

THIS RESTATED AND CONSOLIDATED LONG-TERM AGREEMENT OF PURCHASE AND SALE is made the ____ day of January 2019

BETWEEN:

TOWN OF AMHERST, a municipal corporation in the Province of Nova Scotia,
(hereinafter called the "Town")

-and-

J.E. BEMBRIDGE ENTERPRISES LIMITED, a body corporate with head office in the Town of Amherst in the Province of Nova Scotia,
(hereinafter called the "Purchaser")

WHEREAS the Town is acquiring from Via Rail Canada Inc. ("VIA") the lands in the Town owned by VIA (the "VIA Lands") as described herein which lands include a VIA Railway Station subject to terms and conditions herein for the continued use by VIA of a portion of the land transferred and a portion of the Railway Station;

AND WHEREAS the Town has resolved that it is in the public interest to dispose of that portion of the VIA Lands which includes the VIA Railway Station;

AND WHEREAS the Purchaser has agreed to purchase from the Town that portion of the VIA Lands which includes the VIA Railway Station and to assume full responsibility VIA's terms and conditions for the Railway Station and in accordance with the terms and conditions of this Agreement and to replace the agreement between the parties dated in December of 2016;

THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In the Agreement, the parties agree that in the Agreement:
 - a. "Effective Date" means the date that VIA transfers title of the VIA Lands to the Town, which shall be the 1st day of March ,2018.
 - b. "Parking Areas" means PIDs 25503152 and 25503178 and being those lots designated as Lot 18-1 and 18-3 on the Subdivision Survey.
 - c. "Station Property" mean PID 25502160 and being Lot 18-2 on the Subdivision Survey and on which is located the VIA Railway Station.
 - d. "Subdivision Survey" means the subdivision of the VIA Lands dated January 17, 2017 and recorded in the Cumberland Land Registration Office as Plan No. 112135141 and creating five separate parcels identified as follows:
 - i. PID 25503152 being Lot 18-1 on the Subdivision Plan and being a parcel of land between Station Street and the rail passenger platform and immediately northwesterly of the Station Property;
 - ii. PID 25503182 and being Lot 18-2 on the Subdivision Plan and being the Station Property;
 - iii. PID 25503178 and being Lot 18-3 on the Subdivision Plan and being an area used for public parking bounded northwesterly by the Station property and between Station Street and the sidewalk/platform;

- iv. PID 25503194 and being Lot 18-4 on the Subdivision Plan and being the rail passenger platform used by VIA and its passengers and employees for ingress and egress from VIA trains and the Station property; and
 - v. PID 25503194 and being Lot 18-5 and the public way known as Station Street; (Herein collectively called the VIA Lands”).
 - e. “Town Terms and Conditions” means the Purchaser’s undertakings for the development of the Station Property as agreed by the Town as set out in Schedule A;
 - f. “VIA” means VIA Rail Canada Inc.
 - g. “VIA Lease” means the lease between the Town and dated March 1, 2018, a true copy of which is attached hereto as Schedule “B”.
2. In consideration of the terms, conditions, covenants and provisions herein contained and of the terms, conditions and provisions herein contained and the payments to be made as herein specified, the Town agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Town the Station Property for the sum of sixty-four thousand nine-hundred eighty dollars (\$64,980.00) (the “Purchase Price”) plus HST which Purchase Price shall be paid by equal monthly installments of one thousand eighty three dollars (\$1,083.00) plus HST . The first installment being on the 1st day of March 2019 and on the 1st day of each and every month until the 1st day of February 2024 at which time the purchase price shall be paid in full. The start of the payments shall be deemed adjusted to the date that VIA conveys the VIA Lands to the Town and the monthly payments shall also be adjusted accordingly.
 3. The Purchaser covenants and agrees with the Town to pay to the Town the payments of the Purchase Price and HST on the days as provided herein. The Purchaser acknowledges that as of the date of this agreement, that VIA has not completed the transfer of title of the VIA Lands to the Town and that this agreement is effective concurrently with the date of transfer of title by VIA of the VIA Lands to the Town.
 4. On and from the Effective Date, all expenses, including but not limited to, water rates fuel, electricity, content and liability insurance, utilities, repairs and replacements, including structural replacement for the Property, become the responsibility of the Purchaser.
 5. During the term of this Agreement, the Purchaser shall assume all the obligations of the Town under the VIA Lease. and hold the Town harmless.
 6. The Town confirms its intention to maintain the Parking Areas for the benefit of:
 - a. the public;
 - b. VIA and its passengers and employees; and
 - c. the Purchaser and its employees and patronsand shall endeavor in conjunction with the Purchaser to assure it has access for a loading zone and spaces for accessible parking for its customers.
 7. Upon payment in full of the Purchase Price by the Purchaser and compliance with the Town Terms and Conditions, then the Town shall convey the Station Property to the Purchaser subject to the terms of the VIA Lease.
 8. The parties acknowledge that the Station Property does not have Lands for the provision of temporary facilities for VIA as required by the VIA Lease in the event of major damage to the Station Building. In the event of major damage to the Station Building, the parties agree that if temporary facilities are

required for VIA outside the envelope of the Station Building, these temporary facilities shall be within a moveable building or trailer to be moved by the Purchaser unto the adjacent parking lot on PID 25503178 [Lot 18-3] to be owned by the Town. The Town consents to the placement of temporary facilities by the Purchaser on PID 25503178 during the restoration of the Building. The Purchaser shall provide written prior notice to the Town of the need to use the parking lot for temporary facilities and shall remove those facilities immediately after completion of the restoration of the Station Building.

