BYLAW NO. 02-2014

A BYLAW TO PROVIDE FOR ENTERING INTO AN AGREEMENT WITH MOSAIC CANADA ULC TO PURCHASE LAND FOR RIGHT OF WAY FOR ROAD CONSTRUCTION

The council of the Rural Municipality of Pense No. 160, in the Province of Saskatchewan enacts as follows:

- 1. The Rural Municipality of Pense No. 160 is hereby authorized to enter into an agreement with Mosaic Canada ULC, the terms of which are attached hereto and marked Exhibit "A".
- 2. The Reeve and Administrator of the Rural Municipality of Pense No. 160 are hereby authorized to sign and execute an agreement, the terms of which are set out in Exhibit "A" herebefore referred to.

Reeve

Administrator

Certified a true copy of
Bylaw No. 02-2014 adopted
by the Council of the

Jural Municipality of
Pense No. 160 on the 10th
day of September, 2014

Carry Ry,

SUICIPALITY OF THE PROPERTY OF

AGREEMENT OF PURCHASE AND SALE

September

THIS AGREEMENT made effective as of July _10_, 2014 (the "Effective Date").

BETWEEN:

MOSAIC CANADA ULC, a corporation amalgamated under the laws of the Province of Nova Scotia, and being registered to carry on business in the Province of Saskatchewan

("Mosaic")

AND:

RURAL MUNICIPALITY OF PENSE NO. 160, a rural municipality incorporated pursuant to *The Municipalities Act*, c. M-36.1 (Saskatchewan)

(the "RM")

WHEREAS:

A. Mosaic is the registered owner of the land described as follows (the "Land"):

Surface Parcel #104386271

Reference Land Description: Blk/Par F Plan No 101142739 Extension 31 As described on Certificate of Title 93MJ06917, description 31;

Surface Parcel #104386372

Reference Land Description: Blk/Par H Plan No 101142728 Extension 41 As described on Certificate of Title 93MJ00191, description 41;

Surface Parcel #102697139

Reference Land Description: NW Sec 23 Twp 17 Rge 24 W2 Extension 0 As described on Certificate of Title 93MJ00191;

Surface Parcel #102688904

Reference Land Description: SE Sec 26 Twp 17 Rge 24 W2 Extension 0 As described on Certificate of Title 93MJ06923;

Surface Parcel #102812532

Reference Land Description: SW Sec 26 Twp 17 Rge 24 W2 Extension 2 As described on Certificate of Title 93MJ06923 which describes this parcel and other parcel(s) with the same land description tied to this one; and B. Mosaic has agreed to sell, and the RM has agreed to purchase, the Target Land (as hereinafter defined) for the purpose of municipal road construction, upon the terms and subject to the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants herein contained, the parties covenant and agree as follows:

ARTICLE 1 PURCHASE AND SALE

- 1.1 Subject to and upon the terms and conditions herein set forth, Mosaic hereby agrees to sell, assign and transfer to the RM, and the RM hereby agrees to purchase and accept from Mosaic, all that portion of the Land that is outlined and cross-hatched in red on the diagram attached hereto as Schedule "A" (the "Target Land"), free and clear of all mortgages, security interests, liens, interest registrations or encumbrances of any nature whatsoever or howsoever arising (save and except for those set out in subsection 10.2(a)) and any rights or privileges capable of becoming any of the foregoing, whether registered or unregistered.
- 1.2 The execution of this Agreement by Mosaic and the RM shall give rise to a binding agreement of purchase and sale of the Target Land between Mosaic and the RM on the terms and conditions set forth herein.

