

The Corporation of the Township of Elizabethtown-Kitley

By-law Number 24-02

**Being a By-law to Authorize the Execution of a Long-Term Land Lease
Between the Township of Elizabethtown-Kitley and
Campus Habitations Holdings Ltd.**

Whereas Section 9 of the *Municipal Act* S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And Whereas Council deems it expedient to execute a long-term land lease of the Township property known as Rows Corners for the purposes of the Campus Elizabethtown; a housing solution which is specifically targeted at local workforce needs and aligns with CMHC affordability guidelines, whilst acknowledging the significant recreational history of the property.

Now Therefore the Council of the Corporation of the Township of Elizabethtown-Kitley enacts as follows:

1. **That** the Mayor and Administrator/Clerk of the Corporation of the Township of Elizabethtown-Kitley are hereby authorized to execute the Long-Term Land Lease with Campus Habitations Holdings Ltd., which will be available for public viewing on the Township website, effective January 9, 2024.
2. **That** By-law No. 24-02 shall become effective upon third reading on January 29, 2024.

Read a First and Second time this 9th day of January, 2024.

Read a Third time and finally **Passed** this 29th day of January, 2024.

Original Signed by B. Burrow

MAYOR

Original Signed by L. Stanzel

DEPUTY CLERK

GROUND LEASE

THIS GROUND LEASE dated January 31, 2024,

BETWEEN:

The Township of Elizabethtown-Kitley, a municipal government in the Province of Ontario
(the "**Landlord**")

-and-

CAMPUS HABITATIONS HOLDINGS LTD. LES PLACEMENTS HABITATIONS
CAMPUS LTÉE, a corporation incorporated under the laws of Canada
(the "**Tenant**")

RECITALS:

WHEREAS the Landlord is the registered [and beneficial] owner of the Land (as hereinafter defined); and

WHEREAS, the Landlord has agreed to lease to the Tenant, and the Tenant has agreed to lease from the Landlord, the Land (as hereinafter defined), on the terms and conditions set out in this lease.

NOW THEREFORE, in consideration of the rents reserved and the mutual covenants, terms and conditions set forth herein, the sufficiency of which are hereby acknowledged, the Parties (as hereinafter defined) agree as follows:

ARTICLE I – DEFINITIONS

Section 1.01 - Definitions.

In this Lease, the following capitalized terms shall have the following designated meanings unless the context shall otherwise require:

"**Additional Rent**" means all amounts payable by the Tenant under this Lease, whether or not expressly designated as Additional Rent in this Lease, other than Base Rent and HST/GST[and PST, if applicable].

"**Affiliate**" of a Person means any other Person who, directly or indirectly, Controls, is Controlled by or is under common Control with such Person.

"**Applicable Laws**" means all: (a) statutes, regulations, by-laws, official plans, codes, rules, agreements, licences, permits, approvals, orders, notices, directions, and other laws of, with or issued by any Authority; (b) recommendations and requirements of any insurer insuring any Party or Parties or part or all of the Leased Premises; (c) the Permitted Encumbrances and all other registrations on title to the Land from and after the Commencement Date; (d) the common law; and (e) awards, injunctions, orders and decisions of any court, administrative tribunal or arbitration panel with jurisdiction, that are applicable, from time to

time and at any time during the Due Diligence Conditional Period, the Term and/or any overholding periods, to all or any of or any part of the Parties, this Lease, the Land, the Improvements and/or the chattels located on the Land from time to time.

"**Arbitration**" has the meaning given to it in Section 10.05.

"**Assignee**" has the meaning given to it in Section 8.01.

"**Authority**" means any government, governmental agency, board, branch, department, or other governmental authority, whether federal, provincial, or municipal, having jurisdiction over all or part of the Leased Premises or the Parties.

"**Base Rent**" has the meaning given to it in Section 3.02.

"**Business Day**" means any day of the week excluding Saturday, Sunday, and statutory holidays in the province in which the Leased Premises is situate and "day" shall mean a calendar day.

"**Commencement Date**" means the first day immediately after the date that the Tenant's Due Diligence Condition is, or is deemed to be, satisfied, or waived in accordance with Schedule B of this Lease, subject to extension by Section 2.02. The Parties shall confirm the Commencement Date and expiry date of the Term by written agreement within 5 days after the day the Commencement Date is known.

"**Control**" of a Person means the ownership, directly or indirectly (including through intermediaries but not only as security), of the fifty one (51%) of the outstanding voting securities, partnership units, or other equity interests of such Person, and the power, directly or indirectly, to direct or to cause the direction of, the management and policies of such Person, whether by exercise of voting rights, pursuant to a contract, under statute or otherwise, and "**Controlled by**" and "**under common Control with**" have corresponding meanings.

