy Court enters an order approving this Agreement and the sale contemplated hereunder (as described in Section 18 below) (the "Closing Date") at the office of Chicago Title Insurance Company (the "Title Company"), or at such other time and place to which the parties may agree in writing.

### 4. CLOSING ESCROW

The Closing shall take place through an escrow established with the Title Company in accordance with the usual form of Deed and Money Escrow then in use by the Title Company, with such special provisions inserted by Seller's and Purchaser's attorneys as may be required to conform such escrow to this Agreement. In the event of any conflict between the escrow instructions and this Agreement, the terms of this Agreement shall prevail unless the instructions specifically recite that they are intended to amend or modify this Agreement. Upon the creation of such escrow, the transfer and conveyance of the Real Property, payment of funds and delivery of all deeds shall be made through the escrow. At the option of Seller, and at Seller's expense, the Closing shall take place through a so-called "New York Style" closing. All escrow costs, except any New York style closing fee, shall be divided equally between Seller and Purchaser.

### 5. CONVEYANCE

At the Closing, in order to transfer all of Seller's interest in and to the Real Property, Seller shall convey title to the Real Property to Purchaser or Purchaser's nominee or assignee by Quit Claim Deed, subject only to the following: special governmental taxes or assessments for improvements not yet completed; unconfirmed special governmental taxes or assessments; general real estate taxes for the year 2002 and subsequent years; and encroachment as shown on

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plat of survey number 02-9-128 prepared by Studnicka and Associates, Ltd. dated October 15, 2002 (the "Survey") (the "Permitted Exceptions").

**6. TITLE COMMITMENT AND POLICY**

(a) At least five (5) days prior to Closing, Seller shall deliver to Purchaser, at Seller's expense, a current ALTA Form B title insurance commitment with extended coverage over general exceptions numbered 1 through 5 (the "Title Commitment") for an owner's title insurance policy issued by the Title Company in the amount of the Purchase Price, covering title to the Real Property on or after the date of this Agreement, and showing title in Seller, subject only to the Permitted Exceptions.

(b) At the time of delivery of the Title Commitment, Seller shall provide Purchaser with copies of all items referenced as title exceptions in the Title Commitment, to the extent in Seller's possession.

(c) At the Closing, Seller shall deliver to Purchaser, at Seller's expense, an ALTA Form B title insurance policy with extended coverage over general exceptions numbered 1 through 5 (the "Title Policy") insuring Purchaser's title to the Real Property subject only to the Permitted Exceptions.

**7. SURVEY**

Prior to Closing, Seller shall deliver to Purchaser, at Seller's expense, the Survey showing the present location of all improvements.

**8. REPRESENTATIONS AND WARRANTIES**

Seller hereby represents and warrants to Purchaser that to the best of Seller's knowledge no notice from any city, village, or other governmental authority of a dwelling code violation which currently exists in the aforesaid premises has been received by Seller or its agent. If a notice is received between date of acceptance of this Agreement and the date of Closing, Seller shall promptly notify Purchaser of such notice.

The above representations and warranties shall be deemed to be remade as of, but shall not survive, the Closing.

EXCEPT AS EXPRESSLY SET FORTH ABOVE, PURCHASER HEREBY ACKNOWLEDGES THAT IT IS BUYING THE REAL PROPERTY "AS IS" AND THAT SELLER HAS NOT MADE ANY REPRESENTATIONS AND WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE REAL PROPERTY, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE

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ENVIRONMENTAL CONDITION OF THE REAL PROPERTY. EXCEPT AS EXPRESSLY SET FORTH ABOVE, SELLER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF EVERY KIND AND NATURE, EXPRESS OR IMPLIED, REGARDING THE REAL PROPERTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT SHALL NOT BE DEEMED TO CREATE ANY IMPLIED REPRESENTATIONS OR WARRANTIES ON THE PART OF SELLER.

