**AGREEMENT OF PURCHASE AND SALE**

THIS AGREEMENT OF PURCHASE AND SALE is made as of the [date] day of [month], 2023.

**BETWEEN**:

[purchaser’s legal name]

(hereinafter called the "Purchaser")

-and-

**DISTRICT SCHOOL BOARD OF NIAGARA**

(hereinafter called the "Vendor")

RECITALS:

1. Vendor is the registered owner of lands with a ***municipal******address*** of 120 Federal Road, Welland, Ontario, and more particularly described with a ***legal******description*** of Pt Lt 27 Con 7 Crowland as in RO194497 except Pt 2, 59R10479, Welland **PIN 64125-0075 LT** being all of PIN(s) [**PIN 64125-0075 LT**] (hereinafter referred to as the “Lands”); and
2. The Purchaser hereby offers to purchase the Lands from the Vendor on the terms and conditions hereinafter set forth.

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the parties hereto agree as follows:

 **ARTICLE I**

**INTERPRETATION**

* 1. **Definitions**.

In this Agreement, the terms in quotation marks which are set out below shall have the following respective meanings:

1. "**Agreement**" means this agreement of purchase and sale along with any properly executed instrument which, by its terms, amends, modifies or supplements this agreement;
2. “**Authority**” means any governmental authority, quasi-governmental authority, agency, body or department whether federal, provincial or municipal that may have jurisdiction over the Lands;
3. “**Building**” means the existing buildings located on the Lands as of the date of this Agreement including all heating, ventilation, plumbing, electrical and mechanical systems and related components and equipment comprising a part thereof and any other improvements owned by the Vendor presently erected in or upon the Lands.
4. "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday;
5. "**Closing Date**" or "**Closing**" means [closing date], or such other date as the parties, or their respective solicitors may agree in writing.
6. "**Deposit**" means the money payable by the Purchaser to the Vendor in accordance with Subsection 2.3(1)(a);
7. "**Interim Period**" means the period between the date of execution hereof and the Closing Date;
8. “**Lands**” means the property described in the recitals hereto;
9. “**Parties**” means the Vendor and the Purchaser;
10. “**Party**” means either the Vendor or Purchaser;
11. "**Purchase Price**" means the purchase price for the Lands set out in Section 2.2.
12. "**Transfer**" means the transfer to the Purchaser of the Lands.
	1. **Recitals**.

The Recitals set out at the beginning of this Agreement shall be deemed incorporated into this Agreement and shall form a part of its terms.

* 1. **Extended Meanings**.

Grammatical variations of any terms defined herein have similar meanings to such defined terms; words imparting number include the singular and the plural; words imparting gender include the feminine, neuter and masculine genders.

* 1. **Headings**.

 The division of this Agreement into separate Articles, Sections and Schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretations of this Agreement.

* 1. **Entire Agreement**.

 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and, except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations, warranties and agreements of the respective parties with respect to the subject matter hereof. There are no verbal representations, undertakings or agreements of any kind between the parties.

* 1. **Currency**.

All references to currency herein are references to lawful money of Canada.

* 1. **Severability**.

 If any covenant, obligation or agreement of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each covenant, obligation and agreement of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

* 1. **Governing Law**.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

* 1. **Schedules**.

The following schedules form an integral part of this Agreement:

None

or

1. Schedule “A” –
2. Schedule “B” –
3. Schedule “C” –
4. Schedule “D” –

 **ARTICLE II**

 **PURCHASE AND SALE**

* 1. **Purchase and Sale**.

The Purchaser hereby offers to purchase from the Vendor, on the terms and subject to the conditions herein contained, the Lands for the Purchase Price, subject to adjustment as provided in Section 2.4

* 1. **Purchase Price**.

The Purchase Price for the Lands shall be [amount in words] DOLLARS($[amount]).

