

Bill No. 389  
2014

By-law No. A.- \_\_\_\_\_

A By-law to authorize an Agreement of Purchase and Sale between The Corporation of the City of London and IO Industries Inc., to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into an Agreement of Purchase and Sale with IO Industries Inc., (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement attached as Schedule "A" to this By-law, being an amended Agreement of Purchase and Sale between the City and IO Industries Inc. is hereby AUTHORIZED AND APPROVED.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on September 2, 2014.

J. Baechler, Mayor

Catharine Saunders  
City Clerk

First reading – September 2, 2014  
Second reading – September 2, 2014  
Third reading – September 2, 2014

CLASS 1 SALE

THIS INDENTURE dated the 5<sup>th</sup> day of August, 2014.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON

hereinafter called the **VENDOR**

- and -

IO INDUSTRIES INC., IN TRUST FOR A CORPORATION TO BE INCORPORATED

Address: 12-1510 Woodcock Street, London, ON N6H 5S1

hereinafter called the **PURCHASER**

1. The Purchaser, having inspected the lands and premises hereinafter described, hereby offers to purchase from the Vendor the lands and premises situated in Skyway Industrial Park, Phase II, in the City of London, in the County of Middlesex, containing 3.0 acres, more or less, located on the south-west corner of Huron Street and Robin's Hill Road, and being composed of the northerly portion of Lot 15 on Plan 33R-17397, and shown outlined in red on the plan attached hereto as Schedule "C" to this Agreement, for the price of approximately

One Hundred and Ninety-Five Thousand Dollars (\$195,000.00)  
of lawful money of Canada calculated at the rate of

Sixty Five Thousand Dollars (\$65,000.00)  
per acre, with sanitary sewers, storm sewers and water services available in the road allowance.

The Purchaser submits  
Nineteen Thousand Five Hundred Dollars (\$19,500.00)  
cash (or bank draft or certified cheque) payable to the City Treasurer, City of London, as deposit to be held by the Vendor pending completion or other termination of the agreement arising from the acceptance of this Agreement and to be credited towards the purchase price on completion, and the balance of the purchase price to be paid on the date of completion.

2. Provided the title to the property is good and free from all encumbrances, except as otherwise expressly provided herein, and except as to any registered easements, restrictions or covenants that run with the land, or municipal by-laws, or other governmental enactments, providing that such are complied with.

3. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title except as may be in the possession or control of the Vendor, unless otherwise provided herein.

4. The Purchaser is to be allowed 30 days from the date of acceptance of this Agreement to examine the title at his own expense. If within that time any valid objection to title is made in writing to the Vendor which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, this Agreement, notwithstanding any intermediate acts or negotiations in respect of such objection shall be at an end, and all monies theretofore paid shall be returned to the Purchaser without interest or deduction, and the Vendor shall not be liable for any costs or damages. Except as to any valid objection so made within such time, and except for any objection going to the root of the title, the Purchaser shall be conclusively deemed to have accepted the Vendor's title to the property.

5. The Purchaser is to be allowed 30 days from the date of acceptance of this Agreement to carry out soil tests as it might reasonably require. Any such testing shall first be approved by the City Engineer and shall be at the sole risk and expense of the Purchaser. If such tests are carried out, the Purchaser agrees to restore the property to its original condition. If the property is not so restored, the vendor may carry out required restoration and without limiting the rights of the Vendor, the cost thereof may be recovered from the deposit. If, within that time, any valid objection to soil conditions is made in writing to the Vendor, which the Vendor is unable or unwilling to remove, remedy or satisfy, and which the Purchaser will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objection, shall be at an end and all monies theretofore paid shall be repaid or returned to the Purchaser without interest or deduction and the Vendor shall not be liable for any costs or damages. Except as to any valid objection so made within such time, the Purchaser shall be conclusively deemed to have accepted the soil conditions on the property.

6. The transaction of purchase and sale to be completed within 90 days from the acceptance of this Agreement. Vacant possession of the property shall be given to the Purchaser on the date of completion, unless otherwise provided herein.

