

## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is dated for reference the [◇] day of [◇], 202[◇].

BETWEEN:

**CITY OF COQUITLAM**, a municipal corporation having its offices at 3000 Guildford Way, Coquitlam, B.C. V3B 7N2

(in its capacity as vendor and not as municipal regulator, the “**Vendor**”)

AND:

[◇]

(the “**Purchaser**”)

WHEREAS:

- A. The Vendor is the registered owner of certain lands and, if applicable, premises, legally described as follows:

PID: 031-427-294  
LOT A SECTION 7 TOWNSHIP 40 NEW WESTMINSTER DISTRICT PLAN  
EPP111529

(the “**Property**”); and

- B. The Purchaser has agreed to purchase and the Vendor has agreed to sell, the Property on the terms and conditions set out in this Agreement and in connection therewith, the Deposit (defined herein) has been paid by the Purchaser to the Vendor.

NOW THEREFORE in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to the other (the receipt and sufficiency of which are hereby acknowledged by each party) the parties covenant and agree as follows:

### 1. DEFINITIONS

1.1 In this Agreement, the following terms will have the following meanings:

- (a) “**Adjustment Date**” means the Completion Date, or such other date as the parties may further agree in writing;
- (b) “**Affiliate**” has the meaning ascribed to it in the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended;

- (c) “**Agreement**” means this Purchase and Sale Agreement and all Schedules hereto, as amended from time to time;
- (d) “**Business Day**” means any day that is not a Saturday, a Sunday, a statutory holiday in Vancouver, British Columbia, or a day on which the Land Title Office is closed for business;
- (e) “**City Solicitor**” means the City Solicitor, City of Coquitlam;
- (f) “**Community Charter**” means the Community Charter, S.B.C. 2003, c.26, as amended;
- (g) “**Completion Date**” means [◇], or such other date as the parties may further agree in writing;
- (h) “**Deposit**” means the amount of [◇] of lawful money of Canada;
- (i) “**Form A Transfer**” means the Form A – Freehold Transfer under the *Land Title (Transfer Forms) Regulation* (in electronic form) required to transfer title to the Property held by the Vendor to the Purchaser in accordance with the terms of this Agreement;
- (j) “**GST**” means goods and services tax payable under the *Excise Tax Act* (Canada) or any successor tax, including harmonized sales tax;
- (k) “**GST Certificate and Indemnity**” has the meaning ascribed thereto in Section 2.4;
- (l) “**Land Title Office**” means the applicable Government of British Columbia Land Title Office at which title to the Property is registered;
- (m) “**Local Government Act**” means the *Local Government Act*, R.S.B.C. 2015, c.1, as amended;
- (n) “**Option to Purchase**” means the Option to Purchase set forth in Schedule B;
- (o) “**parties**” means the Purchaser and the Vendor, collectively, and “**party**” means either one of them, unless otherwise specified;
- (p) “**Permitted Encumbrances**” has the meaning ascribed thereto in Schedule A to this Agreement;
- (q) “**person**” will be broadly interpreted and includes a natural person, the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person, a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an

unincorporated organization or any other association, organization or entity of any kind and any federal, provincial, municipal, regional, aboriginal, or other government;

- (r) **“Property”** has the meaning ascribed thereto in Recital A;
- (s) **“Property Tax Amount”** has the meaning ascribed thereto in Section 3.4;
- (t) **“Purchase Price”** means the sum of [◇] of lawful money of Canada, excluding GST;
- (u) **“Purchaser’s Closing Conditions”** has the meaning ascribed thereto in Section 6.2;
- (v) **“Purchaser’s Legal Representative”** means the lawyer or notary public retained by the Purchaser before the Completion Date to complete on behalf of the Purchaser the transactions required by the Purchaser in accordance with the terms herein;
- (w) **“Unpaid Balance”** has the meaning ascribed thereto in Section 2.2;
- (x) **“Vendor’s Closing Conditions”** has the meaning ascribed thereto in Section 6.1; and
- (y) **“Vendor’s Solicitor”** means the City Solicitor, City of Coquitlam.

## 2. PURCHASE PRICE AND PAYMENT

- 2.1 The Purchaser hereby agrees to purchase the Property from the Vendor, subject to the Permitted Encumbrances, for the Purchase Price, on the terms and conditions set out in this Agreement.
- 2.2 The Purchaser will pay to the Vendor the Purchase Price, less the Deposit, which the parties acknowledge has been paid by the Purchaser to the Vendor, subject to the adjustments made pursuant to Sections 3.3 through 3.5, on the Completion Date as provided herein (the **“Unpaid Balance”**).
- 2.3 Each party will pay its own legal fees. The Purchaser will pay all registration charges payable in connection with registration of the Form A Transfer and any other document required under this Agreement to be registered concurrently with the Form A Transfer, including taxes imposed pursuant to the *Property Transfer Tax Act*.
- 2.4 The Purchase Price does not include any taxes payable in connection with the purchase and sale of the Property. The Purchaser will, in addition to the Purchase Price, pay and be responsible for all federal and provincial taxes payable in respect of the purchase and sale of the Property including, without limitation, GST and all other taxes and charges payable upon the transfer of the Property to the Purchaser.

If any transaction contemplated in this Agreement constitutes a “taxable supply” for GST purposes, the Purchaser will, on the Completion Date, remit to the Vendor, as agent for Her Majesty the Queen in right of Canada, the amount of GST exigible in respect of such transaction or, if the Purchaser is registered for GST purposes on the Completion Date, it may self-assess and will account directly to the Canada Revenue Agency therefor, provided that the Purchaser delivers to the Vendor a certificate and indemnity (the “**GST Certificate and Indemnity**”) signed by the Purchaser or, if the Purchaser is a corporate entity, an officer of the Purchaser, confirming the Purchaser’s GST registration number and the Purchaser’s registered status.

2.5 The Deposit will not accrue any interest to the Purchaser’s credit during the period in which the Deposit is held by the Vendor.

2.6 The Deposit will be dealt with as follows:

(a) on the Completion Date, the Vendor will credit the Deposit towards the Purchase Price if the parties complete the purchase and sale of the Property on the Completion Date; or

(b) if the Purchaser is not in default of any of its obligations under this Agreement and the Vendor is in default of its obligation to complete the sale of the Property in accordance with this Agreement, then the Vendor will return the Deposit to the Purchaser, as the Purchaser’s sole remedy and in full and final satisfaction of any and all claims by the Purchaser against the Vendor; or

(c) if the Purchaser is in default of its obligation to complete the purchase of the Property hereunder, or if the Purchaser repudiates this Agreement, then the Deposit will be absolutely forfeited to the Vendor as liquidated damages, but without prejudice to any other rights or remedies of the Vendor whether at law or in equity, unless otherwise agreed by the Vendor at the option of the Vendor in its sole discretion.

