

SITE PLAN (FINAL) AGREEMENT

THIS AGREEMENT made this day of , 2023.

BETWEEN:

OPTRUST AMARANTH 6 INC.

(Owner)

Party of the FIRST PART

-and-

THE CORPORATION OF THE TOWNSHIP OF AMARANTH

(Township)

Party of the SECOND PART

WHEREAS the Owner warrants that it is the registered owner in fee simple of the Subject Lands described in **SCHEDULE “A”**;

AND WHEREAS the Owner has entered into an agreement with Kal Tire Ltd, (“The Tenant”) to lease part of the Subject Lands referred to as the Leased Lands, as shown and marked “Lease Limit Line” in **SCHEDULE “B”**;

AND WHEREAS the Owner seeks to develop the Leased Lands by constructing a warehouse distribution and office center (the “Building”) generally in accordance with the plans and drawings set out in **SCHEDULE “B”, “B-1”, “C”, “E”, “F”, “G”, “H”, “I” and “J”**;

AND WHEREAS the Tenant intends to operate its business from the Building on the Leased Lands;

AND WHEREAS the Owner requires various infrastructure improvements consisting of a private well, a private septic system, a stormwater management facility, stormwater outfall, municipal roads reconstruction and all related components of this infrastructure to service the Leased Lands;

AND WHEREAS the Owner acknowledges that certain servicing infrastructure improvements that are required for the Tenant to operate its business from the Building are not

located on the Leased Lands, but are located on the Subject Lands, referred to as the Servicing Lands, or are located external to the Subject Lands, referred to as the Off-Site Lands;

AND WHEREAS the Owner acknowledges and agrees that the servicing infrastructure improvements required for the Tenant to operate its business may be designed, constructed and installed (oversized) by the Owner to also accommodate future employment uses the Owner may wish to develop on the Subject Lands and are not limited, restricted or sized to service only the Building or the uses on Leased Lands;

AND WHEREAS the Subject Lands are within an area designated as an area of site plan control pursuant to the Site Plan Control By-law of the Township passed pursuant to Section 41 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended ("*Planning Act*");

AND WHEREAS the Owner has applied to the Township for site plan approval to permit the Development:

AND WHEREAS the Township requires the Owner to enter into this Agreement as a condition to the approval of the plans and drawings for the Development on the Leased Lands and the approval of the plans and drawings for the infrastructure and servicing improvements, on the Servicing Lands, or the Off-Site Lands;

AND WHEREAS the Owner acknowledges that it shall require the Tenant by the terms and conditions of its lease agreement with the Tenant, to operate its warehouse distribution centre and office business in accordance with the terms and conditions applicable to the Leased Lands, as set out in this Agreement;

AND WHEREAS the Township pursuant to section 41(10) of the *Planning Act* as amended, may register this Agreement on title to the Subject Lands and is entitled to enforce the provisions of this Agreement against the Owner, and any and all subsequent owners of the Subject Lands.

NOW THEREFORE in consideration of mutual covenants, agreements and promises herein contained and other good and valuable consideration including the sum of FIVE dollars (\$5.00) of lawful money of Canada now paid by each of the Parties to the other (the receipt and sufficiency of which are hereby acknowledged) and the mutual agreements contained herein, the Parties hereto covenant and agree as follows:

DEFINITIONS

1. In this Agreement, the terms are defined as follows:

- (a) “Building” or “Facility” shall mean the 38,000 square meter (410,351 square feet) warehouse distribution and office center, including all related structures, to be constructed on the Leased Lands in the location shown on **Schedule “B”**.
- (b) “Building Permit” means the Building Permit issued by the Chief Building Official pursuant to the Ontario *Building Code Act*, S.O. 1992, c. 23 (“*Building Code Act*”);
- (c) “Chief Building Official” shall mean the Chief Building Official of the Corporation of County of Dufferin and includes his or her designate or other duly appointed official pursuant to the *Building Code Act*;
- (d) “County” shall mean the Corporation of the County of Dufferin and/or its authorized employee(s) or representative(s), including any persons retained to give advice for the implementation of this Agreement;
- (e) “Development” shall have the meaning set out in section 41 of the *Planning Act* and includes the construction and installation of the Building and services that substantially increase the useability of the Leased Lands and/or Subject Lands. “Developed” shall have a corresponding meaning;
- (f) “Hold” or “H” is the provision in section 10 of Township Zoning By-law 17-2014 that may be lifted or removed by the Township from the Leased Lands or the Servicing Lands when the Township is satisfied the items set out in section 10 iv) a) of this By-law have been addressed;
- (g) “Leased Lands” shall mean that part of the Subject Lands shown in **Schedule “B”** and outlined as “Lease Limit Line” which are leased by the Leasee, from the Owner to permit the Tenant to operate its business; (that do not include the Servicing Lands);
- (h) “*MECP*” shall mean the Ministry of the Environment, Conservation and Parks;
- (i) “Off-Site Lands” shall mean the lands external to the Subject Lands where Works are to be undertaken by the Owner for road re-construction, maintenance and transportation safety improvements to 2nd Line Road, and/or its intersection with County Road 109, or for stormwater management facilities, stormwater conveyance and/or conveyance operation and maintenance which are all required to service the Building and Development on the Leased lands and Servicing Lands;
- (j) “Owner” shall mean OPTrust Amaranth 6 Inc., the party of the first part, as well as any subsequent owners of the Subject Lands, or part thereof, legally described in **Schedule “A”**;

- (k) “OBRAg Corridor” shall mean the former Orangeville/Brampton railway corridor lands which are owned by the County for passive recreational use and are external to the Subject Lands, and extend southeast of the Subject Lands, and are generally shown in **Schedule “Q”**
- (l) “Oversized” shall mean, when used in the context of infrastructure improvements, that private infrastructure designed, constructed and sized to service or accommodate future employment uses on the Subject Lands;
- (m) “Preliminary Site Plan Agreement” shall mean the Agreement executed between the OPTrust Amaranth 6 Inc. and the Township on December 8, 2021, and extended to December 10, 2025 that identify certain reports, designs, plans or Works allowed to proceed on the Subject Lands and Off-Site Lands prior to final site plan approval by the Township;
- (n) “Security” shall mean and include all monies in the Section entitled **Security** in this Agreement;
- (o) “Subject Lands” shall mean and include all lands legally described in **Schedule “A”**, which includes the Leased Lands and the Servicing Lands;
- (p) “Servicing Lands” shall mean that part of the Subject Lands, as shown in **Schedule “C”** and external to the Leased Lands, where the private septic system, stormwater management facility and stormwater conveyance improvements shall be designed, constructed and maintained to service the Building and Development on the Leased Lands, including all private access driveways;
- (q) “Tenant” shall mean Kal Tire Ltd., and all subsequent leasees of the Leased Lands who enter an Agreement with the Owner;
- (r) “Township” shall mean the Corporation of the Township of Amaranth, and/or its authorized employee(s) or representatives(s), including any persons retained to give advice for the implementation and enforcement of this Agreement;
- (s) “Township Consultants” include the Township Engineer, Township Planning consultant and the Township Solicitor or persons retained to give advice to the Township to implement or enforce this Agreement; and
- (t) “Works” shall mean and include the Building and all Development associated with the operation and the warehouse distribution center of the Tenant on the Leased Lands, all infrastructure and component parts required to service the Building and Development located on the Servicing Lands and the Off-Site Lands, such as the private well, private septic system, the stormwater management facility, stormwater conveyance and discharge, erosion control measures, the realignment of municipal

roads and the temporary or permanent reconstruction improvements to 2nd Line Road and/or its intersection with County Road 109 and all permits or approvals to design, construct and install the related infrastructure or Oversized infrastructure under the terms of this Agreement, and as shown in the plans and drawings in the **SCHEDULES**.

RECITALS

2. The Parties agree that the recitals are true.

SCHEDULES

3. The following are the Schedules attached hereto and incorporated in this Agreement and deemed to be a part hereof:

SCHEDULE “A”	Legal Description of Subject Lands
SCHEDULE “B”	Site Plan Drawing – Leased Lands
SCHEDULE “B-1”	Landscape Drawings
SCHEDULE “C”	Servicing Lands: “H” lift limit
SCHEDULE “D”	Lands Conveyed to Township
SCHEDULE “E”	Site Servicing, Grading and Stormwater Management Plan
SCHEDULE “F”	Infiltration – Roof and Building
SCHEDULE “G”	Stormwater Management Facility Plans, Downstream Storm Outfall and Construction Details, MECP approval
SCHEDULE “H”	Building Elevations and Site Lighting Drawings
SCHEDULE “I”	Septic System Design and Drawings, MECP approval
SCHEDULE “J”	Water Well, reports and MECP permit
SCHEDULE “K”	Second Line Road Improvements (Off Site Lands)
SCHEDULE “L”	Preliminary Site Plan Agreement
SCHEDULE “M”	Form of Letter of Credit
SCHEDULE “N”	Easements for Utilities
SCHEDULE “O”	Regulations for Construction
SCHEDULE “P”	Statutory Declaration
SCHEDULE “Q”	OBRAG Corridor R Plan 6847

The original plans and drawings in **SCHEDULES “B” ”B-1” “C” “D” “E” “F” “G” “H” “I” “J” and “K”** are filed with the Clerk of the Township and these Schedules are hereinafter referred to collectively as the **PLANS AND DRAWINGS**.

SITE PLAN AGREEMENT SHALL GOVERN DEVELOPMENT

4. This Agreement shall govern the Development of the Subject Lands and Off-Site Lands and shall be registered on title to the Subject Lands to run with the land, to be binding on the Owner and successor owners in title of the Subject Lands. The covenants, provisions and conditions contained herein shall be of the same force and effect as a covenant running with the Subject Lands. The Township shall be entitled to enforce the provisions hereof against the Owner and against any and all successor owners in title.

BACKGROUND: THE PRELIMINARY SITE PLAN AGREEMENT

5. The Owner and the Township entered into the Preliminary Site Plan Agreement and have identified the reports, studies, designs and/or Works required for the Owner to complete prior to final site plan approval of the Building and/or any Development and the removal of the Hold on the Leased Lands and Servicing Lands. Attached as **Schedule “L”** is the Preliminary Site Plan Agreement, which remains in force and effect.
6. The Owner acknowledges its continued obligation to fulfill all terms, covenants and provisions in the Preliminary Site Plan Agreement to the satisfaction of the Township. To the extent that any provisions in the Preliminary Site Plan Agreement conflict with each other or with this Agreement, the provision(s) that imposes the greater obligation on the Owner governs. The Owner agrees it will not apply to the Chief Building Official for a Building Permit on any part of the Subject Lands should it receive written notice from the Township of any outstanding terms, conditions or obligations that arise from the Preliminary Site Plan Agreement.
7. The parties now wish to enter this Site Plan (Final) Agreement for permissions to authorize and undertake the Works.

THE REQUIRED MECP AND COUNTY APPROVALS FOR THE WORKS

8. The Owner acknowledges that the Building and Development on the Leased Lands is dependent upon servicing infrastructure improvements on the Servicing Lands or Off-Site Lands which are identified in this Agreement and defined as the Works.
9. The Owner further acknowledges that municipal water and wastewater services and stormwater management facilities are not available, anticipated or planned by the Township at any time in the foreseeable future to service the Subject Lands. The Owner therefore requires the approval of the MECP to construct, operate and maintain this servicing infrastructure consisting of a private well, a private septic system, a stormwater

management pond, and conveyance facilities for stormwater diversion and conveyance and all related components. The Owner also requires a separate approval and an easement agreement with the County to convey surface water and stormwater through the OBRAG Corridor, as part of the servicing infrastructure associated with the necessary stormwater management facility.

