

## **AGREEMENT OF SALE AND ASSIGNMENT OF FLORIDA VOLUNTARY CLEANUP TAX CREDITS**

This AGREEMENT OF SALE AND ASSIGNMENT OF FLORIDA VOLUNTARY CLEANUP TAX CREDITS (the "Agreement"), effective as of \_\_\_\_\_, 2020 (the "Effective Date"), is entered into by and among THE CITY OF POMPANO BEACH, a Florida municipal corporation ("Seller"), and RELX U.S. HOLDINGS INC., a Delaware corporation ("Purchaser").

WHEREAS the Seller received Florida Voluntary Cleanup Tax Credit Certificate Number 1020 in the amount of Four Hundred Thirty-Five Thousand Nine Hundred Eighty-Seven Dollars and Three Cents (\$435,987.03) (the "Certificate") related to and incurred in connection with a Florida state-approved cleanup with Florida Department of Environmental Protection Site Identification #BF061702001. A copy of the Certificate is hereto attached as Exhibit "A".

NOW, THEREFORE, the participants hereto agree as follows:

1. Effective as of the Closing Date (defined hereinafter), Seller hereby agrees to transfer, sell, assign and deliver to Purchaser all of its right, title and interest in and to Florida Voluntary Cleanup Tax Credits in the amount of Four Hundred Thirty-Five Thousand Nine Hundred Eighty-Seven Dollars and Three Cents (\$435,987.03) (the "Tax Credits") granting full power to the Purchaser to use the Tax Credits and to effect, in the name of the Purchaser individually, all legal rights as Seller may have held with respect to the Tax Credits sold and assigned to the Purchaser.

2. In consideration of Seller's transfer, sale, assignment and delivery of the Tax Credits hereunder, the Purchaser hereby agrees to pay to Seller \$0.92 per \$1.00 of the Tax Credits (the "Purchase Price"), which is equal to Four Hundred One Thousand One Hundred Eight Dollars and Seven Cents (\$401,108.07), on the Closing Date.

3. The closing in connection with the transfer of the Tax Credits from Seller to Purchaser will be deemed to have occurred and been consummated on the later of: (i) the date that Seller receives the Purchase Price from Purchaser and (ii) the date that Purchaser receives from Seller or the Florida Department of Environmental Protection ("FDEP") the original electronic version of the Reissued Tax Credit Certificate (as defined below), as described in this paragraph (the "Closing Date"). Purchaser agrees to pay to Seller the Purchase Price within five (5) business days of Purchaser receiving from Seller or FDEP: (1) the Reissued Tax Credit Certificate or (2) notice of FDEP's intent (which may take the form of an electronic communication from FDEP staff) to issue the Reissued Tax Credit Certificate to Purchaser based upon Seller's request to FDEP to reissue the Tax Credits to Purchaser. For purposes of this paragraph and this Agreement, the original Reissued Tax Credit Certificate is deemed to be that certain electronic color version of the Reissued Tax Credit Certificate received by Seller from FDEP that identify Purchaser as the transferee or holder of the reissued Tax Credits (the "Reissued Tax Credit Certificate"). On or before the Closing Date, Purchaser and/or Seller shall execute such other documentation as may be reasonably required by the State of Florida to transfer the Tax Credits and for Purchaser to

utilize the Tax Credits. Until the Closing Date, Purchaser will have no right to use the Tax Credits, including the reissued Tax Credits, and Seller will remain the beneficial owner thereof. Purchaser shall pay the Purchase Price to Seller via wire transfer to the following account (or make payment by other method agreed by the parties):

Bank:	JP Morgan Chase
Bank Address:	1450 Brickell Ave, Miami, FL 33131
ABA Routing Number:	267084131
Name of Account:	City of Pompano Beach
Account Address:	100 West Atlantic Blvd, Room 135 Pompano Beach, FL 33060
Account Number:	589893135
Account Type:	Checking
Reference:	Florida Voluntary Cleanup Tax Credit Purchase

4. Representations, Warranties and Covenants.

4.1 Mutual Representations and Warranties. Each party hereto represents and warrants to the other party hereto as follows:

- (a) Organization; Power. If such party is a legal entity, such party is duly organized and validly existing and in good standing under the laws of its state of organization. Such party has all requisite power and authority to execute and deliver this Agreement and all other documents necessary to effectuate the transfer of the Tax Credits, and to carry out and perform the provisions of this Agreement and such other documents. Such party is duly qualified and is authorized to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a material adverse effect on such party's ability to perform its obligations under this Agreement.
- (b) Authorization. All action on the part of such party and such party's shareholders and directors necessary for the authorization, execution, and delivery of this Agreement has been taken.
- (c) Binding Effect. This Agreement, when executed and delivered by such party, will constitute a valid and binding obligation of such party, enforceable in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally and (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