7. This Agreement, when accepted, shall constitute a binding contract of purchase and sale between the Purchaser and Vendor and time shall, in all respects, be of the essence thereof, provided that the time for the doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing, signed by the Vendor and the Purchaser or by their respective solicitors who are hereby expressly appointed in this regard. It is agreed that there is no condition, expressed or implied, representation, warranty, or collateral agreement affecting this Agreement or the property or supported hereby, except as expressed herein in writing.

8. The Deed or transfer shall be prepared in registerable form at the expense of the Vendor by its solicitor. Each party shall pay the cost of registration and taxes on his own documents.

9. Provided that, notwithstanding any terms or conditions outlined in the printed wording herein, any provisions written into the Agreement at the time of the signing of the Agreement by the Purchaser shall be the true terms and shall supersede the printed portion in respect of the parts affected thereby. This Agreement and its acceptance shall be read with all changes of gender or number required by the context and shall be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns, as the case may be.

10. As a condition of this Agreement, the Purchaser hereby agrees to submit a declaration of intent which outlines the proposed uses of the property. This declaration is attached hereto as Schedule "A" and forms part of the Agreement.

11. As a condition of this Agreement, the Purchaser hereby agrees to be bound by the Policy of The Corporation of the City of London with respect to the sale and/or transfer of City-owned, serviced, industrial land, which Policy is attached hereto as Schedule "B" to this Agreement, it being the intent of the parties hereto that the provisions of the said "Policy" shall survive the closing of this transaction to such extent as may be required to give effect to the said Policy. As a further condition of this Agreement, the Purchaser agrees to accept a Deed with respect to the land herein described in a form sufficient to give effect to the said Policy.

12. Any tender of documents or money desired hereunder may be made upon the solicitor acting for the Vendor or Purchaser, and it shall be sufficient that a Bank Draft or Certified Cheque may be tendered instead of cash.

13. Schedules A, B, C, and D attached hereto form part of this Agreement.



SCHEDULE "A"

PURCHASER'S DECLARATION OF INTENT TO DEVELOP AND PROPERLY UTILIZE THE PROPERTY,  
WHICH DECLARATION FORMS PART OF THE AGREEMENT OF PURCHASE AND SALE

The Purchaser hereby declares, and it is understood and agreed between both parties, that the property will be used for the following purposes; and the Purchaser undertakes to take all reasonable steps to fulfil these commitments; which undertaking shall survive and not merge in the closing of the transaction.

INFORMATION REQUIRED FROM PURCHASER BEFORE AGREEMENT SUBMITTED FOR APPROVAL

Industrial Park Name & Phase & Section: Skyway Industrial Park, Phase II

Lot & Conc./Part No./Block, etc.; Acres: North portion of Lot 15, Plan 33R-17397  
(3.0 Acres)

Name, Address, Postal Code of Purchaser: IO Industries Inc., 12 - 1510 Woodcock St.  
London, ON N6H 5S1

Local Company:  New Company:

Intended Use of Building - (Describe): Manufacturing of Video Equipment for  
Aerospace Industry

Major Industrial Classification of User: Manufacturing

List of Products Manufactured/Handled: Video Equipment, etc.

Number of Employees Anticipated: 20 + 20 (Full Time within 2 years)

Number of Square Feet of Building Proposed: 10,660 sq ft.

Number of Square Feet in Property Purchase: 130,680 sq ft.

Proposed Building Coverage as % of Lot Area: 8.2 percent (8.2%)

Mandatory Building Coverage Starting 1st Year: 15 percent (15%)

Future Buildings Proposed Details: 11,000 sq. ft. initial expansion,  
18,000 sq. ft. second expansion.  
= 39,660 sq. ft. ultimate size

Proposed Building Material for this Project: Glass Panels, Aluminum Panels

Development of the Lot will be subject to: Site Plan & Architectural Control

Proposed Commencement Date of Construction: Within One Year of Closing

Mandatory Commencement Date of Construction: One Year from Date of Deed

Purchaser's Lawyer - Name, and Address:  
Telephone: David Arntfield, c/o McKenzie Lake  
1800 - 140 Fullarton St, London, ON N6A 5P2  
(519) 672-5666 Ext. 318

Purchaser's Executive Completing this Form:  
(Andrew Sharpe, President)  
(IO Industries Inc.)

