

**ACKNOWLEDGEMENT OF CONFIDENTIAL INFORMATION AND NON-DISCLOSURE AGREEMENT**

**TO: Ontario Infrastructure and Lands Corporation (“OILC”)**

**AND TO: CBRE (the “Broker”)**

**RE: Lands located at the Former Burwash Correctional Centre, Sudbury Unorganized**

**Recitals**

A. OILC is the authorized agent of the owner, being Her Majesty the Queen in Right of Ontario, as represented by the Minister of Government and Consumer Services (the “**Owner**”), of certain property as described in Schedule “A” (the “**Property**”);

B. In connection with the potential sale of the Property, OILC, its representatives and/or the Broker will provide to prospective purchasers certain information and documentation of a confidential nature (the “**Confidential Information**” as hereinafter defined); and

C. For the purpose of evaluating the Property, the undersigned has requested OILC and/or the Broker, or any of their advisors or representatives, to provide Confidential Information relating to the Property, and the undersigned, being a prospective purchaser of the Property (the “**Recipient**” as hereinafter defined) and the Co-Operating Brokerage (as hereinafter defined), have agreed to enter into this Agreement to keep the Confidential Information confidential and to avoid disclosure, publication or dissemination of the Confidential Information.

**1. Definitions**

“**Agreement**” means this Acknowledgement and Non-disclosure Agreement;

“**Confidential Information**” means without limitation:

- a) any information disclosed by OILC to the Recipient in connection with the potential sale of the Property, including without limitation any environmental reports, archaeological reports, data, analyses, studies, or other documents, information or materials pertaining to the Property or any part thereof, the current or future development or use of the Property, or any aspect thereof furnished to the Recipient or to its Representatives by OILC, its directors, officers, appointees, employees, service providers, agents or any of its advisors or made available to the Recipient through an electronic data room, whether furnished before or after the date of this Agreement, and whether such information is provided orally, electronically, in writing or in any other form or otherwise recorded or gathered by inspection, whether originals, photocopies or telecopies of any documentation; and regardless of whether specifically identified as “confidential”; and

- b) all information obtained by the Recipient in the course of its due diligence investigations.

Confidential Information does not include information that is now, or subsequently becomes, general available or known to the public through no fault of the Recipient or breach of this Agreement on the part of the Recipient.

**“Co-Operating Brokerage”** means any real estate agents and/or brokers retained or engaged by the Recipient in connection with the Property and who by their execution hereof are parties to and bound by the terms and conditions set forth in this Agreement.

**“Open Data”** means data that is required to be released to the public pursuant to the Open Data Directive;

**“Open Data Directive”** means the Management Board of Cabinet’s Open Data Directive, updated on April 29, 2016, as amended or replaced from time to time;

**“Person”** includes, without limitation, any corporation, company, partnership or individual or any combination thereof.

**“Property”** means the lands legally described in Schedule “A”, attached hereto this Agreement, and all buildings located thereon.

**“Recipient”** means the prospective purchaser of the Property who by its execution hereof are parties to and bound by the terms and conditions set forth in this Agreement.

**“Representatives”** includes directors, officers, appointees, employees and agents of the undersigned and includes, without limitation, the Co-Operating brokerage, advisors, solicitors, accountants and consultants.

## 2. Confidentiality Obligations

In consideration of OILC, its representatives and/or the Broker agreeing to provide the Recipient with the Confidential Information, the Recipient agrees that the Confidential Information relating to the Property shall be kept confidential by the Recipient and its Representatives and shall not be:

- (a) used by the Recipient or any of its Representatives in any way that is or would be detrimental to the Property, OILC and/or its representatives, or the Owner to which the Confidential Information pertains, now or in the future;
- (b) disclosed by the Recipient or any of its Representatives in any manner whatsoever in whole or in part to any third party, without the prior written consent of OILC, which consent may be arbitrarily withheld; and
- (c) used by the Recipient or any of its Representatives, directly or indirectly for any purpose other than for evaluating the purchase of the Property.

### **3. Non-disclosure and Non-use of Confidential Information**

- (a) The Recipient agrees that it shall:
- (i) not disclose, publish, or disseminate the Confidential Information to anyone other than to its Representatives, but only to the extent that its Representatives need to know for the purpose of evaluating the purchase of the Property;
  - (ii) advise its Representatives of the confidential nature of the Confidential Information;
  - (iii) have its Representatives agree in writing to abide by the terms of this Agreement and ensure that its Representatives treat such information confidentially; and
  - (iv) take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information.
- (b) The Recipient agrees not to use the Confidential Information otherwise for its own or any third party's benefit without the prior written approval of OILC in each instance, which consent may be arbitrarily withheld.