* 1. **Payment of Purchase Price**.
1. The Purchase Price shall be paid by the Purchaser as follows:
2. an amount equal to five percent (5%) of the purchase price (the “Deposit”) by certified cheque, bank draft or electronic funds transfer (EFT) (in Canadian Funds) payable to the **District School Board of Niagara**, within five (5) Business Days after execution by the Vendor and delivery to the Purchaser of this Agreement; and
3. an amount equal to the Purchase Price minus the Deposit, subject to adjustments as set out in this Agreement, by certified cheque, bank draft or EFT (in Canadian Funds), on the Closing Date payable to Vendor’s solicitor in trust.
4. The Purchase Price of the Lands does not include Harmonized Sales Tax (“HST”) The Purchaser shall, on the Closing Date, as a condition of Closing this transaction, remit to the Vendor confirmation that the Purchaser is a registrant under the *Excise Tax Act*, including the Purchaser’s registration number, together with an undertaking in favour of the Vendor, stating that the Purchaser shall remit any tax required to be paid under the *Excise Tax Act* pursuant to the purchase contemplated herein. Purchaser hereby indemnifies the Vendor with respect to any HST payable and shall not be required to remit to the Vendor any amount in respect of HST on the Closing Date.
5. The Board shall not be required to supply any Warranty, Statutory Declaration or Certificate with respect to the subject Lands’ status or as to whether this transaction is an exempt supply in accordance with the provisions of the *Excise Tax Act* (Canada).
	1. **Adjustments**.
6. **General**.

The Vendor and the Purchaser shall adjust as of midnight on the last day preceding the Closing Date the following items:

1. taxes and local improvement rates and charges;
2. utilities and fuel accounts;
3. any proceeds of insurance received by the Vendor, on account of damage to the Lands occurring on or after the date of this Agreement and not applied as of the Closing Date on account of the cost of repair; and
4. all other Items reasonably capable and subject to the provisions of this Agreement, properly the subject of, adjustment in connection with the ownership, operation and management of the Lands of whatsoever nature;

 (collectively, the "Adjustments").

1. **Readjustment**.

It is agreed by and between the parties that if the final cost or amount of any item which is to be adjusted under Section 2.4(1) hereof cannot be determined at Closing, or is determined to be incorrect, then the initial adjustment for such item made at the Closing shall be estimated by the Vendor on the basis of the best evidence available at the Closing as to what the final cost or amount of the said item will be. In each case when such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within thirty (30) days of determination, provide a complete statement thereof to the other and within thirty (30) days thereafter the parties hereto shall make a final adjustment as of the last day preceding the Closing Date for the item in question. In the absence of agreement by the parties hereto, the final cost or amount of an item shall be determined by an auditor, mutually agreed to by the Parties, with the cost of such auditors shared equally between the parties hereto.

* 1. **Chattels**.
1. Vendor and Purchaser agree that all of the existing buildings, and fixtures present on the Lands as of the date of this Agreement are included in the Purchase Price, save and except for the following (if any):

 NONE or

* 1.
1. Vendor and Purchaser agree that only the following chattels or equipment are included in the purchase price (if any):

 NONE

1. The following equipment is rented and not included in the Purchase Price, the Purchaser shall assume the rental contracts, if assumable:

 NONE

**ARTICLE III**

**REPRESENTATIONS AND WARRANTIES**

# **Representation of the Purchaser**. The Purchaser hereby represents and warrants to and in favour of the Vendor that, as of the date hereof:

1. **Residency**. The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

[Choose one of:]

1. **Good Standing**. The Purchaser is a corporation duly incorporated and existing under the laws of Ontario and has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated hereby, all of which have been duly and validly authorized by all requisite corporate proceedings.