"**Due Diligence Conditional Period**" has the meaning given to it in Schedule B.

"**Due Diligence Materials**" has the meaning given to it in Schedule B.

"**Effective Date**" means the date written as the date of this Lease in the first line on the [first page/cover page] of this Lease.

"**Environmental Laws**" means, collectively, the *Environmental Protection Act*, R.S.O. 1990, c. E.19, and all other legislation, regulations, and applicable orders, decisions, or the like rendered by any Authority relating to any Hazardous Substances.

"**Event of Default**" has the meaning given to it in Section 9.01.

"**Fair Market Value of the Land**" means, for the purposes of Section 3.02(c) of this Lease, the price that a willing and knowledgeable buyer would offer, and a willing and knowledgeable seller would accept, for all of the Landlord's fee simple interest in the Land on the open market, assuming that, on the date of valuation:

- (a) the Land is vacant and unimproved by buildings or other improvements such as roads, sewers, and utilities as it was on the Commencement Date;

- (b) the Landlord's fee simple interest is not encumbered by any Freehold Mortgages;
- (c) the Land and the Landlord's fee simple interest therein are unencumbered by the existence of this Lease;
- (d) the use of the Land is not restricted by the terms of this Lease, including use restrictions, if any, in the provisions of this Lease; and,
- (e) the value is for the Land at its current and actual use on the valuation date, considering the conditions in Sections (a) to (d) above.

"**First Rental Period**" has the meaning given to it in Section 3.02(a).

"**Force Majeure Event**" has the meaning given to it in Section 10.06.

"**Freehold Mortgage**" means any loan financing obtained by the Landlord that is secured by a charge, mortgage, lien, or deed of trust of, or other security against, the Landlord's fee simple interest in the Land and its interest in this Lease, and including, without limitation, an assignment as security of this Lease and the rent hereunder, as may be extended, renewed, amended, and replaced from time to time.

"**Freehold Mortgagee**" means the holder of a Freehold Mortgage.

"**Hazardous Substances**" means those substances that are generally considered hazardous to human health and includes any pollutants, liquid wastes, industrial wastes, hauled liquid wastes, toxic wastes, dangerous or hazardous wastes, materials, or substances, or contaminants.

"**HST/GST**" means the harmonized sales/goods and services tax under the *Excise Tax Act*, R.S.C. 1985, c. E-15, and all other harmonized sales taxes, goods and services taxes, excise taxes, sale taxes, retail sales taxes, business transfer taxes, multi-stage sales taxes, value-added taxes, or similar taxes imposed on the Landlord or the Tenant by any Authority, other than PST, with respect to Rent, any other amounts payable under this Lease, this Lease, the rental of space under this Lease or the goods and services provided by the Landlord under this Lease, calculated in accordance with applicable legislation.

"**Improvements**" means all buildings, structures, improvements, tenant's trade fixtures, leasehold improvements, and other fixtures located now or in the future, at any time during the Term, in or on the Land, and any additions, alterations, or replacements thereto or thereof.

"**Interest Rate**" means the Prime Rate plus two percent (2%) per annum, but, in no event, in excess of the maximum interest rate then permitted by law in Canada and the province or territory where the Leased Premises are located.

"**Land**" means the lands described in Schedule A attached, together with all easements and other rights benefiting such lands.

"**Landlord**" means the entity named as such on the first page/cover page of this Lease, its successors (including corporate successors and successors in title to all or any part of the Leased Premises) and assigns, and if an individual, their heirs, executors, administrators, and legal representatives.

"**Landlord Parties**" means, collectively, the Landlord and its officers, directors, shareholders, employees,

agents, contractors, and those for whom it is responsible for in law.

"Landlord Transferee" has the meaning given to it in Section 8.05.

"Landlord's Taxes" means all taxes, assessments, rates, charges, fees, duties, and levies imposed by any Authority on the Landlord on account of the Landlord's income or profits or which are otherwise personal to the Landlord, including, corporate taxes, franchise taxes, large corporation taxes, capital taxes on the Landlord's capital or place of business, capital gains taxes, land transfer taxes, land speculation taxes, estate taxes, and succession or inheritance taxes, unless such taxes, assessments, rates, charges, fees, duties, or levies are imposed instead of or in substitution for Realty Taxes.