### **3. COMPLETION, POSSESSION AND ADJUSTMENTS**

3.1 The purchase and sale of the Property will take place at the offices of the Purchaser’s Legal Representative on the Completion Date.

3.2 The Vendor will deliver to the Purchaser possession of the Property, free and clear of all encumbrances, except the Permitted Encumbrances, upon the delivery to the Vendor of the Unpaid Balance and any and all closing documents required to be so delivered in accordance with the provisions of Section 8.

3.3 Subject to and in accordance with Section 3.4, the Purchaser will, from and including the Adjustment Date, assume and will, on the Completion Date, pay to the Vendor

in addition to the Purchase Price, the Purchaser's pro rata share, calculated per diem for the applicable calendar year, of taxes, rates, local improvements, assessments, and other charges applicable to the Property (the "**Property Tax Amount**") for the period from and including the Adjustment Date to the end of the calendar year, notwithstanding that the Property may have been previously exempt from assessment for municipal taxation.

3.4 If:

- (a) the Property is not, on the Completion Date, assessed for municipal taxation, the Property Tax Amount will be estimated by the Vendor and will be the amount that is equal to the sum of: (a) the amount that is the Purchase Price multiplied by the tax rate set for the property class of the Property (as determined by the City of Coquitlam's collector of municipal taxes in its sole discretion as if the Property was eligible for taxation) and divided by 1,000; and (b) the sewerage parcel tax calculated in accordance with City of Coquitlam's sewer and drainage Bylaw No. 4429, 2015, as amended or replaced from time to time; provided that if the current year's tax rates have not yet been determined, the tax rates to be applied to item (a) above will be the previous year's tax rates plus fifteen percent (15%); and
- (b) if the Property is presently assessed for municipal taxation and the current year's municipal taxes have not yet been determined, the Property Tax Amount will be the amount, inclusive of the sewerage parcel tax, determined for the previous year plus five percent (5%).

3.5 All adjustments with respect to items that are normally adjusted between a vendor and purchaser on the sale of similar property, in addition to those already discussed in Sections 3.3 and 3.4, shall be made with respect to the Property as of the Adjustment Date so that the Vendor shall pay all expenses and receive all income, if any, related to the Property that are in respect of any time prior to the Adjustment Date and the Purchaser shall pay all expenses and receive all income, if any, related to the Property that are in respect of any time from and including the Adjustment Date.

3.6 The Purchaser and the Vendor hereby undertake to each other that any taxes, rates, local improvements, assessments, and other items hereunder to be adjusted that are not finally determined at the Completion Date and are based upon estimated amounts, will be readjusted promptly following the final determination of such amounts and in any event, no later than three (3) months following the end of the calendar year during which the transactions contemplated herein complete.

#### **4. PURCHASER'S COVENANTS, WARRANTIES AND REPRESENTATIONS**

4.1 Following the acceptance by the Vendor of this Agreement, the Purchaser or its agents, may enter and inspect the Property for the purpose of undertaking all

inspections and surveys including, without limitation, all soil testing, as the Purchaser may consider reasonably necessary; provided that notwithstanding the foregoing, the Purchaser agrees that it will only enter and inspect the Property on reasonable notice to the Vendor and in accordance with any written direction of the Vendor including, if requested by the Vendor, execution and delivery of an indemnity agreement in favour of the Vendor on the Vendor's standard form. The Purchaser will:

- (a) not damage the Property and will forthwith restore and repair any damage or disturbance to the Property arising from any investigations undertaken by the Purchaser hereunder to the Property's prior condition;
- (b) indemnify and save harmless the Vendor from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by the Vendor arising out of or in connection with the Purchaser's or its agents' actions pursuant to this Section 4.1; and
- (c) provide to the Vendor copies of all environmental, geotechnical and building condition reports, if applicable, that the Purchaser commissions as part of its due diligence, and will obtain reliance letters in favour of the Vendor, from the authors of such reports.

4.2 Regardless of any independent investigations that the Vendor may cause to be made, the Purchaser warrants and represents to the Vendor, as warranties and representations that are true as at the date of execution hereof by the Purchaser and will be true as at the Completion Date, and acknowledges that the Vendor has relied thereon in entering into this Agreement and in concluding the sale of the Property, that:

- (a) **[• Corporate Purchasers]** the Purchaser is a company duly incorporated and validly existing under the laws of [♦] and has all necessary corporate power, authority and capacity to enter into and perform its obligations under this Agreement;
- (b) the completion of the transaction contemplated by this Agreement shall not constitute a breach by the Purchaser of any statute, by-law or regulation nor, if applicable, of the constating documents of the Purchaser; and
- (c) the Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

4.3 The Purchaser acknowledges, covenants and agrees that:

- (a) the Vendor is making no representations or warranties whatsoever in respect of the Property, including in respect of:

- (1) the condition of the Property (including surface and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Property and on or under any surrounding or neighbouring lands and the current and past uses of the Property and any surrounding or neighbouring lands;
  - (2) the fitness of the Property for any particular use, including the intended use of it by the Purchaser;
  - (3) the general condition and state of all utilities or other systems on or under or which will serve the Property;
  - (4) the zoning of the Property and the bylaws of any governmental body that relate to the development, use and occupation of the Property;
  - (5) the application of any federal or provincial statute or law to the Property; and
  - (6) the economic feasibility of the development of the Property, and the Purchaser has conducted, or had the opportunity to conduct, an independent investigation as to all of the above matters.
- (b) it is purchasing the Property in an “as is, where is” condition and that the Purchaser has independently satisfied itself, or had the opportunity to independently satisfy itself, as to all matters relating to the Property prior to executing and delivering this Agreement to the Vendor for acceptance, including without limitation, the condition and suitability of the Property for the Purchaser’s purposes and intended uses, zoning of the Property and the environmental condition of the Property;
- (c) it expressly waives, to the extent permitted by law, any requirement for the Vendor to obtain or provide the Purchaser with a “site profile” or any other environmental report for the Property pursuant to the provisions of the *Environmental Management Act*, S.B.C. 2003, c.53, as amended, or any regulation in respect thereof;
- (d) any material or information about the Property that has been provided to the Purchaser by the Vendor for the purpose of this transaction has been provided as a courtesy only and the Vendor has made no representation or warranty concerning the accuracy, relevance, reliability or any other matter in relation to the material or information;
- (e) the Vendor will have no liability for any errors or inaccuracies in the material or information provided as referred to in Section 4.3(d);

- (f) it has reviewed and accepted copies of the Permitted Encumbrances;
- (g) the Vendor is under no obligation, express or implied, to provide financial assistance or to contribute, in any way, to the Purchaser's cost of servicing or developing the Property or to assist the Purchaser in obtaining any permits or approvals in connection with the Property; and
- (h) it is aware that this Agreement and any information regarding this Agreement or the Purchaser may be disclosed or may be required to be disclosed under the *Freedom of Information and Protection of Privacy Act*, governmental policy or otherwise.

