

OPTION TO PURCHASE

THIS AGREEMENT made this ## day of MONTH, YEAR

B E T W E E N:

NAME OF OWNER

("Owner")

OF THE FIRST PART

- and -

CITY OF TORONTO

("City")

OF THE SECOND PART

**WHEREAS** the Owner acquired certain lands and premises more particularly described in Schedule "A" attached hereto (the "**Property**") from the City pursuant the Owner's proposal to develop and operate by Indigenous and for Indigenous affordable rental housing at the Property (the "**Development**"), which proposal was submitted in response to a request for proposals with respect to same (the "**RFP**");

**AND WHEREAS** pursuant to the *RFP* and those agreements between the Owner and City flowing therefrom, the Owner shall, *inter alia*, obtain a Certificate of Substantial Performance in relation the Development;

**AND WHEREAS** the Owner has agreed to grant the City this conditional option to purchase the Property, on the terms and conditions set forth herein (the "**Agreement**");

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the sum of TEN DOLLARS (\$10.00) of lawful money of Canada paid by the City to the Owner and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the parties), the parties hereto agree as follows:

**SECTION 1. THE OPTION**

- 1.1. The Owner hereby grants to the City the sole, exclusive and irrevocable option to purchase the *Property* (the "**Option**").
- 1.2. The City may exercise the *Option* on the occurrence of the following (the "**Condition**"):
  - (a) The Owner fails to deliver to the City a Certificate of Substantial Performance within ten (10) Business Days of the City's written demand for same (a "**Demand for Certificate**") provided that the City shall not make a *Demand for Certificate* until after the substantial performance date to be determined by agreement between the City and the Owner in furtherance of the *RFP*.
- 1.3. The *Option* may be exercised by the City at any time during the following time period (the "**Option Period**"):
  - (a) after the *Condition* has been satisfied; and
  - (b) before that date that is twenty-one years from the date of this *Agreement*.
- 1.4. The *Option* shall be exercisable by the City delivering a notice in writing (the "**Option Notice**") to the Owner at any time during the *Option Period*.
- 1.5. In the event that the *Option* is not exercised by the City within the *Option Period*:
  - (a) this *Agreement* shall be null and void and no longer binding upon either of the parties hereto; and
  - (b) the Owner shall remain bound by the *RFP* and all agreements flowing therefrom.
- 1.6. Upon due exercise of the *Option* as contemplated herein, there shall come into effect a binding agreement of purchase and sale between the City and the Owner with respect to the *Property*, including without limitation all structures and fixtures thereupon or forming part thereof, at the *Purchase Price* and on the other terms and conditions more particularly set forth herein.

## SECTION 2. PURCHASE PRICE

- 2.1. The purchase price for the Property (the "**Purchase Price**") shall be TWO DOLLARS (\$2.00) of lawful money of Canada, exclusive of harmonized sales tax. The *Purchase Price* shall be paid to the Owner on *Closing* by non-certified cheque, subject to the usual adjustments, save as otherwise stipulated herein.
- 2.2. The *Purchase Price* shall be subject to adjustment on account of taxes, local improvement rates and charges, water and assessment rates and utilities, to the extent applicable, and all other items normally adjusted as between a vendor and a purchaser on the purchase of real property similar to the Property. The Owner covenants and agrees to pay all realty taxes and utility charges relating to the Property to the Closing Date. The Closing Date shall be for the account of the City. Each party agrees to readjust after Closing all items to be adjusted in accordance with the terms of this Agreement or that reasonably ought to be the subject of readjustment in order to fulfill, in good faith, the terms of this Agreement.
- 2.3. The City and the Owner agree that there are no chattels included in the Purchase Price and there are no fixtures forming part of the Property which are excluded from the Purchase Price.
- 2.4. The Owner agrees to indemnify and save harmless the City from and against any claims whatsoever for any commission on or other remuneration payable or alleged to be payable to any broker, agent or other intermediary who purports to have acted for the Owner in connection with the sale of the *Property*.
- 2.5. The City shall be credited towards the *Purchase Price* with the amount, if any, which shall be necessary for the City to pay to the Minister of National Revenue in order to satisfy the City's liability in respect of tax payable by the Owner under the non-residency provisions of *the Income Tax Act* (Canada) by reason of this transaction. The City shall not claim such credit if, on or before *Closing*, the Owner delivers the prescribed certificate or a statutory declaration establishing to the satisfaction of the City's solicitor that the Owner is not then a non-resident of Canada, provided that in the case where the Owner is a corporation, such declaration shall be made by an authorized director or officer of the Owner, after reasonable investigation.