10. The terms and conditions of the Preliminary Site Plan Agreement require the Owner to prepare and submit applications to the MECP for a Permit to Take Water (“PTTW”), an Environmental Compliance Approval (“ECA”) for a private sewage treatment and disposal system and an ECA for a stormwater management facility and stormwater conveyance. Each of these approvals is required from the MECP before the Owner may operate a private water well, a private septic system, stormwater management facility and stormwater conveyance to accommodate the Building and Development on the Leased Lands and to also accommodate Oversized infrastructure for future employment uses on the Subject Lands.
11. These approvals from the MECP have been secured by the Owner and are more particularly set out as PTTW 6205 CPPL24, wastewater treatment ECA 3337 CQSNTR and stormwater management ECA 8997 CJQHY and 9507 CJQK2G, and are attached in the Schedules.
12. The Owner acknowledges that the PTTW 6205-CPPL24 issued by the MECP to the Owner and attached as **Schedule “J”** allows the taking of ground water by the Owner in the amounts set out in Table A to service the Building and Development on the Leased Lands with potable water and fire protection. The private well authorized by the PTTW is located on the Leased Lands in the location shown in **Schedule “B”**. The groundwater drawn from the well is to be distributed to the Building, or to the fire hydrants by a piped water and treatment service installed, operated and maintained by the Owner. The Owner shall own, operate and maintain the well, water distribution and fire protection service in accordance with and in compliance with the PTTW, applicable legislation, regulations and this Agreement.
13. The Owner acknowledges that the ECA issued by the MECP to the Owner and attached as **Schedule “I”** authorizes the installation and operation by the Owner of a private sewage (septic) system on the Servicing Lands to treat and dispose of an average of 25.1 cubic metres of wastewater each business day from the Building and Development on the Leased Lands. The private septic system authorized by the ECA is located on the Servicing Lands in the location shown on **Schedule “C”**. The wastewater from the Building and Development shall be piped to the private septic system for treatment by this service owned, operated and maintained by the Owner in compliance with the ECA, applicable legislation, regulations and this Agreement. The Owner acknowledges that mutually satisfactory arrangements are in place for the Tenant to lawfully dispose of an average of 25.1 cubic metres of wastewater each business day from the Leased Lands for treatment into the private septic system located on the Servicing Lands in compliance with the MECP approval.

14. The Owner acknowledges that the ECA issued by the MECP to the Owner, attached as **Schedule “G”** authorizes the installation, operation and maintenance of a stormwater management facility and stormwater conveyance on the Servicing Lands by the Owner to divert and discharge surface water from the Servicing Lands. The stormwater management facility located on the Servicing Lands is shown on **Schedule “C”** and **“E”**. The stormwater conveyance, also located on the Servicing Lands is shown in **Schedule “G”**. The stormwater released from the outfall is to be conveyed through the OBRAG Corridor, subject to all necessary approvals and an easement agreement between the Owner and the County. This stormwater management facility and stormwater outfall are Oversized to service future development on the Subject Lands and adjacent lands to the south of the Subject Lands and shall be owned, operated and maintained by the Owner in compliance with the ECA, applicable legislation, regulations, the terms and conditions of the County approval. The Owner by execution of this Agreement acknowledges to the Township that mutually satisfactory arrangements are in place, or will be secured, to lawfully authorize the Lessee to divert and convey all surface or stormwater from the Leased Lands onto the Servicing Lands in compliance with the ECA issued by the MECP and the approval of the County.
15. For greater certainty, the Owner agrees that the PTTW, and/or each ECA are issued to the Owner by the MECP and it is the sole responsibility of the Owner to ensure that all of the requirements of each MECP approval are satisfied and always remain in good standing. The Owner expressly agrees that the Township is in no way responsible for any obligations arising from the PTTW or MECP approvals nor maintaining compliance with the MECP permit or approvals.
16. This Site Plan (Final) Agreement set out terms and conditions, wherein the Owner acknowledges and agrees to undertake all Works necessary to implement and comply with these MECP or County approvals including any conditions necessary for clearance, ongoing monitoring, reporting, operation and maintenance.

OFF-SITE LANDS: TRANSPORTATION IMPROVEMENTS

17. The Owner acknowledges that transportation improvement Works are necessary on the Off-Site Lands for the Building and Development on the Leased Lands. There are preliminary and permanent transportation improvement Works that accommodate anticipated traffic demand arising from the Development. The preliminary transportation improvement Works, which may also be referred to as temporary works, are set out in **Schedule K** in this Agreement. The permanent transportation works have not been ascertained at the time of execution of this Agreement and will be determined following the completion of the municipal class environmental assessment (“MCEA”) that the County is currently undertaking. Nothing in this Site Plan (Final) Agreement shall be construed as an agreement by the Owner with the preferred alternative for permanent transportation works as may be identified in the MCEA.

18. It is acknowledged and agreed by the Owner that there shall be no occupancy of the Building and the Development on the Leased Lands, until such time as the Township Engineer approves and confirms that the preliminary transportation Works, as set out in Schedule "K" have been undertaken and completed by the Owner. This acknowledgement is separate from the Owner's obligation, as set out in paragraph 19 and 20 below regarding permanent transportation improvement Works.
19. The terms and conditions of the Preliminary Site Plan Agreement require the Owner to undertake and front-end the cost of a geotechnical assessment, design and traffic reports to study potential transportation safety improvements to 2nd line Road, and the potential realignment of 2nd Line Road to the existing intersection of County Roads 3 and 109. The Preliminary Site Plan Agreement did not distinguish between the study or costs associated with preliminary or permanent transportation improvements Works. The Owner acknowledges its continued obligation to contribute to the costs associated with permanent transportation improvement Works. For greater certainty, the Owner acknowledges that the study of potential transportation safety improvements to the 2nd Line Road also includes the study of design improvements, re-alignment and road reconstruction of the intersection of 2nd Line Road and County Road 109 at the existing intersection with County Road 3, and the impacts to the intersections of County Road 109 and County Road 3 and County Road 23 B-Line (including its intersection with Paula Crescent), and that such study is now continued as part of the MCEA. The Owner further acknowledges that the design, or study costs of these County Roads will not be funded by the Township Development Charges By-law and cannot be credited by or recovered from the Township.
20. The Owner agrees that it shall enter into an agreement (or agreements) with the County to establish the terms and conditions of the Owner's obligations for the study, design, approval, installation, funding, and maintenance of all 2nd Line Road safety improvements to the intersection of County Road 109 that are coordinated with the re-alignment and reconstruction of the 2nd Line Road and that supplement those preliminary Works in **Schedule "K"**. The permanent transportation improvement Works that set out the Owner's obligations for the re-alignment and/or reconstruction of 2nd line Road to the existing County Road 109-County Road 3 intersection shall be contained in this separate agreement with the County since this intersection is within the jurisdiction of the County. The agreement with the County shall include, without limitation,
- (i) a provision that the Owner shall pay to the County a cash contribution towards the permanent transportation and safety Works for the re-alignment and/or reconstruction of the 2nd Line Road to the existing County Road 109 and County Road 3 intersections prior to the completion of the MCEA by the County that will determine the required permanent improvements. The Owner has agreed with the County, based on an understanding of the preferred option in the MCEA study, and same shall be reflected in the agreement(s) with the County, that the contribution is

based on the Owner contributing toward 100% of the estimated roadworks costs for County Road 109 and 2nd Line, and 75% of the estimated roadworks costs for County Road 3, Paula Crescent and County Road 23 re-alignment.

- (ii) a provision that the Owner shall pay the full costs of the required temporary transportation and safety Works for the re-alignment and/or reconstruction of the existing 2nd Line Road and County Road 109 intersection;
- (iii) a provision that the Owner shall pay to the County an amount sufficient to cover the anticipated costs of ongoing maintenance and operations of the required temporary transportation and infrastructure safety improvements Works for the re-alignment and/or reconstruction of 2nd Line Road and its existing intersection with County Road 109, with the amount of said funds to be topped-up by the Owner when such funds are depleted to 50 percent of the initial total; and
- (iv) provisions requiring the Owner to provide the County financial securities in relation to the above, as set out in paragraph 84, in such amounts as the County may determine.

The Owner agrees that it shall provide the agreement containing the aforesaid provisions to the Township Engineer for the review and approval of the Township Engineer, prior to the Owner executing the agreement with the County.

21. The Owner agrees to secure the performance of the study, design, approval, funding and maintenance of all the 2nd Line Road transportation safety improvements Works in its agreement with the County, and in accordance with the Section **Security** and paragraph 84 of this Site Plan (Final) Agreement. The amount of the said Security may be released and returned to the Owner, after the Township Engineer has received and reviewed the terms and conditions of the Owner's agreement with the County (set out in paragraph 20 above) for the transportation Works of the 2nd line Road and County Road 109 intersection and is satisfied the Works which are the responsibility of the Owner, are financially secured by the County. Alternatively, the amount of the said Security may, in the County's discretion, be transferred to a separate agreement or agreements between the Owner and the County referred to in paragraph 20, and the Owner shall agree with such transfer.
22. The Owner further acknowledges that if it has not executed the agreement with the County, as described above in paragraph 20 by the time of occupancy of the Building, then (i) the Township will not release the security described in paragraph 84(ii) herein, and (ii) the Township will not remove the "H" holding symbol in accordance with section 10 (iv) of By-law 17-2014 for any portion of the balance of the Subject Lands owned by the Owner in the year 2023, until said agreement has been executed with the County. For greater certainty, execution of the agreement with the County is not a pre-condition to the occupancy of the Building and the Development on the Leased Lands.

OFF SITE LANDS – STORMWATER MANAGEMENT WORKS

23. The Owner acknowledges that stormwater management Works are necessary to divert and convey stormwater from the Leased Lands to the Servicing Lands to convey through onto the ORBAG Corridor, as shown in **Schedule “G”**. The Owner requires an easement from the County to accept the conveyance of this surface and stormwater from the Servicing Lands and must secure this easement by agreement with the County **prior to** the applying for the issuance of any Building Permit on the Leased Lands or Servicing Lands. The Owner agrees that the approval of the County for release of surface water and stormwater from the stormwater outfall on the Servicing Lands through the OBRAG Corridor is the sole responsibility of the Owner to secure by easement agreement and the Owner must satisfy the County that all terms and conditions to the easement are met or remain in good standing. The Owner acknowledges that prior to applying for a Building Permit, it shall enter into an easement agreement with the County to design, study, install, construct, operate and maintain all stormwater management Works necessary within the OBRAG Corridor to convey surface water and stormwater from the Servicing Lands and/or additional lands. The Owner agrees that it shall provide the easement agreement to the Township Engineer for the review and approval of the Township Engineer, prior to the Owner executing the agreement with the County.
24. The Owner agrees to secure the performance with the Township of the study, design, approval, construction, operation and maintenance of all stormwater management Works for the conveyance of stormwater from the Servicing Lands through to the OBRAG Corridor in accordance with the Section **Security** in this Agreement. The amount of the said Security is to be released and returned to the Owner, after the Township Engineer has received and reviewed the terms and conditions of the Owner’s easement agreement with the County to authorize the diversion and conveyance of stormwater from the outfall through the ORBAG Corridor and is satisfied that the Works are financially secured by the County, and it is unnecessary for the Township to hold security for Works within the jurisdiction of the County.

PRECONDITIONS: TO AN APPLICATION FOR A BUILDING PERMIT ON THE LEASED LANDS OR REMOVAL OF THE HOLD ON SUBJECT LANDS

25. Township Zoning By-law 17-2014 places a Hold provision on the Subject Lands that prevents the issuance of a Building Permit until such time as the “H” may be lifted by the Township. Section 10 (iv) of By-law 17-2014 lists the items to be addressed before the Township will be satisfied that the Hold provision may be lifted. The Owner agrees and acknowledges in this Site Plan (Final) Agreement that it shall NOT apply to ask the Township to remove the Hold provision applicable to any part of the Subject Lands – whether it be a separate or combined application applicable to either the Leased Lands or Servicing Lands or both - until such time as, i) the Owner, and Township have executed this Agreement and the Owner has complied with all provisions in the Section: **Execution, Registration and Certification** (which includes dedication of the road widening lands as set out in **Schedule “D”**), ii) the Owner has provided Security to the Township in the amount of the estimated costs or contribution towards the Works which amounts are set out in Paragraph 84, iii) the Owner agrees to enter into an agreement or agreements with the County to secure its obligation to front-end and contribute

to the Works which requirement is satisfied by paragraph 20 of this Agreement, iv) the Owner has provided sufficient Security to the Township in the amount of the estimated cost of the operation and maintenance of the preliminary transportation road safety improvements to 2nd Line Road and the intersection with County Road 109, including any decommissioning costs, and has agreed to enter an agreement with the County to acknowledge and secure its ongoing operation and maintenance obligations for these temporary improvements, which shall continue until such time as the permanent transportation improvements are both operational and approved by the County, which agreement requirement is satisfied by paragraph 20 of this Agreement, **and** v) the Township has received and considered written confirmation from the County regarding the County's requirements for lifting the "H" from the Servicing Lands.