## 5. VENDOR'S COVENANTS, WARRANTIES AND REPRESENTATIONS

- 5.1 The Vendor warrants and represents to the Purchaser, as warranties and representations that are true as at the date of execution hereof by the Vendor and will be true as at the Completion Date, that:
- (a) it is a municipality duly incorporated and validly existing under the laws of British Columbia and has the power and authority to enter into and perform its obligations under this Agreement; and
  - (b) it is not a non-resident in Canada within the meaning of the *Income Tax Act* (Canada).
- 5.2 The Vendor will grant authorizations reasonably required by the Purchaser to authorize statutory authorities to release information confirming compliance with laws with respect to potential statutory liens.

## 6. CLOSING CONDITIONS

- 6.1 **Vendor's Closing Conditions.** The Vendor's obligation to complete the sale of the Property is subject to and conditional upon the occurrence of the following conditions (the "**Vendor's Closing Conditions**") on or before the Completion Date:
- (a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on and as of the Completion Date with the same effect as though such representations and warranties had been made on and as of the Completion Date; and
  - (b) all of the covenants and agreements of the Purchaser to be observed and performed, and all of the documents to be delivered by the Purchaser to the Vendor on or before the Completion Date pursuant to the terms of this Agreement, shall have been duly observed, performed and delivered in all material respects.



6.2 **Purchaser's Closing Conditions.** The Purchaser's obligation to complete the purchase of the Property is subject to and conditional upon the occurrence of the following conditions (the "**Purchaser's Closing Conditions**") on or before the Completion Date:

- (a) the representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects on and as of the Completion Date with the same effect as though such representations and warranties had been made on and as of the Completion Date; and
- (b) all of the covenants and agreements of the Vendor to be observed and performed, and all of the documents and funds to be delivered by the Vendor on or before the Completion Date pursuant to the terms of this Agreement, shall have been duly observed, performed and delivered in all material respects.

6.3 **Removal of Closing Conditions.** Each of the Vendor's Closing Conditions is for the sole benefit of the Vendor and only the Vendor may waive, in whole or in part, any or all of the Vendor's Closing Conditions by giving written notice of waiver to the Purchaser on or before the Completion Date. Each of the Purchaser's Closing Conditions is for the sole benefit of the Purchaser and only the Purchaser may waive, in whole or in part, any or all of the Purchaser's Closing Conditions by giving written notice of waiver to the Vendor on or before the Completion Date. In the event that any of the Closing Conditions are not satisfied or waived by either the Purchaser or the Vendor, as the case may be, on or before the Completion Date, then upon written notice by the party having the benefit of such unsatisfied condition, the Deposit shall be returned to the Purchaser (unless forfeited to the Vendor pursuant to Section 2.6(c), this Agreement shall be terminated and each of the parties hereto shall have no further obligations to, nor rights against, the other in respect of this Agreement, except as otherwise provided herein. Upon completion of the purchase and sale of the Property on the Completion Date, all Closing Conditions shall be deemed to be satisfied.

## 7. PREPARATION AND DELIVERY OF CLOSING DOCUMENTS

7.1 At the Purchaser's sole cost, the Purchaser will prepare and deliver the following closing documents for review by the Vendor, at least seven (7) Business Days prior to the Completion Date:

- (a) the Form A Transfer;
- (b) the Option to Purchase;
- (c) a vendor's statement of adjustments;

- (d) if applicable, the GST Certificate and Indemnity, bearing the Purchaser's GST registration number; and
  - (e) any other documents or assurances as either party may reasonably require in order to complete the purchase and sale of the Property in accordance with this Agreement.
- 7.2 Provided that the Purchaser has delivered to the Vendor copies of the closing documents described in Section 7.1 within the time frame set out therefor, on or before the Completion Date, the Vendor will deliver to the Purchaser the closing documents set out in Section 7.1 duly executed by the Vendor, not including any document for which the Vendor is not a party thereto, and each of which shall be in form and substance satisfactory to the parties and their respective solicitors or notaries, acting reasonably.
- 7.3 On or before the Completion Date, the Purchaser will deliver to the Vendor the closing documents set out in Section 7.1 duly executed by the Purchaser, not including any document for which the Purchaser is not a party thereto, and each of which shall be in form and substance satisfactory to the parties and their respective solicitors or notaries, acting reasonably.

## **8. CLOSING PROCEDURE**

- 8.1 On or before the Completion Date, the Purchaser will pay to the Purchaser's Legal Representative, in trust, the Unpaid Balance, less any amount to be advanced to the Purchaser on the Completion Date under any mortgage financing arranged by the Purchaser.
- 8.2 Following receipt by the Purchaser's Legal Representative of the payment in Section 8.1 and the closing documents referred to in Sections 7.2 and 7.3, on the Completion Date the Purchaser will cause the Purchaser's Legal Representative to submit for registration in the Land Title Office the Form A Transfer, the Option to Purchase, and, if applicable, any security documents required by the Purchaser's lender in connection with any mortgage financing arranged by the Purchaser, and in the appropriate order such that, in due course, the Option to Purchase shall rank in priority to the items set out in Sections 8.3(e) and 8.3(f). The Purchaser's Legal Representative shall undertake to the Vendor that if the Unpaid Balance is not paid to the Vendor on the Completion Date, the Purchaser's Legal Representative shall, upon the written request of the Vendor, forthwith cause the application for registration of the Form A Transfer and any other documents submitted by the Purchaser's Legal Representative to be withdrawn and cancelled.
- 8.3 Immediately following the submission for registration referred to in Section 8.2, receipt of the proceeds by the Purchaser's Legal Representative under any mortgage financing arranged by the Purchaser, if applicable, and the Purchaser's Legal Representative being satisfied as to the Purchaser's title after conducting a post

filing for registration check of the title search for the Property disclosing only the following:

- (a) the existing title;
- (b) the Permitted Encumbrances;
- (c) the pending registration number assigned to the Form A Transfer;
- (d) the pending registration number assigned to the Option to Purchase;
- (e) the pending registration number for any security documents required in connection with any mortgage financing arranged by the Purchaser, if applicable; and
- (f) any other charges granted by the Purchaser,

the Purchaser will cause the Purchaser's Legal Representative to deliver to the Vendor a bank draft or the Purchaser's Legal Representative's certified trust cheque for the Unpaid Balance and the GST, if any, and to release the documents and items referred to in Section 7.2 to the Purchaser and concurrently therewith the Deposit, the documents referred to in Section 7.3 duly executed, and any other items required to be delivered to the Vendor on the Completion Date in accordance with the terms hereof, will be released to the Vendor. It is expressly understood and agreed that the Vendor shall be entitled to repay from the Purchase Price any financial charges registered against title to the Property on the Completion Date that do not constitute Permitted Encumbrances and to obtain and register a discharge of such charges within a reasonable time after the Completion Date on the usual undertakings from the Vendor's Solicitor, approved by the Purchaser's Legal Representative, acting reasonably.

