

AGREEMENT OF PURCHASE AND SALE

At the sale of auction made this day of the property described in the annexed Schedule marked "A" situate at **Location, Parcel ID**, (the "Property") Corner Brook, NL, Canada, _____
_____ was the highest bidder for and was declared the Purchaser of the said property at a price of (\$ _____) and the said Purchaser has paid into the hands of the City Clerk for the City of Corner Brook the sum of (\$ _____) by way of a deposit and, in part, payment of the purchase price as required in the Conditions of Sale read at the time of sale and the said Purchaser **HEREBY AGREES** to complete the purchase according to those Conditions (a copy of which said "Conditions of Sale" is attached hereto as Schedule "B").

DATED at the City of Corner Brook, in the Province of Newfoundland and Labrador, this _____ day of _____, 2018.

WITNESS

PURCHASER

CITY OF CORNER BROOK

WITNESS

Mayor or Deputy Mayor

WITNESS

City Clerk or City Manager

SCHEDULE "B"

CONDITIONS OF SALE

IN THE MATTER OF the sale by Public Auction of the lands and premises of _____ situate at _____, Corner Brook, NL, on the ___ day of _____, 2018, at _____ o'clock in the fore/after noon pursuant to a statutory Sale by Auction under and by virtue of Sections 162.5 & 162.6 of the *City of Corner Brook Act*, R.S.N.L 1990, c. C-15.

The conditions of sale of the property described in the annexed Schedule marked "A":

1. The property described in the annexed Schedule "A" (hereinafter the "Property") shall be sold in one (1) lot.
2. The highest bidder at the sale shall not necessarily be the Purchaser of the Property offered for sale.
3. The City of Corner Brook (hereinafter the "City") may bid at the public auction and/or place a reserve bid.
4. The City has the right to reject any and all bids, and the auction shall be conducted subject to this right. The City also reserves the right to cancel the auction process at any time without notice.
5. The Purchaser shall immediately, upon the Property being knocked down to him or her, sign the Agreement of Purchase and Sale and pay a deposit of Ten (10%) percent of the purchase price by cash, certified cheque or bank draft to the City and shall pay any balance of the purchase price to the City on closing.
6. This agreement shall be completed on or before the ___ day of _____, 2018, (hereinafter called the "closing" or "closing date").
7. The Property is to be conveyed subject to any claims of the Crown and any existing right of ways or easements located on and under The Property which shall include but not be limited to waterlines, sanitary and storm sewer systems. The Purchaser agrees to register the Deed with the Registry of Deeds for Newfoundland and Labrador forthwith after closing and to pay any costs of registration. In the event

that the Buyer does not retain a lawyer to represent the Buyer on this purchase, the Buyer agrees that the cost of registration of the Deed will be added to the Purchase Price payable by the Buyer to the Sellers on closing and the Sellers will arrange registration of the original Deed which would then be delivered to the Buyer immediately upon the Sellers having received the Registered Deed from the Registry of Deeds.

8. The City offers no representation or warranty whatsoever as to title or condition of the lands and premises to be sold pursuant to the public auction. The condition of the lands and premises is solely a matter of inspection by the prospective Purchaser prior to the public auction and the question of title is solely a matter of investigation by the Purchaser in accordance with the provisions of Clauses 10 and 11 of these conditions of sale.
9. The Purchaser shall have vacant possession, the latter of either the closing date or the date that vacant possession is available to the City.
10. In the case of the Purchaser making default in paying down the said deposit of Ten (10%) percent of the purchase price immediately upon the Property being knocked down to him or her, or fails to sign this Agreement of Purchase and Sale, the Property may be immediately again offered for sale and sold upon the terms and conditions herein contained.
11. If the Purchaser shall fail to comply with any of the conditions herein, the deposit and all other payments made on the purchase price shall be forfeited and the premises may be resold and the deficiency, if any, after such resale, together with all charges attending the same or occasioned by the default, including legal fees and disbursements incurred by the City are to be paid by the Purchaser.
12. Except in accordance with paragraph 11 hereof, the Property is being offered for sale **SUBJECT TO** claims of the Crown and easements and the Purchaser shall not make any objection to or requisition on account of any such lien or charge.
13. The Purchaser shall be allowed Ten (10) days from the date of the public auction to search title and if within that time he shall furnish the Solicitor for the City in writing with any claims of the Crown or easements which the said City shall be unable or unwilling to remove, then the deposit made by the Purchaser shall be returned and this Agreement shall be void and of no effect. If no written objections are received

by the Solicitor for the City within the ten (10) day period, the Purchaser shall be deemed to have accepted the title of the City.