ARTICLE 2 PURCHASE PRICE & CLOSING DATE

- 2.1 The total purchase price (the "Purchase Price") payable by the RM to Mosaic for the Target Land, subject to any adjustments to be made pursuant to the terms hereof, shall be \$1,200.00 per acre of the Target Land as determined by a legal plan of survey.
- 2.2 The Purchase Price, as adjusted in accordance with Section 6.4 and 6.5, shall be paid by the RM to Mosaic on the Closing Date.
- 2.3 Unless otherwise agreed by the parties, the closing date (the "Closing Date") for the purchase and sale of the Target Land shall be the date that is 30 days following the date that the Target Land is capable of being subdivided from the Land (the "Subdivision"), as evidenced by the RM's receipt of a transform approval certificate, acceptable to the RM, issued by Information Services Corporation (the "Approval Certificate"). For greater certainty, the purchase by the RM of the Target Land from Mosaic shall not take place unless and until the Subdivision is effected.
- 2.4 If:
 - (a) in the RM's sole discretion, the Subdivision has not been completed within a reasonable time; or
 - (b) in the RM's opinion, the plan of Subdivision will not be approved, to the RM's satisfaction, by the applicable approving authorities,

the RM may elect to terminate this Agreement. If the RM does so elect, the RM shall have no further obligations to Mosaic thereafter and any monies paid by the RM to Mosaic pursuant to this Agreement shall be forthwith forfeited to Mosaic.

ARTICLE 3 SURVEY ACTIVITIES

- 3.1 Within 90 days of the execution of this Agreement, the RM shall engage the services of a surveyor to complete the plan of subdivision.
- 3.2 Mosaic hereby grants to the RM, its representatives and its surveyor access to the Land in order to prepare the necessary plans for the Subdivision. The RM, its representatives and the surveyor shall comply with all of Mosaic's health and safety policies while on the Land.
- 3.3 Prior to entering the Land for any survey activities, the RM shall provide Mosaic with 3 days' prior written notice of its intention to enter the Land. Following such notice, the RM shall contact Harley Gallant at (306) 345-8655 to arrange for access to the Land and to obtain copies of Mosaic's health and safety policies.
- 3.4 The cost of the survey of the Land for the Subdivision and the cost of the construction of the municipal road shall be borne by the RM.

ARTICLE 4 GOODS AND SERVICES TAX

- 4.1 The Purchase Price is exclusive of any provincial sales, transfer, or similar taxes and assessments including, without limitation, goods and services tax payable pursuant to the Excise Tax Act (Canada) ("GST"). The RM acknowledges and agrees that it shall be liable for all applicable federal and provincial sales taxes, GST, excise taxes and all other taxes (other than any income taxes of Mosaic), duties and other like charges properly payable upon and in connection with the conveyance of the Target Land from Mosaic to the RM.
- 4.2 The RM hereby represents and warrants to Mosaic that:
 - (a) it is a registrant for the purposes of GST under business number 12903 2041 RT0001; and
 - (b) it will self-assess and remit the GST arising as a result of the transaction provided for herein.

ARTICLE 5 CONDITIONS PRECEDENT

- 5.1 The obligation of the RM to complete the transaction provided for herein will be subject to the fulfilment of the following conditions on or prior to the Closing Date:
 - (a) Mosaic shall have complied with all covenants and agreements herein agreed to be performed or caused to be performed by Mosaic on or prior to the Closing Date;
 - (b) The RM shall be satisfied, in its sole and absolute discretion, with the approved plan of subdivision and Approval Certificate; and
 - (c) Mosaic shall have delivered to the RM or to the RM's solicitors such other documents, transform authorizations and conveyances, in registrable form as required under the provisions of *The Land Titles Act, 2000* (Saskatchewan) (the "LTA"), necessary to transfer legal title to the Target Land from Mosaic to the name of "Her Majesty the Queen in Right of Saskatchewan in accordance with the terms of this Agreement.
- 5.2 The conditions precedent set out in Section 5.1 are for the exclusive benefit of the RM, and any such condition may be waived in whole or in part by the RM at or prior to the applicable date, as set out above, by delivering to Mosaic a written waiver to that effect signed by the RM. If any one of the conditions precedent set out in Section 5.1 has not been fulfilled or waived by the applicable date, then the RM may elect to terminate this Agreement. If the RM does so elect, any monies paid by the RM to Mosaic pursuant to this Agreement shall be forthwith refunded by Mosaic to the RM.