If the Purchaser will be relying on a new mortgage to finance the Purchase Price, then the Purchaser, while still being required to pay the Unpaid Balance on the Completion Date, may submit the Form A Transfer for registration at the Land Title Office in advance of receipt of mortgage proceeds provided that the Purchaser's Legal Representative have received confirmation that the Purchaser has fulfilled all its lender's conditions for the advance of mortgage proceeds, except for the submission of the mortgage security documentation for registration at the Land Title Office, and that the Purchaser's Legal Representative have provided an undertaking to the Vendor's Solicitor to pay the Unpaid Balance on the Completion Date upon the Purchaser's Legal Representative's receipt of mortgage proceeds and a satisfactory post-index search as contemplated in this section.

- 8.4 It is a condition of this Agreement that all requirements of this Section 8 are deemed to be concurrent requirements and it is agreed that nothing will be finalized at the

Completion Date until everything required to be paid, executed and delivered on the Completion Date has been so paid, executed and delivered.

## 9. MISCELLANEOUS AND INTERPRETATION

- 9.1 **Business Day.** Whenever any calculation or payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, the calculation or payment is to be made, or action is to be taken, on the next Business Day.
- 9.2 **Commission.** Any real estate or brokerage commission payable in respect of the transaction contemplated in this Agreement shall be the sole responsibility of the Purchaser and the Purchaser shall indemnify and save the Vendor harmless in respect of any loss incurred by the Vendor in relation to such commissions.
- 9.3 **Risk.** The Property will be at the risk of the Vendor until delivery to the Vendor of the Unpaid Balance and any and all closing documents required to be delivered in accordance with the provisions of Section 8 and thereafter at the risk of the Purchaser.
- 9.4 **Non-Derogation.** Nothing contained or implied herein will derogate from, prejudice or affect the Vendor's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Community Charter* and the *Local Government Act*, or any other act of the Province of British Columbia as amended from time to time and the rights, powers, duties and obligations of the Vendor under all public and private statutes, bylaws, orders and regulations, all of which may be, if the Vendor so elects, as fully and effectively exercised in relation to the Property as if this Agreement had not been executed and delivered.
- 9.5 **Non-Merger.** No warranty, representation, acknowledgment, covenant or agreement contained in this Agreement will be merged in the transfer or conveyance of the Property but will survive the closing on the Completion Date.
- 9.6 **Entirety.** This Agreement constitutes the entire agreement between the parties pertaining to the sale and purchase of the Property and supersedes all prior agreements, negotiations and discussions, whether oral or written, of the Vendor and the Purchaser. There are no representations, warranties, covenants or agreements, express, implied, statutory, collateral or otherwise, save as expressly set out in this Agreement. No party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement.
- 9.7 **Time.** Time will be of the essence of this Agreement and notwithstanding the extension of any of the dates under this Agreement.

- 9.8 **Interpretation.** In this Agreement words signifying a male person include a female person and words signifying a female person include a male person, and either word includes a corporation, and vice versa, and words signifying the singular include the plural, and words in the plural include the singular. The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. References in this Agreement to an Article, Section or Schedule are to be construed as references to an Article, Section or Schedule of or to this Agreement unless otherwise specified.
- 9.9 **Currency.** All dollar amounts referred to in this Agreement are Canadian dollars.
- 9.10 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia and the laws of Canada applicable therein. The parties will submit to the jurisdiction of British Columbia with respect to any dispute relating to this Agreement.
- 9.11 **Assignment.** Neither this Agreement nor any rights or liberties granted hereunder will be assigned by the Purchaser without the prior written consent of the Vendor, which consent the Vendor, in its sole discretion, may withhold, and provided that any such assignment shall not have the effect of relieving the Purchaser of its obligations under this Agreement. Notwithstanding the foregoing, this Agreement and the rights and liberties granted hereunder may be assigned by the Purchaser, on written notice to the Vendor, to an Affiliate of the Purchaser including, without limitation, a partnership or limited partnership where the Purchaser (or Affiliate of the Purchaser) is a partner.
- 9.12 **Tender.** Notwithstanding any statute or rule of law to the contrary, any tender of documents or money required to be made pursuant to this Agreement will be validly made upon the parties themselves, or their respective solicitors or notaries public. Unless otherwise specified in this Agreement, any money must be tendered by bank draft from a chartered bank, trust company, or credit union, or a solicitor's or notary public's certified trust cheque, payable to the "City of Coquitlam" or by way of electronic transfer in accordance with banking details provided by the Vendor to the Purchaser's Legal Representative prior to the Completion Date in which case the Purchaser will pay any transfer fees associated with the electronic transfer.
- 9.13 **Further Assurances.** Each party will execute and deliver all such further documents and do all such further acts as may be reasonably required by the other party to carry out the true intent and meaning of this Agreement.
- 9.14 **Enurement.** This Agreement will enure to the benefit of and be binding upon the parties and their respective heirs, executors, and administrators, successors and permitted assigns, as applicable. If the Purchaser is comprised of more than one person, each reference to the Purchaser will include each and every such person severally and all representations, warranties, covenants and agreements of the

Purchaser will be construed and held to be joint and several representations, warranties, covenants and agreements of each such person.

- 9.15 **Notices.** All notices, documents or communications required or permitted to be given under this Agreement must be in writing and be delivered by hand, courier, email or facsimile to the party to whom it is to be given as follows:

to the Vendor at:

City of Coquitlam  
3000 Guildford Way  
Coquitlam, B.C. V3B 7N2  
**ATTENTION: Manager Real Estate**  
Email: jburton@coquitlam.ca  
Fax: (604) 927-3015

with a copy to:

Vendor's Solicitor  
3000 Guildford Way  
Coquitlam, B.C. V3B 7N2  
**ATTENTION: Renata Isenor**  
Email: risenor@coquitlam.ca  
Fax: (604) 927-3445

to the Purchaser at:

[◇]

with a copy to:

[◇]

or at such other address as either party may specify in writing to the other. Any such notice delivered to a party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that party's address, provided that if that day is not a Business Day then such notice will be deemed to have been given or made and received on the next Business Day. Any such notice transmitted by facsimile, email or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if such notice is transmitted on a day that is not a Business Day or after 5:00 p.m. (Pacific Standard Time), that notice will be deemed to have been given or made and received on the next Business Day. Any notice sent by prepaid registered mail will be deemed to have been given or made and received on the third Business Day after the day of mailing thereof. In the event of any

disruption of mail services, all notice will be delivered or sent by facsimile or email rather than mailed.