26. The Owner further agrees and acknowledge in this Site Plan (Final) Agreement that it shall not apply for a Building Permit to authorize construction of the Building on the **Leased Lands** until such time as the Owner has demonstrated to the Township Consultants that it has satisfied each of the five requirements enumerated in paragraph 25.
27. The Owner further agrees and acknowledge in this Site Plan (Final) Agreement that it shall not apply for a Building Permit to authorize any Works on the **Servicing Lands** until such time as the Owner has demonstrated to the Township Consultants that it has satisfied each of the five requirements enumerated in paragraph 25.
28. The Owner agrees in the Site Plan (Final) Agreement that the agreements it shall enter with the County respecting the required 2nd Line Road and County Road transportation road safety improvements and intersection Works or the agreement it shall enter with the County respecting the required stormwater management and stormwater outfall Works, shall be provided to the Township for the review and approval of the Township Engineer, prior to execution by the Owner. The Owner shall demonstrate to the Township Engineer that the obligations of the Owner in each of these agreements are financially secured for the Off-Site Works and comply with all MECP approvals.
29. It is further acknowledged and agreed by the Owner that the applicable law provisions under the *Building Code Act* for the issuance of a building permit for any of the Development as set out in this Agreement on the Leased Lands or Servicing Lands are not satisfied until such time as the Owner has demonstrated to the Township Consultants that it has satisfied each of the five requirements enumerated in paragraph 25.
30. The Owner acknowledges and agree in this Site Plan (Final) Agreement that all preliminary 2nd Line Road and County Road transportation road safety improvements and intersection Works identified in **Schedule "K"**, will be constructed in accordance with all approvals, and shall be in place and operational, pursuant to an executed agreement between the County and Owner, prior to any use and **occupancy** of the Building on the Leased Lands, all which shall be to the satisfaction of the Township Engineer.

31. The Owner further acknowledges and agree in this Site Plan (Final) Agreement that all stormwater management and stormwater outfall Works required to divert and convey surface and stormwater through the OBRAg Corridor are constructed in accordance with all approvals and are in place and operational, pursuant to an executed agreement between the County and Owner, prior to any use and **occupancy** of the Building on the Leased Lands, all of which shall be to the satisfaction the Township.
32. The 2nd Line Road and County Road 109 intersection Works as supplemented from those Works identified in **Schedule “K”**, or the stormwater management related Works, altogether referred to as Works on Off-Site Lands shall be subject to the same obligations in favour of the Township as provided for in this Agreement for other Works to be carried out within the Leased Lands or the Subject Lands.

EXECUTION, REGISTRATION AND CERTIFICATION

33. The Owner hereby consents to the registration at the Owner’s expense of this Agreement against the title to the Subject Lands.
34. The Owner agrees to provide to the Township, prior to the execution of this Agreement by the Township, a Postponement Agreement(s) whereby any mortgagee or encumbrancer, to the full extent of its interest in the Subject Lands, consents to the registration of this Agreement against title to the Subject Lands, and to the registration of the Postponement Agreement(s) against title to the Subject Lands, and for itself, its successors and assigns subordinates and postpones all of its right, title and interest in the Subject Lands to the terms, provisions, obligations and conditions contained in this Agreement.
35. The Owner covenants and agrees to pay the following charges, levies, taxes and fees and to provide the following documentation prior to the Township executing this Agreement:
- (a) payment of all outstanding municipal taxes, if any;
 - (b) payment of all legal, engineering and consulting planning fees as invoiced by the Township to date;
 - (c) transfer of title of the road widening lands to the Township, at no cost, free and clear of encumbrances, in a form satisfactory to the Township Solicitor, as set out in the Section, **Dedication of Lands to the Township for Road Widening; and,**
 - (d) provision of the required insurance details as set out in the Section titled **Insurance.**
36. Subsequent to execution of this Agreement, the Owner shall: i) within ten days of said execution, provide the required Security to the Township, as set out in the Section titled **Security,** and ii) within thirty days of said execution, register this Agreement against title to the Subject Lands, together with registration of postponement agreements (if any), and shall deliver to the Township Solicitor a Certificate of Title signed by an Ontario Solicitor in good standing certifying that this Agreement and the postponement agreements, (if any) have been

registered on title to the Subject Lands, and that this Agreement stands in first priority on title, and including copies of the registration documentation together with current printouts of the property abstract for the Subject Lands. Said Certificate of Title shall be to the satisfaction of the Township Solicitor.

37. The Owner covenants that they shall not commence any Development and/or Works whatsoever, unless specifically authorized by the Site Plan (Final) Agreement and until:
- (a) this Agreement and any Postponement Agreement(s) have been executed;
 - (b) all required security has been provided to the Township, in accordance with all provisions of the section titled **Security**, which the Owner shall provide within ten days of the execution of this Agreement,
 - (c) the necessary permits and authorizations, including the Building Permit for the Development have been obtained by the Owner as it is acknowledged that it is the Owner's sole responsibility to ensure that all necessary permits and authorizations are obtained;
 - (d) there has been compliance with paragraph 34 of this Agreement; and
 - (e) the plans and drawings set out in **SCHEDULE "B" "B-1" "C" "D" "E" "F" "G" "H" "I" "J" and "K"** have been approved by the Township. This subsection is satisfied by paragraph 41 and upon execution of this Agreement by the parties.

38. If it comes to the attention of the Township that the Owner has failed to comply with any of the requirements of this Section **EXECUTION, REGISTRATION AND CERTIFICATION**, the Township shall provide notification to the Owner in writing of the failure. If the Owner fails to remedy the failure complained of within thirty (30) clear days after the receipt of such notice, the Township at its sole option, acting reasonably may suspend or terminate this Agreement and forthwith revoke all approvals, permits, and authorizations previously granted by the Township to the Owner. The Township may, at the expense of the Owner, register notice on title of Subject Lands of the termination and/or suspension of this Agreement.

DESIGN AND FIELD REVIEW

39. All Works shall be installed strictly in accordance with the terms of this Agreement, and in accordance with the Township's specifications and to the Township's approval. Prior to commencing any of the Works the Owner shall obtain permits from the Township to access the Subject Lands from 2nd Line Road and to occupy the Township Road allowance, as set out in paragraph 59. The Owner covenants that no Works shall be performed or constructed on the Subject Lands or Off-Site Lands except as provided for in this Agreement.
40. The design and field review of the construction and installation of all Works on the Leased Lands, (such as the Building and Development) the Servicing Lands (that include the stormwater management system, the private septic system, the private well), and the Off-Site Lands (which include all road improvements to 2nd Line Road, any re-alignment of 2nd Line

Road, or stormwater diversion or conveyance Works in the OBRAG Corridor), shall be provided by a Professional Engineer or Architect licensed in the Province of Ontario and retained by the Owner. The retained Engineer or Architect shall file with the Township, prior to commencement of construction, a written undertaking with respect to said Works, which undertaking shall include a covenant to provide upon completion of the Engineer's or Architect's work, a Certificate that the execution of the Works has been in accordance with the approved plans and drawings, set out in paragraph 41 and all other specifications or the terms of this Agreement.

APPROVAL OF CONCEPTUAL DRAWINGS

41. The Township hereby approves the **PLANS AND DRAWINGS** contained in **SCHEDULES "B" "B-1" "C" "D" "E" "F" "G" "H" "I" "J" and "K"**. The Owner covenants and agrees that the Leased Lands, Servicing Lands, Subject Lands and Off-Site Lands shall only be developed in accordance with the **PLANS AND DRAWINGS** and terms of this Agreement and other plans filed with and approved by the Township (but not attached) as part of the Township's approval process of the Works.
42. The Owner agrees that the Building and Development on the Leased Lands shall comply with the Township's Zoning By-law No. 2-2009, the site-specific Zoning By-law 17-2014 (Hold provision) and all other by-laws of the Township. The Owner agrees that all Development on the Servicing Lands and Off-Site Lands shall comply with all Township's Zoning By-laws and all other by-laws of the Township.
43. The Owner specifically acknowledges that the approval by the Township of the **PLANS AND DRAWINGS**, and the execution of the Agreement by the Township, is based on the use of the Subject Lands in accordance with the Township's applicable Zoning By-laws.
44. The approved **PLANS AND DRAWINGS** may be modified without amendment to this Agreement, provided such modifications are expressly agreed to by the Council of the Township in writing. The Township shall provide written reasons to the Owner should the Township refuse to agree to the modifications. The decision of the Township with respect to such modifications and/or refusal shall be final. The foregoing paragraph does not preclude the Owner from making application to amend the Agreement pursuant to the provisions of the *Planning Act*.

FACILITIES AND WORKS TO BE PROVIDED

45. The Owner covenants and agree to provide, establish, construct and maintain, at their sole cost and expense **and to the satisfaction of the Township Engineer**, all of the Works, and every related facility or service on the Leased Lands illustrated or described in the approved **PLANS AND DRAWINGS** or otherwise required by the terms of this Agreement. Without limiting the generality of the foregoing, the Owner covenants and agrees with the Township to:

- (a) provide ingress and egress to the Leased Lands to access the Building from at and only at the two access driveways along 2nd Line Road as shown on the approved **PLANS AND DRAWINGS**, in particular **Schedule “B”** and to clearly mark with signage the two ingress and egress driveways to and from the Leased Lands.
- (b) require the two access driveways from 2nd Line Road to the Building on the Leased Lands be designated as Fire Routes as shown on the approved **PLANS AND DRAWINGS**, specifically **Schedule “B”**, with a maximum width of nine (9) meters at each entrance point and a maximum width of six (6) meters within the Leased Lands.
- (c) install and maintain signage along the full length of each designated Fire Route to prohibit parking of motor vehicles, at all times, within the Leased Lands;
- (d) provide a stable, unimpeded access route from 2nd Line Road to the Leased Lands as shown on the approved **PLANS AND DRAWINGS** specifically **Schedule “B”**, sufficient to support the weight of all emergency vehicles during the construction of the Building, and to design, build, construct, and maintain each designated Fire Route for it to be sufficient to support the weight of firefighting equipment prior to occupancy of the Building on the Leased Lands.
- (e) require the one private driveway that is to be paved with asphalt, to cross the Servicing Lands as shown in **Schedule “C”** to access the private septic system and related structures. The private driveway shall be a maximum width of nine (9) meters and sufficient to support the weight of emergency vehicles and firefighting equipment.
- (f) provide a total of 365 parking spaces on the Leased Lands for cars or personal use vehicles within the two car parking areas shown on the approved **PLANS AND DRAWINGS** specifically **Schedule “B”**, and in no other location on the Leased Lands. The area shown as the car parking area south of the Building is to provide parking spaces, with each space clearly marked with asphalt paint and signage. The area shown as the car parking area east of the Building shall include 10 designated reserved van accessible disabled parking spaces, with associated signage and also provide parking spaces, with each space clearly marked with asphalt paint and signage. For greater certainty, transport trucks that visit the Building for any kind of delivery or pick up are not allowed to park in either of these two car parking areas shown on the approved **PLANS AND DRAWINGS**.
- (g) provide for a total of five (5) bike stalls on the Leased Lands to be clearly marked with asphalt paint and signage, at the entrance to Building as shown on the approved **PLANS AND DRAWINGS** and specifically **Schedule “B”**,
- (h) provide for a total of 65 transport truck and truck trailer parking spaces, a turning radius area, loading space and drive in ramp to the Building, with all areas or spaces clearly marked with asphalt paint and signage along the northerly edge of the Building, within

the Leased Lands, as shown in the approved **PLANS AND DRAWINGS** specifically **Schedule “B”**,