  
(signature)  
I have authority to bind the Corporation

\_\_\_\_\_  
J. Baechler, Mayor

\_\_\_\_\_  
Catharine Saunders, City Clerk

SCHEDULE "B"

Excerpt from By-law No. A.-6151-17, Schedule A, Attachment A entitled "Disposal of Industrial Land Procedures"

Disposal of Industrial Land Procedures

1. The purpose of this policy is to establish the terms upon which City-owned serviced industrial land is to be sold and transferred.
2. This policy is to be read and applied fairly and beneficially with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.
3. In this policy,
  - (a) Commencement of construction means the date upon which a building permit is issued by the City;
  - (b) Completion of construction is reached when the building or structure or a substantial part thereof is ready for use or is being used for the purpose intended, and;
  - (c) Coverage has the meaning ascribed to it under the applicable zoning by-law.

CLASS 1 SALE

4. A class 1 sale is a sale of a land for the purpose of the construction thereon of a building or structure for a detached industrial use.
5. A class 1 sale shall be subject to the following conditions:
  - (a) The purchaser shall commence construction within one year of the registration of the deed or transfer and shall diligently complete construction of the building or structure, in default of which the purchaser shall in the sole discretion of the City reconvey the land to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
  - (b) The minimum coverage of the building or structure shall be 15 per cent, provided however that, where the maximum coverage permitted under the applicable zoning by-law is 15 percent or less, the maximum coverage under the zoning by-law shall be deemed to be the minimum coverage required by this condition.
  - (c) The purchaser shall not within 10 years of the registration of the deed or transfer convey any vacant part of the land by deed, transfer, grant, assignment, appointment, mortgage, charge, lease or sub-lease (Planning Act, R.S.O. 1990, Chapter P .13), without first notifying the City and, where it has been so notified, the City may either grant its consent (which shall not be unreasonably withheld) to the conveyance or application or may in its sole discretion require the purchaser to reconvey the vacant part to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
  - (d) The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase.
6. The Manager of Realty Services may grant one or more extensions (which in total shall not exceed two years) of the time set out in paragraph 5 (a) of Section 5 of this policy within which construction of a building or structure is to be commenced provided the purchaser has filed a written request with the Manager of Realty Services for the extension.
7. A purchaser wishing to notify the City under condition 5 (c) of this policy shall file a written request with the Manager of Realty Services who shall submit a recommendation thereon to Council through the Corporate Services Committee.

**CLASS 2 SALE**

8. A class 2 sale is a sale of a land for the purpose of the extension or enlargement of a building or structure erected or to be erected upon land of the purchaser abutting the land.
9. A class 2 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than the extension or enlargement of a building or structure erected or to be erected upon lands of the purchaser abutting the land.