- 9.16 **Independent Legal Advice.** The Purchaser agrees that it has read and understands the terms and conditions of this Agreement and that it has had the opportunity to seek, and was not prevented or discouraged by the Vendor from seeking, any independent legal advice which it considered necessary before the execution and delivery of this Agreement and that, if it did not avail itself of that opportunity before signing this Agreement, it did so voluntarily without any undue pressure, and agrees that its failure to obtain independent legal advice will not be used by it as a defense to the enforcement of its obligations under this Agreement.
- 9.17 **No Fiduciary Relationship.** Nothing contained in this Agreement will be deemed in any way, or for any purpose, to constitute the Vendor a partner, agent or legal representative of the Purchaser in the conduct of any business or otherwise, or a member of a joint venture or joint enterprise with the Purchaser, or to create any fiduciary relationship between the Vendor and the Purchaser.
- 9.18 **Counterparts and Delivery.** This Agreement may be executed by the parties in counterparts and delivered by electronic means and, if so executed and delivered, any and all counterparts will together constitute one and the same instrument and this Agreement will be for all purposes as effective as if the parties had delivered an executed original agreement.

## **10. BINDING EFFECT**

- 10.1 This Agreement is a binding agreement for the purchase and sale of the Property in accordance with the terms hereof.

*[remainder of page intentionally blank; signature pages follow]*

**IN WITNESS WHEREOF** the Purchaser has executed this Agreement on the \_\_\_\_ day of [◇], 202[◇].

**[•If Individual Purchaser]**

\_\_\_\_\_  
*Witness Name:*

*Address:*

\_\_\_\_\_  
[◇]

**[•If Corporate Purchaser]**

[◇], by its authorized signatory(ies):

Per:

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

Title:

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

Title:



**VENDOR'S ACCEPTANCE**

In consideration of the covenants and agreements of the Purchaser contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Vendor, the Vendor agrees to sell the Property to the Purchaser in accordance with the terms of this Agreement.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF COQUITLAM**

Per:

\_\_\_\_\_  
Michelle Hunt  
General Manager, Finance, Lands & Police

## SCHEDULE A

### PERMITTED ENCUMBRANCES

“Permitted Encumbrances” means collectively:

- (a) all statutory exceptions and reservation to title, including those set out in Sections 23 and 108 of the *Land Title Act*, R.S.B.C. 1996, c. 250 and Sections 50 and 55 to 58, inclusive, of the *Land Act*, R.S.B.C. 1996, c. 245;
- (b) registered or pending restrictive covenants, rights-of-way, and any other charges in favour of utilities and public authorities;
- (c) the Option to Purchase and any Notice of Interest, *Builders Lien Act*, filed by or on behalf of the Vendor in respect of its interest under the Option to Purchase;
- (d) without limiting the generality of the foregoing:

#### Legal Notations

- (1) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE BB1496541;
- (2) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE BB4067050;
- (3) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA5893083;
- (4) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6850191;
- (5) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6985317;
- (6) NOTICE OF INTEREST, BUILDERS LIEN ACT (S.3(2)), SEE CA7995677 FILED 2020-01-23;
- (7) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA8180792;

#### Charges, Liens and Interests

- (8) Undersurface and Other Exc & Res BB4029967;
- (9) Undersurface and Other Exc & Res BB4029968;

- (10) Statutory Right of Way BB3021791 (Modified by CA7489237 and CA8593295 and Extended by CA8885607);
- (11) Modification CA8593295;
- (12) Covenant CA8885602 (Extended by CA8885608); and
- (13) Covenant CA9091426.

**SCHEDULE B**

**FORM OF OPTION TO PURCHASE**

EXPRESS PART 2 TERMS

**OPTION TO PURCHASE**

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

BETWEEN:

[◇]

(the “**Owner**”)

AND:

**CITY OF COQUITLAM**, a municipal corporation under the *Local Government Act*, having its office at 3000 Guildford Way, Coquitlam, B.C. V3B 7N2

(the “**City**”)

WHEREAS:

- A. The Owner is the registered and beneficial owner of the lands and premises located in the City of Coquitlam, Province of British Columbia, and legally described in Item 2 of Form C General Instrument – Part 1 to which this Agreement is attached (hereinafter called the “**Lands**”); and
- B. The City desires to acquire an option to purchase the Lands from the Owner and the Owner has agreed on the terms and conditions hereinafter set out to grant such an option.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and of the mutual covenants and agreements hereinafter contained and the sum of \$1.00 paid by the City to the Owner and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto covenant, agree, warrant and represent as follows:

- 1. In this Agreement:
  - (a) “**Building**” means any structure which is used or intended for supporting or sheltering any use or occupancy, whether fixed to, supported by, or sunk into land or water, but does not include tanks, retaining walls, pools, plumbing systems, landscaping, fences, or paving;

- (b) **“Building Bylaw”** means The City of Coquitlam Building Bylaw No. 3598, as amended, restated or replaced from time to time;
- (c) **“Building Permit”** means “building permit” as such term is defined in the Building Bylaw, but shall not include a permit to construct a “temporary building” as defined in the Building Bylaw;
- (d) **“Business Day”** means any day which is not a Saturday, a Sunday, a statutory holiday in Vancouver, British Columbia, or a day on which the Land Title Office or the City is closed for business;
- (e) **“Completion Date”** has the meaning ascribed thereto in Section 10 hereof;
- (f) **“Contaminants”** means any explosives, radioactive materials, asbestos materials, urea formaldehyde, hydrocarbon contaminants, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled or regulated under any Environmental Laws;
- (g) **“Environmental Laws”** means any laws, regulations, bylaws or other lawful requirements relating, in whole or in part, to the environment, occupational health or safety, product liability, public health, public safety and transportation of dangerous goods, of any governmental authority having jurisdiction over the Lands;
- (h) **“Final Building Permit”** means the final Building Permit issued by the City of Coquitlam in respect of a Building and pursuant to which Work may be carried out in order to complete the Building or portion thereof and render it ready for occupancy;
- (i) **“GST”** means goods and services tax payable under the *Excise Tax Act* (Canada) or any successor tax, including harmonized sales tax;
- (j) **“Land Title Office”** means the New Westminster Land Title Office;
- (k) **“Lands”** has the meaning ascribed thereto in the Recitals hereto;
- (l) **“Notice”** has the meaning ascribed thereto in Section 3 hereof;
- (m) **“Option”** has the meaning ascribed thereto in Section 2 hereof;
- (n) **“Outside Offer Notice”** has the meaning ascribed thereto in Section 5 hereof;
- (o) **“Parcel”** has the meaning ascribed thereto in Section 8 hereof;