## SECTION 3. CLOSING

- 3.1. For the purposes of this *Agreement*:
  - (a) "*Business Day*" means any day:
    - (i) on which Canadian chartered banks are open for regular business in the City of Toronto, Ontario, Canada, excluding in any event, Saturdays, Sundays, and holidays observed in the City of Toronto; and
    - (ii) on which instruments can be registered in Teraview's electronic land registry system.
  - (b) "*Closing Time*" means 4:00 p.m. in the City of Toronto, Ontario, Canada.
  - (c) "*Excluded Goods*" means all chattels owned by the Owner, and all rubbish, waste materials, refuse and debris.
- 3.2. The transaction of purchase and sale shall be completed ("*Closing*") on the day that is forty-five (45) days after receipt by the Owner of the *Option Notice* (the "*Closing Date*") on or before the *Closing Time* and if such day is not a Business Day, then on the first Business Day thereafter.
- 3.3. Prior to the *Closing Date*, the Owner covenants to remove from the Property, at the Owner's sole expense, all *Excluded Goods* and to leave the Property in a neat, tidy and wholesome condition, failing which the City shall be entitled, at any time after the *Closing Date*, to:
  - (a) perform part or all of such removal of *Excluded Goods* at the Owner's sole expense;
  - (b) dispose of any *Excluded Goods* in such manner as it sees fit without obligation or liability to the Owner;
  - (c) deliver an invoice, due and payable upon delivery, to the Owner for all costs incurred in the performance of such removal; and
  - (d) rely on the survival of this subsection at any time after *Closing*.
- 3.4. The parties waive personal tender.
- 3.5. Tender may be validly and effectively made on the lawyer acting for the Owner or the City Solicitor, as the case may be.
- 3.6. The Owner agrees to retain a lawyer who is both an authorized user of the Teraview Electronic Registration System ("**TERS**") and in good standing with the Law Society of Ontario to represent

the Owner in connection with the completion of this transaction, and shall authorize such lawyer to enter into an escrow closing agreement with the City Solicitor in the form recommended from time to time by the Law Society of Ontario (hereinafter referred to as the “**Document Registration Agreement**” or “**DRA**”) establishing the procedures and timing for completing this transaction and to be executed by the Owner’s lawyer and returned to the City Solicitor at least ten (10) days prior to *Closing*.