ARTICLE 6 CLOSING

- Mosaic shall deliver or cause to be delivered to the RM, on or before the Closing Date, all documents necessary to convey the Target Land to the RM as of the Closing Date, including:
 - (a) a registrable transform authorization respecting the Target Land, together with all ancillary documents sufficient to cause title to the Target Land to vest in the name of "Her Majesty the Queen in Right of Saskatchewan;
 - (b) a statement of adjustments pursuant to Sections 6.4 and 6.5, which shall have annexed to it details of the calculations used to arrive at all debits and credits on the statement of adjustments; and
 - (c) such other documents and further assurances as may be reasonably required by Mosaic in order to give full force and effect to the purposes and intents of this Agreement.

- On or before the Closing Date, the RM will pay to Mosaic's solicitors the Purchase Price, as adjusted pursuant to the terms hereof, and deliver such other documents as are customarily provided by purchasers in similar commercial transactions.
- 6.3 Forthwith following payment of the Purchase Price in accordance with the terms set out herein, the RM will cause the registration of the transform authorization respecting the Target Land at the Saskatchewan Land Registry.
- Adjustments for the Target Land shall be made as of the Closing Date. Mosaic shall be responsible for all expenses and shall be entitled to all revenues accrued with respect to the Target Land for the period ending on the day before the Closing Date and the RM shall be responsible for all expenses and shall be entitled to all revenues accruing with respect to the Target Land for the period from and including the Closing Date.
- 6.5 The adjustments for the Target Land shall include, as applicable, rentals received, real estate taxes, any existing local improvement charges and lot levies, accounts payable, utilities and any other expenses and other items customarily adjusted between a vendor and a purchaser of similar real estate in the Province of Saskatchewan.

ARTICLE 7 SUBDIVISION

7.1 From and after the Effective Date, the RM shall have the right to make whatever applications to federal, provincial or municipal governments, boards or departments that the RM may deem appropriate, including those necessary to effect the Subdivision. Mosaic shall fully cooperate with any such applications made by the RM pursuant to this Article.

ARTICLE 8 MOSAIC'S REPRESENTATIONS AND WARRANTIES

- 8.1 Mosaic hereby represents and warrants to the RM that, as of the Effective Date and as of the Closing Date:
 - (a) it is the sole legal and beneficial owner of the Land, including the Target Land;
 - (b) other than as set out in subsection 10.2(a), there are no liabilities or encumbrances (contingent or otherwise) of Mosaic of any kind whatsoever in respect of any or all of the Land or in respect of which the RM may or shall become liable on or after the consummation of the transaction contemplated by this Agreement;
 - (c) there is no suit, action, litigation, investigation, claim, complaint, grievance or proceeding, including appeals and applications for review, in progress or, to the knowledge of Mosaic, pending or threatened against or relating to Mosaic and/or the Land before any court, governmental authority, commission, board, bureau, agency or arbitration panel which, if determined adversely to Mosaic and/or the Land, would:

- (i) result in an adverse effect on the Target Land or any part thereof;
- (ii) enjoin, restrict or prohibit the transfer of all or any part of the Target Land to the RM as contemplated by this Agreement; or
- (iii) prevent Mosaic from fulfilling all of its obligations set out in this Agreement or arising from this Agreement;
- (d) the Target Land does not, as a result of Mosaic's ownership, use or occupation of the Land, contain any contaminant, pollutant, dangerous, noxious or toxic substance, hazardous waste, explosive or radioactive material, polychlorinated biphenyls or any other substance or material ("Hazardous Substances") that may be detrimental to the environment, including the air, soil, subsoil or surface or ground water at the Target Land except in compliance with all applicable statutes, laws, bylaws and regulations relating to Hazardous Substances and the protection of the environment;
- (e) there are no agreements, options, contracts or commitments to sell, transfer or otherwise dispose of the Land or any part thereof which would restrict, affect or in any way limit the ability of Mosaic to transfer the Target Land to the RM; and
- (f) it not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