- (i) pave with asphalt, the two access driveways, the designated fire routes, all truck loading or turning areas, all parking areas, and surface the sidewalks with concrete, shown east and north of the Building in the **PLANS AND DRAWINGS**, specifically **Schedule “B”**, prior to the occupancy of the Building.
- (j) place all signage and/or paving markings associated with any kind of vehicle use, access or parking, immediately upon the completion of the asphalt paving or the sidewalk concrete surfacing prior to the occupancy of the Building;
- (k) properly maintain in good condition all asphalt pavement, concrete sidewalks, loading areas, access driveways, designated fire routes, signage, painting and markings installed on the Leased Lands;
- (l) provide business signage on the Leased Lands only in the location shown on the approved **PLANS AND DRAWINGS** as marked on the Building within the Leased Lands;
- (m) be solely responsible for the removal of snow and ice on the Leased Lands from the off-street vehicular loading areas, fire routes, parking surfaces, driveways and sidewalks and to be responsible for the winter maintenance of the above as is reasonably required. It is agreed that no snow will be transferred onto the Township’s municipal road allowances, and that snow storage shall only occur in the two areas as shown on the approved **PLANS AND DRAWINGS**, and specifically **Schedule “B”** described as snow storage area;
- (n) prepare and implement a salt management plan to ensure that runoff of road salt from all off-street loading areas, fire routes, parking surfaces, entranceways, sidewalks and driveways as shown on the approved **PLANS AND DRAWINGS** shall be properly disposed of and managed, and in no circumstance is any runoff of road salt permitted to an infiltration trench, shown by length, width and depth on **Schedules B”, “E” or “F”**, that is associated with the drainage system, or the stormwater management facilities located on either the Leased Lands, the Servicing Lands or Off-Site Lands;
- (o) undertake grading, erosion and sediment control measures, site servicing, configuration of swales and contour design on the Leased Lands in accordance with the approved **PLANS AND DRAWINGS and in particular Schedules “E” or “F”** to ensure that all surface and stormwater from the Leased Lands, arising from the performance of all Works or the Development with the exception of runoff from road salt, (referred to in para o), shall be properly diverted across the Leased Lands to the infiltration trenches, as shown by length, width and depth on **Schedules B”, “E” or “F”** and directed to the stormwater management facility and stormwater outfall located on the Servicing Lands

in accordance with the approved **PLANS AND DRAWINGS** and all applicable requirements of the MECP, the Township, the County or the Conservation Authority;

- (p) ensure that all rainwater runoff from the Building rooftop is infiltrated in accordance with the "Overall Roof Plan" and Building cross sections shown in the approved **PLANS AND DRAWINGS** in particular **Schedules "E" and "F"**. All rainwater is to be captured, collected and transmitted from the Building to the infiltration trenches, as shown by length, width and depth on **Schedules "B", "E" or "F"** and directed from the Leased Lands to the stormwater management facility and stormwater water outfall on the Servicing Lands, and must not otherwise leave the Leased Lands or Servicing Lands by any other means;
 - (q) store garbage and other waste material inside the Building or within the area shown on the approved **PLANS AND DRAWINGS** in particular **Schedule "B"** as the garbage collection area and to remove and/or dispose of such garbage at such times and in such manner as the Township from time to time directs. Any and all garbage, refuse or debris shall be removed by a private contractor at the Owner's expense. Burning of garbage, refuse and debris is prohibited;
 - (r) provide adequate exterior lighting in accordance with the **PLANS AND DRAWINGS** in particular **Schedule "I"** and to also ensure that all lighting facilities installed on the Building or within the Leased Lands are designed and constructed to divert light away from adjacent lands including the OBRAG corridor. All lighting is to be shielded so that said lighting is directed downward. All lights shall be of a full cutoff design. The location, quantity and intensity of the lighting is to be designed to meet the requirements of the Township.
 - (s) provide on or before occupancy of the Building and maintain landscaping, berming, plantings, swales, ditches and/or buffering shown on or described in the approved **PLANS AND DRAWINGS** in particular **Schedules "B", "B-1", "E" and "G"** which provision and maintenance shall include ground cover and weed control on a regular basis, replacing any diseased landscaping and/or planting as soon as is practicable in accordance with good horticultural practices. Any such plantings shall be covered by a two- year maintenance guarantee from the applicable supplier;
 - (t) install and maintain berming, fencing and plantings adjacent to the OBRAG Corridor, in accordance with all landscaping design as shown in the approved **PLANS AND DRAWINGS** in particular **Schedule "B", "E" and "G"** to screen the Building and Works from the view of the public that access the OBRAG Corridor. The landscaping design shall include a retaining wall and guard rail as shown in **Schedule "B"**;
46. The Owner covenants and agrees to be solely responsible to provide, construct, establish and maintain, at its cost and expense the Works and related services or facilities on the Servicing Lands and Off-Site Lands, described in the approved **PLANS AND DRAWINGS** or

otherwise required by the terms of this Agreement, **to the satisfaction of the Township Engineer**. Without limiting the generality of the foregoing, the Owner covenants and agrees with the Township to:

- a) secure all approvals and enter into an easement agreement with the County to provide for the long term operation and maintenance of that part of the stormwater management facility and stormwater outfall, as shown on the approved **PLANS AND DRAWINGS** and specifically, the detailed design drawing included in **Schedule “G”** referred to as: Stormwater Management Facility and OBRAG Ditch Construction Details Plan within the OBRAG Corridor, and to provide confirmation to the Township, upon execution of that easement agreement with the County, that its terms and conditions provide for the approval, proper management, diversion, and conveyance of all stormwater and surface water from the Leased Lands;
- b) construct, operate and maintain the stormwater management facility and stormwater outfall in the locations shown on the approved **PLANS AND DRAWINGS** within the Servicing Lands or the OBRAG Corridor in accordance with the detailed design drawings which are set out in **Schedule “G”** (General Plan, Plan and Profile, Cross Section Plan and Construction Details), the March 24, 2023 Functional Servicing and Stormwater Water Management Report, prepared by A.M. Candaras Associates Inc., and all applicable provisions of the above noted agreement with the County relating to the conveyance of stormwater and surface water from the Servicing Lands to the OBRAG Corridor;
- c) prepare and file with the Township a surface water monitoring program, to address the quality and temperature of the water exiting the stormwater management facility and outfall, and regularly report to the Township and applicable agencies of the samples, analysis and results of the monitoring program;
- d) comply in all respects with the obligations contained in MECP ECA approval 8997 CJQQHY and 9507CJQK2G for the stormwater management facility and stormwater outfall and to advise the Township and the County of any amendments to the said ECA, as may be issued by the MECP;
- e) establish and maintain all landscaping, berming, planting, swales, ditches and/or buffering, and any other erosion and siltation control measures on the Servicing Lands, shown on the approved **PLANS AND DRAWINGS** and specifically **Schedule “G”** to ensure that all stormwater and surface water from the Leased Lands, is directed, diverted and discharged to the stormwater management facility owned and operated by the Owner on the Servicing Lands, prior to conveyance through to the OBRAG corridor;

- f) establish and maintain a retaining wall and guard railing on the Servicing Lands, in the location shown in the approved **PLANS AND DRAWINGS** and specifically **Schedule “B”** and **“G”**, which are located adjacent to the OBRAG Corridor;
- g) install, construct and operate a private septic system on the Servicing Lands in the location shown on the approved **PLANS AND DRAWINGS** and specifically **Schedules “C”** and **“I”**, ensuring such construction shall be in compliance with the *Building Code Act* and its applicable regulations and in compliance with all applicable law and approvals to accommodate disposal and treatment of 25.1 cubic meters per day of wastewater to service the Building and Development from the Leased Lands. The private septic system shall consist of a package sewage treatment plant utilizing the Membrane Bioreactor process, a treated effluent dosing station, subsurface effluent disposal beds, and all associated structures and components to support the sewage treatment and disposal from the Leased Lands, in accordance with **Schedules “C”** and **“I”** and the Tatham Engineering background report (July 29, 2022) of the water system flow criteria for the Building;
- h) ensure that the private septic system and all of its components are operated, updated and maintained at the Owner’s expense and to undertake any repairs to the system as may be necessary in accordance with applicable law, regulations and approvals;
- i) ensure that the wastewater distribution system from the Building on the Leased Lands to the private septic system and all components are installed and operational in accordance with applicable law, regulations and approvals;
- j) comply, in all other respects with all obligations contained in MECP ECA No 3337-CQSNT and background reports as referenced in the said Permit, as set out in **Schedule “I”** and advise the Township and County of any amendments to the said Permit, as may be issued by the MECP;
- k) provide an alternative remedial solution, at its sole cost, to the satisfaction of the County and Township, in the event that the private septic system fails;
- l) provide ingress and egress to the Servicing Lands to access the private septic system and related structures at and only at the one access driveway along 2nd Line Road as shown on the approved **PLANS AND DRAWINGS**, specifically **Schedule “C”** and to clearly mark with signage, this ingress and egress is a private driveway limited to authorized personnel of the Owner;
- m) properly repair and maintain the paved access driveway across the Servicing Lands, as shown in **Schedule “C”** to the private septic system to ensure that the access driveway is sufficient to support the weight of any emergency vehicles or the safe passage of such vehicles, as may be necessary to build, construct, maintain or repair the private septic system;

- n) install, construct, repair and operate the private well in the location shown in **Schedule “B”** to provide potable water and fire protection to the Building and Development in accordance with the MECP Permit to Take Water No 6205-CPPL24, and background reports as referenced in the said Permit, all in accordance with the **PLANS AND DRAWINGS** specifically **Schedule “B”** and **“J”**. Construction of the private well includes all related piping, treatment, or structural components, necessary for the operation of the well, such as the standby generator, as shown in the location in **Schedule “B”**;
- o) comply with all requirements of the *Safe Drinking Act*, S.O. 2002 c.32, and regulations thereunder (that include O. Reg. 387/04: Water Taking and Transfer) or all other applicable legislation to monitor, inspect, and sample water to ensure the uninterrupted provision and delivery of potable water, or any water treatment, to the Building, in compliance with Ontario Drinking Water Standards;
- p) promptly report to the applicable authorities the results of all monitoring, inspection and sampling of the well water to the applicable agencies in compliance with the Ontario Drinking Water Standards or MECP Permit to Take Water No 6205-CPPL24;
- q) prepare a ground water monitoring program, consistent with relevant input from the surface or stormwater water monitoring program, to file with the Township, that monitors the groundwater quality entering the Leased Lands from the west and flowing eastward across the site. The sampling, analysis and results of the groundwater monitoring program are to be regularly filed with the Township and applicable agencies. All ground water monitoring and testing shall comply with source water protection plans and the Owner’s reporting obligations as contained in these plans, which may be amended by the applicable authority from time to time;
- r) comply, in all other respects, with all obligations contained in MECP Permit to Take Water No 6205-CPPL24, and background reports as referenced in the said Permit, as set out in **Schedule “J”** and advise the Township of any amendments to the said Permit, as may be issued by the MECP;
- s) decommission the existing well on the Leased Lands in accordance with the Golder Associates Limited report (March 15, 2022) set out in **Schedule “J”** in the location of the existing well shown in **Schedule “B”**;
- t) ensure the private well provides sufficient quantity of groundwater flow for adequate fire protection to the Building and Development on the Leased, Lands pursuant to all applicable legislation, regulations or industrial standards;
- u) provide a replacement well in the event the private well shown in the location in the approved **PLANS AND DRAWINGS** and specifically **Schedule “B”** becomes

inoperative, and to incur all costs associated with the design, approval and construction of the alternative private well, and the decommissioning of the inoperative well;