**9. CLOSING**

(a) Autoline shall deliver the following documents to Purchaser at the Closing (which, together with the other documents to be delivered by Seller under this Agreement are collectively referred to as the "Closing Documents"), in a form reasonably acceptable to Purchaser:

- (i) a Quit Claim deed conveying the Real Property to Purchaser or Purchaser's nominee or assignee;
  - (ii) an ALTA extended coverage statement;
  - (iii) a 1099 statement;
  - (iv) Seller's counterpart of a closing and proration statement;
  - (v) a certification of nonforeign status relating to Section 1445 of the Internal Revenue Code;
  - (vi) counterparts of completed real estate transfer declarations signed on behalf of Seller in the form required by state, county and local law; and
  - (vii) such other documents, instruments, consents or agreements as may be necessary in order to consummate this Agreement or which are required by the Title Company in order to issue the Title Policy in the form required by this Agreement.
- (b) At the Closing, Purchaser shall deliver the following documents:
- (i) counterparts of the real estate transfer declarations described above;
  - (ii) Purchaser's counterpart of the closing and proration statement;
  - (iii) an ALTA extended coverage statement executed by Purchaser; and

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(iv) the balance of the Purchase Price, plus or minus prorations.

(c) If the transaction described in this Agreement is closed by means of a New York Style closing, Seller shall provide a customary form of gap undertaking to the Title Company necessary for such closing.

## 10. ADJUSTMENTS AND PRORATIONS

Adjustments and prorations with respect to the Real Property shall be computed and determined between the parties as of the close of business on the Closing Date as follows:

(i) Purchaser shall be entitled to a credit in the amount of Sixty Thousand Dollars (\$60,000.00) for environmental remediation;

(ii) general real estate taxes for the years 2002 and 2003 shall be prorated on the basis of 110% of the most recent assessment, local rate and equalizer;

(iii) Seller shall be entitled to credit for all transferable utility deposits transferred hereunder, if any. All other utility deposits, if any, may be withdrawn by and refunded to Seller and Purchaser shall make its own replacement deposits for utilities as may be required by the respective utilities involved;

(iv) utility charges for telephone, gas, electricity, sewer, water and other utilities, if any, shall not be prorated as of the Closing Date to the extent that arrangements can be made by Seller for the rendition of final bills, based upon a reading of meters on the Closing Date. Seller shall be responsible for and pay all such bills for utility services up to and including the Closing Date. Purchaser shall assume responsibility for the payment of utility services provided to the Real Property after the Closing Date. To the extent that utility bills cannot be handled in the foregoing manner, they shall be prorated as of the Closing Date based upon the most recent bills available and readjusted on the basis of the actual bills rendered for the period during which the Closing occurs, as and when such bills are received; and

(v) such other items which are customarily prorated in a purchase and sale of the type contemplated hereunder shall be prorated as of the Closing Date.

## 11. CLOSING COSTS

At the Closing, Seller shall pay the cost of (a) the Title Commitment and the premium for the Title Policy, (b) all State of Illinois and Cook County transfer stamps required to be affixed to the quit claim deed, and (c) recording releases of existing liens and encumbrances which are

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not included in the Permitted Exceptions. Purchaser shall pay the cost of (a) recording the quit claim deed; (b) recording any documents relating to Purchaser's financing, if any, to purchase the Real Property, and (c) the premium for a lender's title policy relating to Purchaser's financing. City of Chicago transfer stamps required to be affixed to the quit claim deed shall be paid by the party designated in the local ordinance and, in the absence of such designation, shall be paid by Purchaser. Seller and Purchaser shall each bear the cost of their respective attorneys' fees.

**12. POSSESSION**

On the Closing Date, Seller shall deliver possession of the Real Property to Purchaser, in the same condition as exists on the date of this Agreement, ordinary wear and tear excepted. Purchaser shall have the right to inspect the premises during the 48-hour period immediately prior to Closing to verify that the Real Property is in substantially the same condition, normal wear and tear excepted, as of the date of this Agreement.