- 3.7. The Owner and the City agree that the delivery and exchange of documents and monies and the release thereof to the City and the Owner, as the case may be:
- (a) shall not occur contemporaneously with the registration of the transfers (and other registerable documents); and
  - (b) shall be governed by the *DRA*, pursuant to which the lawyer receiving the documents, and/or funds, will be required to hold them in strict accordance with the *DRA*.
- 3.8. If the Owner’s lawyer is unwilling or unable to complete the transaction using *TERS*, in accordance with the provisions of the *DRA*, then the Owner’s lawyer (or its agent) shall be obliged to personally attend at the office of the City Solicitor, at such time on the day scheduled for *Closing* as the City Solicitor may direct, in order to complete this transaction using *TERS* on computer facilities in the City Solicitor’s office, and shall pay a fee as determined by the City Solicitor, acting reasonably, for the use of the City’s computer facilities.
- 3.9. Notwithstanding anything to the contrary in this *Agreement*, it is agreed by the parties that an effective tender shall be deemed to have been validly made by one party upon the other party when the tendering party’s lawyer has:
- (a) caused all closing documents to be delivered to the other party’s lawyer in accordance with the provisions of the *DRA*;
  - (b) advised the other party’s lawyer in writing that the tendering party is ready, willing and able to complete the transaction in accordance with the terms and provisions of this *Agreement*; and
  - (c) has completed such in *TERS* that can be performed or undertaken by such lawyer without the cooperation or participation of the other lawyer, and specifically when the “completeness signatory” for the transfer(s) has been electronically “signed” by or on behalf of the tendering party’s lawyer, without personally attending upon the other party or its lawyer with the documents or funds required to be delivered by the tendering party for *Closing*; and
  - (d) without any requirement to have an independent witness confirm any of (a), (b) or (c), immediately preceding.
- 3.10. At any time prior to *Closing*, the City may terminate this *Agreement*, the transaction of purchase and sale resulting therefrom, or both, on written notice to the Owner and as and from the delivery of such written notice, the City shall have no further obligation with respect thereto and each party shall be responsible for its own costs and expenses incurred up and to such time.
- 3.11. The Owner’s covenants, representations and warranties herein shall survive *Closing* and not merge thereupon.

#### SECTION 4. DUE DILIGENCE

- 4.1. For the purposes of this *Agreement*, “**Governmental Body**” means a municipal, provincial or federal government, including any agency, board, commission and department thereof, including without limitation, the City of Toronto, the Toronto Region Conservation Authority and Ontario’s Ministry of the Environment, Conservation and Parks.
- 4.2. The City shall have the right to give notice of this *Agreement* to any *Governmental Body* and to obtain any and all information within the records of such *Governmental Body* relating to the regulatory and compliance status of the *Property* and the Owner’s use thereof (including without limitation, information regarding environmental matters, building standards, zoning, work orders, approvals, permits and compliance orders) and as to any other matter that might affect the City’s enjoyment, use, possession and ownership of the *Property* after *Closing*.
- 4.3. The Owner hereby consents to any *Governmental Body* releasing to the City details of all outstanding work orders, property standards and status files and information on any studies, plans or proposals affecting the *Property*. The Owner agrees to promptly execute and deliver such further authorizations in this regard as the City’s solicitor may reasonably require to ensure the release of such details.

- 4.4. The Owner shall promptly release to the City all correspondence, information, material, working papers, reports and other documentation in the possession or control of the Owner pertaining to the *Property*, the Owner's use of the *Property* and the proposed use of the *Property* by the City.
- 4.5. From and after the date of the *Option Notice*, the City and its agents, employees, consultants, contractors and other persons as the City considers necessary, shall have the right to enter upon the *Property* at all reasonable times, as often as the City may deem desirable, for purposes of carrying out appraisals, soil tests, groundwater analysis, environmental analyses, inspections, due diligence enquiries and other investigations relating to the *Property* and preparing surveys or other plans with respect thereto. All such activities shall be done at the sole cost and risk of the City and the City shall restore the *Property* as nearly as reasonably possible to the state in which it was before the commencement of any such activities.