ARTICLE 9 RM'S REPRESENTATIONS AND WARRANTIES

- 9.1 The RM represents and warrants that, as of the Effective Date and as of the Closing Date:
 - (a) it has full power, authority and capacity to enter into this Agreement and carry out the transaction contemplated herein;
 - (b) it has complied with all applicable laws of the Province of Saskatchewan, including, without limitation, *The Municipalities Act* and all municipal bylaws;
 - (c) the entering into of this Agreement will not constitute a default, breach or violation of, or conflict with any agreement (written or oral) to which the RM is a party to or by which the RM is bound;
 - (d) there is no action or proceeding outstanding or, to the RM's knowledge, threatened against the RM before any court, arbiter, arbitration panel, administrative tribunal or agency which, if decided adversely to the RM, might materially affect the RM's ability to perform the RM's obligations hereunder; and
 - (e) the RM is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

ARTICLE 10 COVENANTS AND AGREEMENTS

- 10.1 The RM covenants, promises and agrees with Mosaic as follows:
 - (a) that it will pay the Purchase Price at the times herein provided for payment thereof; and
 - (b) that it will pay all municipal taxes levied against the Target Land from and after the Closing Date, as the same become due.
- 10.2 Mosaic covenants and agrees with the RM as follows:
 - (a) that upon payment in full of the Purchase Price and the performance of all other covenants by the RM hereunder, Mosaic shall transfer title to the Target Land to the RM in accordance with the provisions of the LTA free and clear of all liens, mortgages, encumbrances and interest registrations of any kind whatsoever, save and except:
 - (i) those implied by virtue of the LTA;
 - (ii) the permitted encumbrances set out on Schedule "B" hereto;
 - (iii) limitations, exceptions, provisos, conditions and reservations in the original grant thereof, from the Crown; and
 - (iv) any encumbrance arising by or through the RM in respect of this Agreement.
 - (b) that Mosaic will not enter into any agreement or mortgage or charge relating to the Land without the express written consent of the RM; and
 - (c) that all municipal taxes, sewer and water charges and utility charges with respect to the Land will, on the Closing Date, either be paid in full by Mosaic or adjusted on Mosaic's statement of adjustments calculated in accordance with Sections 6.4 and 6.5.
- 10.3 If Mosaic defaults in payment of municipal taxes as herein provided, the RM may pay the said taxes and the Purchase Price shall be forthwith reduced by the amount so paid by the RM on account of municipal taxes.

ARTICLE 11 MOSAIC'S USE OF TARGET LAND

11.1 From and after the date upon which the RM has completed its construction of a municipal road on the Target Land, as determined by Mosaic in its sole and absolute discretion, Mosaic may, at no cost to Mosaic and only on the terms contained herein, continue to use that portion of the Target Land (including, without limitation, using such Target Land as pasture) that the RM does not require for the municipal road.

ARTICLE 12 CONTINUOUS DISCLOSURE

12.1 Mosaic and the RM each agree not to take any action or fail to take any action that would render a representation or warranty untrue or inaccurate. If, prior to the Closing Date, Mosaic or the RM becomes aware of any fact or condition which would render any representation or warranty of Mosaic or the RM to be untrue or inaccurate, the party obtaining such information will promptly advise the other in writing of the particulars of such potential untruth or inaccuracy and Mosaic and the RM, as the case may be, will employ his, her or its commercially reasonable efforts to rectify any apparent untruth or inaccuracy in any such representation or warranty.

ARTICLE 13 CONFIDENTIALITY

13.1 The RM shall maintain in confidence all non-public information concerning this Agreement or that Mosaic has disclosed or delivered or shall hereafter disclose or deliver to the RM and the RM shall not, without Mosaic's prior written consent, deliver or disclose the same, or any party thereof, to any other person or entity except to their legal counsel, or as may be required by applicable law.