**CLASS 3 SALE**

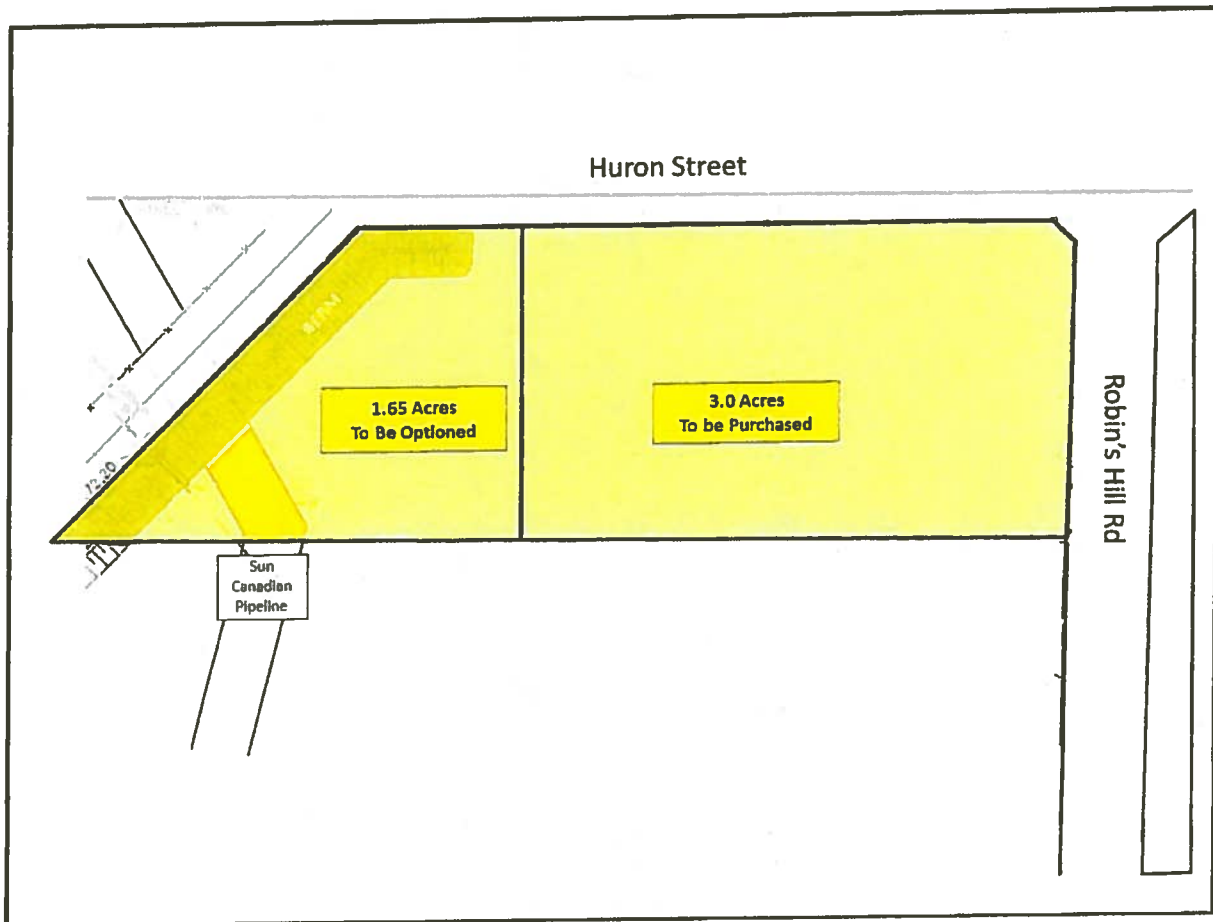
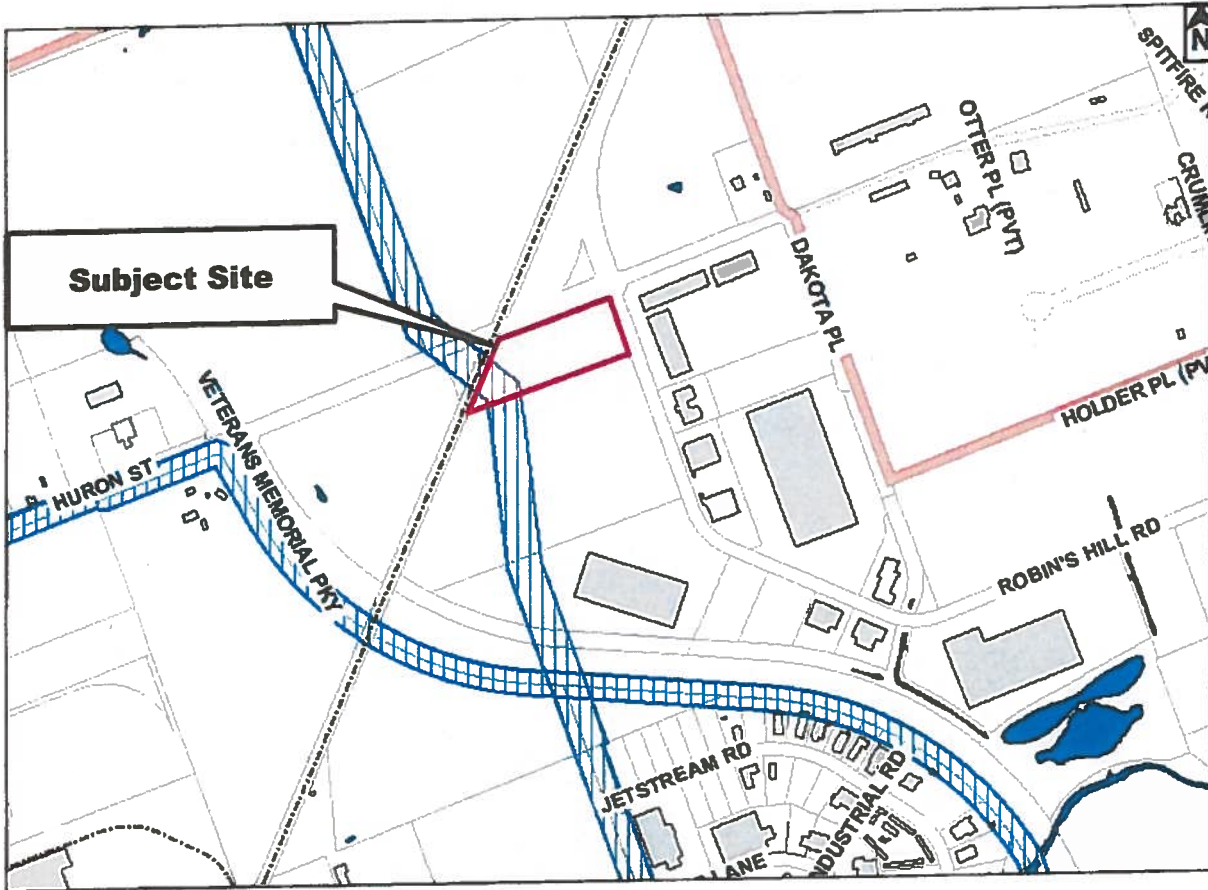
10. A class 3 sale is a sale that is not a class 1 or class 2 sale and that is a sale of a land for the purpose of a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.
11. A class 3 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