"Lease" means this ground lease, including all schedules attached hereto, and all amendments, renewals, and extensions of, and supplements to, this ground lease.

"Leased Premises" means the Land and Improvements.

"Leasehold Mortgage" means any loan financing obtained by the Tenant that is secured by a charge, mortgage, lien, or deed of trust of, or other security against, the Tenant's leasehold interest in all or part of the Leased Premises under this Lease, and including, without limitation, an assignment as security of subleases and the rents thereunder, as may be extended, renewed, amended, and replaced from time to time during the Term.

"Leasehold Mortgagee" means the holder of a Leasehold Mortgage.

"Mortgagee Lease" means a new lease of the Leased Premises between the Landlord and the Leasehold Mortgagee, effective as of the date of termination of this Lease because of an Event of Default by the Tenant, for the remainder of the Term, at the same Rent and upon the same terms, provisions, covenants, and agreements as contained in this Lease, except that the Landlord shall not warrant title to the Leased Premises which shall be subject, among other encumbrances then existing, to the Permitted Encumbrances and any Subleases then existing.

"Parties" means, collectively, the Landlord and the Tenant, and **"Party"** means any one of them.

"Permitted Encumbrances" means those encumbrances listed in Schedule C.

"Permitted Use" means use of the Leased Premises for any lawful commercial purpose or lawful commercial purposes, in accordance with all Applicable Laws.

"Person" means any individual, corporation, partnership, firm, Authority, or other legal entity.

"Prime Rate" means the rate of interest per annum established and published as its prime lending rate from time to time by Bank of Canada, or any successor thereto.

"PST" means the provincial sales tax and retail sales tax under the Retail Sales Tax Act (Ontario) imposed by the province in which the Leased Premises are situated, which is not included in any federal harmonized sales tax under the Excise Tax Act, R.S.C. 1985, c. E-15, on the Landlord or the Tenant with respect to Rent, any other amounts payable under this Lease, this Lease, the rental of space under this Lease or the goods and services provided by the Landlord under this Lease, calculated in accordance with the applicable

legislation.

"Realty Taxes" means municipal property taxes and all other taxes, charges, fees, assessments, rates, duties, and levies of any kind (including, without limitation, business taxes, licence fees, school taxes, impost charges, and local improvement rates) charged, levied, or imposed by any Authority, school, or public utility provider, against or with respect to: (a) all or any part of the Land; (b) any Improvements; or (c) any equipment and fixtures on the Land from time to time; or against the Landlord with respect to: (d) its ownership interest in the Land, Improvements, or equipment and fixtures on the Land; (e) the leasing, use, development, or occupancy of all or any part of the Land or Improvements; (f) rents or other compensation receivable for occupancy of all or any part of the Land; or (g) the businesses operating on all or any part of the Land; and shall also include interest, penalties, and late payment charges on, and payments instead of, in substitution for or in addition to, any of the foregoing, but shall exclude Landlord's Taxes. Realty Taxes shall also include the Landlord's costs for consultants, appraisers, lawyers, and other professionals to contest or appeal any such amounts now included in the definition of "Realty Taxes" in the preceding sentence.

"Remaining Improvements" means the Improvements existing in and on the Land at the expiration date or earlier termination date of this Lease.

"Rent" means Base Rent and Additional Rent.

"Second Rental Period" has the meaning given to it in Section 3.02(b).

"Sublease" has the meaning given to it in Section 8.02.

"Tenant" means the entity named as such on the first page/cover page of this Lease and its permitted successors and permitted assigns, and if an individual, their heirs, executors, administrators, and legal representatives.

"Tenant Parties" means, collectively, the Tenant and its officers, directors, shareholders, employees, agents, contractors, and those for whom it is responsible for in law.

"Tenant's Due Diligence Condition" means the Tenant's right to terminate this Lease during the Due Diligence Conditional Period, as more particularly set forth in Schedule B.

"Term" means the period commencing on the Commencement Date and expiring on the date that is forty-nine (49) years, eleven (11) months, and thirty (30) days after the Commencement Date, as such period may be extended, renewed, or terminated earlier in accordance with the provisions of this Lease.

"Third Rental Period" has the meaning given to it in Section 3.02(c).

"Utilities" means all utilities servicing or consumed at the Leased Premises that are provided by third party public or private providers, including, without limitation, fuel, gas, electricity, water, storm sewer, sanitary sewer, waste management, recycling, telephone, and internet service.

ARTICLE II - LEASE OF LEASED PREMISES AND TERM

Section 2.01 - Lease of the Leased Premises. Subject to the terms and conditions of this Lease, the Landlord demises and leases to the Tenant, and the Tenant leases from the Landlord, the Leased Premises for the Term.