9. The Purchaser acknowledges that it has been provided a copy of a Phase 1 environmental assessment for the Station Property and the other VIA Lands completed by VIA and accepts the Station Property “as is where is”.
10. The Purchaser acknowledges that the Station Property has been designated as a Heritage Property by the Town and that the Town is required by VIA and Parks Canada to submit an application to the Province of Nova Scotia to register the Property as a Provincial Heritage Property under the N.S. Heritage Property Act as a condition of VIA conveying the Station Property to the Town.
11. The Purchaser acknowledges acceptance and agrees to be bound by the terms of divestiture of the Station Property by VIA set out on the Order in Council attached hereto as Schedule “C”.
12. The Purchaser acknowledges and agrees to be bound by certain terms and conditions for the benefit of VIA and required by VIA in its agreement to convey the Station Property to the Town which terms and conditions are as follows:
 - a. The Purchaser acknowledges that the Station Property is located within an active railway station and that railway operations will result in the emission of noise, dust, vibrations, odours and other emissions (collectively, “Emissions”) which may affect the use and enjoyment of the Station Property. The Purchaser acknowledges that such Emissions, at any time of day or night, are necessarily incidental to VIA’s railway operations. The Purchaser has no objection to such Emissions and shall make no complaint to any governmental or judicial authority with respect to such Emissions. VIA or the Town shall not be responsible to the Purchaser for any damage to property or persons located on the Station Property as a result of VIA’s railway operations. In addition to its other obligations under this Agreement, the Purchaser agrees not to interfere with railway operations and to abide by all safety regulations from time to time promulgated by VIA or any governmental authority;
 - b. Any work in the vicinity of the platform, tracks or capable of falling into the railway corridor shall be approved by VIA and Canadian National Railway in writing and be protected by a flagman at the Town’s costs;
 - c. In addition to the above mentioned indemnity, in the event of a material breach by the Purchaser (or its successors) of its obligations towards VIA, such as a serious threat to train or passenger safety or serious station operational disruption, VIA shall have the right to remedy such serious occurrences subject to first providing the Purchaser (or its successors) with a 24 hour prior written notice to remedy such material default or, if such prior written notice is undesirable, such as for life threatening, contact the Purchaser’s emergency call line for immediate response. If such material default is not remedied within the reasonable period indicated in VIA’s notice, VIA shall have the right to address and remedy such serious safety or operational threat or disruption with the Common Area Lands or threatening train operations, itself (notably through a contractor), at the Purchaser’s (or its successors) costs.
13. The Purchaser shall have possession of the Station Property on the Effective Date and covenants and

agrees:

- a. To maintain the Property and develop the Property in accordance with the Town Terms and Conditions attached hereto as Schedule A;
 - b. to comply with VIA Lease as provided herein; and
 - c. to provide such assurances to VIA concerning the VIA Lease for the Station Property as VIA requires acting reasonably.
14. The Purchaser covenants to remove the existing non-functional boiler and install a new natural gas boiler within 30 days of the Effective Date. The Purchaser shall invoice the Town for the cost of removal and installation of the new natural gas boiler to maximum of \$7,000.00 and shall permit the Town to inspect the work when completed and provide a copy of the invoice from its contractor in proof of the cost of removal and installation. The Purchaser shall be solely responsible for the removal the existing non-functional boiler subject to the maximum participation of the Town as provided herein.
15. Upon payment in full of the purchase price as herein provided and compliance with the Town Terms and Conditions, the Town covenants to deliver to the Purchaser a good and sufficient deed of the lands and premises, the deed to be prepared at the expense of the Purchaser; subject to the terms of conditions of the VIA Lease and the terms of this agreement for the benefit of VIA.
16. The Purchaser shall insure the building on the Station Property against loss or damage by fire and the usual perils insured against to their full insurable value and will pay the premiums and will produce to the Town evidence of continuation of the insurance at least 30 days before the expiry thereof. The Town shall be first loss payee on the policy or joint insured as determined correct by the Purchaser's insurer. The policy shall include public liability coverage for the benefit of the Town, VIA and the Purchaser for a minimum of Two Million Dollars (\$2,000,000.00) per incident.
17. If the Purchaser defaults in making any of the payments herein for 30 days, or be otherwise in default under this agreement, the Town may, by notice or in writing, cancel this agreement and declare it null and void; or may give the Purchaser 30 days' notice in writing demanding payment of the sum in default, or performance of any covenant or term of this agreement to be performed by the Purchaser, and if the default shall continue for the period of the notice, this agreement shall, at the expiration of the notice, be null and void and of no further effect, and the Purchaser shall forthwith give up possession of the lands and premises, and any amount paid by the Purchaser and improvements made shall be retained by the Town as liquidated damages and not as a penalty; and thereafter the Town may sell, and deal with the lands and premises freed and discharged of any claim of the Purchaser. The notice of the above referenced may be given to the Purchaser's President, or by leaving the notice at the premises, or by mailing the same by registered prepaid mail to the Purchaser's postal address to:
- P.O. Box 279
Amherst, NS
B4H 3Z2
18. The Purchaser covenants that it will keep the building and improvements on the lands in good and substantial repair. If the Purchaser commits any act of waste upon the land or does or permits any other thing by which the value thereof may be diminished, the balance of the Purchase Price shall, at the option of the Town, become due and payable immediately.
19. The Purchaser acknowledges and agrees that it is a condition of the Town in entering into this

Agreement with the Purchaser that the Purchaser develop the Station Property in accordance with the Town's Terms and Conditions as attached hereto as Schedule A.

20. Time shall in all respects hereof be of the essence.
21. This agreement is not assignable by the Purchaser.
22. This agreement shall enure to the benefit of and be binding upon the parties hereto and their heirs, successors and assigns.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF:

TOWN OF AMHERST

Per:

Per:

J.E. BEMBRIDGE ENTERPRISES LIMITED

Per: Jeff Bembridge, President

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

**SCHEDULE A
TOWN TERMS AND CONDITIONS**

The Purchaser shall:

- a. Renovate the Station Property within twelve months of the date of the Agreement for use as a restaurant or restaurants;
- b. Open the restaurant or restaurants no later than the 31st day of December 2019.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

SCHEDULE B

VIA Contract No:

LEASE AGREEMENT

THIS LEASE AGREEMENT is

BETWEEN:

TOWN OF AMHERST

98 East Victoria Street
Amherst, Nova Scotia
B4H 1X6

(hereinafter referred to as the "**Landlord**")

OF THE FIRST PART

AND:

VIA RAIL CANADA INC.

