

APPENDIX B

TERMS AND CONDITIONS OF SALE

Interpretation

1. Capitalized terms used and not otherwise defined herein have the meanings given to them in the invitation for offers to purchase, dated October 26, 2023, to which these Terms and Conditions of Sale are attached as an Appendix (the "**Invitation**").

No Representations and Warranties

2. Notwithstanding anything to the contrary in the Invitation, these Terms and Conditions of Sale, any Offer, or any related documents (collectively, the "**Transaction Documents**"):
 - a. the Receiver is selling the Assets in its capacity as court-appointed receiver, on an "as is, where is" and "without recourse" basis;
 - b. the Receiver makes no representations or warranties regarding the Assets, including, without limitation, representations and warranties regarding title, encumbrances, description, fitness for use, condition (environmental or otherwise), defect (patent or latent), collectability, merchantability, quantity, quality, or any other matter or thing whatsoever, either stated or implied;
 - c. each Offeror is responsible for making its own investigations and obtaining its own legal advice, including in respect to title to the Assets and all liens, charges and encumbrances of any kind with respect to the Assets; and
 - d. the Receiver disclaims, and shall not be liable for, any representation or warranty express or implied, of any kind, at law or in equity, which may have been made or alleged to be made in any instrument or document relative hereto, or in any statement or information made or communicated to any Offeror in any manner, including, without limitation, any opinion, information, or advice provided to any Offeror by any of MNP Ltd., the Receiver, the Company, and/or any of their respective directors, officers, employees, agents, advisors, consultants and representatives (collectively "**Representatives**") in connection with the Assets and/or any of the Transaction Documents.

Court Approval

3. The completion of the purchase and sale of any Assets set out in any Offer is conditional upon the Receiver having obtained approval of such purchase and sale by the Supreme Court of British Columbia (the "**Court**"), such approval to be evidenced by the granting of an order the Assets in the name of the Offeror, free and clear of any liens, charges, or encumbrances of any kind ("**Court Approval**"). If the Court refuses to grant Court Approval in respect of an Offer, the Offer shall terminate and the Receiver and the Offeror shall have no further liabilities or obligations to each other with respect to such Offer or the purchase and sale of Assets subject thereto.

Offer Process

4. The Receiver will consider Offers that are submitted in accordance with the Invitation, provided that, the Receiver may, at any time in its sole discretion:
 - a. accept any Offer, including, without limitation,

- i. any Offer that may not provide the highest purchase price for the Assets; and/or
 - ii. any Offer that is submitted prior to the Deadline, prior to such Deadline lapsing;
 - b. reject any Offer;
 - c. negotiate with one or more Offerors at any time, including as to the terms of their Offers, without notice to any other Offeror;
 - d. set a minimum purchase price for the Assets;
 - e. amend or terminate the sales process in any respect;
 - f. withdraw any of the Assets from the sales process, or otherwise change the Assets that are subject to the sales process;
 - g. extend the Deadline;
 - h. contact any Offeror to clarify or seek further information in respect of any Offer, and/or such Offeror's ability to conclude the transaction; and/or
 - i. not accept any Offers and market or sell the Assets through another process.
- 5. With respect to any termination of the sales process under Section 4.e, the sole obligation of the Receiver to any Offeror shall be to return such Offeror's Deposit (defined below) without interest or deduction.
- 6. With respect to any withdrawal of any of the Assets from the sales process or other change to the Assets that are subject to the sales process under Section 4.f, the Receiver's sole obligation to any Offeror shall be to inform such Offeror of such withdrawal or change.
- 7. Each Offeror shall pay its own costs incurred in connection with the preparation, negotiation and execution of any Offer and all matters related to the purchase and sale of any Assets.
- 8. No Offer shall:
 - a. be conditional on obtaining financing or any internal approval, or on the outcome or review of due diligence, and may not have any other contingency or condition precedent to closing in favour of the Offeror; and/or
 - b. provide for, or entitle the Offeror to, any break-up fee, expense reimbursement or similar type of payment.