OR

1. **Age of Majority**. The Purchaser is at least 18 years old and has all necessary authority and mental capacity to enter into this Agreement.
2. **Bankruptcy**.To the best of his knowledge, after due inquiry, no bankruptcy, insolvency or receivership proceedings have been instituted or are pending or threatened against the Purchaser and the Purchaser’s personal property is not subject to any executions, judgments or other claims of creditors.
3. **No Breach**. Neither the execution of this Agreement nor its performance by the Purchaser will result in a breach of any term or provision or constitute a default under any other agreement to which the Purchaser is a party or by which it is bound, which breach could materially affect the ability of the Purchaser to perform its obligations hereunder.
	1. **Representations of Vendor.** The Vendor hereby represents and warrants to and in favour of the Purchaser that, as of the date hereof:
4. **Residency**. The Vendor is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
5. **Leases**. The Vendor has not entered into any leases, licenses, agreement to lease or other tenant agreements with respect to the Lands except as may be described herein;
6. **Good Standing**. the Vendor has the power and authority and right to sell the Lands in accordance with the terms of this Agreement.
7. **No Breach**. Neither the execution nor delivery of this Agreement nor the fulfillment or compliance with any of the terms hereof will conflict with, or result in any breach of the terms, conditions or provisions of, or constitute a default under any agreement or instrument to which the Vendor is subject which will have an adverse effect on the Lands;
8. **No Notice**. The Vendor has received no written notice of any easement, right of way or license any work order, deficiency notice or other order affecting the Lands. During the Interim Period the Vendor shall forthwith give the Purchaser notice upon the Vendor receiving notice of any easement, right of way or license, any work order, deficiency notice or other order which affects or could affect the Lands;
9. **Insurance**. The Vendor maintains such insurance on the Lands as is reasonably required to protect the value of the Buildings, fixtures and equipment. The Vendor covenants to maintain insurance for the full replacement value of the Building(s) on the real property and for any chattels and fixtures included in the Purchase Price. In the event of damage to the Building or any fixtures or chattels which are to be transferred pursuant to this Agreement of Purchase and Sale, the Purchaser may, at its option:
	1. close the transaction at the full purchase price with an assignment from the Vendor of all proceeds of insurance pursuant to the insurance policy set out above; or
	2. close the transaction with an abatement of the purchase price equivalent to the damage suffered by the building(s), chattels or fixtures as reasonably estimated by a qualified insurance adjuster, in which event, all insurance proceeds would remain payable to the Vendor.
	3. **Survival of Warranties**. Save and except for the representations and warranties contained in Section 3.1 and 3.2 hereof and those representations and warranties contained in documentation delivered on Closing hereunder, the Vendor and the purchaser acknowledge and agree that the Lands is being sold to the Purchaser on an "as is" basis as at the Closing Date and without any representation and warranty whatsoever and that the representations and warranties contained in Section 3.1 and 3.2 shall have effect to the Closing Date and shall survive the Closing Date and shall continue in full force and effect for the benefit of the Vendor and the Purchaser, as the case may be, for the period of two years immediately following the Closing Date and any claim for any breach of any representation or warranty must be made in writing within two years immediately following the Closing Date.
	4. **Effect of Warranties**. Subject to Section 3.3, each of the Purchaser and the Vendor hereby agrees to protect, indemnify and save the other harmless from and against any and all losses, costs, expenses, damages, liabilities, claims and demands whatsoever arising or suffered by the other as a result of any misrepresentation or breach of the warranties and representations set forth in Sections 3.1 and 3.2 respectively.

**ARTICLE IV**

**INSPECTION AND PROPERTY CONDITION**

# **Inspection**.

# The Purchaser acknowledges that it has been provided an opportunity to inspect the Lands and every part thereof prior to executing and submitting this Agreement to the Vendor and that no warranty or condition is expressed or can be implied as to title, description, use or proposed zoning, fitness or purpose, quantity or quality thereof. Without limiting the generality of the foregoing, the Vendor shall not be liable for any incorrect description, default, defect or condition of the Lands or any part thereof or any errors in any surveys, engineering or other drawings, or other documents that may have been voluntarily provided for inspection by the Purchaser. The Vendor shall not be required to remedy or comply with any deficiency notice, work order or other order or notice affecting the property and the use thereof.