3 Place Ville Marie
Montreal, Quebec
H3B 2C9

(hereinafter referred to as the "**Tenant**")

OF THE SECOND PART

WHEREAS concurrently with the signature of this Lease Agreement, the parties shall enter into an Access and Use Agreement whereby the Town of Amherst agrees to provide irrevocable access to VIA Rail Canada Inc. to the parking lots and rail passenger platform of the Station Property;

WHEREAS in consideration of the rents, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1.0 LEASE

1.1 Subject to the terms and conditions herein the Landlord agrees to lease to the Tenant and the Tenant agrees to lease from the Landlord (the "**Premises**"):

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

1. for exclusive use, sufficient, adequate and suitable space at the Amherst Station at 27 Station Street, Amherst, NS and being PID 25503160 (the “**Station Property**”) for the Tenant’s technology and operational requirements as shown on and described in **Schedule “A”**. In any event, the location and square footage of the space provided by the Landlord for the Premises shall be sufficient for the Tenant’s requirements as identified in Schedule A attached, provided that the Landlord may relocate the Premises in the future upon sixty (60) days’ prior written notice and upon paying the costs of relocating all of the Tenant’s equipment into the relocated premises with similar leasehold improvements as existed before the relocation, subject to the Tenant’s prior written approval which approval may not be unreasonably withheld.
 2. for use in common with others, of the common areas of the Station Property, waiting room, public washrooms (including handicap accessible washrooms) along with the Station Property lands i.e. the lands within the boundaries of PID 25503160 and outside the Station Property.
- 1.2 The parties agree that the Premises shall be in the Location marked as VIA Designated Waiting Area and approximately 50 square feet of a room for VIA technology as shown in Schedule “A”.
 - 1.3 The Premises shall be used by the Tenant only for the operation of rail passenger services and related activities in the Station Property similar to the use currently operated by the Tenant in the Station Property.
 - 1.4 For greater certainty, the Landlord acknowledges that the Station Property is located within an active railway station and that railway operations will result in the emission of noise, dust, vibrations, odours and other emissions (collectively, “**Emissions**”) which may affect the use and enjoyment of the Station Property. The Landlord acknowledges that such Emissions, at any time of day or night, are necessarily incidental to the Tenant’s railway operations. The Landlord has no objection to such Emissions and shall make no complaint to any governmental or judicial authority with respect to such Emissions. The Tenant shall not be responsible to the Landlord for any damage to property or persons located on the Station Property as a result of its railway operations. In addition to its other obligations under this Lease, the Landlord agrees not to interfere with railway operations and to abide by all safety regulations from time to time promulgated by the Tenant or any governmental authority.
 - 1.5 The Landlord recognises that the Tenant is a major tenant and shall provide facilities and services accordingly and shall seek the approval in writing of the Tenant for any substantive changes to the operation of the Premises, such approval not to be unreasonably withheld. The Landlord may use the Station Property for any purposes but will ensure that the Station Property remains a railway station and will designate a portion of the Station Property to be

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

used by the Tenant in the manner specified herein and that the Landlord's use of the Station Property shall not cause an adverse effect upon the Tenant's operations.

2.0 TERM

2.1 This Lease shall be for a term of Twenty (20) years commencing on the 1st day of March, 2019 being the date the Tenant shall transfer to the Landlord Station Street, the Station Property, and its other land in Amherst, Nova Scotia and being PIDs 25503152, 25503160, 25503178, and 25503194 (the "**Commencement Date**") and expiring TWENTY (20) years hence (the "**Initial Term**").

2.2 It understood that the Tenant will not have access for itself or its customers to the waiting area and washrooms in the Premises in the Station Property building until the initial renovations are completed on the building by the Landlord or the occupier J.E. Bembridge Enterprises Limited. Such renovations shall commence by May 1st, 2019 and completed no later than the 31st day of December 2019. Such renovations shall take into consideration that the Tenant's technology shall be accommodated.

3.0 RENT

3.1 The Tenant shall pay the Landlord a rent of one-dollar (\$1.00) (the "**Rent**") payable on or before the Commencement Date.

3.2 Rent is inclusive of operating and capital costs, insurance and taxes.

4.0 RENEWAL

4.1 The Tenant may, without restriction and so long as it is not in default, renew the Lease for one (1) additional term of Twenty (20) years each by giving a sixty (60) day notice to the Landlord prior to the end date of the Lease, on the same terms and conditions as are applicable to the initial Lease, except with regard to rent.

5.0 OPERATING COSTS

5.1 For the initial Term and subsequent renewal term the Rent shall be inclusive of all property costs whatsoever namely costs for gas, electricity, water/sewer, maintenance, property taxes, snow removal, and common areas, which operating costs shall be borne solely by the Landlord. CN Flagging costs will be borne by the Tenant.

6.0 REPAIRS, MAINTENANCE AND OPERATION

6.1 The Landlord shall, at its own expense, except for the cost of flagging, take good and reasonable care of the Station Property building and Premises, building services systems,

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

improvements, fixtures and equipment, and any addition or alteration thereto, now or thereafter located thereon and, at its own expense, operate, maintain and keep the same in good order, repair and condition throughout, both exterior and interior, and promptly make all needed repairs and replacements, structural or otherwise, (of a quality and class at least equal to the original) including the roof, foundations and appurtenances, water, sewer and gas connections, pipes and mains, electrical, heating, and ventilating equipment, and all other fixtures, machinery, facilities and equipment belonging to or connected with the Station Property building and Premises, subject to reasonable wear and tear, damage by the Tenant, and obligations of the Tenant to repair or pay cost thereof.