Payment of Deposit

- 9. Each Offeror shall, upon its submission of an Offer to the Receiver, pay to the Receiver an amount equal to 10% of the purchase price set out in the Offer, plus all applicable taxes (the "**Deposit**"), by wire transfer, in immediately available funds, to "MNP Ltd., in Trust" in accordance with the wire instructions attached as Schedule "A" hereto.
- 10. If an Offer is accepted by the Receiver in accordance with Section 13, the Deposit for such Offer is deemed non-refundable. For greater certainty:

- a. if the Offer is accepted by the Receiver and the purchase and sale of the Assets contemplated in the Offer is completed, the Deposit will be applied, without interest, against the Purchase Price (defined below); and
 - b. If the Offer is accepted by the Receiver and the purchase and sale of the Assets contemplated in the Offer is not completed due to any act, omission, or default by the Offeror, the Deposit shall be retained by the Receiver on account of liquidated damages, and the Receiver shall be entitled to pursue all of its rights and remedies against the Offeror.
11. If an Offer is not accepted by the Receiver, then the Receiver shall return the Deposit for such Offer, without interest thereon, to the Offeror, by certified cheque or bank draft to address for Notices of the Offeror, as soon practicable.

Implications of Submitting an Offer

12. By submitting an Offer to the Receiver, each Offeror acknowledges and agrees that:
- c. it is not entitled to retract, withdraw, vary or amend the Offer prior to acceptance or rejection thereof, without the prior written consent of the Receiver;
 - d. these Terms and Conditions of Sale and the terms and conditions in the Invitation are incorporated by reference into, and deemed to form part of, such Offer;
 - e. it has no right to increase, amend, or otherwise augment its Offer, including by way of presenting a further competing Offer, after the Deadline, without the prior written consent of the Receiver;
 - f. it will not bring any claim, demand or action, whether arising in contract or tort against the Receiver or any of its Representatives for any matter relating, directly or indirectly, to the Offer, the other Transaction Documents, and/or the Assets;
 - g. it waives all claims against the Receiver and its Representatives for any compensation whatsoever in relation to the Offer, the other Transaction Documents, and/or the Assets, including any claims for lost profits in the event that the Receiver rejects its Offer, accepts another Offer (including any Offer that does not comply with these Terms and Conditions of Sale or any other Transaction Documents), or otherwise breaches any Transaction Documents;
 - h. it shall, at its sole cost and expense, comply with, and assume sole responsibility for compliance with, any municipal, provincial and federal laws insofar as the same apply to the purchased Assets and the use thereof (and, without limiting the generality of the foregoing, it shall, at its sole cost and expense, obtain, and assume sole responsibility for obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Offeror of the Company's right, title and interest, in the any purchased Assets);
 - i. it shall indemnify the Receiver and hold the Receiver harmless against and from all losses, costs, damages and expenses which the Receiver may sustain, incur or become liable for by reason of or arising from any operations of the Offeror in relation to the Assets, including without limitation, any clean up, decommissioning, restoration or remediation of the Assets which may be required of the Receiver pursuant to any environmental laws as a result of the operations of the Offeror;
 - j. it is relying on its own investigations concerning the Assets, and it has not relied on advice from MNP Ltd., the Company, the Receiver, or any of their respective Representatives, in connection with the Assets;

- k. it is offering to purchase the Assets on an "as is, where is" and "without recourse" basis, with no representations or warranties as to title, encumbrances, description, fitness for use, condition (environmental or otherwise), defect (patent or latent), collectability, merchantability, quantity, quality, or any other matter or thing whatsoever, either stated or implied;
- l. it is familiar with the condition of the Assets it is offering to purchase, the Receiver has provided such Offeror with a reasonable opportunity to inspect such Assets (insofar as the Receiver could reasonably provide such access), and it is not relying upon any representation or warranty of any of MNP Ltd., the Company, the Receiver, or any of their respective Representatives as to the condition, environmental or otherwise, of such Assets;
- m. it waives all rights and remedies (whether now existing or hereinafter arising and including all equitable, common law, tort, contractual and statutory rights and remedies) against any of MNP Ltd., the Company, the Receiver, or any of their respective Representatives in respect of any representations or statements made, direct or indirect, express or implied, or information or data furnished to Offeror or its Representatives, in connection with the Assets and/or the Transaction Documents (whether made or furnished orally or by electronic, faxed, written or other means); and
- n. it has been given the opportunity to obtain independent legal advice with respect to the terms of the Transaction Documents prior to its execution, delivery, and submission of such Offer, and further acknowledges and agrees that it understands the terms, and its rights and obligations, under the Transaction Documents.