## SECTION 5. OWNER'S REPRESENTATIONS AND WARRANTIES

### 5.1. The Owner represents and warrants (the "**Warranties**"):

- (a) that the buildings situated on the *Property* have not been, as at *Closing*, insulated with asbestos or Urea Formaldehyde foam insulation;
- (b) that prior to *Closing*, no work, construction or alterations have been done on the *Property*, or material supplied thereto, which could result in the registration of a lien under the *Construction Act* (Ontario);
- (c) that there are no work orders, deficiency notices or orders to comply affecting the *Property*;
- (d) that all fixtures (including, without limiting the generality of the foregoing, all heating, electrical, plumbing and mechanical systems), whether owned or leased, are and shall be on *Closing* in good repair and working order;
- (e) that the Owner has made complete disclosure of all material facts and circumstances, relating to the presence of any contaminant, pollutant, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, hazardous waste, biological materials and organisms (including, without limitation, viral agents, mold, fungus and bacteria), flammable material, explosive material, radioactive material, urea formaldehyde foam insulation, asbestos, PCBs, radiation and any other substance, materials, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or a pollutant in or pursuant to any applicable federal, provincial or municipal laws, statutes, by-laws, rules, regulations, orders or directives (each a "**Hazardous Substance**") or other environmental condition, which to the knowledge of the Owner exists now or in the past, did exist on the *Property* or on any adjoining or proximate lands, which in any manner may affect the *Property* or its proposed use;
- (f) that no part of the *Property* contains any Hazardous Substance, nor has it ever been used for the storage, transportation, burial, disposal or processing of any Hazardous Substance;
- (g) that there are not now, and will not on *Closing* be, any outstanding, pending or threatened orders, directives or other requirements (collectively the "**Environmental Orders**") of any entity having jurisdiction over the *Property* (collectively the "**Environmental Authorities**") which in any manner may affect the *Property* or its proposed use;
- (h) that the Owner is not now, and will not on *Closing* be, negotiating or in any manner dealing with any *Environmental Orders* or *Environmental Authorities*; and
- (i) that no part of the *Property* has ever been used as a burial site or cemetery for the interment of human remains as defined by Ontario's *Cemeteries Act*.

### 5.2. The Owner represents and warrants that spousal consent is not necessary to the transaction under the provisions of Ontario's *Family Law Act* and, within the meaning of that act, the *Property* has never been occupied by any of the directors, officers or shareholders of the Owner or their spouses, as a family residence.

### 5.3. On *Closing*, the Owner shall provide to the City, a statutory declaration that the *Warranties* and all other representations and warranties of the Owner contained in this Agreement are correct and true as of *Closing*, provided that in the case where the Owner is a corporation, such declaration shall be made by an authorized director or officer of the Owner, after reasonable investigation.

### 5.4. On *Closing*, the Owner shall deliver to the City, the Owner's written covenant to indemnify and save harmless the City from and against any and all manner of Claims incurred by, suffered by or brought against the City resulting, directly or indirectly from any breach of the *Warranties*. The Owner shall deliver on *Closing*, the Owner's Indemnity, as set out in Schedule "C" attached hereto.

## SECTION 6. TITLE

- 6.1. On Closing, the *Property* shall be subject only to those mortgages, charges, liens, work orders, easements, restrictions, leases, licences or other encumbrances or title defects ("**Permitted Encumbrances**") set forth on Schedule "B" attached to this Agreement.
- 6.2. The Owner shall, on or before *Closing*, at its own expense, obtain and register a discharge of all mortgages, charges, liens, work orders, easements, restrictions, leases, licences and other encumbrances of every nature and kind affecting the *Property* and shall remedy any title defects, save for the *Permitted Encumbrances*.
- 6.3. If a discharge of any mortgage or charge which is not to be assumed by the City on *Closing* is held by a mortgagee that is a Canadian chartered bank, trust company or insurance company is not available in registrable form on *Closing*, the City agrees to accept the Owner's solicitor's personal undertaking, prepared in a form satisfactory to the City's solicitor, acting reasonably, to:
  - (a) forward to the mortgagee, out of the *Purchase Price*, the amount specified in the mortgage discharge statement issued by such mortgagee;
  - (b) obtain from such mortgagee a discharge of charge/mortgage in registrable form;
  - (c) register same on title within forty (40) *Business Days* after *Closing*; and
  - (d) forthwith upon such registration, provide written particulars of such registration to the City.