4.2 Seller Representations, Warranties and Covenants. Seller represents, warrants and covenants to Purchaser as follows:

- (a) Seller is the owner of the Tax Credits, and Seller has not allocated, transferred, assigned or otherwise disposed of, or agreed to allocate, transfer, assign, or otherwise dispose of, the Tax Credits to any person other than Purchaser. The Tax Credits are free and clear of all security interests, charges, claims, encumbrances, or other liens. Seller further represents that: (i) the Tax Credits were originally issued to the Seller; (ii) it has not taken any action in connection with the cleanup site which prevents Purchaser or its successors and assigns from claiming the full amount of the Tax Credits or which causes the Tax Credits and the assignment and transfer hereunder to be cancelled, revoked, terminated, reduced, disallowed or recaptured; and (iii) it has complied with, and will comply with the Florida statutes, rules and regulations related to the Voluntary Cleanup Tax Credit and any directive, procedure, release, ruling or other written guidance explaining or interpreting the Voluntary Cleanup Tax Credit.
- (b) The execution, delivery and performance of this Agreement by Seller will not, directly or indirectly (with or without notice or lapse of time), constitute a breach or violation of or a default under (i) any statute, law, rule, regulation, judgment or order, (ii) Seller's charter, limited liability company or member agreement or any other organizational document of it, or (iii) any agreement to which Seller is a party or bound.
- (c) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Seller, its property, its subsidiaries or the project that generated the Tax Credit is pending or, to the best knowledge of the Seller, threatened that could be expected to have an adverse effect on Seller's performance of this Agreement or prevent the consummation of the transactions contemplated hereby.
- (d) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the transactions contemplated by this Agreement, except such as have been obtained or will be obtained prior to the Closing Date in connection with the transfer of the Tax Credits to Purchaser.

4.3 No Warranty as to Use. Seller specifically disclaims any implied warranty of use of the Tax Credits including but not limited to the reduction of the Purchaser's Florida corporate tax liability.

4.4 Purchaser Representations, Warranties and Covenants. Purchaser represents warrants and covenants to Seller as follows:

- (a) Tax Advisors. Purchaser has reviewed with its own tax advisors the Federal and state tax consequences of the transfer of the Tax Credits, the application of such Tax Credits as a credit against Purchaser's tax liability and the eligibility of Purchaser to utilize the Tax Credits. In determining whether or not to execute and deliver this Agreement, Purchaser relies solely on the advice of such advisors and, except for the representations, warranties and covenants of the Seller in this Agreement, not on any statements or representations of Seller or any of its affiliates, subsidiaries, partners, members, shareholders, managers, principals, officers, directors, employees, representatives, agents or other persons in similar positions (collectively, the "Released Parties").

5. Indemnification. If a court or state agency of competent jurisdiction makes a determination that reduces the Tax Credits and requires Purchaser to repay the amount of the reduction, except for a determination based on Purchaser's Florida tax liability without regards to the Tax Credits, or resulting from any act or omission of Purchaser, then Seller shall, within 10 business days after the court or state agency makes the determination, make a payment to Purchaser in an amount equal to (i) the amount of the reduction and (ii) any interest and penalties imposed that are attributable to the reduction. Seller, however, shall have the right, before making this payment, to appeal the determination made by the court or state agency as the case may be at Seller's expense. If Seller is unsuccessful in the appeal, Seller shall make the payment to Purchaser within 10 business days after the date when the final determination is made on the appeal.

Purchaser shall indemnify, defend and hold harmless Seller and its affiliates and their respective officials, directors, officers, employees, and representatives (including without limitation any successor to any of the foregoing) from and against any and all claims, demands, actions, suits and proceedings, and any settlements or compromises relating thereto and reasonable attorneys' fees and expenses in connection therewith, and any losses, liabilities, costs and expenses relating to, resulting from or arising out of (i) any breach of Purchaser of any representation, warranty or covenant contained in this Agreement, or (ii) the failure of Purchaser to comply with any applicable law that may be applicable in connection with the transfer of the Tax Credits to Purchaser.