### **4. Ownership of Confidential Information**

All Confidential Information, and any derivatives thereof whether created by OILC, its representatives, the Broker, the Recipient or the Representatives, remains the exclusive property of OILC and no licence or other rights to the Confidential Information are granted or implied hereby.

### **5. No Warranty**

All Confidential Information is provided "**As Is**" and without any representation or warranty whatsoever, whether express or implied, as to its reliability, accuracy or completeness. The Recipient accepts the Confidential Information on an "**As Is**" basis and further agrees that neither OILC, its representatives, the Broker, nor any other author of or person providing the Confidential Information shall have any liability whatsoever to the Recipient or its Representatives arising from the use of or any way relating to the Confidential Information. The Recipient hereby releases and forever discharges OILC, its representatives and the Broker of and from any and all claims, demands, damages, liabilities, suits, actions and causes of action whatsoever which Recipient shall have suffered or incurred or may suffer or incur as a result of the use of the Confidential Information by the Recipient or its Representatives.

### **6. Confidentiality of Negotiations**

Without the prior written consent of OILC, which consent may be arbitrarily withheld, the Recipient shall not disclose, and shall direct its Representatives not to disclose, to any other person the fact that the Confidential Information has been made available to the Recipient, that discussions or negotiations are taking place amongst OILC, its representatives and/or the Broker, and the Recipient and its Representatives concerning the sale and purchase of the Property and any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof.

## **7. Return of Documents**

At any time, within ten (10) business days of receipt of a written request from OILC, its representatives and/or the Broker, the Recipient shall return to OILC, its representative or the Broker (as directed by OILC), all documents furnished by OILC, its representatives and/or the Broker to the Recipient or any of its Representatives containing the Confidential Information without retaining any copies thereof or any notes relating thereto. Any oral, visual, electronic or other information incapable of return as required by this Agreement will be destroyed and/or deleted, as the case may be; failing which it will continue to be subject to the confidentiality restrictions of this Agreement. The Recipient will certify, in a form satisfactory to OILC, the return of all Confidential Information and related notes.

## **8. Specific Performance**

It is understood that a breach of any of the covenants or provisions contained herein may cause OILC and/or the Owner to suffer irreparable harm or loss which cannot be adequately compensated for by damages and OILC may, in addition to any other remedies for relief, enforce performance of this Agreement by injunction or specific performance without proof of actual damage to OILC and/or the Owner and, notwithstanding that damages may be readily quantifiable. The Recipient agrees not to plead sufficiency of damages as a defence in the proceeding for such injunctive relief brought by OILC and/or the Owner.

## **9. Indemnity**

The Recipient shall be fully liable for any breach of the covenants and provisions contained herein, and agrees to indemnify and save harmless OILC and its representatives (if applicable) from and against any and all claims, demands, costs, damages, expenses and liabilities whatsoever that OILC may suffer, directly or indirectly, arising from the Recipient's disclosure, publication or dissemination of the Confidential Information or any other breach of this Agreement, including legal fees incurred by OILC in enforcing the Recipient's obligations under this Agreement.

## **10. FIPPA, MFIPPA and Open Data Directive**

Notwithstanding the above, the Recipient acknowledges and agrees that this Agreement and any Confidential Information may be required to be released pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act* (Ontario) and the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario), and Open Data may be released pursuant to the Open Data Directive, as each may be amended or replaced from time to time. This Agreement shall not be construed as a waiver of any right to object to the release of any of the Confidential Information.

## **11. Enurement**

The covenants and provisions of this Agreement shall enure to the benefit of OILC, and their respective successors and assigns, and shall be binding upon the Recipient and its heirs, executors, administrators, successors and assigns.

**12. Electronic Execution**

The undersigned agrees that the delivery of a copy of this Agreement by facsimile, e-mail or other electronic means shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

**[BALANCE OF PAGE LEFT INTENTIONALLY BLANK – SIGNING PAGE FOLLOWS]**

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

● [INSERT RECIPIENT NAME HERE]

*NTD: remove this signing line where the Recipient is not a corporate entity*

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation.