- v) establish and maintain all landscaping and berms adjacent to 2nd Line Road, as shown in the approved **PLANS AND DRAWINGS** and specifically **Schedule “B”** and **“B-1”** to screen the Building on the Leased Lands from the public using 2nd Line Road, which provision and maintenance shall include ground cover and controlling weeds on a regular basis and replacing any diseased landscaping and/or planting as soon as is practicable in accordance with good horticultural practices. Any such plantings shall be covered by a two- year maintenance guarantee from the applicable supplier; It is acknowledged that a portion of the Subject Lands are adjacent to the Leased Lands and the 2nd Line Road allowance, (as the Leased Lands do not extend to the Township Road allowance) whereupon landscaping and berms are to be established and maintained;
- w) construct all road infrastructure improvements to 2nd Line Road as identified in the drawing C102 to C106 inclusive, included in **Schedule “K”** at its sole expense, on or before any occupancy of the Building, and at a date to be directed by the Township Engineer, including street lighting which drawing are not available at time of execution of this Agreement, but will be provided to the satisfaction of the Township Engineer;
- x) relocate all hydro poles that extend across and on both sides of the 2nd Line Road allowance, more particularly shown on in **Schedule “K”** consistent with the two-page cross section engineering drawing prepared by Crozier date March 27, 2023;
- y) enter into an agreement with the County to contribute to the costs of a geotechnical and transportation traffic safety study of the functionality and feasibility of the potential realignment and re-construction of the intersection of 2nd line to the existing intersection of County Roads 3 and 109 and impacts to the intersections of County Road 3 and 109 and County Road 23 B-Line, and to contribute to the costs of the design of any road safety improvements Works that arise from the traffic study as may be directed by the Township Engineer or the County, depending on the municipality responsible for the specific municipal road improvement;
- z) enter into an agreement or agreements with the County to undertake, establish and construct all preliminary and permanent transportation safety road improvements Works to the intersection of 2nd Line and/or County Road 109, and the adjacent County road intersections impacted by these road improvements that include (but not limited to) turning lanes, traffic lights and widenings, as may be recommended by the geotechnical and transportation traffic safety study and to also enter in to an operation and maintenance agreement with the County for the temporary transportation safety road improvements Works, which agreement shall remain in effect until the permanent transportation safety road improvements are operational and approved by the County;

- aa) ensure road improvements Works as referenced in paragraphs w), x) and y) above, including 2nd Line Road and its intersection with County Road 109 or the operation and maintenance agreement for temporary Works, are financially secured to the satisfaction of the Township Engineer, in accordance with the section **SECURITY**.

RESPONSIBILITY FOR REPORTS, PERMITS AND AUTHORIZATIONS

47. The Owner acknowledges that it is solely responsible for obtaining all permits, approvals or authorizations from the authorities having jurisdiction that may be necessary and/or advisable for any Works on the Leased Lands, Servicing Lands or Off -Site Lands, and all associated costs, to fulfill the terms and obligations of this Agreement.
48. The Owner further acknowledges that all required reports, studies and/or designs necessary for obtaining or satisfying all permits, approvals or authorizations must conform to approved **PLANS AND DRAWINGS** and specifically **SCHEDULE “B”** and **SCHEDULE “C”**. Should modifications be required to **SCHEDULE “B”** or **“C”** owing to the results of the required reports, studies and designs, then the Owner shall make an application to amend the site plan approval and **PLANS AND DRAWINGS**. In considering such an application, the Owner acknowledges that the Township has not in any way fettered its discretion by entering into this Agreement and that the Township shall determine the application pursuant to the requirements of the *Planning Act*.
49. All required reports, studies and designs prepared or to be prepared by the Owner to complete the Works as set out in this Agreement shall be approved by and to the satisfaction of the Township. All recommendations from the approved reports, studies and designs shall be implemented in final detailed plans and drawings which shall also be approved by and to the satisfaction of the Township. Similarly, any terms and conditions to satisfy final detailed drawings shall be approved by and to the satisfaction of the Township.
50. The Owner shall have all required reports, studies and designs carried out and completed by qualified Consulting Engineer(s) and/or other professionals as may be required given the subject matter and expertise of the reports, studies and designs.
51. The Owner shall ensure that there will be compliance with the insurance provisions of the *Workplace Safety and Insurance Act, 1997* in carrying out all Works.

DEDICATION OF LANDS TO TOWNSHIP FOR ROAD WIDENING

52. Prior to the execution of this Agreement by the Township, the Owner agrees to dedicate lands to the Township as shown on Part 1 on R-Plan 7R-6839 prepared by Van Harten Surveying Inc., attached at Schedule “D”, for road widening purposes. These road widening lands are to be dedicated at no cost to the Township, free and clear of any encumbrances. The Owner

acknowledges that this gratuitous dedication of the Part 1 lands situated along the right of way width of the 2nd Line Road allowance exceeds the standards in the Township Official Plan for this road.

53. The Owner shall, prior to registration of Part 1 on R-Plan 7R-6839 prepared by Van Harten Surveying Inc. provide to the Township Solicitor for approval, a draft transfer of the road widening lands. The Owner shall also provide satisfactory evidence to the Township that there are no tax arrears for such lands. The Owner may also be asked to provide such environmental warranties and undertakings to the satisfaction of the Township Solicitor for the lands being transferred to the Township. After the draft transfer has been reviewed and approved by the Township Solicitor, the Owner's solicitor shall, register the required transfer(s). Following registration of the required transfer(s), the Owner's solicitor shall provide his or her certificate of title in a form satisfactory to the Township Solicitor regarding the registration of the transfer(s). Such certificate shall be the minimum evidence of completion of such registration by the Owner where completion of such registration is a requirement of this Agreement. The lawyer's certificate shall be provided to the Township within thirty days of such registration.

UTILITIES

54. The Owner shall, prior to the occupancy of the Building on the Leased Lands or any Development on the Servicing Lands, execute and deliver to the Township and/or applicable authority the grants of easements, for utilities and/or drainage, which grants are set out in **Schedule "N"** free and clear of all mortgages, liens, charges and encumbrances. If, subsequent to the execution of this Agreement, further easements are required for utilities, the Owner agrees to grant such easements forthwith upon demand at no expense to the Township and/or to the applicable authority.
55. The Owner covenants and agrees that in the event of relocation of any utilities, including but not limited to hydro, water, gas, cable and telephone, as a result of the Development, such relocation shall be completed at the Owner's expense. Further, the Owner covenants and agrees to pay all charges from such approvals and/or connections, including, without limitation, ongoing charges levied by the applicable authorities for the provision of same. The Owner acknowledges that this obligation includes payment of all costs incurred by the Township carrying out the removal and abandonment of the existing connection and for the design, construction, installation and testing of the replacement connection by the Township Engineer.
56. All deeds, grants of easements and other conveyances required herein shall be prepared, executed and registered at the Owner's expense. The form and substance of all deeds, grants of easements and other document granting property interests to the Township shall be subject to the approval of the Township's Solicitor and shall be in registrable form.

APPROVED WORKS

57. The Owner shall not commence the Works until it has received the approval in writing, of the Township Engineer, of the final grading, sediment and erosion controls that include the stormwater management facilities and stormwater outfall which are set out in **Schedule "G"**. Upon receiving such approval, the Owner or the Owner's Engineer shall provide 48 hours written notice to the Township Engineer prior to commencing the Works.
58. The Owner acknowledges and agrees to its obligation to satisfy section 53 of the *Ontario Water Resources Act*, and to obtain any permits that may be required to permit these Works under this legislation. The Owner further acknowledges its obligations for source water protection and confirms, after exercising its own due diligence, that it will meet those obligations, when carrying out the Works.
59. The Owner acknowledges that it is required to obtain an entrance permit(s) from the Township to access the Subject Lands from 2nd Line Road, or to confirm any existing entrance(s) are satisfactory. Such permissions shall be obtained prior to commencing the Works in the event they were not secured following the execution of the Preliminary Site Plan Agreement. Further, the Owner shall obtain a Road Occupancy Permit from the Township prior to performing any Works within the 2nd Line Road allowance, including, but not limited to traffic control measures, construction, alterations or improvements.
60. The Owner acknowledges and agrees that there will be no importation of fill to the Subject Lands or Off-Site Lands to perform the Works.
61. The Works shall be performed, constructed, and established in accordance with the approved **PLANS AND DRAWINGS** together with all supporting reports or studies dealing with the Works in accordance with the provisions of this Agreement, and to the satisfaction of the Township and the Township Engineer. In doing so, the Owner shall grade, alter in elevation and/or contour the Subject Lands to ensure that all stormwater and surface water from the Subject Lands shall be properly managed and diverted and not drain onto the adjacent properties to ensure that the existing drainage patterns on those adjacent properties are not altered by stormwater or surface water runoff.
62. All disturbed lands, including disturbed soil, shall be stabilized within 90 days of being so disturbed to the satisfaction of the Township Engineer. The Owner agrees to maintain ground cover and control weeds on the Subject Lands.
63. Topsoil, equipment or materials may only be stockpiled or located in areas as approved by and to the satisfaction of the Township, including to the satisfaction of the Township Engineer. Lands owned by the Township or the road widening lands to be dedicated to the Township, under paragraph 52 shall not be utilized for such purposes.

64. The Owner shall construct, maintain, operate and repair the Works in accordance with all regulatory approvals which may be required and all conditions thereof and be solely responsible for the care, maintenance, and operation of the erosion and sedimental control measures and stormwater management facilities on the Subject Lands to the satisfaction of the Township, the local Conservation Authority and the County.
65. There shall be no outdoor storage of garbage, refuse or debris except for a permitted dumpster or storage bins at any time during the construction of the Works on the Subject Lands. Any and all garbage, refuse or debris shall be removed from the Subject Lands by a private contractor at the Owner's expense. Burning of garbage refuse and debris is prohibited, unless the Township issues an approval to permit such burning.
66. All necessary precautions will be taken in carrying out the Works on the Subject Lands to avoid dust, noise and other nuisances, and to provide for the public safety.
67. The Owner shall be responsible to prevent earth, mud and debris from being tracked onto 2nd Line Road. Should earth, mud and debris accumulate on 2nd Line Road, the Owner shall forthwith clean 2nd Line Road to the satisfaction of the Township, including the Township Engineer. In addition, the Owner shall take reasonable steps, as directed by the Township, to minimize dust being spread to adjacent lands. Should the Township, including the Township Engineer, in their sole discretion be of the opinion that excess dust is being created, they shall be entitled to direct that such additional measures be carried out by the Owner as they view appropriate. In the event that the Owner fails to fulfill these requirements the Township is authorized to have such work done at the Owner's expense. The Security may be used or applied for the cost of any work carried out by the Township pursuant to this paragraph.

INCOMPLETE OR FAULTY WORK

68. The Owner shall carry out the Works diligently, once all permissions, approvals and permits have been granted.
69. The Township Engineer, may, at any time and from time to time, inspect any of the Works on the Leased Lands, Servicing Lands or Off-Site Lands. If in the opinion of the Township Engineer the Owner:
- a) is not carrying out the Works in accordance with the terms and conditions of this Agreement or the **PLANS and DRAWINGS**, or within any time limits that may be specified, therein;
 - b) is improperly performing the said Works; and/or;
 - c) has abandoned or neglected the said Works; and/or;

d) refuses, fails or neglects to maintain, replace or repair such Works as may be rejected by the Township as defective or unsuitable;

then the Township shall notify the Owner in writing of the non-compliance and if the Owner fails to remedy that non-compliance within fourteen (14) calendar days after of receipt of such notice, than the Township shall have full authority to enter upon the Subject Lands or Off-Site Lands and to employ such consultants, contractors, employees and workers as in the opinion of the Township are required for the proper completion of such Works, that may include the repair or the reconstruction of faulty Works and the replacement of materials, all of which shall be at the cost and expense of the Owner. In cases of emergency, in the sole opinion of the Township, such entry and performance of Works may be done without prior notice, but the Owner shall be notified thereafter. In the event of any such entry upon the Subject Lands or Off-Site Lands, the Township shall act only as the agent for the Owner and shall not be deemed, for any purpose whatsoever, to be assuming or accepting any of the Works by the Township.