To the extent permitted by law, and without waiving any of its sovereign immunity rights pursuant to Florida Statute 768.28, Seller shall indemnify, defend and hold harmless Purchaser and its affiliates and their respective directors, officers, employees, and representatives (including without limitation any successor to any of the foregoing) from and against any and all claims, demands, actions, suits and proceedings, and any settlements or compromises relating thereto and reasonable attorneys' fees and expenses in connection therewith, and any losses, liabilities, costs and expenses relating to, resulting from or arising out of (i) any breach of its representations, warranties or covenants contained in this Agreement, or (ii) the failure of Seller to comply with any applicable law that may be applicable in connection with the transfer of the Tax Credits to Purchaser. However said indemnification shall not be construed to authorize any party, other than Purchaser, to maintain a suit for injuries, damages or for any claim against the Seller.

6. Confidentiality and Non-Disclosure. Upon receipt of any confidential information by Seller, said information becomes "a public record" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. If Purchaser wishes to claim an exemption to disclosure, they shall provide the specific statutory authority for the claimed exemption, identifying the data or other materials to be protected and stating the reasons why such exclusion from public disclosure is necessary. However, if a request is made of the Seller, pursuant to chapter 119, Florida Statute, for public disclosure of proprietary property of Purchaser, the Seller shall advise Purchaser of such request and it shall be Purchaser's sole burden and responsibility to immediately seek and obtain such injunctive or other relief from the courts and to immediately serve notice of the same upon the party requesting the public records. The Seller shall, at all times, comply with the public records disclosure requirement of Chapter 119 Florida Statutes and shall not be subject to any liability for its compliance with Florida Statute Chapter 119.

7. Termination. This Agreement may be terminated by either party (the "Non-Defaulting Party") if there is a material breach of any representation, warranty, covenant or obligation of the other party (the "Defaulting Party") contained in this Agreement and such breach has not been cured within ten (10) days after the delivery of written notice thereof by the Non-Defaulting Party to the Defaulting Party.

If this Agreement is terminated, all further obligations of the parties under this Agreement will terminate; provided, however, that no party will be relieved of any obligation or other liability arising from any breach by such party of any provision of this Agreement. In the event of a termination of this Agreement, Purchaser shall promptly execute such documents as may be required to disclaim any interest Purchaser may have in the Tax Credits and/or to effectuate a reassignment of the Tax Credits to Seller, and Seller shall refund any payment made by Purchaser for such Tax Credits, and these obligations will survive termination.

The termination rights provided in this Section 7 shall not be deemed to be exclusive. Accordingly, the exercise by the parties hereto of their respective right to terminate this Agreement pursuant to this Section 7 shall not be deemed to be an election of remedies and shall not be deemed to prejudice, or to constitute or operate as a waiver of, any other right or remedy that the parties may be entitled to exercise (whether under this Agreement, under any other contract, under any statute, rule or other legal requirement, at common law, in equity or otherwise).

Additionally, either party may elect to terminate this Agreement in the event that the Closing Date does not occur on or before June 30, 2020.

8. All parties hereto acknowledge that they have read and understand the contents of this Agreement and acknowledge that no promise or representation has been made to them by any of the parties hereto or anyone acting for them except as is expressly stated herein and that they execute this document knowingly, voluntarily and as their own free act and deed.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

10. No party shall assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the other party; provided, however, that a party may assign any or all of its rights and interests hereunder to one or more of its affiliates but the assigning party shall remain liable and responsible for the performance of its obligations hereunder.

11. No third party is entitled to rely on any of the representations, warranties and agreements contained in this Agreement. The parties assume no liability to any third party because of any reliance on the representations, warranties and agreements contained in this Agreement.

12. This Agreement constitutes the entire agreement among the parties and contains all of the agreements between the parties with respect to the subject matter. This Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter.

13. If any provision of this Agreement is found to be illegal or unenforceable, the other provisions shall remain effective and enforceable to the greatest extent permitted by law.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to principles or rules regarding conflicts of laws. The venue for any litigation regarding this Agreement shall be in Florida's 17th Judicial Circuit, or in U.S. District Court for the Southern District of Florida.

15. This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which will constitute one and the same agreement.

16. No change or modification to this Agreement shall be valid unless made in writing and signed by all the parties to this Agreement.