*[NTD: remove this signing line where the Recipient is not an individual]*

\_\_\_\_\_  
Witness:

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

**SCHEDULE "A"**  
**LEGAL DESCRIPTION**

PIN Number	Legal Description
73457-0003 (LT)	Parcel 48429, Section South East Sudbury; Part of Lot 3, Concession 6, Township of Laura, designated as Parts 3 and 6 on Plan 53R-11884; District of Sudbury
73457-0004 (LT)	Parcel 48429, Section South East Sudbury, Part of Lot 3, Concession 6, Township of Laura, designated as Parts 4 and 5 on Plan 53R-11884; District of Sudbury
73457-0013 (LT)	Parcel 1846, Section South East Sudbury; Part of Lot 5, Concession 4, Township of Laura, as in Instrument No. EP4617, except Instrument No. LT178152 and Part 1 on Plan 53R-5711; District of Sudbury
73457-0019 (LT)	Parcel 318, Section South East Sudbury; South Half of Lot 5, Concession 5, Township of Laura, District of Sudbury
73457-0022 (LT)	Parcel 359, Section South East Sudbury; North Half of Lot 4, Concession 3, Township of Laura, District of Sudbury
73457-0023 (LT)	Parcel 392, Section South East Sudbury; Part of Lot 5, Concession 6, Township of Laura, as in Instrument No. NP3165; District of Sudbury
73457-0033 (LT)	Parcel 847, Section South East Sudbury; Lot 7, Concession 3, Township of Laura, District of Sudbury
73457-0036 (LT)	Parcel 850, Section South East Sudbury; South Half of Lot 8, Concession 3, Township of Laura, except Part 3 on Plan 53R-7798 and Part 1 on Plan 53R-8911; District of Sudbury
73457-0043 (LT)	Parcel 857, Section South East Sudbury; Part of Broken Lot 3, Concession 4, Township of Laura, as in Instrument No. NT8422; District of Sudbury
73457-0057 (LT)	Parcel 1013, Section South East Sudbury; North Half of Lot 4, Concession 6, Township of Laura, District of Sudbury
73457-0059 (LT)	Parcel 1048, Section South East Sudbury; South Half of Lot 4, Concession 6, Township of Laura, District of Sudbury
73457-0061 (LT)	Parcel 1120, Section South East Sudbury; North Half of Lot 8, Concession 3, Township of Laura, District of Sudbury
73457-0063 (LT)	Parcel 1125, Section South East Sudbury, Surface Rights Only; North Half of Lot 5, Concession 2, Township of Laura, except Instrument No. LT4909; District of Sudbury

PIN Number	Legal Description
73457-0068 (LT)	Parcel 1234, Section South East Sudbury; South Half of Lot 9, Concession 3, Township of Laura, except Part 1 on Plan 53R-7798; District of Sudbury
73457-0071 (LT)	Parcel 1330, Section South East Sudbury; Part of Broken Lot 3, Concession 4, Township of Laura, as in Instrument No. EP4374; District of Sudbury
73457-0074 (LT)	Parcel 1391, Section South East Sudbury; North Half of Lot 5, Concession 3, Township of Laura, excepting the right-of-way of the James Bay Railway and Part 1 on Plan 53R-8689; District of Sudbury
73457-0079 (LT)	Parcel 1506, Section South East Sudbury; North Half of Broken Lot 9, Concession 3, Township of Laura, except Part 2 on Plan 53R-7798, reserving a strip of land one chain in perpendicular width along both shores of the Wahnapiatae River, and reserving the land covered with the water of Wahnapiatae River crossing the said lands; District of Sudbury
73457-0084 (LT)	Parcel 1651, Section South East Sudbury; Part of Lot 6, Concession 5, Township of Laura, as in Instrument No. EP4537, reserving the right-of-way of James Bay Railway crossing the east part of the said lands, and reserving a strip of land one chain in perpendicular width along both shores of the Wahnapiatae River, District of Sudbury
73457-0090 (LT)	Parcel 2035, Section South East Sudbury; North Half of Lot 3, Concession 2, Township of Laura, District of Sudbury
73457-0093 (LT)	Parcel 2204, Section South East Sudbury; Part of Broken Lot 7, Concession 4, Township of Laura, as in Instrument No. EP4728; District of Sudbury
73457-0095 (LT)	Parcel 1426, Section South East Sudbury; North Half of Lot 4, Concession 2, Township of Laura, District of Sudbury
73457-0097 (LT)	Parcel 2354, Section South East Sudbury; Part of Lot 5, Concession 4, Township of Laura, as in Instrument No. EP4780; District of Sudbury
73457-0108 (LT)	Parcel 419A, Section South East Sudbury, Part of Lot 5, Concession 5, Township of Laura, as in Instrument No. NP3269; District of Sudbury
73457-0101 (LT)	Parcel 2728, Section South East Sudbury; South Half of Lot 3, Concession 5, Township of Laura, District of Sudbury