Section 2.02 - Delivery of Vacant Possession. The Landlord shall deliver possession of the Leased Premises to the Tenant on the Commencement Date, vacant and free of any other tenants or occupants, other than the Tenant, its authorized representatives and any of their items brought on the Leased Premises during the Due Diligence Conditional Period. The Landlord shall have no liability to the Tenant and this Lease shall remain in full force and effect if the Landlord does not deliver such possession of the Leased Premises to the Tenant on the Commencement Date. So long as the delay in delivering possession is not the Tenant's fault, the Commencement Date shall be postponed until the date that the Landlord delivers such possession of the Leased Premises to the Tenant. The Tenant acknowledges that any such postponement is accepted by the Tenant as full compensation and settlement for any claims the Tenant may have against the Landlord for such delay. Notwithstanding the foregoing, if the Landlord does not deliver possession of the Leased Premises in the condition required by the first sentence of this Section 2.02 on or before July 1st, 2024 for any reason other than a delay attributable to the Tenant, this Lease shall automatically terminate at 11:59 p.m. on such outside date and the Parties shall have no further liability each to the other, except under those provisions of this Lease that are expressly intended to survive the termination of the Lease.

Section 2.03 - Acceptance of the Leased Premises. The Tenant has inspected the Leased Premises and accepts possession of the Leased Premises in their "as is" condition on the Commencement Date, including, without limitation, the Permitted Encumbrances, without relying on any representations or warranties from the Landlord regarding the Leased Premises, except for those set out in Section 2.04.

Section 2.04 - Landlord's Representations and Warranties. The Landlord represents and warrants to the Tenant (which representations and warranties the Landlord acknowledges the Tenant may rely upon notwithstanding any due diligence (or absence thereof) by the Tenant) that, on the Effective Date and on the Commencement Date:

- (a) the Landlord is the sole registered [and beneficial owner] of the Land;
- (b) the Landlord does not hold any legal [or beneficial] interest in any land abutting the Land;
- (c) the Land contains approximately 12.01 hectares (29.69 acres).
- (d) the Landlord has good and marketable title in fee simple to the Land, free from all encumbrances other than the Permitted Encumbrances;
- (e) the Landlord has not received notice of any claim based on adverse possession or prescriptive

easement affecting the Landlord's title to all or part of the Land;

(f) the Landlord does not have any indebtedness to any Authority, supplier of construction material or services or other Person that might by operation of law, contract, or otherwise constitute a lien, charge, or financial encumbrance on all or any part of the Landlord's title to the Land;

(g) the Landlord has not received and is not aware of any outstanding written notice of default with respect to any default by the Landlord under any obligation required to be observed or performed by it under any Permitted Encumbrance;

(h) the Landlord is not aware of any disputes about the location of fences on, and/or the boundaries of, the Land nor any encroachments onto the Land from adjoining properties or from the Land onto adjoining properties;

(i) the Land is not connected to the municipal sewer and water systems;

(j) the Land is currently zoned RU (Rural);

(k) to the best of the Landlord's knowledge and belief, the Land has never been used as a cemetery or as a burial ground, nor are there any features or improvements on the Land that have been listed or designated as being of historic or architectural value or interest within the meaning of any heritage or similar legislation;

(l) to the best of the Landlord's knowledge and belief, the Land is not designated for flood plain control or other regulation by any conservation authority or flood prevention or maintenance authority;

(m) the Land enjoys full legal access to and from County Road No. 6;

(n) there are no outstanding work orders, deficiency notices, notices of violation, open building permits, or other similar communications from any Authority requiring or recommending that work or repairs in connection with the Land or any part thereof is necessary, desirable, permitted, incomplete, or required, and no facts or circumstances in existence that the Landlord is aware of that, with the passage of time or the giving of notice or both, would give rise to any, except for any that exist or may arise related to entry by the Tenant or its authorized representatives onto the Land before the Commencement Date;

(o) to the best of the Landlord's knowledge and belief, no part of the Land has been expropriated or is in the process of being expropriated by any Authority, and the Landlord is not aware of any such threatened or impending expropriation;

(p) there are no adverse soil conditions with respect to the Land and, without limitation, the Landlord is not aware that (i) any underground storage tanks are now located on the Land; and (ii) the Land has ever been used as a landfill site or to store, either above or below ground, gasoline, oil, or any other Hazardous Substance, other than as set out in the baseline report under Section 4.06 of this Lease;