70. It is acknowledged and accepted by the Owner that the Township Engineer, upon inspection may require the Works to cease immediately in the event unsafe conditions or health risks are identified.
71. In addition to all other remedies, in the event that the Township determines that the Owner has failed to comply with any of the requirements of this Agreement, the Township shall provide notification to the Owner in writing of the failure. If the Owner fails to remedy the failure complained of within fourteen (14) calendar days after the receipt of such notice, the Township at its sole option, may suspend or terminate this Agreement and forthwith revoke all approvals, permits, and authorizations previously granted by the Township to the Owner. The Township may, at the expense of the Owner, register notice on title of Subject Lands of the termination and/or suspension of this Agreement. The foregoing remedy is in addition to any other remedy the Township has at law, including enforcement of this Agreement in accordance with section 41(11) of the *Planning Act* and section 446 of the *Municipal Act, 2001*.
72. The cost incurred by the Township in furtherance of the provisions of this section shall be calculated by the Township whose decisions shall be final and binding on all Parties hereto. The cost calculated as aforesaid plus an additional 10% thereof (for inconvenience caused to the Township) shall be paid by the Owner to the Township forthwith on demand, failing which the Township shall be entitled to draw on the Security to recoup the aforesaid monies. The above costs may include a fee for any services or works performed by any municipal employee, or Township Consultants.
73. Nothing herein contained shall be taken to limit the powers, rights, remedies, actions and/or proceedings whatsoever available to the Township arising from or out of any breach of the provisions and terms of this Agreement.

74. This Section may be pleaded by the Township as estoppel against the Owner in the event any action is instituted by the Owner for recovery of the amount of the Security or for a claim against the Township.

DEVELOPMENT CHARGES OR LEVIES

75. The Owner agrees to pay all Township and County fees, development charges, or levies as may be required for the Building and any Development on the Leased Lands or the Servicing Lands, upon issuance of a building permit at the prevailing rate at the time of such issuance – unless otherwise altered by between the party requiring payment of the development charges and the Owner. The Owner expressly acknowledges that any Works associated with road improvement to 2nd Line Road, including potential realignment are not funded through the Township's Development Charges or reserves and consequently, the Owner may not seek a credit from the Township for these costs.

FEES

76. The Owner will pay to the Township at the time of execution of this Agreement an administrative fee in the amount of three thousand (3,000) dollars.

77. The Owner shall also pay such reasonable fees as may be invoiced to the Township by the Township Consultants in connection with the review of the matters set out in this Agreement, approval of any of the Works, registration of this Agreement, and the preparation, processing, review and completion of the terms of this Agreement or any other supplementary agreements required to facilitate the Works. Such fees include any on-site or field inspections undertaken by the Township Engineer.

78. In the event that the Township does deem it necessary to retain the services of additional outside consultant(s) to provide additional technical expertise and/or to review the plans of the Owner and/or to carry out onsite inspections of the Work performed, the Township shall advise the Owner accordingly of this requirement and the costs of such outside consultant(s) shall be the responsibility of the Owner. The Owner shall provide an additional deposit to the Township to be drawn against for such retention, subsequent to the Township advising the Owner of the requirement for such outside consultant(s).

79. The Township's demand for reimbursement for all such costs above shall include the provision of detailed accounts itemizing the costs claimed. It is agreed that the Township's demand for payment shall not include costs for employees of the Township except as otherwise expressly provided for under the terms of the Agreement and except as may be required under any other statutory authority of the Township which requirements include the payment by the Owner of all required fees and costs for the Building Permit(s) and inspections, including any development charges.

80. The Owner shall provide the Township 'as constructed' engineering drawings and shall also pay the costs of any necessary documentation to permit the inclusion and inputting of all Works into the Township's GPS system.
81. The Owner shall reimburse the Township forthwith on demand for all such costs incurred for the Township consultants and/or the costs of the documentation for the GPS system inclusion and inputting.
82. The due dates of any sum of money payable herein shall be thirty (30) days after the date of the invoice. Interest at the rate of One and a Quarter Percent (1.25%) per month shall be payable by the Owner to the Township on all sums of money payable for overdue accounts which are not paid on the due dates, calculated from such due dates.
83. In the event that the Owner does not reimburse the Township as aforesaid, the Township may, at its sole discretion, on thirty (30) days written notice to the Owner use the monies being held on deposit and/or the Security or any part thereof for the payment in full of such costs or expenses.

SECURITY

84. Within ten days of execution of this Agreement, the Owner agrees to deposit with the Township Security for the Works that will consist of four components parts in the amounts set out as follows:
 - i. Two Hundred Thousand dollars (\$200,000) to secure the Works in this Agreement that are to be undertaken by the Owner on the Subject Lands,
 - ii. Four Million, Eight Hundred and Ninety-Six Thousand, Eight Hundred and Twenty-Seven dollars \$4,896,827 representing 125 percent of the estimated costs of the transportation and infrastructure safety road improvements Works to 2nd Line Road,
 - iii. the Owner's estimated costs of the transportation and infrastructure safety road improvements Works to the intersection of 2nd Line Road with the existing County Road 109-County Road 3 intersection, which shall be comprised of:
 - a. One Million Six Hundred Thirty Thousand One Hundred and Seventy Two Dollars and Fifty-Two Cents (\$1,630,172.52), representing 125 percent of the Owner's contribution to the estimated costs of the required permanent transportation and infrastructure safety improvements Works for the re-alignment and/or reconstruction of 2nd Line Road and its intersection with the existing County Road 109-County Road 3 intersection;
 - b. Six Hundred Ninety-Two Thousand One Hundred and Nine Dollars and Eighty-Six Cents (\$692,109.86), representing 125 percent of the total estimated costs of the required temporary transportation and infrastructure safety improvements Works and the existing intersection with County Road 109; and
 - c. Thirty-Two Thousand Dollars (\$32,000.00), representing an amount sufficient to cover the anticipated costs of ongoing maintenance and operations of the

- required temporary transportation and infrastructure safety improvements Works for the re-alignment and/or reconstruction of 2nd Line Road and the existing intersection with County Road 109, with the amount of said funds to be topped-up by the Owner when such funds are depleted to 50% of the initial amount;
- iv. Six Million, One Hundred Thousand Dollars (\$6,100,000.00), representing 125 percent of the estimated costs of the stormwater management improvements necessary for the Owner to convey surface water and stormwater from the Servicing Lands through the OBRAG Corridor.

The amount of the Securities provided for in clauses iii and iv above may, in the County's discretion, be transferred to a separate agreement or agreements between the Owner and the County referred to in paragraphs 20 and 23 of this Agreement, and the Owner hereby irrevocably provides its consent to the same. The Township acknowledges that the Securities provided for in clauses (iii)(b) and (c) have already been paid directly to the County in order to facilitate immediate construction of the temporary improvements, and that said Securities do not need to be paid to the Township.

The form of the Security and each component part shall be satisfactory to the Township and shall be issued by a financial institution in the form of an irrevocable letter(s) of credit – as set out in **Schedule "M"** – and shall be satisfactory to the Township's Treasurer and the Township Solicitor. The letter(s) of credit shall be irrevocable and valid for an initial term of not less than one (1) year and shall provide that the letter(s) of credit shall be automatically renewed or extended without the need for written notice from the Township requesting such extension. The Owner shall keep the letter(s) of credit in full force and in effect and shall renew the letter(s) of credit from time to time until the Township, in its sole discretion, determines that Security is no longer required for the Works, and at such time the unspent portion of the Security shall be returned to the Owner without interest.

85. The Owner agrees that the Security constitutes earnest money to ensure performance of this Agreement in the event of breach of this Agreement by the Owner, but provision of such security does not limit the Owner's liability should damages resulting from the Owner's breach exceed the value of the Security. The Owner and Township further agree that the component parts of the Security set out in iii) and iv) in paragraph 84 above are to be released by the Township, pursuant to paragraph 108, only when the Township is advised that the Owner and the County have entered into agreements, including the easement agreement across and along the OBRAG Corridor, or the Agreements referenced in paragraph 20, that secure the very same obligations which the Township has secured in this Agreement such that it is unnecessary for the Township to hold Security for Works within the jurisdiction of the County.
86. The Security received and held by the Township in accordance with this Agreement may be applied and used by the Township to address not only the Works for which the Security is expressly required but may also be applied and used by the Township in accordance with the remedial provisions of this Agreement, to any other matter, expense or obligation of the Owner. The Owner shall immediately replenish the amount of any component of the Security

should the Security be drawn upon by the Township, at its sole discretion, for such purposes as the Township deems fit.

87. For greater certainty, the Owner agrees that the Township may, in its sole discretion, at any time authorize the use of all or any part of the Security for such purposes as the Township deems fit if the Owner:
- (a) in any way makes or permits default of the Owner's obligations under this Agreement,
 - (b) in any way makes or permits default of the Owner's obligations to redesign, re-align, re-construct, build or maintain 2nd Line Road or the intersection improvements at 2nd Line Road and County Road 109 as provided for in this Agreement including the related transportation safety improvements to County Road 109 that the Owner will undertake by separate agreement between the County and Owner,
 - (c) in any way makes or permits default of the Owner's obligations to divert the outfall of stormwater and surface water from the Servicing Lands through the OBRAG Corridor, as provided for in this Agreement and also the related stormwater management Works approved by the County to be performed by the Owner on the Off-Site Lands which are necessary to ensure the diversion of stormwater and surface water which the Owner will undertake by separate agreement between the County and Owner,
 - (d) in any way, fails to obtain or to maintain in good standing, approvals from any authority required to construct, operate or maintain any of the Works on the Subject Lands or Off-Site Lands, or
 - (e) fails to pay any costs, fees, charges, expenses, premiums, liens or other monies whatsoever payable by the Owner arising out of or in connection with or in any way relating to the Works as set out in this Agreement.

The provisions of this paragraph shall be in addition to all other provisions in this Agreement relating to the use of the Security by the Township.

88. Should the Security be applied and used against any other matter, expense or obligation of the Owner, it is agreed that such Security is deemed to be expressly received for such purpose.
89. Prior to the use of the Security, it is agreed and acknowledged that the Owner shall receive seven (7) calendar days' notice by the Township of the non-performance of this Agreement and at the end of the seven day notice period, the Township shall determine if the Owner has performed its obligations under the Agreement.
90. In the event that the Owner, in the sole opinion of the Township, breaches any provision of this Agreement, the Owner agrees that the Township, through its employees or Township Consultants may, in its sole discretion, draw upon and utilize the Security to perform any obligations of the Owner pursuant to this Agreement or to redress any harm or damages that have or may occur

from the breach, provided the Township has given the Owner notice of such breach and seven (7) calendar days have elapsed since such notice has been provided, without the Owner having taken steps satisfactory to the Township to redress the breach. The Owner hereby expressly consents to such entry by the Township's employees, Township Consultants, contractors or agents to the Leased Lands or Servicing Lands and is responsible to provide notice, if necessary to the Tenant.

91. Where, in the opinion of the Township, any damage to any property of the Township which expressly includes the intersection of County Road 109 and the 2nd Line Road, or the road widening land to be dedicated, has been caused directly or indirectly, or by reason of any default of the Owner under the provisions of this Agreement, the Township has and is hereby given the right by the Owner to remedy such default at the expense of the Owner. The Owner shall pay such expense to the Township within seven (7) days from the date of an account therefore being rendered to the Owner by the Township. Should the Owner fail to pay such account, the Township may draw upon the Security.
92. Use of the Security by the Township shall not relieve the Owner of any of its obligations pursuant to this Agreement.
93. The Owner shall also deposit with the Township a cash deposit in the amount of \$20,000.00 to be drawn on to reimburse the invoices rendered by the Township Consultants, from time to time, and such deposit shall be replenished from time to time as required by the Township Treasurer so that the amount of \$20,000.00 remains in the account. Any deposits currently held by the Township at the time of execution of this Agreement shall be credited to this account. The Owner shall reimburse the Township forthwith on demand, for all reasonable administrative, planning, legal, engineering, inspections and/or other costs or expenses whatsoever incurred by the Township, or the Township Consultants, or any of its agents, in connection with the Works and/or in the preparation, review, consideration, and enforcement of this Agreement, including the **SCHEDULES**. The Township's demand for reimbursement shall include the provision of accounts itemizing the costs claimed. It is agreed that the Township's demand for payment shall except payments that may be required by any statutory authority of the Township which requirements include all fees and costs for Building Permits and inspections, including any applicable development charges.
94. In the event that the Owner does not reimburse the Township as set out in the paragraph above, the Township may, at its sole discretion, on THIRTY (30) days written notice to the Owner, use the Security or any part thereof for the payment in full of such costs or expenses and the Owner shall immediately replenish the Security as required, so the amount of \$20,000.00 remains in the Township account.
95. Subsequent to the Township Consultants advising the Township that their respective files have been closed on this matter, and subject to all invoices having been paid, and all other financial matters being in good standing, the Township shall remit remaining monies of the replenished deposit, if any, to the Owner without interest.