**GENERAL**

12. At least annually, the Manager of Realty Services shall review the pricing of industrial land and if a change in pricing is recommended, shall make a recommendation to Board of Control as to the price per acre at which land should be offered for sale during the ensuing year.
13. Pending receipt of an offer to purchase from a prospective purchaser, land may be reserved for a period of 30 days, provided however that, if during the reserve period the City receives an offer to purchase the same land in accordance with this policy from another prospective purchaser, the first prospective purchaser shall be allowed 5 days after notification within which to submit an offer to purchase at the same price and on the same terms; otherwise the City shall be at liberty to accept the second offer to purchase.
14. A prospective purchaser shall complete and execute an offer to purchase in the form provided by the City accompanied by a deposit payable to the City Treasurer by cash or certified cheque equal to 10 per cent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction.
15. The Manager of Realty Services may submit an offer to purchase for acceptance by the City.
16. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such further period as may be agreed to between the City Solicitor and the purchaser's solicitor in the best interests of the City.
17. Where, in the City's opinion, land is properly sold through a real estate agent, the City shall pay a fee to the agent not exceeding the scale established by the City upon completion of the transaction but no fee shall be payable if the purchaser is permitted to withdraw from the agreement of purchase and sale prior to the completion of the transaction.
18. Where the whole or any part of land is reconveyed by the purchaser to the City pursuant to a condition of sale or otherwise, the amount payable upon the reconveyance shall be 90 per cent of either the original purchase price (exclusive of interest thereon), if the whole land is reconveyed, or the portion thereof that is in the same ratio as the area of the reconveyed part is to the whole land, subject to adjustments as of the date of reconveyance for taxes, local improvements and other rates and subject, where the City considers necessary, to the City's withholding until a new purchaser is found, an amount sufficient to compensate the City for the cost of restoring the land to its original condition if so required by the new purchaser.
19. The development of the property will be subject to the requirements of the Architectural Control Guidelines as published by the City of London from time to time and the purchaser acknowledges the contents thereof and agrees to conform to those Guidelines.
20. The cost of service connections from the main to the property line is the responsibility of the purchaser.
21. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required is the responsibility of the purchaser.