(q) from the time the Landlord acquired title to the Land, there have been no: (i) discharges,

deposits, spills, escapes, or releases of any Hazardous Substances into the natural environment in, on, over, under, or at the Land; (ii) claims, actions, prosecutions, charges, hearings, or other proceedings of any kind in any court or tribunal which relate to the Land or any violation of any Environmental Laws relating to the Land; (iii) violations of, or any orders or directions with respect to, any applicable Environmental Laws relating to the Land; (iv) use of the Land for a waste disposal site and no use of fill material on or to form any portion of the Land; and (v) injunctions, orders, or judgments relating to environmental matters with respect to the Land that remain outstanding, and there are no facts or circumstances in existence that, with the passage of time or the giving of notice or both, would give rise to any, other than any of the above that occurred, exist, or may arise as a result of entry by the Tenant or its authorized representatives on the Land before the Commencement Date, and other than as set out in the baseline report under Section 4.06 of this Lease; the Landlord is not a non-resident of Canada within the meaning and intended purpose of Section 116 of the *Income Tax Act* (Canada);

(r) the lease of the Leased Premises by the Landlord under this Lease, execution and delivery of this Lease by the Landlord and the performance by the Landlord of all of its obligations under this Lease have been duly authorized by all necessary corporate action on the part of the Landlord;

(s) there are no actions, suits, or proceedings pending or threatened against or otherwise affecting the Land which could adversely affect: (i) the validity of this Lease; (ii) the Landlord's title to or value of the Land; or (iii) the conveyance of a leasehold interest in the Land to the Tenant; and

(t) there are no unregistered leases, occupation agreements, agreements of purchase and sale, options to lease, or options to purchase in respect of or relating to all or any part of the Land, except for this Lease and the Permitted Encumbrances.

Section 2.05 - Ownership of Improvements. The Landlord and Tenant agree that, notwithstanding that the Improvements are fixtures and any rule of law that fixtures on land immediately vest in and are the absolute property of the freehold owner of that land, title to and ownership of the Improvements shall be deemed to vest in the Tenant until the expiration or earlier termination of this Lease, and upon the expiration or earlier termination of this Lease, title to and ownership of all the Remaining Improvements shall automatically and immediately vest in the Landlord as in Section 2.06(e) of this Lease. The Tenant's title to and ownership of the Improvements until the expiration or earlier termination of this Lease shall at all times be subject to the provisions of this Lease, including, without limitation, the Landlord's rights in the Remaining Improvements set out herein.

Section 2.06 - Surrender. At the expiration or earlier termination of this Lease:

(a) Rent shall be adjusted between the Landlord and Tenant as of the expiration or earlier

termination date, with all amounts for the period up to and including such adjustment date payable by the Tenant on or before the expiration or earlier termination date;

(b) the Tenant shall surrender the Land and any and all Remaining Improvements to the Landlord in the condition they were required by this Lease to be maintained in during the Term, reasonable wear and tear excepted, subject to Schedule B of this Lease if this Lease is terminated during the Due Diligence Conditional Period and subject to Section 7.03 of this Lease;

(c) the Tenant shall remove from the Leased Premises, or cause to be removed, all chattels and all tenant's trade fixtures, including those of the Tenant, its subtenants and all others claiming by, through or under the Tenant, other than chattels and tenant's trade fixtures that are part of the structure or building systems of any Remaining Improvements, and the Tenant, at its expense, shall repair any damage to the Leased Premises caused by such removal;

(d) all rights and interests of the Tenant, its subtenants and all others claiming by, through, or under the Tenant (with the exception of the rights of Leasehold Mortgagees arising under Section 8.03 and Section 8.04 of this Lease and the rights of the Landlord arising under Section 9.02 of this Lease), shall immediately cease and terminate, and the Leased Premises shall be vacant other than any subtenants the Landlord agreed may remain pursuant to a non-disturbance agreement between the subtenant and Landlord entered into under Section 8.02 of this Lease;

(e) title to and ownership of any and all Remaining Improvements and any and all chattels and tenant's trade fixtures remaining under Section 2.06(c) of this Lease shall automatically and immediately vest in, and such Remaining Improvements and such chattels and tenant's trade fixtures remaining under Section 2.06(c) of this Lease shall belong to and be the absolute property of, the Landlord, without further act or conveyance, without compensation to the Tenant or to anyone else whomsoever, and free and clear from all and every lien, charge, mortgage, claim, security interest, purchase agreement, lease, and other encumbrance