**13. DEFAULT**

(a) If Seller defaults under this Agreement and fails to cure such default within fifteen (15) days after written notice of such default, at Purchaser's option, Purchaser may declare this Agreement to be terminated and the Earnest Money shall be returned to Purchaser.

(b) If Purchaser defaults under this Agreement and fails to cure such default within fifteen (15) days after written notice of such default, this Agreement shall terminate and Seller shall retain the Earnest Money as liquidated damages in full settlement of all claims against Purchaser. Purchaser and Seller agree that the amount of actual damages which Seller would suffer as a result of Purchaser's default would be extremely difficult to ascertain and have agreed that the Earnest Money is a reasonable estimate of Seller's damages and is not intended to constitute a penalty.

**14. NOTICES**

Any notice, demand, request or other communication which either party here to may be required or may desire to give under this Agreement shall be in writing and shall be deemed to have been properly given (a) if hand delivered (effective upon delivery), (b) if mailed (effective three (3) days after mailing) by United States registered or certified mail, postage prepaid, return receipt requested, (c) if sent by a nationally recognized overnight delivery service (effective one (1) day after delivery to such courier) or (d) if sent by facsimile (effective upon confirmation of transmission), in each case addressed as follows:

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**IF TO SELLER:**

Autoline Industries Inc.  
210 West 22<sup>nd</sup> Street  
Suite 133  
Oak Brook, Illinois 60523  
Att: Mr. Jim Hubbard  
Facsimile: 630-990-0500

With a copy to:

Gesas, Pilati, Gesas and Golin, Ltd.  
53 West Jackson Blvd.  
Suite 528  
Chicago, Illinois 60604  
Att: Mr. David Golin  
Facsimile: 312-939-1742

**IF TO PURCHASER:**

Mark Properties, Inc.  
900 West 31<sup>st</sup> Street  
Chicago, Illinois 60608  
Attention: Dale Mark, President  
Facsimile: (312) 803-9611

With a copy to:

Wallace K. Moy  
53 West Jackson Boulevard  
Suite 1564  
Chicago, Illinois 60604  
Facsimile: (312) 987-1113

**15. BROKERS**

Seller and Purchaser confirm that they have previously consented to Lisa M. Dodgion of Alligas Realty ("Broker") acting as a Dual Agent in providing brokerage services on their behalf and specifically consent to Broker acting as a Dual Agent in regard to the transaction referred to

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in this Agreement. Broker shall be compensated in accordance with its agreements with Seller. Each of Seller and Purchaser represents and warrants to the other that it has not dealt with any other brokers, finders or agents with respect to this transaction. Each party shall indemnify and hold harmless the other party, its successors, assigns and agents from the payment of any commission, compensation, loss, damages, costs, and expenses (including court costs and reasonable attorneys' fees) incurred in connection with, or arising out of, claims for any broker's, agent's or finder's fees of any person claiming by or through such party. The obligations of Seller and Purchaser under this Section 15 shall survive the termination of this Agreement and the Closing Date.

16. **ASSIGNMENT**

Purchaser may assign its rights under this Agreement to another entity that Purchaser will form, prior to Closing, to acquire title to the Real Property under this Agreement. Upon Purchaser providing written notice of such assignment to Seller, all right, title and interest of Purchaser under this Agreement shall automatically be assigned to and inure to the benefit of such assignee with no further action required of the parties. In such event, Seller shall designate the assignee as the transferee under all conveyance documents Seller delivers at Closing. Purchaser may not otherwise assign its rights under this Agreement to any third party without Bankruptcy Court approval.