# **Condition of Buildings**.

# The Vendor makes no representations or warranties with respect to the workmanship, state of repair, location of structures, walls, retaining walls, or fences (free standing or otherwise). The Vendor shall have no responsibility whatsoever to remedy any defect, comply with any work orders, or complete any unfinished work. The Purchaser acknowledges that it has relied entirely upon its own inspections and investigations with respect to the quantity, quality, and value of the Lands and Building.

# **Condition of Lands**.

# The Purchaser agrees to purchase the Lands in an “as is, where is” condition and further agrees that the Vendor shall not be obligated to perform any work in respect of the Lands in order to bring the Lands, or any part thereof, into compliance with any applicable standards of any relevant Authority. The Purchaser also agrees not to make any claim against the Vendor in respect of any of such work that may be required in order to bring the Lands or any part thereof into such compliance.

# **Environmental**.

# The Purchaser acknowledges and agrees that the Vendor makes no representations or warranties whatsoever, either expressed or implied, as to the existence or non-existence of any asbestos, PCBs, radioactive substances or any other substances, liquids or materials or contaminants which may be hazardous or toxic or require removal and disposal pursuant to the provisions of any applicable legislation (all of the foregoing being hereinafter called “Environmental Matters”) and that the Purchaser takes the Lands “as is” and relies upon its own investigations, if any, in this regard. From and after the closing date of this transaction, the Lands shall be the sole risk of the Purchaser, and the Vendor, its successors and assigns, will have no further liability in respect of any Environmental Matters and the Purchaser covenants and agrees, such covenant to survive closing and not to merge on closing of this transaction, to indemnify and save harmless the Vendor in respect of any claims, demands, losses, damages, in any way related directly or indirectly to any Environmental Matters and in respect of orders or claims, charges or requirements whatsoever of any Municipal, Provincial, Federal or other governmental body, board, commission, authority, department or Ministry, or employees, officials or representatives thereof.

# As of and from the date of Closing, the Purchaser shall release the Vendor and its successors and assigns from and against all losses, damages, claims, fines liabilities, actions, suits, in any way arising, directly or indirectly by reason of the presence on the Lands of any containment, pollutant, dangerous substance wastes (liquid or solid) or toxic substance or the escape thereof in the air or onto adjacent properties or lands including rivers, streams, and ground waters, (collectively the “Substances”), whether produced, created or generated before or after Closing and such indemnity shall include any order, decree, judgment or demand under law, regulation or order applicable thereto; and

# The Purchaser, its successors and assigns, hereby agree to indemnify and hold harmless the Vendor, its affiliates, their successors and assigns from any and all costs, claims demands, liabilities and damages arising out or in any way connected with any state, quality or condition in, or of, the Lands, including, but not limited to, the existence of any substances existing as of, or prior to the date of Closing and thereafter, whether environmental or otherwise, whether imposed by law, equity or any federal, provincial or municipal law, rules or regulations or by any regulatory authority. The provisions of section 4.4 shall survive and not merge on the completion of this transaction and any subsequent sale or transfer of the Purchaser’s interest in the Lands.

**ARTICLE V**

**CONDITIONS**

* 1. **Conditions of the Vendor**.

The Vendor's obligation to complete the transaction of purchase and sale as contemplated herein is subject to fulfillment of each of the following conditions on or by the date specified therefore (which shall be the Closing Date unless otherwise specified), unless waived by the Vendor:

1. **Representations and Warranties**. The representation and warranty set forth in Section 3.1 shall be true and accurate on, with the same effect as if made on and as of, the Closing Date and the Purchaser shall have delivered to the Vendor a certificate of the Purchaser, dated the Closing Date, to this effect;
2. **Board of Trustees Approval**. The Agreement is subject to and conditional upon the Vendor obtaining the Board of Trustees approval within thirty (30) calendar days of acceptance of this Agreement of Purchase and Sale, failing which this Agreement shall become null and void and the Purchaser’s deposit shall be returned in full, without deduction or interest. The Vendor shall have the right, at its sole and absolute discretion to extend the date allowed for fulfillment of the condition set out in this section 5.1(b), from time to time, provided such extension does not exceed a total of ninety (90) days from the original date set for fulfillment.
3. **Delivery of Documents**. All documents required to be executed and/or delivered to the Vendor hereunder shall have been executed and/or delivered;
4. **Performance of Terms, Covenants and Conditions**. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser on or prior to the Closing Date, shall have been complied with or performed by the Purchaser on or before the date fixed for such compliance or performance;

 The foregoing conditions are inserted for the benefit of the Vendor.