Section 2.07 - Overholding. If, the Tenant continues to use or remain in possession of the Leased Premises after the expiration or earlier termination of this Lease with the Landlord's consent but without a written agreement and the Landlord accepts Rent from the Tenant, then the Tenant shall be deemed to be occupying the Leased Premises as a monthly tenant at monthly Base Rent equal to 12 (8.3%) of the Base Rent payable during the last month of the Term (exclusive of abatements, if any) and otherwise on the same terms as in and subject to all the provisions of this Lease (including, without limitation, the payment of Additional Rent) so far as applicable to a monthly tenancy, except as to the Term and expressly excluding all renewal or extension rights. Such monthly tenancy may be terminated by either Party on 30 days' notice to the other Party. No continued use or possession of the Leased Premises by the Tenant after the expiration or earlier termination of this Lease, with or without the Landlord's consent, shall, by operation of law, extend or

renew the Term or create a yearly tenancy.

ARTICLE III - BASE RENT; ADDITIONAL RENT; REALTY TAXES; UTILITIES

Section 3.01 - Net Lease. This Lease is an absolute net lease to the Landlord. The Tenant shall pay, as Additional Rent, all expenses of every kind and nature whatsoever relating to or arising from the Leased Premises and the operations on the Leased Premises, except for: (a) debt service and other payments with respect to any Freehold Mortgage; (b) Landlord's Taxes; and (c) as otherwise expressly set out in this Lease.

Section 3.02 - Base Rent. The Tenant covenants and agrees to pay basic rent without deduction, abatement, set-off, notice, or demand, on an annual basis, subject to section 3.12, to the Landlord throughout the Term, ("**Base Rent**") as follows:

- (a) an amount equal to nine thousand four hundred eighty-seven dollars and thirty-seven cents (\$9,487.37) on the Commencement Date ("**First Rental Payment**"); and,
- (b) in advance of the anniversary date of the Commencement Date throughout the Term, on an annual basis an amount equal to nine thousand four hundred eighty-seven dollars and thirty-seven cents (\$9,487.37) ("**Subsequent Rental Payments**").

Section 3.03 - Realty Taxes and Utilities. During the Term, the Tenant shall pay or shall cause to be paid, in a timely manner on or before the date each payment is due, all Realty Taxes and accounts for Utilities, directly to the Authority or utility provider charged with the collection of such Realty Tax or supplying such Utility. The Tenant shall, within 30-days following a request from the Landlord, furnish to the Landlord official receipts from the Authority or utility provider, or other evidence reasonably satisfactory to the Landlord, evidencing the payment of such amounts on or before their due dates. The Tenant shall, to the extent possible, have all Utility accounts placed in its name and all bills for Utilities and Realty Taxes sent by the Authority or utility provider to the Tenant. If the Tenant does not pay an amount for Realty Taxes or Utilities when due, and the amount is not being challenged in accordance with Section 3.07, then after the expiry of any cure periods in Section 9.01 of this Lease, the Landlord may pay such overdue amounts plus any interest, penalties or late charges imposed by the Authority or utility provider on the overdue amounts, and the total amounts so paid by the Landlord shall then be paid by the Tenant to the Landlord as Additional Rent in accordance with Section 3.11 of this Lease. The Landlord shall be responsible for Realty Taxes attributable to the period before the Commencement Date plus any interest, penalties, and late payment charges imposed on any arrears of Realty Taxes for such period.

Section 3.05 - Servicing and Development Charges. During the Due Diligence Conditional Period and

the Term, the Tenant shall be responsible for and pay directly to the Authority, school board or public utility provider requiring the payment, on or before the date such payment is due, all charges, taxes, rates, fees, assessments, duties, levies, payments, deposits, and security of any kind charged, imposed, or required by the municipality or any other Authority, school board or public utility provider relating directly to the development of the Land for the Improvements and/or the construction of the Improvements, including, without limitation, development charges, cash in lieu of parkland dedication, utility connection fees, front-ending costs, development application fees, utility deposits, and building permit fees.

Section 3.06 - Tenant's Taxes. During the Due Diligence Conditional Period and the Term, the Tenant shall be responsible for and shall pay, or cause to be paid, directly to the person requiring the amount, on or before the relevant due date, all charges, taxes, rates, fees, assessments, duties, and levies of any kind, charged, levied, or imposed by any Authority, school board, or public utility provider, against or with respect to the Tenant's: (a) trade fixtures, equipment, improvements, and personal property on the Land or any part of it; (b) businesses operating on the Land or any part of it; or (c) use or occupancy of the Land or any part of it (including the use or occupancy by its subtenants or any others claiming by, through, or under the Tenant), and including all interest, penalties, and late payment charges on, and payments instead of, in substitution for, or in addition to, any of the foregoing.