14. An HST Warranty and Affidavit shall not be provided by the City.
15. A Urea Formaldehyde Foam Insulation Warranty shall not be provided by the City.
16. The City shall only supply the Purchaser with the survey and legal description of the Property which it has in its possession and should a new survey and legal description be required to complete the transaction, it shall be at the expense of the Purchaser.
17. Time shall be of the essence of these conditions and of the Agreement of Purchase and Sale.
18. **AS IS/WHERE IS.**
 - (a) The Purchaser acknowledges and agrees that the Property is being sold and The Purchaser is purchasing The Property on an *as is, where is* basis, and The City shall have no liability or obligation with respect to the value, state or condition of The Property and any deficiencies in the Property or repairs, replacements or other work required with respect to the Property, environmental or otherwise. Not in any way limiting the generality of the foregoing, the Purchaser acknowledges and accepts that the City offers no warranties and makes no representations whatsoever regarding the existence or non-existence of hazardous materials and/or contamination on or in the Property that could be detrimental to the environment. The City assumes no liability or obligation with respect to the value, state or condition of the Property and any deficiencies therein or repairs, replacements or other work required with respect to the environmental condition of the Property.
 - b). The Purchaser acknowledges and agrees that the City make no representations or warranties of any kind express or implied that the present use or the future intended use by The Purchaser are or will be lawful or permitted or as to the suitability of The Property for the Development or any other use or development.
19. **AUTHORIZATION.** Prior to closing, and at the sole expense of the Purchaser, the City shall permit the Purchaser to conduct an environmental assessment of the Property, which may involve a soil inspection including drilling and the removal of soil samples for the purpose of analysis. The Purchaser shall be responsible for all damage to the Property caused by all test and inspections performed by or on the Purchaser's behalf as contemplated in this section and all such damage shall be repaired to its original

condition by the Purchaser at its sole expense. This obligation shall survive any termination of this agreement. It is **further understood and agreed** that:

- a. Any environmental assessment on the Property will be performed by a duly licensed environmental engineering firm; and
- b. The Purchaser shall have the option to terminate this agreement of Purchase and Sale with the City if the said environmental assessment performed by the duly licensed environmental engineering firm determines there is contamination on the Property that is beyond the amount of \$50,000 to remediate.

20. CONFIDENTIALITY. The Purchaser acknowledges, covenants and agrees that all information and documentation obtained by the Purchaser pertaining to the Property and all copies thereof together with any analysis, compilation, studies or other documents obtained by the Purchaser or its agents, representatives or employees which contain or otherwise reflect such information or documentation (collectively the "Confidential Information") is confidential and as such:

- a. Will be kept confidential and will not be:
 - i. Used in any way detrimental to the City or the owner;
 - ii. Used by the Purchaser, or any of its agents, representatives or employees, for any purpose other than in connection with the contemplated purchase of the Property and the financing thereof.
- b. Nothing herein shall restrict or prohibit the Purchaser from disclosing Confidential Information to its consultants, advisors, agents, lenders and solicitors so long as such parties agree to keep such Confidential Information confidential or the Purchaser receives such other assurances which are acceptable to it.
- c. The Confidential Information referred to in this Section shall not include:

- i. Public information or information in the public domain at the time of receipt by a party or its consultants, agents, advisors and solicitors;
- ii. Information which becomes public through no fault or act of a party or its consultants, agents, advisors or solicitors; or
- iii. Information received in good faith from a third party lawfully in the possession of the information and not in breach of any confidential obligations.

21. INDEMNIFICATION. That, notwithstanding any other terms, covenants and conditions contained in this Agreement, the Purchaser shall indemnify the City and its officers, employees, contractors and agents and save each of them harmless from and against any and all loss, claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to Property or any other loss or injury whatsoever arising from or out of use of the Property for inspection purposes or any occurrence in, upon or on the Property, if occasioned by any act or omission of the Purchaser or by anyone permitted to be on the Property in such capacity as a contractor, agent, employee or representative of the Purchaser. If the City or any one or more of the above named persons shall, without fault on its part, be made a party to any litigation commenced by or against the Purchaser, then, the Purchaser shall protect, indemnify and hold the City and all such persons harmless and shall pay all costs, expenses and reasonable legal fees incurred or paid by the City and all such persons in connection with any such litigation. The Purchaser shall pay all costs, expenses and legal fees (on a solicitor-client basis) that may be incurred or paid by the City in enforcing the terms, covenants and conditions of the Agreement.

22. SURVIVE CLOSING

All warranties, representations, indemnities, and “save harmless” provisions contained in this agreement shall survive closing unless otherwise stated in this agreement.

23. OVERDUE PAYMENTS

In the event that the Purchaser does not pay any amounts owing to the City under the provisions of this Agreement within thirty (30) days of the City having provided notice to the Purchaser that the amount is due and owing, including but not limited to any amounts due and owing under any indemnity and save harmless provisions of this agreement, the City may commence legal action to collect the sums owing and the Purchaser shall pay any and all costs and expenses the City incurs, including but not

limited to the cost of the City's legal representation on a solicitor-client basis and compound interest on any amounts due and owing at a rate of 5% per annum commencing on the date the City's first provide notice to the Buyer in accordance with this provision.

24. BINDING

This agreement shall enure to the benefit of and be binding upon the parties hereto, its heirs, executors, administrators, successors and assigns.

25. NO COLLATERAL AGREEMENTS

There are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this agreement other than as set out in this agreement, which constitutes the entire agreement between the parties, concerning the Property and which may be modified only by further written agreement under seal.

26. SEVERABILITY

The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision and any invalid provision will be severable.

27. JURISDICTION

This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws in effect in the Province of Newfoundland and Labrador, and the laws of Canada, as applicable. In the event any matter under this contract requires court action, the parties agree to attorn to the jurisdiction of the court of competent jurisdiction in or nearest to the City of Corner Brook.

28. DOCUMENTS

The parties will, at any time, and from time to time execute and deliver to the other any document or documents that the other reasonably requires to give effect to the terms of this Agreement.

29. GENDER/NUMBERS

This agreement is to be read with all changes of gender or number required of the context.

30. HEADINGS

The headings contained in this Agreement are for convenience only and do not affect the meaning of any of the provisions of this Agreement.

Schedule A

Survey/Sketch