* 1. **Conditions of the Purchaser**.

The Purchaser's obligation to complete the transaction of purchase and sale, which is contemplated herein is subject to fulfillment of each of the following conditions on or by the date specified in this section 5.2. In the event that a date for fulfillment of a condition is not expressly set out herein, then the date for fulfillment shall be the Closing Date.

1. **Representations and Warranties**. The representations and warranties set forth in Section 3.2 shall be true and accurate on, with the same effect as if made on and as of, the Closing Date and the Vendor shall have delivered to the Purchaser a certificate of the Vendor, dated the Closing Date, to this effect;
2. **Delivery of Documents**. All documents required to be executed and delivered to the Purchaser hereunder shall have been so executed and delivered;
3. **Performance of Terms, Covenants and Conditions**. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor at or prior to the Closing Date shall have been complied with or performed by the Vendor on or before the date fixed for such compliance or performance;

 The foregoing conditions are inserted for the benefit of the Purchaser.

* 1. **Waiver**. If the whole or any part of a condition set out in any of Sections 5.1 or 5.2 has not been satisfied on or before the Closing Date (or such earlier date as may be specified), the party for whose benefit the condition has been included may terminate this Agreement by notice in writing to the other party in which event neither party shall be under any further obligation to the other; provided, that the party entitled to terminate shall be entitled to waive compliance with any condition in whole or in part, without prejudice to any of its rights of termination in the event of non-performance of any other condition in whole or in part. The closing of the transaction of purchase and sale contemplated herein by any party shall be deemed to be a waiver by that party of compliance with any condition inserted for its benefit and not satisfied on the Closing Date but shall not, under any circumstances, be deemed to be a release of the other party with respect to the representations and warranties of that party as contained in Sections 3.1 and 3.2.

**ARTICLE VI**

**INVESTIGATION OF LANDS AND TITLE. ETC.**

* 1. **Search of Title**. The Purchaser shall have until fourteen (14) days prior to the Closing Date to examine title at the Purchaser’s own expense and deliver to the Vendor all objections to title. Vendor hereby consents to the municipality or other governmental agencies releasing to Purchaser details of any outstanding work orders and deficiency notices affecting the Lands and Vendor agrees to executed an deliver any authorizations in this regard as may reasonably be required by the Purchaser.
	2. **Title**. Provided that the title to the Lands is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for:
1. any registered restrictions or covenants that run with the land providing that such are complied with;
2. any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility;
3. any minor easements for the supply of domestic utility or telephone services to the Lands or adjacent properties; and
4. any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the Lands.

If within the specified times referred to in paragraph 6.1 any valid objection to title is made in writing to the Vendor and which the Vendor is unable or unwilling to remove, remedy or satisfy or obtain a policy of title insurance in favour of the Purchaser and any mortgagee, (with all related costs at the expense of the Vendor), and which the Purchaser will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and the Vendor shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, the Purchaser shall be conclusively deemed to have accepted Vendor’s title to the Lands.