SCHEDULE "C"

Map of property to be Purchased





## SCHEDULE "D"

### SCHEDULE WITH SPECIAL PROVISIONS AND ADDITIONAL TERMS AND CONDITIONS

#### Special Provisions of Skyway Industrial Park Subdivision Agreement

The purchaser will be required to construct sewage sampling manholes, built to City standards in accordance with the City's Waste Discharge By-law No. WM-2, as amended, regulating the discharge of sewage into public sewage systems. The sewage sampling manholes shall be installed on both storm and sanitary private drain connections, and shall be located wholly on private property, as close as possible to the street line, or as approved otherwise by the City Engineer.

The Purchaser shall be provided, in writing, with the final street elevations, as set out in accordance with Section 9 of the General Provisions of the Skyway Industrial Park Subdivision Agreement.

#### Canadian National (CN) Railway Conditions

Prior to a submission of a site plan application and/or an application, should any building be within 75 metres of the CN railway right-of-way, the Owner shall submit a noise and vibration report prepared by a qualified consultant. A certificate of compliance for the implementation of the report recommendations shall be included in the site plan/building permit application.

The Owner shall include in any submission of a site plan application and/or building permit application for this Plan, notice indicating that buildings and structures shall be set back a minimum of 15 metres from the railway right-of-way.

#### Additional Terms and Conditions of Purchaser

##### Headings

The headings in this agreement are for convenience of reference only and shall not define or limit the provisions of the agreement.

##### Paramourncy of Schedule "D"

The provisions of this Schedule "D" are in addition to and not in substitution for the standard provisions contained in the body of the Agreement of Purchase and Sale and in Schedule "B" thereto, provided that if the provisions of this Schedule "D" conflict or are inconsistent in any respect with such standard provisions, By-Law No. A-6151-17 or any policy of The Corporation of the City of London, the provisions of this Schedule "D" shall prevail and the aforesaid By-Laws and Policies shall be read with the corresponding amendments. Unless the context otherwise requires, the term "this Agreement" as used in the Agreement of Purchase and Sale and Schedules thereto shall mean the said Agreement of Purchase and Sale and all Schedules thereto.

##### Building Coverage

The City shall permit a proposed initial building coverage of approximately 8.2 percent in place of 15 percent prescribed by Clause 5(2) of the present Industrial Land Sale Policy.

##### Airport Area Community Improvement Plan Grant Approval

The Purchaser shall have until 11:59 p.m. (local time) on the 31st day of December, 2014, to satisfy itself that it can qualify to receive a tax grant available to an owner of an aerospace-related business located within the Airport Area Community Improvement Plan area. If the Purchaser determines that it cannot qualify for a tax grant then, notwithstanding any intermediate acts or negotiations between the parties, this Agreement will be at an end and all monies theretofore paid shall be returned to the Purchaser without interest or deduction, and the Vendor shall not be liable for any costs or damages. This condition is included for the benefit of the Purchaser and may be waived by it at any time prior to 11:59 p.m. (local time) on the 31st day of December, 2014.

##### Assignment of Agreement

At any time prior to closing, the Purchaser may assign this Agreement to a Corporation affiliated with the Purchaser to be incorporated pursuant to the Ontario or Canada Business Corporations Act, and upon delivery to the Vendor of a notice of such assignment and a covenant by the assignee in favour of the Vendor pursuant to which the assignee agrees to assume all covenants and agreements to be kept, observed and performed by the Purchaser pursuant to this Agreement, the assignee shall be entitled to and bound by, and the Purchaser shall cease to be entitled to and shall be released from, all of the benefits and obligations of the Purchaser pursuant to this Agreement.

**Real Property Survey & Phase 1 environmental site assessment**

The Vendor shall prepare an up-to-date real property survey, and an up-to-date Phase 1 environmental site assessment of the property, together with a reliance letter addressed to the Purchaser, at the Vendor's expense and shall deliver same at closing.

**Entrance to Property**

The Vendor shall remove part of the 1-foot reserve to permit an entrance to the property from Robin's Hill Road.