17. **MISCELLANEOUS**

- (a) Time is of the essence of each provision of this Agreement.
- (b) This Agreement and all provisions hereof shall extend to and be obligatory upon and inure to the benefit of the respective heirs, legatees, legal representatives, successors and assigns of the parties hereto.
- (c) The section and paragraph headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language of this Agreement.
- (d) This Agreement contains the entire agreement between the parties relating to the transaction described in this Agreement, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein. No representations, warranties, undertakings or promises (whether oral or written, express or implied), have been made by Seller or Purchaser or their respective agents or representatives unless expressly stated herein. No modification or amendment of this Agreement or any waiver of any provision hereof shall be effective unless the same is in writing signed by the party against whom enforcement of such modification, amendment or waiver is sought.



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(e) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois. If any of the provisions of this Agreement or the application thereof to any persons or circumstances are deemed, to any extent, to be invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or circumstances other than those as to whom it is invalid or unenforceable shall not be affected.

(f) Whenever, under the terms of this Agreement, the time for performance of a covenant or condition or for giving of a notice falls upon a Saturday, Sunday or holiday, such time for performance shall be extended to the next business day.

(g) This Agreement and any document or instrument executed pursuant hereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(h) This Agreement shall not become a contract until executed and delivered by Purchaser and Seller in the manner set forth herein.

(i) If either party institutes a legal action against the other relating to this Agreement or any default hereunder, the unsuccessful party to such action shall reimburse the successful party for the reasonable expenses of prosecuting or defending such action, including without limitation, attorneys' fees and disbursements and court costs.

(j) This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that the Agreement may have been prepared primarily by counsel for one of the parties, it being recognized that both Seller and Purchaser have contributed substantially and materially to the preparation of this Agreement.

(k) This Agreement shall not be construed as conferring any rights in any parties other than Seller and Purchaser, there being no third party beneficiaries of this Agreement.

18. **BANKRUPTCY COURT APPROVAL**

Seller and Purchaser hereby acknowledge and agree that this Agreement and the consummation of the sale of the Real Property to Purchaser are subject to the approval of the Bankruptcy Court. If Bankruptcy Court approval is not obtained within sixty (60) days of the effective date of this Agreement, then Purchaser shall have the right to terminate this Agreement, and if Purchaser exercises such right, then the Earnest Money shall be returned to Purchaser.

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IN WITNESS WHEREOF, this Agreement has been executed on the dates provided below, to be effective as of the date of Seller's acceptance of this Agreement.

**PURCHASER:**

MARK PROPERTIES, INC.

By: [Signature]

Its: President

Dated: February 4, 2003

**SELLER:**

AUTOLINE INDUSTRIES, INC.

By: [Signature]

Its: President

Dated: February 5, 2003

of Cook County Clerk's Office

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JAN. -24' 03(FRI) 16:21

GESAS PILATI ETAL

TEL:13124276666

P. 004

JAN 24 2003 13:32

CHICAGO TITLE DIVISION 1  
CHICAGO TITLE INSURANCE COMPANY

P. 04/08

COMMITMENT FOR TITLE INSURANCE  
SCHEDULE A (CONTINUED)

ORDER NO.: 1401 007996498 D1

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 67, 68 AND 69 IN BLOCK 3 IN HUBBARD'S SUBDIVISION OF LOT 14 IN BLOCK 24 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

PARCEL 2:

LOTS 27, 28, 29, 30, 31 AND 32 IN BLOCK 3 IN HUBBARD'S SUBDIVISION OF LOT 14 IN BLOCK 24 OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

PARCEL 3:

LOTS 3, 4 AND 5 IN MAY HUBBARD'S RESUBDIVISION OF LOTS 18 TO 36 INCLUSIVE AND OF LOTS 70 TO 73 INCLUSIVE IN BLOCK 4 OF HUBBARD'S SUBDIVISION OF COMMISSIONERS DIVISION OF LOT 14 IN BLOCK 24 IN CANAL TRUSTEE'S SUBDIVISION OF BLOCKS IN THE SOUTH FRACTIONAL 1/2 OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXHIBIT "A"