- (p) “**Permitted Encumbrances**” has the meaning ascribed thereto in Appendix A to this Option to Purchase;
  - (q) “**Purchase Price**” has the meaning ascribed thereto in Section 7 hereof;
  - (r) “**Registration Date**” means the date of registration of this Option against title to the Lands as indicated on the certificate of title for the Lands;
  - (s) “**Successfully Commenced**” means the point at which the foundation of a Building has been completed (and so certified by an engineer of record) and construction of the superstructure may be commenced;
  - (t) “**Term**” means the period commencing on the Registration Date and ending on the date that is five (5) years from the Registration Date;
  - (u) “**Transfer**” has the meaning ascribed thereto in Section 17(a) hereof; and
  - (v) “**Work**” means “work” as such term is defined in the Building Bylaw.
2. In consideration of the payment of the total sum of \$10.00, the receipt of which is hereby acknowledged by the Owner, the Owner hereby grants to the City the sole, irrevocable and exclusive option, for exercise by the City, to purchase the Lands (the “**Option**”).
3. The City may exercise the Option at any time by delivering to the Owner written notice of the exercise of the Option (the “**Notice**”) provided that one or more of the following applies:
- (a) within thirty (30) months of the Registration Date, or such longer period as may be permitted pursuant to this Section 3, the Owner has not been issued a Final Building Permit in relation to all of the Lands, including all proposed development phases thereof, other than as a result of a delay occasioned solely due to the actions of the City;
  - (b) any Work to be done pursuant to a Building Permit in relation to the Lands has:
    - i. not been commenced within sixty (60) days from the date on which the Building Permit was issued; or
    - ii. been discontinued or suspended for a period of more than sixty (60) days,

other than as a result of a delay occasioned through no fault (both direct and indirect) of the Owner, which may include delays caused by unfavourable weather, strikes, fires, shortages of material and/or labor, acts of God or other causes beyond the reasonable control of the Owner; or

- (c) any Building Permit in relation to the Lands has been suspended or revoked by the City of Coquitlam in accordance with the Building Bylaw; or
- (d) the City has received from the Owner an Outside Offer Notice.

Subject to Section 6 hereof, if the Option is exercised by the City as set forth in this Section 3, then there shall thereupon be constituted a binding agreement of purchase and sale between the Owner and the City respecting the Lands which will be completed upon the terms and conditions contained herein on the Completion Date.

If the Owner is proceeding diligently and is using best commercial efforts to obtain a Final Building Permit, the City may, upon the Owner's written request, consent to an extension of the time limit specified in Section 3(a), which consent may be unreasonably withheld.

4. During the Term, the Owner will not sell, transfer, or otherwise convey or offer to sell, transfer or otherwise convey any interest in the Lands, or any part thereof, except in accordance with, and to the extent permitted by, the terms of this Agreement.
5. If, at any time and from time to time during the Term, the Owner receives, from a prospective purchaser other than the City, an offer to purchase any interest in the Lands, or part thereof, including a beneficial interest thereof, that the Owner is willing to accept, then the Owner will deliver written notice (the "**Outside Offer Notice**") immediately to the City that the Owner has received such offer. If the Owner does not receive a Notice from the City exercising its Option within 30 Business Days from the date of delivery to the City of the Outside Offer Notice, then the Owner may complete the sale with the prospective purchaser and this Agreement will survive and continue in full force and effect.
6. If the Option is not exercised by 5:00p.m. on the date of expiry of the Term, this Agreement will be null and void and no longer binding upon the parties except that:
  - (a) the City shall execute and deliver to the Owner a registrable discharge of the Option; and
  - (b) the Owner shall deliver to the City an administrative fee in respect of the discharge of the Option, as prescribed by City of Coquitlam Fees and Charges Bylaw No. 5090, 2020, as amended, restated or replaced from time to time.
7. The purchase price for the Lands will be the sum of  $\diamond$  ( $\$$  $\diamond$ ) (the "**Purchase Price**"), not including GST, and subject to the adjustments made pursuant to Section 15 hereof.
8. If during the Term, the Owner subdivides the Lands to create one or more parcels in fee simple (each, a "**Parcel**") and in respect of each such Parcel, the Owner:

(a) has Successfully Commenced the Work to be done pursuant to a Building Permit in relation to every Building located on that portion of the Lands comprising such Parcel; and

(b) is not otherwise in breach of this Agreement,

the City shall execute and deliver to the Owner a registrable discharge of the Option from title to such Parcel, provided that:

(c) the City has no obligation to execute such discharge until a written request therefor from the Owner is received by the City, which request includes the registrable form of discharge;

(d) the City has a reasonable time within which to execute such discharge and return the same to Owner for registration; and

(e) the Owner has delivered to the City an administrative fee in respect of such discharge, as prescribed by the City of Coquitlam Fees and Charges Bylaw No. 5090, 2020, as amended, restated or replaced from time to time,

and upon the full discharge of such Option, the Purchase Price under section 7 *mutatis mutandis* will be adjusted based on the area ratio of the remaining portion of the Lands after subdivision and the area of the Lands, calculated as follows:

$$\text{Adjusted Purchase Price} = \frac{(\text{Area of Lands} - \text{Area of Parcel})}{(\text{Area of Lands})} \times \text{Purchase Price}$$

9. This Agreement shall not be assigned by the City without the prior, written consent of the Owner, which consent the Owner, in its sole discretion, may withhold.
10. The completion date (the “**Completion Date**”) for the purchase and sale of the Lands shall be the date that is thirty (30) days after the date of delivery of the Notice unless such date falls on a day that is not a Business Day, in which case the Completion Date will be the next following Business Day.
11. The Owner covenants and agrees that it will, from and after the date of this Agreement to the Completion Date:
  - (a) take all reasonable care to protect and safeguard the Lands and operate and otherwise deal with the Lands as a careful and prudent owner would do and in such a manner that, except as contemplated in this Agreement, the warranties and representations in Section 12 hereof remain true and correct;
  - (b) maintain in full force and effect insurance coverage in respect of the Lands against such risks and to such limits as are in accordance with prudent business practice and suitable to the Lands;