Section 3.07 - Contest of Payments by Tenant. The Tenant has the right to contest, at its expense, the assessment, amount, or validity, in whole or in part, of any Realty Taxes, accounts for Utilities or amounts contemplated under Section 3.04 of this Lease by appropriate proceedings diligently conducted in good faith. During such proceedings, notwithstanding Section 3.03 and Section 3.04 of this Lease, payment of the contested Realty Tax, Utility account or amount contemplated under Section 3.04 of this Lease shall be postponed from its original due date until the date in Section 3.07 if, and only as long as:

- (a) neither the Leased Premises nor any part thereof, or the Landlord's interest therein or any income therefrom would by reason of such postponement, be, in the reasonable judgment of the Landlord, in imminent danger of being forfeited, sold, or lost or subject to any lien, mortgage, charge, or other encumbrance, and neither the Landlord nor the Tenant would by reason thereof be subject to any civil or criminal liability;
- (b) the Tenant shall have deposited security, reasonably satisfactory to the Landlord, with the Landlord in the amount so contested and unpaid, together with estimated amounts for all interest and penalties in connection therewith and for all amounts that may be imposed against or become a charge, mortgage, lien, or other encumbrance on the Leased Premises or any part thereof in such proceedings; and
- (c) there is no Event of Default that is continuing (in which event only the Landlord may commence

such proceedings but shall have no obligation to do so).

Section 3.08 - Payment of Contested Amounts. Upon the termination of a contestation proceeding contemplated in Section 3.07, the Tenant shall pay the contested Realty Taxes, Utility account or amount contemplated under Section 3.04 of this Lease that was the subject of the proceedings in the amount as finally determined by such proceedings, together with any costs, fees (including reasonable solicitors' fees and disbursements), interest, penalties, or other liabilities in connection therewith. On the Tenant's request, or if the Tenant has not made such payment in full within 30-days after the final determination was made in the proceedings, the Landlord may pay the money it is holding as security under Section 3.07(b) directly to the Authority, school board or Utility provider to whom the payment is due and any remaining balance of the security to the Tenant or the Tenant shall pay any shortfall. If the Tenant does pay the contested amounts in full within the time limit in this Section without requesting the Landlord to pay any such amounts from the deposit it is holding under Section 3.07(b), then the Landlord shall return all of the security it is holding under Section 3.07(b) to the Tenant.

Section 3.09 - Assistance from the Landlord. The Landlord, as the freehold owner of the Land, shall reasonably cooperate with the Tenant in proceedings brought by the Tenant pursuant to Section 3.07 by executing relevant documents upon reasonable request by the Tenant, permitting the proceeding to be brought in the Landlord's name as owner of the Land if necessary, joining in as a party to the proceeding if necessary or other reasonable cooperation, so long as the proceedings do not prejudice the Landlord's interests in any way and the Tenant is responsible for all the Landlord's costs related to the proceedings. The Landlord shall not be liable for the payment of any costs or expenses in connection with any proceedings brought by the Tenant pursuant to Section 3.07 and the Tenant hereby indemnifies the Landlord, and shall reimburse the Landlord, as Additional Rent, for any and all costs or expenses which the Landlord may reasonably sustain or incur in connection with any such proceedings, including the Landlord's reasonable solicitors' fees and disbursements.

Section 3.10 - Credits, Refunds, Rebates, and Incentives. The Tenant shall be entitled to receive all incentives, credits, refunds, or rebates relating to the Land or Improvements, including, without limitation, development charge credits, and reductions in building permit fees, that are made available from Authorities, school boards, and public utility providers solely because of: (i) the development and construction of the Improvements; or (ii) actual amounts paid by the Tenant for Realty Taxes, Utilities, or amounts contemplated under Section 3.04 of this Lease. If the Landlord should receive any of such incentives, credits, refunds, or rebates, it will advise the Tenant thereof and shall pay to the Tenant the amount of such incentive, credit, refund, or rebate which the Landlord received within 15 days of its receipt

thereof. If the Tenant shall receive from an Authority, school board, or public utility provider any incentive, credit, refund, or rebate relating to the Land for any Realty Taxes, Utilities, amounts contemplated under Section 3.04 of this Lease or the development and construction of improvements that relate to the period before the Commencement Date or were otherwise actually paid for by the Landlord (and not reimbursed by the Tenant to the Landlord), then the Tenant shall notify the Landlord and pay such incentive, credit, refund, or rebate to the Landlord within 15 days of the Tenant's receipt thereof.