6.2 The Landlord shall pay all charges for the utilities and covenants at its sole cost and expense to:

- (a) Heat the Station Property to such degree of temperature as may be required by the Tenant and as may be required by any governmental regulation, and in any event to a sufficient degree of temperature comfortable for human occupation;
- (b) Provide all utility services to the Station Property including water, sewer, electrical, natural gas/oil and garbage removal;
- (c) Keep the lands appurtenant to the Station Property, in a good, clean and safe condition, and in good repair;
- (d) Remove snow and ice from the land appurtenant to the Station Property building and Premises;
- (e) Provide janitorial services and shall maintain the Premises in a good and reasonable state of cleanliness as outlined in Schedule B; and
- (f) To provide all other services set out in Schedule B.

7.0 **REPAIR OR REPLACEMENT IN THE EVENT OF DAMAGE OR CONSTRUCTION AND ENTRY, CONSTRUCTION AND DEVELOPMENT**

7.1 If the Premises are damaged by fire or any other hazard such that the Premises are rendered unusable or such that convenient access is prevented, then the Landlord shall, within thirty (30) days of the occurrence of the damage, initiate that repair or replacement of the Premises and forthwith allow an abatement of the Rent which recognizes the nature and extent of the damage, or inconvenience, until such time as the Premises have been rebuilt or access restored. If the Landlord does not initiate the restoration of the Premises or access within the said thirty (30) days, or having commenced the restoration, does not proceed to complete it with reasonable dispatch, then the Tenant may give the Landlord fourteen (14) days' notice and thereafter may undertake the restoration itself and the Landlord shall be responsible for all costs associated with such restoration. For greater clarity, initiate the repair or replacement shall mean any of inspection, design, applying for permits, repair, or replacement or other acts to prepare for or complete the work undertaken. Notwithstanding the foregoing in Section 7.1, the Tenant shall be responsible and pay for any damage or destruction caused by

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

it or those for whom it is in law responsible. The Landlord may undertake work provided the Tenant has been provided with, and has approved in writing acting reasonably, the scope of work, the schedule for work, plans showing alternate facilities required to maintain the Tenant's operation and Services.

7.2 The Landlord may undertake work provided:

1. The Tenant has been provided with, and has approved in writing acting reasonably, the scope of work, the schedule for work, plans showing alternate access and/or facilities required to maintain the Tenant's operation and Services.
2. Access for emergency vehicles and maintenance vehicles to the Station and railway platform is maintained at all times, in accordance with all applicable laws and regulations.
3. It does not render the Station Property inaccessible from Station Street or the railway platform inaccessible from the Station Property without alternate provisions acceptable to the Tenant, acting reasonably, being made.
4. During any period when the Station Property or the railway platform is inaccessible or when accessibility is substantially reduced, the Landlord shall provide reasonable adequate and suitable alternative lands and facilities to allow the continued operation of the Tenant's Services including necessary access to rail passenger platforms, Station Property, security, access to the temporary accommodation from the street and parking, parking for passengers within reasonable distance of the Lands, handicap parking within reasonable distance of the Station Property in accordance with applicable laws and regulations, notably the Canadian Transportation Agency Code of Practice - Passenger Terminal Accessibility, vehicle pick up and drop off area in the immediate vicinity of the Lands, rail passenger platforms, walkways, access roadways, and bilingual signage identifying the various areas noted above and providing clear direction to all rail passengers, under similar terms and conditions as this Lease.
5. Such alternate lands and facilities shall be provided prior to the Common Area Lands becoming unusable and shall be in the vicinity of the Lands and have a reasonable access to the rail passenger platform.
6. Any such alternative arrangements shall be at the Landlord's sole expense and shall be subject to the approval of both parties, acting reasonably.
7. If the Landlord does not provide acceptable alternate accommodations prior to the Premises or Lands becoming unusable then the Tenant may immediately undertake the provision of the reasonable alternate accommodations itself and the Landlord shall be responsible for all reasonable costs associated with such work or the Tenant may take whatever action under law is required to maintain its operation and Services.
8. The parties acknowledge that the Station Property does not have Lands for the provision of temporary facilities in the event of major damage to the Station Property Building. The parties agree that if temporary facilities are required outside the Building, these temporary facilities shall be within a moveable building or trailer to be moved by the Landlord unto the adjacent parking lot on PID 25503178 [Lot 18-3].

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

- 7.3 Any work in the vicinity of the platform, tracks or capable of falling into the railway corridor shall be approved by the Tenant and CN in writing and be protected by a flagman at the Tenant's cost.

8.0 ENVIRONMENTAL MATTERS

- 8.1 The Landlord shall be responsible for any environmental contamination caused by the Landlord, those for whom the Landlord is in law responsible and, subject to the Tenant's responsibilities in this Section 8.1, any third parties, and the Tenant shall be responsible for any environmental contamination caused by the Tenant or those for whom the Tenant is in law responsible or by the Tenant's customers.

9.0 NOTIFICATION OF DEFECT

The Tenant shall promptly give the Landlord notice in writing of any accident, defect or damage within the Premises, systems or services for which the Landlord has an obligation under this Lease and which have come to the Tenant's attention. Subject to Section 7.0, if the Landlord fails to correct the defect or damage within 15 days of notification or to initiate any repairs, and if the damage or defect impacts the Tenant's use of the Premises, then the Tenant may undertake any necessary repairs and the Landlord will compensate the Tenant for all costs incurred.