Provided however and despite the foregoing, the City shall not be obligated to accept such undertaking unless the same is accompanied by an unqualified mortgage statement prepared by the mortgagee addressed to the City setting out the balance required to obtain the discharge, together with a Direction re: Funds executed by the Owner directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on Closing.
- 6.4. The City shall be allowed until *Closing* to examine title to the *Property* at its own expense, to satisfy itself that title is subject only to the *Permitted Encumbrances* and that there are no outstanding municipal work orders or deficiency notices affecting the *Property* and to make any requisitions in connection therewith. Provided that in the event that the Owner is unable to remove, remedy or satisfy any mortgage, charge, lien, work order, easement, restriction, lease, licence or other encumbrance or title defect other than the *Permitted Encumbrances*, on or prior to *Closing*, which the City will not waive, notwithstanding any intermediate acts or negotiations in respect of such objections, the transaction of purchase and sale shall be at an end, and neither party shall be liable to the other for any costs or damages. Save as to any valid objection so made by *Closing*, the City shall be conclusively deemed to have accepted the Owner's title to the *Property*.
- 6.5. Should the City make any valid objection to title which the Owner has not removed prior to *Closing* and which can be cured by the payment of money to a third party, then the City shall have the option of making such payment on behalf of the Owner and deducting such amounts from the balance due on *Closing*.

## SECTION 7. REGISTRATION & PRIORITY

- 7.1. The City may register notice of this *Agreement* on title to the *Property*.
- 7.2. The Owner shall, at its expense, obtain and register every postponement agreement or other agreement that the City may require to ensure that this *Agreement* shall be a first encumbrance on title to the *Property* in priority to all registered mortgages, charges, leases and other registered encumbrances or agreements affecting the *Property* other than the *Permitted Encumbrances* set out in Schedule "B" hereto.
- 7.3. Upon request of the Owner, and at the Owner's sole cost and expense, the City shall enter into such further agreements as are reasonably necessary to either standstill or postpone, or both, any City interest in the *Property* created by this *Agreement* to any charge and any other instrument ancillary to such charge, provided such charge is:
  - (a) reasonably necessary to obtain a Certificate of Substantial Performance with respect to the *Development*; and
  - (b) contemplated by the *RFP* or an agreement flowing therefrom.

## SECTION 8. DELIVERIES ON CLOSING

- 8.1. On *Closing*, the Owner shall deliver vacant possession of the *Property* to the City.
- 8.2. The Transfer, save for the Land Transfer Tax Affidavit, shall be prepared in registrable form at the expense of the Owner. The Owner covenants that the Transfer to be delivered on Closing shall contain the statements contemplated by Subsection 50(22) of Ontario's *Planning Act*.

- 8.3. The City represents that it is a “registrant” within the meaning of the *Excise Tax Act* (Canada) (the “**ETA**”) and that its registration number is 86740 2299 RT0001 (the “**City’s HST Number**”). The *Purchase Price* shall be deemed to be exclusive of any HST that may apply to the sale of the Property pursuant to the *ETA*.
- 8.4. The Owner represents and warrants that the sale of the *Property* is a “taxable supply” for the purposes of the *ETA*. As such, the parties agree that the provisions of paragraph 221(2)(b) of the *ETA* shall apply and the Owner shall not collect HST from the City on *Closing* but rather, the City agrees that it shall self-assess and remit all HST following *Closing* in accordance with the requirements of the *ETA*.
- 8.5. The City represents and covenants that it is acquiring the *Property* on its own account and not as agent, that the *City’s HST Number* is, and will be on *Closing*, valid and the City agrees that the Owner may rely on this representation and covenant, which shall not merge on *Closing*. The Owner agrees that it shall not call for the delivery of any further certificate, covenant, undertaking or other assurance to confirm either the *City’s HST Number* or the City’s agreement and undertaking to self-assess and remit HST.

## SECTION 9. RISK

- 9.1. All buildings on the *Property* and all other things being purchased and all risks, hazards and liabilities associated with the *Property* or the use thereof shall be and remain until *Closing* at the risk of Owner. Pending *Closing*, the Owner shall hold all insurance policies, if any, and the proceeds thereof, in trust for the parties as their interests may appear and in the event of substantial damage, as determined by the City in its sole and absolute discretion, the City may, at its sole option either:
- (a) terminate this *Agreement* and have all monies theretofore paid returned without interest or deduction; or
  - (b) take the proceeds of any insurance and complete the purchase of the *Property*.
- 9.2. No insurance will be transferred on *Closing*.