96. In addition to paragraph 93, the Owner shall make payment of the site plan application fee approved by the Township, in the amount of \$5,000.00.

INSPECTIONS AND RIGHT OF ENTRY

97. The Township and its employees, Township Consultants together with Township contractors may at any time enter on any part of the Leased Lands, Servicing Lands or Subject Lands, without notice to the Owner, to inspect these Lands to ensure compliance with any of the terms of this Agreement. If considered necessary by the Township, Township Consultants together with Township employees, agents or contractors may make emergency repairs thereto without notice to the Owner. The cost of all such emergency repairs determined by the Township shall be paid forthwith by the Owner. In the event the Owner fails to make payment within thirty (30) days of receipt of the account, such cost may be recovered by the Township from the Security.

COMPLIANCE WITH APPLICABLE LEGISLATION

98. The Owner agrees that it will comply with all applicable legislation, regulations and standards in the performance of the obligations contemplated by this Agreement. Without limiting the generality of the foregoing, the Owner agrees to comply with and to obtain all approvals required of all other bodies having jurisdiction, including the County, Conservation Authority and the MECP.

FURTHER APPROVALS

99. The Owner acknowledges that this Agreement does not predetermine, prejudice, fetter or constrain the Township's jurisdiction or decision-making with respect to any additional Site Plan approvals on the Subject Lands and/or the Off-Site Lands including any additional fees/charges and/or levies payable; and/or the approval, rejection or imposition of conditions to approvals, together with, in relation to any development approvals that are now or that may, in future, be proposed for the Subject Lands and/or Off-Site Lands by the Owner.

INDEMNIFICATION

100. The Owner covenants and agree to waive any right or entitlement it may have to any actions, causes of action, interest, losses, liens, damages, suits, judgements, orders, awards, costs (including legal costs), charges, expenses, prosecutions, fines, rights of contributions, claims and demands whatsoever against the Township, its Mayor and Councillors, employees, personnel, agents, contractors, assignees and Township Consultants arising from the subject matter of this Agreement. Further, the Owner covenants and agrees, at the Owner's expense, to defend, indemnify and forever save harmless the Township, its Mayor and Councillors, employees, personnel, agents, contractors, assignees and Township Consultants from and

against actions, causes of action, interest, losses, liens, damages, suits, judgements, orders, awards, costs (including legal costs), charges, expenses, prosecutions, fines, rights of contributions, claims and demands whatsoever which the Township may, at any time, bear, incur, be liable for, sustain or be put into for any reason, on account of or by reason of or in consequence of, arising directly or indirectly from: (a) the Township entering into this Agreement; and, (b) from the implementation or undertaking of the provisions of this Agreement by the Owner and, Township, and/or its Mayor and Councillors, employees, personnel, agents, contractors, assignees and Township Consultants in respect of the performance of any of the Works ; and, (c) in respect of any failure by the Owner to fulfil its obligations under this Agreement.

101. Notwithstanding any provision of this Agreement, the Township shall not be liable for and no provision of this Agreement shall be construed as imposing upon the Township any liability, in respect of any matter or thing arising directly or indirectly out of the provisions of this Agreement, for any damage or damages suffered by the Owner or to any other employee, personnel, agent, contractor, assignee or consultant of the Owner to any property of the Owner or of any other person by reason of:

- (a) any inspection carried out by the Township, the Township Consultants or by a duly authorized employee, personnel, agent, contractor or assignee of the Township under any By-law of the Township, under this Agreement or otherwise; or,
- (b) the failure of the Township, the Township Consultants or of any duly authorized employee, personnel, agent, contractor or assignee of the Township to carry out any inspection under any By-law of the Township, this Agreement or otherwise; or,
- (c) the approval or failure to approve of any matter or thing, arising directly or indirectly out of the provisions of this Agreement, by the Township, its elected officials, the Township Consultants or any duly authorized employee, personnel, agent, contractor or assignee of the Township.

INSURANCE

102. The Owner shall throughout the term of this Agreement provide and keep in force, for the benefit of the Township, and the Owner, general liability insurance in an amount of not less than \$5,000,000.00 (Five Million Dollars) in respect of injury to or death of one or more persons or property damage. The policy shall include any and all claims that may arise from the installation, construction, maintenance, repair and/or operation of the Works in this Agreement. All insurance shall be effected with an insurer under license of the Financial Services Commission of Ontario and upon terms and conditions satisfactory to the Township. The Owner's policy shall insure the Owner(s) and Tenant and name the Township as an additional insured; and, contain cross-liability and severability of interest provisions.

103. The Owner shall promptly furnish to the Township copies of the Insurance Certificate or in the alternative insurance policies and any renewals thereof described above in paragraph 102 and other evidence satisfactory to the Township as to such insurance and any renewals thereof.

104. In the event that the Owner fails to insure as required or fails to promptly furnish to the Township satisfactory evidence of such insurance or of the renewal thereof prior to its expiration, the Township may, from time to time, effect such insurance for the benefit of the Owner, Lease or the Township or all of them for a period not exceeding one (1) year(s) and any premium paid by the Township shall be recoverable by the Township from the Owner forthwith.

CONSTRUCTION LIENS

105. The Owner shall indemnify and hold the Township harmless from and against liability, claims, damages or expenses due to or arising from any claim made against the Subject Lands or Off-Site Lands and/or any Township lands including 2nd Line Road where Works and/or activities are being carried out pursuant to this Agreement for all liens related to all Work done by or on behalf of the Owner or Tenant. Any such liability, claims, damages or expenses incurred by the Township shall be paid by the Owner to the Township forthwith upon demand. The Owner shall further cause all registration of claims for construction liens or certificates of action under the *Construction Act* and relating to any such work done by or on behalf of the Owner to be discharged or vacated as the case may be within thirty (30) days of such registration or within fifteen (15) days after notice from the Township.

106. The above paragraph shall also apply to claims made on the Off-Site lands owned by the County, including County Road 109 and 110 and the OBRAG railway lands, *mutatis mutandis*.

REQUIREMENTS FOR LETTER OF COMPLETION

107. The Owner agrees that any occupancy and use of the Building, or any of the Works on the Leased Lands, Servicing Lands or Subject Lands shall not occur until the Township has provided the Owner with a "Letter of Completion". The Township shall issue the Letter of Completion once it has been provided with written:

- (a) confirmation that the Owner has satisfied its obligations set out in paragraphs 20 and 23 and provided the Township Engineer with the executed agreement(s) it has entered into with the County referenced in these two paragraphs;
- (b) certification from the Owner's respective consultants, pursuant to paragraph 40, that the Works have been fully constructed, installed and comply in all respects the approved **PLANS AND DRAWINGS**, satisfy good engineering and construction practices, are fully operational and meet all requirements of this Agreement;

- (c) confirmation from the Township Engineer and/or applicable authority/utilities as the case may be that the necessary utilities have been constructed to its or their satisfaction;
- (d) confirmation by the Chief Building Official that the private septic system, including the infrastructure to distribute wastewater from the Building to the Servicing Lands is constructed, installed and operational as required by the Building Code Act, S.O. 1992, c. 23, as amended, or as required by any other such legislation administered by the Chief Building Official;
- (e) confirmation by the Chief Building Official that fire suppression system on the Leased Lands is constructed, installed and operational as required by the Building Code Act, S.O. 1992, c. 23, as amended, or as required by any other such legislation administered by the Chief Building Official;
- (f) confirmation by the Township Engineer that the grading on the Subject Lands has been completed in accordance with the Agreement;
- (g) confirmation by the Township Engineer that the stormwater management facility, the outfall to the OBRAG Corridor and all related erosion and siltation control measures, such as swales or infiltration trenches and all other stormwater Works located on the Leased Lands, Servicing Lands and Off-Site Lands have been fully installed and constructed in accordance with the approved **PLANS AND DRAWINGS** and these Works are fully operational and in good working order;
- (h) confirmation by the Township Engineer that the well on the Leased Lands has been constructed, installed, tested and is operational in accordance with the MECP Permit and that the water distribution system on the Leased Lands satisfies all applicable legislation and regulations related to drinking water quality, standards or treatment of groundwater;
- (i) confirmation by the Township Engineer that the existing well on the Leased Lands has been properly abandoned;
- (j) confirmation, following an inspection by the Township Engineer that all preliminary transportation and infrastructure safety road improvements Works to 2nd Line Road, including the intersection of 2nd Line Road and County Road 109, have been constructed and installed in accordance with the approved drawings set out in Schedule K, and are fully operational, to the satisfaction of the Township Engineer after consultation with the County;
- (k) confirmation by the Township Engineer, and any applicable authorities (Hydro One) that the hydro poles located on both sides of 2nd Line Road have been relocated and are operational as set out in the approved **PLANS AND DRAWINGS**;

- (l) confirmation the Owner has fulfilled all financial obligations of this Agreement required to the date of issuance of the Letter of Completion, including payment of all development charges, levies, fees and charges, and municipal taxes;
- (m) confirmation all landscaping and berming has been planted in accordance with the **PLANS AND DRAWINGS** and is healthy and established; and,
- (n) confirmation by the Township Engineer that the required driveways, parking areas and sidewalks on the Leased Lands, Servicing Lands or Subject Lands have been surfaced with asphalt or concrete and completed in accordance with the **PLANS AND DRAWINGS**.

REQUIREMENTS FOR RELEASE OF PART OF THE SECURITY

108. The Owner agrees that the Council of the Township shall not be obligated to release to the Owner any part of the Security until:
- (a) a Letter of Completion has been issued;
 - (b) the Owner has satisfied the Township Engineer that the Owner has entered into agreements with the County, as referenced in paragraphs 20, and 23 wherein the County has financially secured the Works as provided for, to allow to Township to release **only** the component parts of the Security as referenced in paragraph 84 - as items iii) and iv) in the Section **SECURITY**; and
 - (c) there has been full compliance with the requirements of the *Construction Act*, as amended, and the time for preserving liens has expired in relation to such Works, services, or materials for which the Township may, in the sole and absolute opinion of the Township Solicitor, be liable arising from the Development and/or Works.

REQUIRED MAINTENANCE

109. The Owner shall, from the date of issuance of a Letter of Completion and the first occupancy of the Building on the Leased Lands, maintain all the of the Works set out in this Agreement. Without limiting the generality of the foregoing, maintenance required includes maintenance of the well of the Leased Lands, the drinking water distribution system to the Building, fire protection service, the private septic system, and related infrastructure from the Building to the Servicing Lands, the stormwater management facility and stormwater outfall on the Servicing Lands, and all related Development on the Leased lands such as driveways, fire routes, sidewalks and parking areas, snow removal, landscaping berming and maintenance associated with the Building for the Development described in paragraph 45 and 46 or any Oversized servicing infrastructure.

110. The Owner shall also maintain all transportation and infrastructure safety road improvements Works associated with the preliminary improvement of 2nd Line Road and its intersection with County Road 109 until these Works are assumed by By-law of the Township, or By-law of the County, depending on the municipality with jurisdiction over the roadway.

SECURITY RETAINED TO GUARANTEE MAINTENANCE

111. In order to ensure that all of the Works will be properly maintained and/or repaired, for a period of at least TWO (2) years from issuance of the Letter of Completion, the Township shall retain that part of the Security (and its component parts) required in Township's absolute determination to ensure compliance with these maintenance requirements (described in paragraphs 108 and 109 above).