17. No failure on the part of any person or entity to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any person or entity in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. No person or entity shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such person or entity; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

18. Any notice to be given or served upon any party to this Agreement must be in writing, unless otherwise indicated, and shall be deemed to have been given (a) upon receipt, in the event of personal service by actual delivery (including by facsimile or delivery service) (b) upon posting, if deposited in the United States mail with proper postage and dispatched by certified mail; or (c) upon receipt, if notice is given other than by personal service or by certified mail. All

notices shall be given to the parties at the following addresses:

If to Seller:

Andrew Jean-Pierre  
Contract Administrator  
100 West Atlantic Blvd.  
Pompano Beach, FL 33060

If to Purchaser:

Daniel McGlinchey  
RELX U.S. Holdings Inc.  
313 Washington Street, Suite 400  
Newton, MA 02458

19. Seller shall be liable for and shall pay any broker's fees in connection with the sale of the Tax Credits hereunder and any other expenses associated with the transfer of the Tax Credits to Purchaser.

20. Sovereign Immunity. Subject to Section 5, nothing in this Agreement shall be construed to affect in any way the rights, privileges and immunities of the Seller and agencies, as set forth in Article 768.28, Florida Statutes.

21. Absence of Conflicts of Interest. Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.

22. Public Records.

22.1 The City of Pompano Beach ("City") is a public agency subject to Chapter 119, Florida Statutes. Purchaser shall comply with Florida's Public Records Law, as amended. Specifically, Purchaser shall:

- (a) Keep and maintain public records required by the City in order to perform the service.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt

from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Purchaser does not transfer the records to the City.

- (d) Upon completion of the contract, transfer, at no cost to the City, all public records in possession of Purchaser, or keep and maintain public records required by the City to perform the service. If Purchaser transfers all public records to the City upon completion of the contract, Purchaser shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Purchaser keeps and maintains public records upon completion of the contract, Purchaser shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

22.2 Failure of Purchaser to provide the above described public records to the City within a reasonable time may subject Purchaser to penalties under 119.10, Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**IF PURCHASER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PURCHASER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

### **CITY CLERK**

**100 W. Atlantic Blvd., Suite 253**

**Pompano Beach, Florida 33060**

**(954) 786-4611**

**[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

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**"SELLER"**

Witnesses:

**CITY OF POMPAÑO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
REX HARDIN, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND  
CITY CLERK

(SEAL)

Approved As To Form:

\_\_\_\_\_  
MARK E. BERMAN  
CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**"PURCHASER"**

Relx US Holdings Inc.

Witnesses:

*M. Horgan*

Mary Ann Horgan  
(Print or Type Name)

*Daniel McGlinchey*

Daniel McGlinchey  
(Print or Type Name)

By: *Peter F. Dangoia*  
Peter F. Dangoia, Vice President US Tax

STATE OF MA

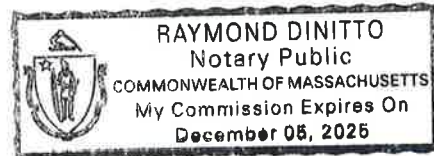
COUNTY OF Middlesex

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Peter Dangoia as Vice President of Relx US Holdings Inc., a Delaware corporation on behalf of the corporation. He/she is personally known to me or who has produced (type of identification) as identification.

NOTARY'S SEAL:

*Raymond Dinitto*  
NOTARY PUBLIC, STATE OF ~~FLORIDA~~  
Massachusetts  
RAYMOND DINITTO  
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number



## EXHIBIT A

E101059

# Voluntary Cleanup Tax Credit Certificate

This certificate is issued pursuant to Section 376.30781, Florida Statutes (F.S.), to City of Pompano Beach, # 59-3667002, in the amount of \$435,987.03, to be applied toward Corporate Income Tax pursuant to s. 220.1845, F.S.

Tax credit certificates are transferable pursuant to Section 220.1845, F.S. A tax credit certificate holder seeking to transfer the certificate to one or more individuals or entities shall submit the original certificate to the Department's Division of Waste Management in Tallahassee along with a signed and notarized letter authorizing the transfer. The letter shall state the name, address, telephone number, and FEID or Social Security number, as applicable, of each transferee, and it shall indicate the portion (in whole or in units of no less than 25%) to be transferred. Such transferred credits may not be transferred again, although they may succeed to a surviving or acquiring entity after merger or acquisition.

Certificate Number: 1020  
FDEP Fiscal Year Issued: 2019-2020  
Calendar Year: 2018  
Site Type: BE  
FDEP Facility ID#: BF061702001  
VCTC Application #: 985

Tim J.  
Bahr  
Issued By: \_\_\_\_\_  
Digitally signed by  
Tim J. Bahr  
Date: 2019.07.25  
13:21:19 -04'00'  
(Authorized FDEP signature)