## SECTION 10. NOTICE

- 10.1. Unless otherwise provided in this Agreement, any notice, approval or other communication required or permitted to be given (“**Notice**”) shall be in writing and shall be delivered: (1) by personal delivery; (2) by prepaid registered mail; or (3) by fax; and

in the case of *Notice* to the City, addressed as follows:

Director, Transaction Services of Real Estate Services  
Corporate Real Estate Management  
City of Toronto  
Metro Hall, 2nd Floor  
55 John Street  
Toronto ON M5V 3C6  
Fax No.: (416) 392-1880

With a copy to:

City Solicitor  
Attention:  
City of Toronto  
Station 1260, 26th Floor  
Metro Hall  
55 John Street  
Toronto ON M5V 3C6  
Fax No.: (416) 397-5624

and in the case of *Notice* to the Owner, addressed as follows:

[insert Owner’s address]

With a copy to the Owner’s solicitor:

[insert Owner’s solicitor’s address]

- 10.2. The Owner hereby appoints the Owner’s solicitor named above as its agent with full authority to give, receive and bind the Owner by any *Notice* to be delivered under this Offer, until such time as the Owner shall otherwise notify the City in writing.
- 10.3. Any *Notice* so given shall be deemed conclusively to have been given and received on the date of delivery if personally delivered or faxed, or on the third (3rd) *Business Day* following

the date of mailing if sent by prepaid registered mail, provided that if there is any anticipated or existing postal dispute, *Notice* shall be personally delivered or faxed. Either party may from time to time change the address for service of such party or its solicitor, by *Notice* to the other party hereto.

## SECTION 11. CONFIDENTIALITY

- 11.1. The Owner, for itself, its agents, shareholders, directors, officers and employees (or any of them), covenants that it shall not at any time subsequent to the Owner's execution of this *Agreement*, except as required by law or permitted in writing by the City, disclose to anyone or use for any purpose, any information concerning the City's intended acquisition or use of the *Property*, this *Agreement* or the negotiations relating to this *Agreement*, whether such information was disclosed by the City or obtained by the Owner, its agents, shareholders, directors, officers and employees (or any of them), through its investigations and inquiries, other than information which is a matter of public record.
- 11.2. The Owner acknowledges that all information, documents and correspondence provided by the Owner to the City in connection with this *Agreement* and the transaction provided for in this *Agreement* (collectively, the "**Owner's Information**") will become the property of the City, subject to Ontario's *Municipal Freedom of Information and Protection of Privacy Act*, as amended ("**MFIPPA**") and subject to any other obligations of the City to disclose information in its possession or control. Therefore, the Owner acknowledges that all or some of the *Owner's Information* may be reproduced or otherwise copied by the City, may become part of the public record of the transaction provided for in this *Agreement*, and consents to the disclosure of the *Owner's Information* by the City pursuant to *MFIPPA* or otherwise. The Owner should assume that the name of the Owner will be, in every case, a matter of public record.
- 11.3. The Owner agrees to identify those portions, if any, of the Owner's Information which contain any scientific, technical, commercial, proprietary, financial or labour relations information, any trade secrets or any information of a similar confidential nature the disclosure of which could cause the Owner any harm. The Owner agrees that any of the *Owner's Information* which is not expressly identified to the City as confidential information at the time that it is received by the City will be treated as public information.