ARTICLE 14 ASSIGNMENT AND ENUREMENT

- 14.1 The RM shall not assign this Agreement.
- 14.2 Mosaic may, without the consent of the RM, delegate, assign or convey to any other person, firm, company or entity, all or any portion of the powers, rights and interests obtained by or conferred upon Mosaic hereunder, and may enter into all agreements, contracts and writings and do all necessary acts and things to give effect to the provisions of this clause.
- 14.3 This Agreement shall enure to the benefit of and be binding upon the parties hereto, and each of their respective heirs, executors, administrators, successors and permitted assigns, as the case may be.

ARTICLE 15

INDEMNIFICATION

- 15.1 The RM shall indemnify and hold Mosaic harmless from and against all actions, proceedings, claims, demands, losses, costs and expenses whatsoever, including legal and other professional fees and disbursements, which arise out of or are attributable to the breach or inaccuracy of any representation or warranty made by the RM herein or the breach by the RM of any covenant in this Agreement.
- 15.2 The above indemnification shall be binding upon the successors and assigns of the RM and enure to the benefit of Mosaic, its directors, officers, employees and agents and their successors and assigns and shall survive the completion of the purchase and sale of the Target Land and the expiration or termination of this Agreement.
- 15.3 Mosaic shall indemnify and hold the RM harmless from and against all actions, proceedings, claims, demands, losses, costs and expenses whatsoever, including legal and other professional fees and disbursements, which arise directly out of the breach of any representation or warranty made by Mosaic herein or the breach by Mosaic of any covenant in this Agreement.

ARTICLE 16 GENERAL PROVISIONS

- 16.1 The covenants, agreements, representations, warranties and indemnities of the parties contained herein shall survive the closing of the transaction contemplated herein and shall not merge by reason of the closing or in any conveyance, transfer, assignment, novation agreement or other document or instrument issued pursuant to or in connection with this Agreement and shall, subject to the other provisions of this Agreement, continue in full force and effect thereafter.
- Any tender of documents, notices or money hereunder may be made upon Mosaic or the RM or upon the solicitor acting for the party on whom such tender is desired. Unless otherwise agreed, money may be tendered by wire transfer, certified cheque, bank draft, or solicitor's trust cheque.
- 16.3 If any date established by or in accordance with this Agreement or any date of termination of a period of time set forth or referred to in this Agreement will fall upon a Saturday, Sunday or statutory holiday in the Province of Saskatchewan, then such date will be deemed to be the next following day which is not a Saturday, Sunday or statutory holiday.
- 16.4 The RM shall be responsible for the registration fees payable in connection with registration of any transform authorization, as between Mosaic and the RM, for the Target Land. Mosaic and the RM shall pay its own legal and accounting fees relating to this Agreement and the transactions contemplated herein.
- 16.5 The burden and the benefit of this Agreement shall run with the Land until the Subdivision and shall run with the Target Land following the Subdivision.

- 16.6 Each party shall from time to time and at all times do all such further acts and execute all such further documents and provide all such further assurances as may be reasonably required by the other to fully perform and carry out the terms of this Agreement.
- 16.7 This Agreement will be governed by and construed in accordance with the laws of the Province of Saskatchewan and the federal laws of Canada applicable therein.
- 16.8 This Agreement shall constitute the entire agreement between Mosaic and the RM with respect to the subject matter herein and supersedes all prior agreements, understandings, negotiations and discussions with respect thereto, and there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Land, including the Target Land, or supported other than as expressed herein in writing.
- 16.9 Any notice required or permitted to be given pursuant to this Agreement shall be sufficiently given if delivered personally by one of the parties hereto, delivered personally by recognized national courier service or otherwise or mailed by prepaid registered post:

in the case of Mosaic, addressed to it at:

Mosaic Canada ULC Plantsite Kalium Road P.O. Box 7500 Regina, Saskatchewan S4P 4L8 Attention: General Manager

in the case of the RM, addressed to the RM at:

Rural Municipality of Pense No. 160 Box 190 Pense, SK S0G 3W0

- 16.10 The date of the receipt of any such notice given by mailing shall be deemed to be the fourth business day after such mailing.
- 16.11 Either party may at any time give notice in writing to the other of any change of address of the party giving such notice, and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notices. The word "notice" in this section shall be deemed to include a request, statement and any other writing provided for in this Agreement or permitted to be given Mosaic or the RM to the other.
- 16.12 Any party hereto which is entitled to the benefits of this Agreement may, and has the right to, waive any term or condition hereof at any time, provided, however, that such waiver shall be evidenced by written instrument duly executed on behalf of such party.
- 16.13 No modification or amendment to this Agreement may be made unless agreed to by the parties hereto in writing.