- (c) observe and perform all of its obligations under the Permitted Encumbrances and diligently enforce all of its rights and remedies under the Permitted Encumbrances; and
  - (d) forthwith advise the City in writing upon the Owner becoming aware that any of the representations and warranties of the Owner set out in Section 12 hereof is inaccurate or incomplete in any material respect.
12. Regardless of any independent investigation that the City may cause to be made, the Owner represents and warrants to the City, as representations and warranties that are true as at the date of execution hereof by the Owner and will be true as at the Completion Date, and acknowledges that the City has relied thereon in entering into this Agreement and in concluding the purchase and sale of the Lands, that:
- (a) The Owner is a corporation duly incorporated and validly existing under the laws of British Columbia, is in good standing under the laws of British Columbia with respect to the filing of annual reports required to maintain its corporate existence, and has the power and capacity to own and dispose of the Lands, and to enter into and to carry out the transactions contemplated in this Agreement, all of which has been, or by the Completion Date shall have been, duly authorized;
  - (b) The Owner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
  - (c) The Owner is the registered and beneficial owner of a fee simple interest in the Lands, free and clear of all liens, charges and encumbrances except for the Permitted Encumbrances and any financial encumbrances to be discharged in accordance with Section 20(b) hereof.
  - (d) Except as otherwise disclosed to the City in writing, to the Owner's knowledge, there are no claims, actions or proceedings which are pending or threatened that would interfere with the use, occupation and enjoyment of the Lands by the City or which could affect the City's right to own, occupy and obtain revenue from the Lands or with respect to the Owner, which if decided adversely, could materially affect the ability of the Owner to comply with its obligations hereunder;
  - (e) All municipal taxes, local improvement taxes, rates, levies and assessments whatsoever due and owing with respect to the Lands for the current calendar year and all preceding calendar years have been, or shall on the Completion Date be paid in full and, except as otherwise disclosed to the City in writing, no appeals of assessments or such taxes have been made by the Owner and are outstanding;

- (f) The sale of the Lands as contemplated in this Agreement does not constitute a sale by the Owner of the whole or substantially the whole of its undertaking;
- (g) The Owner has not received any work order, deficiency notice or other written notice from any authority, board of fire insurance underwriters, or anyone else, advising of any breach of any law, by-law, code, regulation, standard or agreement or suggesting any repair or work is necessary to the Lands or any part thereof;
- (h) The Owner has not received any notice and has no knowledge of any proposed expropriation of all or any part of the Lands;
- (i) To the Owner's knowledge, there is no indebtedness, agreement, lease or other outstanding obligation of the Owner which might by operation of law or otherwise survive the closing and constitute a registered or unregistered lien, charge or encumbrance against the Lands;
- (j) The Owner is not aware of any document, material, report, information, proceeding, claim or other matter pertaining to the Lands and the presence of Contaminants on the Lands which are relevant to or which might impact on the use or proposed use of the Lands;
- (k) The Owner has not received any notice indicating that the Lands and the uses on the Lands do not comply with, or that the Owner is in violation of, any Environmental Laws and is not aware of any grounds which may give rise to the issuance of such a notice;
- (l) There are no existing order or other similar requirements made by governmental authorities regarding the environmental condition of the Lands;
- (m) Neither the Owner nor, to the best of the Owner's knowledge, any predecessor in title to the Lands has at any time, stored or permitted to be stored, any Contaminants in, upon or under the Lands, and has not treated, emitted, disposed, discharged or permitted the treatment, emission, disposal or discharge of any Contaminants in, from, upon or under the Lands;
- (n) The Owner has not used, and is not aware of any predecessor in title to the Lands having used, the Lands as a landfill or site for disposal for waste or Contaminants;
- (o) To the best of the Owner's knowledge after due inquiry, the Lands and the use or proposed use of the Lands are in compliance with Environmental Laws in all material respects; and

- (p) To the best of the Owner's knowledge after due inquiry, the Lands are free from the presence of all Contaminants.

The representations and warranties of the Owner set forth herein will survive the closing of the purchase and sale of the Lands provided for in this Agreement and, notwithstanding such closing or any investigation made by or on behalf of the City, will continue in full force and effect for the benefit of the City. The Owner acknowledges that the City is relying upon such representations and warranties in entering into this Agreement.

13. The City's obligation to complete the purchase of the Lands contemplated by this Agreement is subject to the fulfilment of the following conditions, each of which is for the sole benefit of the City:
- (a) the representations and warranties of the Owner contained in Section 12 hereof will be true on and as of the Completion Date in all material respects with the same effect as though such representations and warranties had been made on and as of the Completion Date; and
  - (b) all of the covenants and agreements of the Owner to be observed and performed, and all of the documents to be delivered by the Owner to the City on or before the Completion Date pursuant to the terms of this Agreement, have been duly observed, performed and delivered in all material respects.

If the condition(s) set out in this Section 13 have not been satisfied by the times therein specified, the City may waive fulfilment thereof, in whole or in part, without prejudice to any of its other rights under this Agreement and complete the purchase of the Lands or elect not to complete.

14. In consideration of the payment of \$10.00 and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the Owner acknowledges and agrees that although the City's obligation to complete the sale and purchase contemplated hereby is subject to fulfilment of the conditions set out in Section 13 hereof:
- (a) those conditions are not conditions to there being a binding agreement of purchase and sale between the parties respecting the Lands; and
  - (b) this Agreement is not void, voidable, revocable or, otherwise capable of being terminated by the Owner on account of the existence of those conditions.
15. The Owner will be responsible for all taxes, rates, assessments and other charges and expenses, and will be entitled to receive all income relating to the Lands, until the Completion Date and the City will be responsible for all taxes, rates,

- assessments and other charges and expenses, and will be entitled to receive all income relating to the Lands, from and including the Completion Date. All adjustments, both incoming and outgoing, of whatsoever nature will be made as of the Completion Date.
16. The City will, in addition to the Purchase Price, pay and be responsible for the GST payable in respect of this purchase and sale transaction in accordance with the Excise Tax Act (Canada). If the City is registered for GST purposes on the Completion Date, it may self-assess and will account directly to Canada Revenue Agency therefor, provided that the City delivers to the Owner a GST certificate confirming the City's GST registration number and the City's registered status, as provided in Section 19 hereof.
  17. The City will prepare, to the extent that preparation is required, and deliver to the Owner or its solicitor or notary public, at least three (3) days prior to the Completion Date, the following closing documents:
    - (a) a registrable Form A Freehold Transfer respecting the Lands transferring fee simple title to the City (the "**Transfer**");
    - (b) a statutory declaration of an authorized officer of the Owner that the Owner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
    - (c) a vendor's statement of adjustments; and
    - (d) any other documents, acts, things or assurances as may be necessary, in the opinion of the City, acting reasonably, in order to complete the purchase and sale of the Lands in accordance with this Agreement.
  18. On or before the Completion Date, the Owner will deliver or cause its solicitor or notary public to deliver to the City the closing documents set out in Section 17 hereof, duly executed by the Owner.
  19. On or before the Completion Date, the City will duly execute and deliver to the Owner or its solicitors a GST certificate in form satisfactory to the Owner's and City's respective solicitors, acting reasonably.
  20. The conveyance of the Lands by the Owner to the City will be completed in accordance with the following procedure:
    - (a) after receipt of the documents referred to in Section 17 hereof, the City will submit for registration the Transfer in the Land Title Office on the Completion Date; and
    - (b) forthwith following the submission referred to in Section 20(a) hereof and upon the City being satisfied after receiving a post-filing index search

indicating that, in the normal course of Land Title Office routine, title to the Lands shall be issued in the name of the City, free and clear of all liens, claims, charges, encumbrances and rights of occupancy, other than the Permitted Encumbrances, and any encumbrances being discharged on the basis of undertakings acceptable to the Owner's solicitor or notary public and the City, each acting reasonably, the City will deliver to the Owner or its solicitor or notary public a cheque for the Purchase Price, adjusted pursuant to Section 15 hereof.