10.0 ACCESS AND USE

- 10.1 The Landlord shall permit the public access to and use of the Premises for the purpose of embarking and disembarking from passenger trains and use of the Premises facilities including in particular without limiting the generality hereof, access to and use of waiting areas and washrooms.
- 10.2 The Landlord will ensure the Premises are open and such access and use shall be allowed during all periods when the Tenant's scheduled arrival time of the train services. In the event that the Tenant makes any change in the scheduled arrival times of the train services, Tenant shall make best efforts to provide sixty (60) days advance written notice to the Landlord and such changes shall be accommodated by the Landlord. It is expected that the Landlord will identify, in consultation with the Tenant, other means or alternative arrangements to accommodate VIA customers if train schedule is outside of the normal operating hours of the restaurant.
- 10.3 The Landlord shall allow the Tenant to install various equipment and signs needed for the operation and advertising of its services including but not limited to: electronic ticket machines; train information display monitors with either local or remote access; poster displays; remote access PA, the location of which shall be subject to the prior written

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

approval of the Landlord which approval may not be unreasonably withheld. The Tenant shall retain the right to maintain its corporate and business signage, free of any charges.

- 10.4 The Landlord shall permit the Tenant, its employees, agents or servants to enter the Premises at any reasonable time as may be required by the Tenant. VIA'S employees shall be provided access to VIA's Technology space all times from the exterior door "C" as shown on Schedule "A".

11.0 QUIET ENJOYMENT

- 11.1 The Landlord hereby covenants with the Tenant for quiet enjoyment, subject to the terms of this Lease Agreement.

12.0 COMPLIANCE WITH LAWS

- 12.1 The Tenant and Landlord shall each comply with and observe all federal, provincial and local government laws, bylaws, rules, regulations, orders, permits and licenses in force with respect to the Premises and any alterations to the Premises with respect to each of their respective obligations under this Lease Agreement.

13.0 ASSIGNMENT

- 13.1 Subject to the Tenant's right of first refusal herein, the Station may be sold and this Lease may be concurrently assigned by the Landlord to the Landlord's successor in title without the Tenant's consent provided that the landlord's successor in title undertakes in writing to the Tenant to be bound by all the terms and conditions of the Lease and agreement between the Landlord and the Tenant. Upon sale of the Station Property and assignment of this Lease by the Landlord, the Landlord shall be released from the covenants of the Lease and the Landlord shall have no further obligation to the Tenant.
- 13.2 This Lease shall not be assigned or transferred by the Tenant without the prior written consent of the Landlord except to a successor corporation providing passenger railway service.
- 13.3 The Tenant shall retain a right of first refusal whereby the Landlord shall offer the Tenant the right to purchase the Station Property before the Landlord offers it to third parties (i.e. the Tenant shall be the first to make an offer to purchase rather than having to match an offer received by the Landlord from a third party) and the right to match an offer made by a third party if the Tenant does not initially made an offer itself, should the Landlord decide to divest of the Station Property, provided however that the Tenant shall waive such right of first refusal if the Landlord decide to divest the Station Property to an entity, including J. E. Bembridge Enterprises Ltd., which undertakes to be bound by all the terms and conditions of

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

the Lease between the Tenant and the Landlord, including this right of first refusal. The Tenant specifically confirms that it has approved the sale of the Station Property to J. E. Bembridge Enterprises Ltd.

14.0 DIRECTION AS TO EMERGENCY AND PAYMENTS

14.1 The Landlord may from time to time direct the Tenant to use a telephone number designated by the Landlord for notifying the Landlord of any emergency situation.

14.2 Until further notice the Tenant shall pay Rent and any other amount payable under this Lease at the office of the Landlord set forth in Section 20.0.

15.0 INSURANCE

15.1 The Landlord undertakes to obtain and maintain, at its own expense, for the duration of this Lease, the following insurance coverage with insurers carrying a financial rating of "A" or better:

- a) Commercial general liability covering the liability of the Landlord and its employees for a minimum of Five Million dollars (\$5,000,000) combined per occurrence limit. The insurance policy must include the Tenant as an additional insured and shall provide for the following coverage:
 - Personal injury
 - Bodily injury
 - Unlicensed vehicles / motorized equipment
 - Property damage, including loss of use of property
 - Contingent Employer's Liability
 - Contractual Liability assumed under this contract
 - Cross Liability and/or Severability of interests
 - Non-owned automobile liability
- b) The Landlord shall maintain the All Risks Insurance upon the building on the Station Property for the full replacement cost of the building.
- c) Automobile liability insurance covering the liability of the Landlord for bodily injury, death and property damage arising out of or attributable to the use or operation of vehicles owned, rented or leased by the Landlord for a minimum limit of Two million dollars (\$2,000,000).

The above policies shall not contain any exclusions or limitations pertaining to railroad/railway and railroad/railway activity.

Prior to the commencement of the Lease, the Landlord shall provide the Tenant with certificates of insurance issued in the name of the Tenant, dated and signed by an authorized

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

representative of the Landlord's insurers evidencing all insurance requirements mentioned above. New insurance certificates evidencing renewal of insurance policy shall be submitted to the Tenant within thirty (30) days after renewal should such renewal occur during the Lease. The above insurance policies shall include an endorsement whereby the Tenant shall be provided with a thirty (30) days advance notice in case of any important modification, termination or resolution of the insurance coverage.

The acquisition and maintenance of insurance by the Landlord as provided for in this section shall in no manner limit or restrict the liabilities or responsibilities of the Landlord and its representatives under this Lease.

The Tenant confirms that it is self-insured and may provide a letter of confirmation upon request from the Landlord on or after the effective lease start date.

16.0 NO WASTE OR NUISANCE

16.1 The Tenant shall not:

- (a) commit or permit any willful or voluntary waste, spoil or destruction on the Premises; or
- (b) do or permit to be done anything that may be a nuisance or annoyance to owners or occupiers of adjoining lands or to the public generally.