* 1. **Documents and Discharge**. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands except such as are in the possession or control of the Vendor. If requested by the Purchaser, the Vendor will deliver any sketch or survey of the Lands within the Vendor’s control to the Purchaser as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the *Trust And Loan Companies Act* (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by the Purchaser on completion, is not available in registrable form on completion, the Purchaser agrees to accept the Vendor’s lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion the Vendor shall provide to the Purchaser a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by the Vendor directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

**ARTICLE VII**

**CLOSING ARRANGEMENTS**

1. **Closing Arrangements**. The Closing of the Purchase and Sale which is contemplated herein shall be completed prior to 5:00 P.M. on the Closing Date.
	1. **Documents of the Vendor**. On the Closing Date (or before as aforesaid or otherwise where practicable but at the Vendor's option), the Vendor shall deliver to the Purchaser the following:
2. **Vacant Possession**. The Purchaser shall have vacant possession of the Property on Closing.
3. **Transfer**. The Transfer duly executed by the Vendor, in registrable form;
4. **Certificates**. The certificate referred to in Section 5.2(a);
5. **Statement of Adjustments**. A statement of adjustments;
6. **Keys**. Master keys and duplicate keys to all locks in the Vendor's possession;
7. **Undertaking**. An undertaking to re-adjust in accordance with section 2.4(2); and
8. **Other**. All other transfers, assignments and other documentation relative to the completion of this transaction as may reasonably be required by the Purchaser and its solicitors.
	1. **Documents of the Purchaser**. On or before the Closing Date, the Purchaser shall deliver to the Vendor the following:
9. **Balance of the Purchase Price**. A certified cheque or bank draft payable to the Vendor (or as the Vendor in writing may direct) in the amount of the adjusted cash balance of the Purchase Price in accordance with Section 2.3(b) hereof;
10. **Direction**. A Direction as to title, if necessary;

1. **Undertaking**. An undertaking to re-adjust in accordance with section 2.4(2)
2. **Certificate**. The certificate referred to in Section 5.1(a); and
3. **Other**. Such further documentation relative to the completion of this transaction as the Vendor or its solicitors may reasonably require.
	1. **Electronic Registration**. Where each of the Vendor and the Purchaser retain a lawyer to complete the Agreement of Purchase and Sale of the Lands, and where the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, Chapter L4 and the *Electronic Registration Act*, S.O. 1991, Chapter 44, and any amendments thereto, the Vendor and the Purchaser acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the “Requisite Deliveries”) and the release thereof to the Vendor and the Purchaser will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Vendor and the Purchaser irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
	2. **Taxes and Fees**. The Purchaser shall be responsible for all registration fees and land transfer taxes payable in connection with the registration of the Transfer and the transfer of the Lands. Each party shall pay its own legal fees with respect to this transaction.

**ARTICLE VIII**

**MISCELLANEOUS**

* 1. **Assignment**.The Purchaser covenants and agrees that the Purchaser will in no way directly or indirectly assign, rent, lease, convey, list or in any way advertise for sale, sell, or otherwise transfer the Purchaser's rights under this Agreement prior to completion to any other person or entity without the express written consent of the Vendor. Such consent may be granted or unreasonably withheld at the Vendor’s sole option.
	2. **Registration**. The Purchaser shall not register this Agreement or any assignment of this Agreement or any part thereof or register a caution in relation thereto.
	3. **Time**. Time shall be of the essence of this Agreement and the transactions contemplated herein.
	4. **Tender**. Any tender of documents or money may be made upon the party being tendered or upon its solicitors as designated by the party being tendered to the party making the tender, and money may be tendered by certified cheque or banker’s draft.
	5. **Relationship of the Parties**. Nothing herein shall be construed so as to make the Purchaser a partner of the Vendor and nothing herein shall be construed so as to make the Purchaser an owner of the Lands for any purpose, until the Closing Date. The Purchaser shall not cause or permit this Agreement or notice thereof or a short form thereof to be registered against title to the Lands.
	6. **Notice**. Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by facsimile or electronic mail, or by registered mail, charges prepaid, addressed as follows:

**in the case of the Purchaser:**

[Purchaser’s name and address]

Attn: [Purchaser’s contact name]

[Purchaser’s contact email]

[Purchaser’s contact facsimile number]

**with a copy to the to Purchaser’s solicitor:**

[Purchaser’s law firm name and address]