112. The Owner agrees that the Township may, in its sole discretion, at any time and from time to time, authorize the use of all or any part of the retained Security or such purposes as the Township deems fit:

- (a) if the Owner fails to pay any costs, charges, expenses, premiums, liens or other monies whatsoever payable by the Owner arising from or in connection with or in any way relating to the maintenance, repair or replacement of any or all of the Works as shown and/or detailed on the **PLANS AND DRAWINGS** or as otherwise set out in this Agreement,
- (b) without limiting the forgoing of the above paragraph, if the Owner fails to maintain all transportation safety road improvements Works associated with 2nd Line Road before these Works are assumed by By-law of the Township, or alternatively, should the Owner fail to enter the agreement with the County as set out in paragraph 20 of this Agreement, with the said implications for such failure, set out in paragraph 22,
- (c) if the Owner fails to provide final "as constructed" drawings of the transportation and infrastructure safety road improvements Works associated with the preliminary improvement of 2nd Line Road and its intersection with County Road 109; or
- (d) if a claim for lien is not vacated and released pursuant to paragraph 105 of this Agreement within the time set out therein.

113. That part of the Security for guaranteeing maintenance for all Works shall be retained by the Township until:

- (a) the expiry of TWO (2) years subsequent to the issuance of a Letter of Completion,
- (b) or, in the case of the transportation safety road improvements Works associated with the re-alignment and reconstruction of 2nd Line Road and its intersection with County Road 109, when these Works are assumed by By-law of the Township, which period

may extend in excess of TWO (2) years subsequent to the issuance of the Letter of Completion, depending on when Council decides to exercise its sole discretion to enact an assumption By-law; and

- (c) the Owner has provided the Township Solicitor with satisfactory evidence that there has been full compliance with the requirements of the *Construction Act* and the time for preserving liens has expired in relation to such Works, services or materials for which the Township may, in the sole and absolute opinion of the Township's Solicitor, be liable.

ASSUMPTION OF 2nd LINE ROAD WORKS.

- (d) before the permanent transportation and infrastructure safety road improvements Works associated with the re-alignment and reconstruction of 2nd Line Road and, if applicable, its intersection with County Road 109 are assumed by By-law of the Township, the Owner shall have i) complied with all terms and conditions of this Agreement, in respect of these Works, following a final inspection by the Township Engineer, ii) corrected all deficiencies in the Works identified under the maintenance period by the Township Engineer, iii) provided the Township with a duly sworn statutory declaration of the Owner in the form set out in **Schedule "P"** that it has paid all accounts in connection with the installation or maintenance of the Works, iv) satisfied the Township Engineer that all aspects of these Works are suitable for assumption, provided all final plans or "as constructed drawings" and furnished any additional assurances as the Township may require, and v) provided certification from their Professional Engineer (pursuant to paragraph 40) that these Works have been properly maintained, as required by this Agreement, and to the satisfaction of the Township Engineer.
- (e) The Township shall acknowledge when the Owner has fulfilled the requirements for the Township's assumption of the permanent transportation and infrastructure safety road improvements Works associated with the re-alignment and reconstruction of 2nd Line Road. The Township shall thereafter be responsible for these Works upon the passage of an assumption by-law by Township Council, at which time the maintenance period for these Works shall expire.

REQUIRED COMPLETION DATE

114. It is understood and agreed that if the Owner fails to apply for a Building Permit for the Development contemplated by this Agreement within six months from the date of the execution of this Agreement by the Town, then the Town shall at its sole option have the right to terminate or suspend this Agreement and require that the plans and drawings be resubmitted by the Owner for approval. Nothing in this Agreement shall affect the authority of the Chief Building Official under Sections 8 or 10 of the Ontario *Building Code Act*.

INTEREST

115. The due dates of any sum of money payable herein shall be THIRTY (30) days after the date of the invoice. Interest at the rate of One and a Quarter Percent (1.25%) per month shall be payable by the Owner to the Town on all sums of money payable herein for overdue accounts which are not paid on the due dates, calculated from such due dates.

ASSIGNMENT

116. This Agreement shall not be assigned by the Owner without an express written consent to assignment executed by all of the Township, Owner and the assignee.

117. The Owner acknowledges and agrees that notwithstanding that the Subject Lands are listed under different PINS, that the Subject Lands are abutting lands which cannot be conveyed without *Planning Act* consent. The Owner acknowledges that it is not seeking such consent for if granted it would frustrate and vitiate this Agreement. Further, the Owner acknowledges its obligation within this Agreement to consolidate title in one PIN in the Land Titles Office (LRO #7). The Owner acknowledges that any transfer of title requires the conveyance of the entirety of the Subject Lands in order to facilitate the Development under this Agreement.

118. As the Owner's development plans are premised on the comprehensive development of the Subject Lands it is acknowledged that the water and wastewater servicing of this development must be situated on the Servicing Lands and shall be subject to approvals being granted by the relevant governmental authorities, (Hydro One) including the Township.

119. For greater certainty, if the Owner enters into an Agreement to sell the Subject Lands as described under **Schedule "A"** notice shall be provided forthwith to the Township, and the Owner agrees that the Agreement of Purchase and Sale shall be conditional upon compliance with this section entitled **Assignment**.

120. In the event that the Owner subsequently transfers its title interest in the Subject Lands or assigns or leases any part thereof of the Subject Lands, the Owner shall forthwith notify the Township in writing of such transfer or assignment together with the names and addresses of the transferees or assignees.

NOTICE

121. Any notice to be given pursuant to this Agreement shall, unless otherwise specified in this Agreement, be personally delivered or sent by registered letter to the Owner and the Township as follows:

TO THE OWNER:

OPTrust Amaranth 6 Inc.
c/o Nicola Blackwood Realty Advisors
Suite 5702, 40 King Street West
Toronto, ON M5H 3Y2
Attention Peter L. Staffl
Vice President, Operations & Broker of Record
Email: pstaffl@nicolawealth.com

TO THE TOWNSHIP:

The Clerk
Township of Amaranth
374028 6th Line
Amaranth ON L9W 0M6
Email: clerk@amaranth.ca

or to such other address as the Owner and the Township may respectively from time to time appoint in writing, and any such notice, if mailed, shall be conclusively deemed to be received by the other Party five (5) business days after the date of the mailing thereof postage prepaid. A Party may be served by email; however, such notice is effective only provided the Party receiving notice has acknowledged its receipt.

ENFORCEABILITY AND NO WAIVER OF DEFAULT

122. No condoning, excusing, overlooking or delay in acting upon by the Township of any default, breach or non-observance by the Owner at any time or times in respect of any covenant, provision or condition in this Agreement shall operate as a waiver of the Township's rights under this Agreement in respect of any such or continuing subsequent default, breach or non-observance and no waiver shall be inferred from or implied by anything done or omitted by the Township except an express waiver in writing.
123. This Agreement shall ensure to the benefit of and be binding upon the Parties hereto and their respective heirs, administrators, executors, successors, successors in title, and assigns. The covenants, provisions and conditions contained herein shall be of the same force and effect as a covenant running with the Subject Lands. The Township shall be entitled to enforce the provisions hereof against the Owner and, subject to the provisions of the *Registry Act* or *Land Titles Act*, (whichever applies to the Subject Lands), against any and all subsequent owners of the Subject Lands.
124. The Owner acknowledges that nothing in this Agreement waives or limits any rights the Township may have at law to enforce the provisions of this Agreement, including section 41(11) of the *Planning Act*, as amended, and section 446 of the *Municipal Act, 2001*, as amended, should same be required.

ENTIRE AGREEMENT

125. The Owner acknowledges that there are no covenants, representations, warranties, Agreements or conditions, express or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Agreement save as expressly set out or imported by reference in this Agreement, and that this Agreement constitutes the entire Agreement duly executed between the Township and the Owner.

INTREPRETATION

126. It is acknowledged and agreed by the Parties that this Agreement shall be interpreted without regard to any presumption or other rule requiring construction against the Party causing this Agreement to be drafted.

FORCE MAJEURE

127. Notwithstanding anything to the contrary in this Agreement, if the Owner shall be bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of strikes, labour troubles, an inability to procure materials or services, failure of power, restrictive governmental laws or regulations, riots, sabotage, rebellion, war, or Acts of God; which is not the fault of the Owner in performing the work or doing the act required under the terms of this Agreement, then the performance of such term, covenant or act shall be excused for the period of the delay and the period for the performance of any such term, covenant or act shall be extended for a period equivalent to the period of such delay.

TIME AND OBLIGATIONS

128. Time shall be of the essence of this Agreement in all respects.

129. Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things as may be within its power in connection with this Agreement that the other Party may reasonably require, for the purposes of giving effect to this Agreement.

130. Where an obligation is imposed upon the Owner in this Agreement, it is understood that it is to be carried out at the Owner's cost.

131. Each Party shall act in good faith and reasonably throughout this Agreement.

ESTOPPEL AND SEVERABILITY

132. No Party shall call into question, directly or indirectly, in any proceeding whatsoever in law or in equity or before any court or administrative tribunal, the right of any Party to enter into this Agreement, or to enforce each and every term, covenant and condition herein and therein

contained, and this clause may be pleaded as estoppel against the Party doing so in any such proceeding.

133. If any of the provisions in this Agreement are determined to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality or enforceability of the remaining provisions in this Agreement shall not be affected or impaired to the extent possible.

COUNTERPARTS

134. This Agreement may be executed in one or more counterparts, which together constitute a complete set of the Agreement, and executed counterparts may be delivered by email or facsimile.

APPLICABLE LAW

135. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that Province and will be treated, in all respects, as an Ontario contract.

NUMBER AND GENDER

136. It is hereby agreed that this Agreement shall be read with all changes of gender or number as are required by the context and the nature of the Parties to this Agreement.


HEADINGS

137. The headings to the sections and paragraphs in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or of any provision thereof.

IN WITNESS WHEREFOF the Parties hereto have affixed their respective corporate seals attested to by the hands of their duly authorized officers and duly executed this Agreement. The effective date of this Agreement shall be the date of its execution by the Township and the Township shall insert such date on page 1 of this Agreement.

OPTRUST AMARANTH 6 INC.

Per:

DocuSigned by:

D04E2146EF6F4AC...

c/s

I have authority to bind the corporation

OPTRUST AMARANTH 6 INC.

Per:

DocuSigned by:
Robert Douglas
6E2E654757D645C

c/s

I have authority to bind the corporation

**THE CORPORATION OF THE TOWNSHIP OF
AMARANTH**

Mayor Chris Gerrits

Nicole Martin, Clerk
Approved by By-law 2023-- passed on
, 2023

SCHEDULE "A"
Legal Description of Subject Lands

The following lands are owned by the Owner and are subject to this Agreement:

SUBJECT LANDS

LEGAL DESCRIPTION:

THIS PIN has been consolidated as of 22/01/31 now all properties below are PIN no 34038- 0167

PT LT 2, CON 2, PT 1, 7R5083; AMARANTH; COUNTY OF DUFFERIN and as more specifically set out in PIN No. 34038-0127 (LT);

Together with:

PT LTS 2 & 3, CON 2, PTS 5 TO 10, 7R1146 EXCEPT PTS 1 & 2, 7R5083 AND PT 1, 7R5475; T/W MF163994; S/T AM17163; MF38499; AMARANTH, COUNTY OF DUFFERIN and as more specifically set out in PIN No. 34038-0142 (LT);

Together with:

PT LOT 3, CON 2 DES AS PT 1, 7R5475; T/W MF 163994; AMARANTH; COUNTY OF DUFFERIN and as more specifically set out in PIN No. 34038-0141 (LT);

Together with:

PT LOT 1, CON 2, PT 12, 7R1146; AMARANTH; COUNTY OF DUFFERIN and as more specifically set out in PIN No. 34038-0055 (LT).

SCHEDULE "B"
Site Plan Drawing – Leased Lands

Site Plan for Proposed Warehouse Distribution Centre (A0.04), prepared by G. Piotrowski Architect, February 16, 2022, revision date April 14, 2023.