17.0 INDEMNITY

The Landlord shall indemnify the Tenant and save it harmless from and against all claims, actions, damages, liabilities and related attorney fees and costs, including those of third parties, in connection with loss of life, personal injury, damage to property or other damages arising from any occurrence on the Station caused by the Landlord's breach of its obligations towards the Tenant or by the negligence of the Landlord or its representatives.

Neither party shall be liable to the other party in connection with this Lease, whether based on contract, tort (including negligence and strict liability), under warranty or otherwise, for any special, indirect, incidental or consequential loss or damage whatsoever, including loss of use of equipment or facilities and loss of profits or revenues.

In addition to the above mentioned indemnity, in the event of a material breach by the Town (or its successors) of its obligations towards VIA, such as a serious threat to train or passenger safety or serious station operational disruption, VIA shall have the right to remedy such serious occurrences subject to first providing the Town (or its successors) with a 24 hour prior written notice to remedy such material default or, if such prior written notice is undesirable, such as for life threatening, contact the Town's emergency call center for

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

immediate response. If such material default is not remedied within the reasonable period indicated in VIA's notice, VIA shall have the right to address and remedy such serious safety or operational threat or disruption with the Common Area Lands or threatening train operations, itself (notably through a contractor), at the Town's (or its successors) costs.

18.0 YIELDING UP

18.1 The Tenant shall surrender the Premises at the expiration or earlier termination, of the Term in good repair (together with chattels as the Tenant may elect to leave, if any) to the Landlord, excepting only reasonable wear and tear, damage from fire, storm, tempest and other casualty, and removal of tenant's chattels and the Tenant shall not be liable to pay compensation or to make any other payment to the Landlord in respect of restoration or repair of the Premises.

19.0 TERMINATION

The Tenant shall have the right to terminate this Lease by giving a notice in writing to the Landlord sixty (60) days prior to the termination, including, without limitation, in the event that passenger rail service is cancelled.

20.0 NOTICE

20.1 It is hereby mutually agreed that any notice required to be given under this agreement will be deemed to be sufficiently given:

- (a) if delivered - at the time of delivery; and
- (b) if mailed from any government post office by prepaid registered mail addressed or facsimile as follows:

if to the Landlord:

TOWN OF AMHERST
98 East Victoria Street
Amherst, NS
B4H 1X6
Attention: Greg Herrett CAO

if to the Tenant:

VIA RAIL CANADA INC.
3 Place Ville-Marie, Suite 500
Montréal, QC
H3B 2C9
Attention: Senior Manager, Real Estate

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

Unless otherwise specified herein, any notice required to be given under this Agreement by any party will be deemed to have been given if mailed by prepaid registered mail, or delivered to the address of the other party set forth on the first page of this Agreement or at such other address as the other party may from time to time direct in writing, and any such notice will be deemed to have been received if mailed, three business days after the time of mailing and, if delivered, upon the date of delivery. If normal mail service is interrupted by strike, slow down, force majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the notice must utilize any other such services which have not been so interrupted or must deliver such notice in order to ensure prompt receipt thereof.

21.0 LAW TO THE CONTRARY

21.1 This Lease shall enure to the benefit of and be binding on the parties and their successors notwithstanding any rule of law or equity to the contrary.

22.0 SEVERANCE

22.1 If any portion of this Lease is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Lease.

23.0 GOVERNING LAW

23.1 This Lease shall be governed by and construed in accordance with the laws of the Province of Nova Scotia and any laws of Canada applicable therein.

24.0 WAIVER

24.1 Waiver by the Landlord of any default by the Tenant shall not be deemed to be a waiver of any subsequent default. A waiver is effective only if it is in writing.

25.0 REFERENCES

25.1 Every reference to each party is deemed to include the heirs, executors, administrators, successors, directors, employees, members, servants, agents, officers, and invitees of such party where the context so permits or requires.

26.0 AMENDMENT

26.1 This Lease may not be modified or amended except by an instrument in writing signed by the Landlord and the Tenant.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

27.0 REMEDIES NOT EXCLUSIVE

27.1 No remedy conferred upon or reserved to the parties is exclusive of any other remedy herein or provided by law, but all such remedies shall be cumulative and may be exercised in any order or concurrently.

28.0 CHARGES ON TITLE

28.1 The Tenant shall abide by and observe all requirements and restrictions on the title to the Premises registered prior to the Commencement Date.

29.0 CAPTIONS

29.1 The captions appearing in this Lease have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Lease.

30.0 INTERPRETATION

30.1 Wherever the singular or masculine or neuter is used in this Lease, the same shall be construed as meaning the plural, the feminine or body corporate where the context so requires.

31.0 ENTIRE LEASE

31.1 The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written between the parties with respect to the subject matter hereof. For greater certainty, the Lease entered into by the parties on December 2, 2016 is cancelled and replaced by this Lease along with the Access and Use Agreement upon their execution.

32.0 TIME OF ESSENCE

32.1 Time is of the essence of this Lease.

33.0 FURTHER ASSURANCES

33.1 The parties shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Lease.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

34.0 COVENANTS AND CONDITIONS

- 34.1 All of the provisions of this Lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants and conditions were used in each separate section.

35.0 CONFIDENTIALITY

- 35.1 This Lease and the information contained herein are confidential, subject to the provisions of any acts, notably the *Access to Information Act*, R.S.C. (1985), c. A-1 and the *Privacy Act*, R.S.C. (1985), c. P-21.

36.0 ACKNOWLEDGMENT

The parties acknowledge that:

- (1) this Lease is written in easily legible type in plain language that is easily understood by the parties and constitutes the expression of will of the parties. The parties have entirely read and understood this Lease. If needed, the parties received adequate explanations on the nature and scope of the clauses in this Lease from a legal advisor of their choice; and
- (2) the parties negotiated this Lease jointly and this Lease shall be construed neither against nor in favour of either party, but rather so that each section is given the meaning derived from this Lease as a whole.