## SECTION 12. CITY AS MUNICIPALITY

- 12.1. Nothing in this *Agreement* derogates from or interferes with or fetters the exercise by the City of all of its rights as a municipality, or imposes any obligations on the City, in its role as a municipality and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including planning rights and responsibilities. Nothing in this *Agreement* derogates from or interferes with or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this *Agreement*.
- 12.2. No communication or dealing between the Owner and the City or the Owner and any agency, board, commission, department, committee, body, commissioner, elected official, appointed official, officer, employee, agent or representative of the City will be deemed to be a communication or dealing under the provisions of this *Agreement* between the Owner and the City in its capacity as a party to this *Agreement* or to effect the City with notice of any such communication or dealing, it being intended and agreed that the City acts solely as a purchaser of the *Property* and as such, any communication or dealing between the City and the Owner as parties to this *Agreement* will only be effective if delivered in accordance with the notice provisions set out herein. No communication or dealing between the City as a party to this *Agreement* and the Owner as a party to this *Agreement* pursuant to the provisions of this *Agreement* will relieve the Owner from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, a by-law or by any other lawful manner separate and apart from the obligations of the Owner imposed by this *Agreement*.

## SECTION 13. GENERAL

- 13.1. This *Agreement* shall be interpreted and enforced in accordance with the laws of the Province of Ontario and the Dominion of Canada as applied therein. Any legal proceeding arising in connection with this *Agreement* shall be commenced and heard in a court (or, if applicable, a tribunal of competent jurisdiction) sitting in Toronto, Ontario, which it is agreed will be the appropriate location. If the court (or, if applicable, tribunal of competent jurisdiction) does not sit in Toronto, the legal proceedings shall be commenced and heard in the jurisdiction nearest to the City of Toronto within the Province of Ontario in which such court (or, if applicable, tribunal of competent jurisdiction) convenes.
- 13.2. Time shall in all respects be of the essence hereof provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Owner and the City.
- 13.3. Unless expressly stated otherwise herein:

- (a) references to all dollar amounts in this *Agreement* shall be references to Canadian dollars; and
- (b) payments to be made by the City shall be made by ordinary (non-certified) cheque or, at the sole option of the City, by electronic fund transfer or wire payment.

- 13.4. Any references in this *Agreement* to any law, by-law, rule, statute, regulation, order or act of any government, *Governmental Body* or other regulatory body shall unless otherwise stated, be construed as a reference thereto as amended, replaced or re-enacted from time to time or as a reference to any successor thereto.
- 13.5. Section headings are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.
- 13.6. This *Agreement* may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. Each counterpart of this *Agreement*, and any other document to be delivered by one or more parties under this *Agreement*, may be executed by electronic signature through a *City-Approved Electronic Signature Platform* (as defined below), or by handwritten signature delivered to the other party or parties by electronic transmission in PDF format. Any such electronic signature or handwritten signature delivered by electronic transmission shall be valid, binding and enforceable upon the party or parties so executing and/or delivering same electronically to the same extent and shall have the same legal effect as an original signature. If and when one or more parties hereto executes this *Agreement* by or through a *City-Approved Electronic Signature Platform*, then such party or parties shall, upon the request of another party hereto, be obliged to forthwith provide the requesting party with a certificate of completion or similar certificate produced or issued by such *City-Approved Electronic Signature Platform*, which confirms, verifies and/or validates the electronic signature of the party or parties so executing same electronically. For the purposes of this section, "**City-Approved Electronic Signature Platform**" means DocuSign Inc.'s electronic signing platform or any other similar secure electronic application or platform acceptable to the City in its sole and absolute discretion and "electronic signature" and "electronic" shall have the meanings respectively ascribed to such terms in the *Electronic Commerce Act, 2000*, S.O. 2000, c. 17, as amended.
- 13.7. Each of the parties hereto shall execute and deliver all such further documents and do all such other things as the other party may reasonably request in order to give full effect to the terms of this *Agreement*.
- 13.8. The *RFP* and all agreements flowing therefrom, including this *Agreement* and all Schedules attached hereto, shall constitute the entire agreement between the City and the Owner. There is no representation, warranty, collateral agreement or condition, whether direct or collateral, or express or implied, which induced any party hereto to enter into this *Agreement* or on which reliance is placed by any such party, or which affects this *Agreement* or the *Property* or supported hereby other than as expressed herein.
- 13.9. The *Agreement* shall be read with all changes of gender or number required by the context.
- 13.10. In the event of conflict between the provisions written or typed into this *Agreement* and any provision in the printed portion hereof the written or typed provision shall supersede the printed provisions to the extent of such conflict.
- 13.11. This *Agreement* shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns.
- 13.12. The City may assign this *Agreement* or part of its rights hereunder in its sole and absolute discretion.
- 13.13. This *Agreement* shall be effective to create an interest in the *Property* only if the subdivision control provisions of the *Planning Act*, R.S.O. 1990, as same may be amended from time to time, or any successor or replacement legislation, are complied with.