21. The Owner shall be entitled to repay any financial encumbrances that are being discharged on the basis of undertakings from the sale proceeds and to obtain and register a discharge of those encumbrances within a reasonable time after the Completion Date.
22. All requirements in connection with the conveyance of the Lands are deemed to be concurrent requirements and it is specifically agreed that nothing will be completed on the Completion Date until everything required to be done on the Completion Date has been paid, executed and delivered.
23. The City will have vacant possession of the Lands immediately upon completion of the purchase and sale of the Lands.
24. The Lands shall be at the risk of the Owner until completion of the purchase and sale of the Lands and at the risk of the City thereafter.
25. If the Lands are further subdivided, then this Agreement and the Option herein granted will continue to run with and bind the subdivided parcel or parcels thereof as if each such subdivided parcel or parcels were the original Lands contemplated herein.
26. Time shall be of the essence of this Agreement and will remain of the essence notwithstanding the extension of any of the dates under this Agreement.
27. If the date for delivering any demand or notice or performing any act pursuant to this Agreement, including, without limitation, delivering notice to exercise the Option and completing the purchase and sale of the Lands, occurs on a day that is not a Business Day, then such date will be deemed to be extended to the next following Business Day.
28. All notices, documents or communications required or permitted to be given under this Agreement must be in writing and be delivered by hand, courier, email or facsimile to the party to whom it is to be given as follows:
  - (a) to the Owner at the address of the Owner, or its successor in title, as set forth in the Certificate of Title for the Lands; and

(b) to the City at:

City of Coquitlam  
 3000 Guildford Way  
 Coquitlam, BC V3B 7N2  
**ATTENTION: Manager Real Estate**

with a copy to:

City Clerk  
 3000 Guildford Way  
 Coquitlam, B.C. V3B 7N2

or at such other address as either party may specify in writing to the other. Any such notice delivered to a party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that party's address, provided that if that day is not a Business Day then such notice will be deemed to have been given or made and received on the next Business Day. Any such notice transmitted by telecopy, email or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if such notice is transmitted on a day that is not a Business Day or after 5:00 p.m. (Pacific Standard Time), that notice will be deemed to have been given or made and received on the next Business Day. Any notice sent by prepaid registered mail will be deemed to have been given or made and received on the third Business Day after the day of mailing thereof. In the event of any disruption of mail services, all notice will be delivered or sent by telecopy or email rather than mailed

29. The Owner agrees that it has read and understands the terms and conditions of this Agreement and that it has had the opportunity to seek, and was not prevented or discouraged by the City from seeking, any independent legal advice which it considered necessary before the execution and delivery of this Agreement and that, if it did not avail itself of that opportunity before signing this Agreement, it did so voluntarily without any undue pressure, and agrees that its failure to obtain independent legal advice will not be used by it as a defense to the enforcement of its obligations under this Agreement.
30. This Agreement may be altered or amended only by an agreement in writing signed by the parties hereto.
31. This Agreement and the agreements, instruments and other documents entered into under this Agreement set forth the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersede all prior agreements and understandings among the parties with respect to the matters herein and there are no oral or written agreements, promises, warranties, terms

- conditions, representations or collateral agreements, express or implied, other than those contained in this Agreement.
32. Each party will pay its own legal fees. The City will be responsible for all registration fees and property transfer tax payable in connection with the registration of the Transfer and the Owner will be responsible for all fees, costs and expenses related to the discharge of encumbrances that are not Permitted Encumbrances.
  33. No failure or delay on the part of either party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or exercise of any other right, power or privilege. A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the party to be bound by the waiver or its solicitor.
  34. The tender of money shall be made by cheque, bank draft or solicitor's or notary's trust cheque and tender of money or documents may be made upon the respective solicitor or notary public for the parties.
  35. This Agreement and all matters arising hereunder will be governed by and construed in accordance with the laws in force in British Columbia and the laws of Canada applicable therein.
  36. The parties will at all times and from time to time and upon reasonable request do, execute and deliver all further assurances, acts and documents as may be necessary for the purpose of giving effect to the intent of this Agreement.
  37. This Agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and permitted assigns, as applicable.
  38. The parties agree that the representations, warranties, covenants and agreements set out in this Agreement shall survive the Completion Date and shall not merge in transfer of title to the Lands to the City.
  39. This Agreement may be executed by the parties in counterpart and delivered by facsimile or other functionally equivalent electronic means of transmission and, if so executed and delivered, those counterparts will together constitute one and the same instrument and this Agreement will be for all purposes as effective as if the parties had delivered an executed original agreement.

**IN WITNESS WHEREOF** the parties have executed this Agreement by executing the "Form C – General Instrument – Part 1" attached hereto and forming part of this Agreement.

## APPENDIX A

### PERMITTED ENCUMBRANCES

**“Permitted Encumbrances”** means, collectively:

- (i) all statutory exceptions and reservation to title, including those set out in Sections 23 and 108 of the *Land Title Act*, R.S.B.C. 1996, c. 250 and Sections 50 and 55 to 58, inclusive, of the *Land Act*, R.S.B.C. 1996, c. 245;
- (ii) registered or pending restrictive covenants, rights-of-way and other charges in favour of utilities and public authorities;
- (iii) this Option to Purchase and any Notice of Interest *Builders Lien Act* filed by or on behalf of the City in respect of its interest under this Option to Purchase;
- (iv) any other legal notations or encumbrances in favour of the City of Coquitlam;
- (v) without limiting the generality of the foregoing, the following legal notations:
  - i. THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE BB1496541;
  - ii. THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE BB4067050;
  - iii. THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA5893083;
  - iv. THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6850191;
  - v. THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6985317;
  - vi. NOTICE OF INTEREST, BUILDERS LIEN ACT (S.3(2)), SEE CA7995677 FILED 2020-01-23; and
  - (14) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA8180792;
- (vi) without limiting the generality of the foregoing, the following charges, liens and interests:
  - i. Undersurface and Other Exc & Res BB4029967;
  - ii. Undersurface and Other Exc & Res BB4029968;



- iii. Statutory Right of Way BB3021791 (Modified by CA7489237 and CA8593295 and Extended by CA8885607);
- iv. Modification CA8593295;
- v. Covenant CA8885602 (Extended by CA8885608); and
- vi. Covenant CA9091426.