We have understood, consented to and signed two original copies of this Lease on the day and year below written.

VIA RAIL CANADA INC.		TOWN OF AMHERST		TOWN OF AMHERST	
Signature:		Signature:		Signature:	
Name:	Robert St-Jean	Name:	David Kogon	Name:	Greg Herrett
Title:	Chief Asset Management Officer	Title:	Mayor	Title:	CAO
Location:	Montreal	Location:	Amherst	Location:	Amherst
Date:		Date:		Date:	

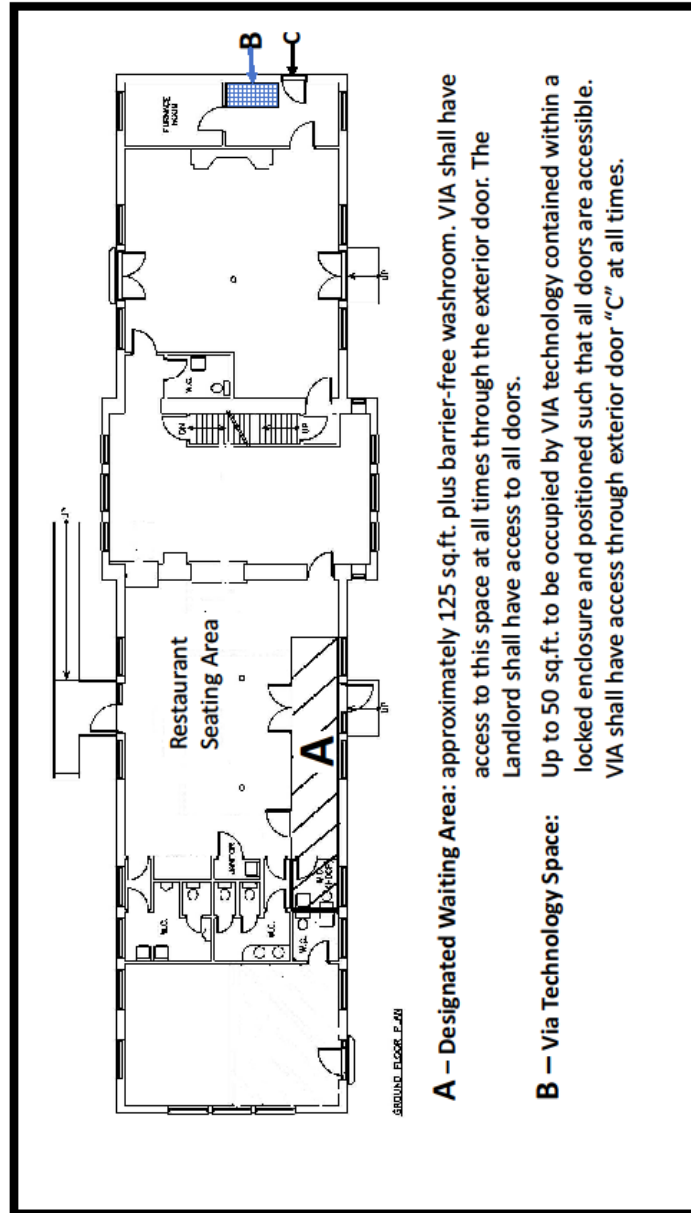
CONFIDENTIAL

VIA Rail Canada Inc.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

SCHEDULE "A"
DESCRIPTION OF PREMISES & PLANS

SCHEDULE A



SCHEDULE "B"

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

LANDLORD'S SERVICES

The Landlord covenants to supply the following specified services:

1. **ELECTRICAL, MECHANICAL & PLUMBING INSTALLATIONS**

Provide all utilities and male, female and handicapped washrooms appropriate to the Premises and its use and the regular and proper maintenance of all electrical (including lamp fixture ballasts), mechanical and plumbing installations in the Premises and necessary for their adequate operation. Provide cleaning and maintenance of all lighting fixtures and installation of such new tubes and bulbs as may be required.

2. **HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS**

Heat the Station Property to such degree of temperature as may be required by the Tenant and as may be required by any governmental regulation, and in any event to a sufficient degree of temperature comfortable for human occupation.

3. **HOT AND COLD WATER**

Provide an adequate hot and cold water supply to the Premises.

4. **REDECORATION & REFURBISHMENT**

Undertake a regular program of repair of all public and common areas of the Premises to maintain them in a suitable condition for passenger use.

5. **REFUSE DISPOSAL**

Provide proper sanitary storage and weekly (or more often) disposal of all refuse as needed to ensure a clean and odour free facility to the extent reasonably possible.

6. **EMERGENCY FACILITIES AND SECURITY**

Provide regular and proper maintenance and testing of all emergency and security installations, including the maintenance of fire alarms, sprinklers, fire extinguishers, clear

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

exit corridors and stairs, closure of fire doors, development of an Emergency Response Plan and the monitoring of intrusion alarms and hold-up alarms.

7. **PROVISION OF PAY PHONE AND SEATING**

To permit a pay phone and seating for Tenant passengers within the main waiting area of the Premises at the expense of VIA or the public utility or telecommunication providing the pay phone.

8. **PEST CONTROL**

Provide a regular service to ensure that no infestations of pests occur or that they are dealt with in a reasonable manner.