IN WITNESS WHEREOF the parties have duly executed this *Agreement* as of the date first above written.

**[OWNER]**

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*I have authority to bind the corporation.*

**CITY OF TORONTO**

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title:

Per:

Name:

Title:

**SCHEDULE "A"**

**DESCRIPTION OF PROPERTY**

**SCHEDULE "B"****PERMITTED ENCUMBRANCES & PRIORITY****Permitted Encumbrances**General

1. Servitudes, easements, rights-of-way, or other similar rights in land for sewers, electric lines, telegraphs and telephone lines and other utilities and services which do not in aggregate materially detract from the value of the *Property* or materially impair the intended use of the *Property*, provided in each case that the same have been complied with in all respects.
2. The reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown, as they may be modified by statute, provided such are complied with in all respects.
3. Registered subdivision, development, servicing or other municipal agreements provided such are complied with and do not materially detract from the value of the *Property* or materially impair the intended use of the *Property*.
4. The provisions of applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning, provided in each case such have been complied with in all material respects.
5. Any (i) easements, rights-of-way, or other similar rights in land for sewers, electric lines, telegraphs and telephone lines and other utilities and services and (ii) subdivision, development, servicing, condominium, municipal and other agreements or plans, registered on the *Property* at any time after the date of this *Agreement* and required by the Owner, from time to time, solely for the *Development*.
6. Any other encumbrances acceptable to the City pursuant to the *RFP*, any agreement flowing therefrom, or as otherwise confirmed in writing at any time by the City.

Specific

- 1.

SCHEDULE "C"

OWNER'S INDEMNITY

TO: City of Toronto ("the City")

AND TO: City Solicitor

RE: Sale of [insert brief legal description of Property], known municipally as ■, to the City by ■ (the "Owner")

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1. Recitals

Whereas for the purposes of this Indemnity:

- (a) "*Agreement*" means the option to purchase agreement between the Owner and the City, dated ■.
- (b) "*Claims*" means any and all manner of claims, demands, damages (including indirect and consequential damages), losses, liabilities, costs, charges, fines, penalties, orders, expenses, fees (including legal fees) actions, other proceedings, or any of them.
- (c) "*Indemnified Persons*" means the City, its officers, directors, shareholders, employees, servants and agents.
- (d) "*Owner*" means each of the undersigned; provided that where "*Owner*" refers to more than one person, "*Owner*" means all of such person, acting jointly and severally.

2. Consideration

In consideration of the completion of the *Agreement*, Two Dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which the *Owner* hereby acknowledges, the *Owner* hereby covenants as set out herein.

3. Covenants

The *Owner* releases and covenants that it shall at all times indemnify and save, defend and hold harmless the *Indemnified Persons*, of and from any *Claims* whatsoever, made or brought against, suffered by or imposed on the *Indemnified Persons*, or any of them, or their property, in respect of any loss, damage or injury to any person or any property directly or indirectly arising out of or resulting from or sustained by reason or on account of the breach of any warranty by the *Owner* set out in the *Agreement*.

DATED the ■ day of ■, 20■.

[OWNER]

Per: \_\_\_\_\_

Name:

Title:

*I have authority to bind the corporation.*