Acceptance of an Offer

- 13. Acceptance of any Offer by the Receiver (as evidenced by the Receiver executing and delivering to the applicable Offeror a countersigned copy of an Offer) ("**Acceptance**") shall constitute a binding agreement by the Offeror to purchase, and the Receiver to sell, the Assets contemplated in the Offer, subject in all respects to the Conditions Precedent (defined below), including Court Approval.
- 14. Following Acceptance of an Offer by the Receiver, the applicable Offeror and the Receiver shall proceed diligently and in good faith and use reasonable commercial efforts to obtain Court Approval.

Payment of Purchase Price and Closing

- 15. The Purchaser shall pay to the Receiver the purchase price for the Assets set out in the Offer, plus all applicable federal and provincial taxes, duties and registration fees (the "**Purchase Price**"), by wire transfer, in immediately available funds, to "MNP Ltd., in Trust" in accordance with the wire instructions attached as Schedule "A" hereto, on or before the date that the Receiver and the Offeror mutually agree in writing for the closing of the purchase and sale of the Assets (the "**Closing Date**").
- 16. The Offeror shall be liable for the payment and remittance of, and shall indemnify and hold harmless the Receiver in respect of any and all federal and provincial taxes, duties and registration fees payable in respect of the purchase, transfer, and conveyance of the Assets to the Offeror, together with any interest, penalties, or any other costs payable in respect thereof, including, without limitation, any and all GST, PST, sales taxes, other taxes, duties, land transfer taxes, or other similar charges, recording charges, and registration fees.

Conditions Precedent

17. Following Acceptance of an Offer, the Receiver's obligation to complete the purchase and sale of the Assets is subject to the satisfaction of the following conditions on, or prior to, the Closing Date (the "**Conditions Precedent**"):
- a. Court Approval has been obtained by the Receiver;
 - b. the Receiver has received the Purchase Price from, or on behalf of, the Offeror;
 - c. the representations and warranties of the Offeror in the Offer are true and accurate as of the Closing Date;
 - d. no action or proceeding at law or in equity is pending or threatened by any person, entity, governmental authority, regulatory body, or agency (any of the foregoing, a "**Person**"), to enjoin, restrict or prohibit the purchase and sale of the Assets;
 - e. the Assets shall not have been removed from the control of the Receiver by any means or process; and
 - f. no Person shall have taken any action to redeem any of the purchased Assets.
18. The Conditions Precedent are in favour of, and for the sole benefit of, the Receiver and may be waived by the Receiver in its sole discretion (other than, for certainty, the requirement for Court Approval, which may not be waived).

Receiver's Capacity

19. The Receiver is acting solely in its capacity as receiver and manager of the Company, and not in its personal or corporate capacity, and its liability under any Offer and/or the other Transaction Documents is solely in such capacity, and it shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise.
20. The Receiver may continue to use the name of the Company in the administration of its duties or in the sale of any Assets.

Notices

21. Any notices, requests, demands or other communications to be given pursuant to this sales process (collectively, "**Notices**") shall be in writing and delivered by email, as follows:
- a. to each Offeror, at the address for such Offeror set forth in the Offer; and
 - b. to the Receiver, to the attention of Seamus Boyle (seamus.boyle@mnp.ca).

A Notice is effective only upon receipt by the receiving party and if the party giving the Notice has complied with the requirements of this Section. Any Notice received on a day that is not a business day is deemed received on the next business day.