9. **JANITORIAL**

The regular and effective cleaning of the exterior of the Premises and its windows, the interior common areas and lobbies and washrooms in joint use with any other occupants together with the maintenance of proper and adequate supplies for those washrooms, plus the provision of janitorial services within the Premises, including but limited to:

- Daily cleaning of all porcelain surfaces, including toilets and sinks;
- Maintain the required amounts of toilet paper, towels, soap and deodorizers;
- Daily cleaning of all dispensers for toilet paper, towels and soap;
- Daily dusting, sweeping, and spot cleaning of all surfaces including windows as well as sweeping, vacuuming, washing and polishing of floors;
- Daily removal of litter and refuse from interior and exterior.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

SCHEDULE C



Historic Sites and
Monuments Board of Canada
and Parks Canada

30 Victoria Street (PC-03-M)
Gatineau QC J8X 0B3

Commission des lieux et
monuments historiques du Canada
et Parcs Canada

30 rue Victoria (PC-03-M)
Gatineau QC J8X 0B3



November 8, 2017

Mr. Allan Fisher
Senior Manager, Real Estate
VIA Rail Canada, Inc.
3, Place Ville-Marie, bureau 500
Montréal (Québec) H3B 2C9

Dear Mr. Fisher :

As you know, VIA Rail Canada filed an application on April 11, 2016, under Section 6 of the *Heritage Railway Stations Protection Act (HRSPA)*, for authorization to sell its Heritage Railway Station in Amherst, Nova Scotia to the Town of Amherst.

I am pleased to forward you a certified copy of Order-in-Council P.C. 2017-1063 authorizing the sale of this station building, pursuant to section 8 of the HRSPA.

Sincerely,

Mandy McCarthy
Director, Heritage Designations and Programs Branch
Executive Secretary, Historic Sites and Monuments Board of Canada
Parks Canada

Historic Sites and Monuments Board of Canada
hsmhc-clmhc.gc.ca (website) | hsmhc-clmhc@pc.gc.ca (email)
1.855.283.8730 (toll free phone number) | 819.420.9260 (fax)

Enclosure

Canada

CONFIDENTIAL

VIA Rail Canada Inc.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------



P.C. 2017-1063
August 14, 2017

His Excellency the Governor General in Council,
on the recommendation of the Minister of the Environment,
pursuant to section 8 of the *Heritage Railway Stations
Protection Act*, authorizes VIA Rail Canada Inc. to sell its railway
station in Amherst, Nova Scotia, to the Town of Amherst, in
accordance with the terms and conditions set out in the attached
schedule.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

Michael Hermis

CLERK OF THE PRIVY COUNCIL—GREFFIER DU CONSEIL PRIVÉ

CONFIDENTIAL

VIA Rail Canada Inc.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------



C.P. 2017-1063
14 août 2017

Sur recommandation de la ministre
de l'Environnement et en vertu de l'article 8 de la *Loi sur
la protection des gares ferroviaires patrimoniales*, Son Excellence
le Gouverneur général en conseil autorise VIA Rail Canada Inc. à
vendre sa gare ferroviaire située à Amherst (Nouvelle-Écosse) à
la ville de Amherst, selon les modalités figurant à l'annexe
ci-jointe.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

CLERK OF THE PRIVY COUNCIL—GREFFIER DU CONSEIL PRIVÉ

CONFIDENTIAL

VIA Rail Canada Inc.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

P.C. 2017-1063

SCHEDULE

It is recommended that VIA Rail Canada Inc. be authorized to sell its railway station in Amherst, Nova Scotia to the Town of Amherst, on terms and conditions as follows:

- 1) VIA Rail Canada Inc. has obtained the agreement of the Town of Amherst that it will respect, protect and not impair or adversely affect the heritage character, as set out in the Heritage Character Statement prepared by the Parks Canada Agency for the Historic Sites and Monuments Board of Canada, dated March 1993, of the station, and Via Rail Canada Inc. has included in its deed or document of transfer all the necessary provisions setting out this agreement;
- 2) At the time of the transfer of ownership, the Town of Amherst designates the station pursuant to the relevant provincial or municipal legal authorities to ensure the continuing protection of the heritage character of the station within provincial jurisdiction;
- 3) At the time of the transfer of ownership, the Town of Amherst has taken the necessary steps to have the station also considered for a designation by the province that is equal or greater than the designation referred to in section 2.

The above terms and conditions recognize the importance of this station, designated, as a heritage railway station for the purposes of the *Heritage Railway Stations Protection Act*, for the reasons set out in the Heritage Character Statement referred to in section 1 of this Schedule.

CONFIDENTIAL**VIA Rail Canada Inc.**

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------

C.P. 2017-1063

ANNEXE

Il est recommandé d'autoriser VIA Rail Canada Inc. à vendre sa gare ferroviaire située à Amherst (Nouvelle-Écosse) à la ville de Amherst, selon les modalités suivantes :

- 1) VIA Rail Canada Inc. a obtenu l'accord de la ville de Amherst selon lequel celle-ci respectera, protégera et évitera de porter atteinte ou de nuire à la valeur patrimoniale de la gare, tel que l'indique l'énoncé de la valeur patrimoniale préparé par l'Agence Parcs Canada pour la Commission des lieux et monuments historiques du Canada, et daté de mars 1993 et VIA Rail Canada Inc. a inclus dans son acte ou document de transfert de propriété toutes les dispositions nécessaires dans le cadre de cet accord;
- 2) au moment du transfert de propriété, la ville de Amherst désigne la gare en vertu des instruments juridiques provinciaux ou municipaux applicables pour assurer la protection continue de la valeur patrimoniale de la gare sous la compétence provinciale;
- 3) au moment du transfert de propriété, la ville de Amherst aura pris les mesures nécessaires pour que la province examine la possibilité d'accorder à la gare une désignation égale ou supérieure à celle indiquée à l'article 2.

Ces modalités tiennent compte de l'importance de cette gare, désignée gare ferroviaire patrimoniale en vertu de la *Loi sur la protection des gares ferroviaires patrimoniales*, pour les raisons exposées dans l'énoncé de valeur patrimoniale préparé par l'Agence Parcs Canada mentionné à l'article 1 de la présente annexe.

Landlord (Amherst)	Tenant (VIA)
-----------------------	--------------