- 16.14 Time in all respects shall be of the essence in this Agreement, provided the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by Mosaic and the RM or their respective solicitors who may be specifically authorized in that regard.
- 16.15 This Agreement may be executed and delivered in several counterparts and may be delivered by facsimile or other means of electronic communication producing a printed copy, each of which, when so executed and delivered, shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument and, notwithstanding the date of execution, shall be deemed to bear the Effective Date.

[Remainder of this page intentionally blank; signature page to follow.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

MOSAIC CANADA ULC

Per:

Name:

Title:

Recommended for acceptance by:

Cathy Ripplinger

RURAL MUNICIPALITY OF PENSE

NO. 160

Approved by Council this ____ day of July,

2014.

Per: Name: Tom Lemon

Title: Reeve

Per:

Name: Cathy Ripplinger

Title: Administrator

SCHEDULE "A" THE TARGET LAND

[see attached diagram]

SCHEDULE "B"

THE PERMITTED ENCUMBRANCES

- 1. Reservations, exceptions, provisos, limitations and conditions provided for or implied by *The Land Titles Act, 2000* (Saskatchewan).
- 2. Zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, municipal or other governmental bodies or regulatory authorities.
- 3. Applicable municipal and other governmental restrictions, including municipal by-laws and regulations, affecting the use of the Property or the nature of any structures which may be erected on the Property, provided such restrictions have been complied with and do not reduce the value of the Property.
- 4. The interest registrations specifically identified below in this Schedule:

Interest Type	Int. Register Number	Date of Registration
CNV Easement	100048148	February 1, 1955
CNV Pipeline Easement	100048250	May 27, 1963
CNV Caveat	100048261	April 22, 1966
CNV Easement	100048306	January 7, 1993
CNV Easement	100048238	April 21, 1955
CNV Easement	100048249	August 2, 1956
CNV Easement	100048272	November 25, 1969
CNV Easement	100048283	June 13, 1989
CNV Easement	100048294	May 28, 1991
Miscellaneous Interest	116004934	November 30, 2009
TransGas Easement – SaskEnergy Act (s.19)	119187490	May 29, 2013
CNV Caveat	100005769	February 27, 1984
CNV Caveat	100005781	April 22, 1966

<u>Interest Type</u>	Int. Register Number	Date of Registration
CNV Easement	100005792	June 13, 1989
CNV Easement	100005804	August 14, 1995

Entire Agreement

21. This agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no general or specific warranties, representations or other agreements by or among the parties in connection with the entering into of this agreement or the subject matter hereof except as specifically set forth herein.

Headings

22. The headings in the agreement have been inserted for reference and as a matter of convenience only and in no way define, limit or enlarge the scope or meaning of this agreement or any provision hereof.

Enurement

23. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

Governing Law and Submission to Jurisdiction

24. This agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan

Effective Date

25. Notwithstanding the date of execution hereof, the effective date of this Agreement shall be January 1, 2015.

IN WITNESS WHEREOF the City of Prince Albert has hereunto affixed its corporate seal, duly witnessed by the hands of its proper officers in that behalf, duty authorized this \mathcal{L} day of **December**, AD, 2014.

CITY OF PRINCE ALBERT

MAYOR

CITY CLERK

IN WITNESS WHEREOF the RM of Pense No. 160 has hereunto affixed its corporate seal, duly witnessed by the hands of its proper officers in that behalf, duty authorized this day of , AD, 2014.

Schedule "A"

Population: 471

Communities covered:

RM OF PENSE NO. 160

Population as at December 2011 census