Attn: [Purchaser’s lawyer’s name]

[Purchaser’s lawyer’s email]

[Purchaser’s lawyer’s facsimile number]

***NOTE: In anticipation of potentially being the successful bidder in this tender, it is important to complete your solicitor’s contact information.***

**and in the case of the Vendor:**

 District School Board of Niagara

 191 Carlton Street

 St. Catharines, ON

 L2R 7P4

 Attn: Jennifer Feren, Board Lawyer

 jennifer.feren@dsbn.org

 Fax: 905-641-5060

**with a copy to the Vendor’s solicitors:**

Lancaster, Chown & Welch LLP

Suite 800

80 King Street

St. Catharines, ON

L2R 6Z1

Attn: Matthew M. Leask

mleask@lcwlawyers.com

 Fax: 905-641-1830

Any notice, if delivered, shall be deemed to have been validly and effectively given and received on the date of personal delivery to the above-noted solicitors. Any notice, if sent by facsimile or electronic communication shall be deemed to have been validly and effectively given and received on the date of transmission to said solicitors. By giving to the other party at least three (3) Business Days’ notice thereof, either party may, at any time and from time to time, change its address for delivery or communication for purposes of this section.

* 1. **Further Assurances**. Each of the parties hereto shall execute and deliver all such further documents and do such other things as the other party may reasonably request in order to give full effect to this Agreement.
	2. **Non-Merger**. The terms and provisions of this Agreement shall survive the Closing Date and shall not merge on completion of the purchase and sale contemplated herein and the transfer to the Purchaser of the Lands.
	3. **Successors and Assigns**. This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. Notwithstanding any assignment of this Agreement by the Purchaser, the Purchaser shall remain liable to the Vendor for the performance of all of the obligations of the Purchaser contained herein.
	4. **Counterparts**. The Parties agree that this Agreement may be executed in counterparts, and may be executed by electronic means, each counterpart shall constitute an original, and all of which when taken together shall constitute a single contract.
	5. **Damage or Destruction**. The Lands shall remain at the risk of the Vendor until the Closing.
	6. **Planning Act**. This Agreement shall be effective to create an interest in the Lands only if the provisions of the Planning Act are complied with and it shall be the obligation of the Vendor to comply at its own expense.
	7. **Irrevocable Date**. Purchaser agrees that this offer shall be irrevocable by it until 5:00 p.m. on the 60th day following delivery by the Purchaser, after which time, if not accepted, this offer shall be null and void and of no further effect.
	8. **Real Estate Commission.** Real estate commission will be payable by the Vendor in accordance with the terms of the listing agreement. The said commission shall only be due and payable on successful completion of any such transaction.
	9. **Facility Name**. The Purchaser agrees upon completion of this transaction it shall not use the name **District School Board of Niagara Welland Service Centre** or any combinations of key words or any acronym from the facility name to identify, advertise or represent the subject property, and any signage or reference to this name shall be removed from the subject property by the Purchaser immediately following the date of the closing of this transaction.
	10. [**No Publicity Without Consent**](https://www.lawinsider.com/clause/no-publicity-without-consent). The Purchaser shall not issue or permit the issuance of any press release or publicity regarding this Agreement, its existence, its terms, conditions or subject matter without prior coordination with and advance written approval by the Vendor, which may be granted or withheld at the Vendor’s sole discretion.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the day and year first below written.

OFFERED BY the Purchaser, this day of , 2023.

|  |  |
| --- | --- |
|  |  |
| Witness |  |
| Witness |  |

ACCEPTED by the Vendor, this day of , 2023.

|  |  |
| --- | --- |
|  | **DISTRICT SCHOOL BOARD OF NIAGARA** |
|  | Per:WARREN HOSHIZAKIDirector of Education and SecretaryI have authority to bind the Corporation |

**Schedule “A”**

[if applicable]

**Schedule “B”**

[if applicable]

**Schedule “C”**

[if applicable]

**Schedule “D”**

[if applicable]