Section 3.11 - Payment of Additional Rent. If no time period is set out in this Lease for payment of an item of Additional Rent, then the Tenant shall pay such item of Additional Rent to the Landlord within sixty (60) days after written demand therefor from the Landlord.

Section 3.12 - Partial Monthly Payment Periods. Base Rent and any other amounts of Rent payable regularly on a monthly basis under this Lease shall be pro-rated and appropriately apportioned for any monthly payment periods that are less than the full month.

Section 3.13 - Method of Payment of Rent. All Rent payable by the Tenant to the Landlord under this Lease shall be paid in Canadian currency by cheque made payable to the Landlord at the Landlord's address set forth in Section 10.02 of this Lease, unless the Landlord directs the Tenant in writing, at any time and from time to time, on at least ten (10) days' prior notice, to make the payments to other parties, to send the payment to other addresses, to make the payments by wire transfer of immediately available funds to an account at a bank designated in writing by the Landlord and/or to make the payments by any other method reasonably designated in writing by the Landlord or the Freehold Mortgagee. The Landlord may, at any time and from time to time, require the Tenant to deliver post-dated cheques or set-up pre-authorized payments from the Tenant's bank account for items of Rent payable on a recurring basis during all or part of the Term and/or Due Diligence Conditional Period.

Section 3.14 - Interest on Late Rent Payments. If any payment of Rent is not received by the Landlord on or before the expiry date of any applicable cure period in Section 9.01 for late payment of Rent/on or before the date it is due], the Tenant shall pay to the Landlord, as Additional Rent, interest on the overdue amount of Rent at the Interest Rate, calculated and payable monthly. Such overdue Rent amount shall bear interest from its original due date, without regard to any cure or grace period (if any), until the date the Landlord receives payment of such overdue Rent plus the interest payable under this Section. Such payment of interest shall be in addition to, and not in lieu of, any other remedy the Landlord may have for overdue Rent.

Section 3.15 - HST/GST and PST. In addition to all Rent, the Tenant shall pay the full amount of all HST/GST [and PST, if applicable,] assessed upon or payable for or on account of this Lease, the Rent, and any other sums of money payable from the Tenant to the Landlord under or relating to this Lease. The Tenant shall pay HST/GST [and PST, if applicable,] directly to the Landlord, at the same time as Rent or other applicable payment is payable to the Landlord, or as otherwise required by law. HST/GST [and PST, if applicable,] shall not be included in Rent but the Landlord shall have all the rights it has under this Lease for defaults in payment of Additional Rent for defaults in payment of HST/GST [and PST, if applicable].

**ARTICLE IV - USE; QUIET ENJOYMENT; COMPLIANCE WITH LAWS; WASTE;
NUISANCE**

Section 4.01 - Permitted Use. The Tenant may use the Leased Premises for the Permitted Use and for no other purpose during the Term.

Section 4.02 - Waste. The Tenant shall not commit or suffer waste to all or any part of the Leased Premises, except that the demolition, development, maintenance, and repair of Improvements on the Leased Premises in accordance with Article V of this Lease shall be deemed not to be waste.

Section 4.03 - Nuisance. The Tenant shall not use all or any part of the Leased Premises, nor permit or suffer all or any part of the Leased Premises to be used, for any unlawful purpose nor for any purpose or in any manner that would constitute a nuisance of any kind to people using the surrounding properties, the landlord, or the general public.

Section 4.04 - Quiet Enjoyment. The Landlord covenants and agrees that, if and so long as the Tenant pays the Rent and all other amounts payable under this Lease and observes and performs all provisions of this Lease that are to be complied with by the Tenant, the Tenant may peaceably and quietly enjoy the Leased Premises for the Term without interruption or disturbance by the Landlord or any Person acting by, through or under the Landlord, subject always to the Landlord's rights under the provisions of this Lease and the Permitted Encumbrances.

Section 4.05 - Compliance with Applicable Laws. The Tenant agrees that at all times it shall, at its expense, observe and comply fully with all Applicable Laws. Without limiting the generality of the foregoing, the Tenant agrees that, at the Tenant's expense, it shall: (a) comply with all Environmental Laws, building standards by-laws, zoning by-laws, official plans, development approvals, and building permits relating to the Leased Premises; (b) promptly cure all violations of Applicable Laws for which the Tenant

has received notice or for which a notice has been issued; (c) obtain all necessary approvals, consents, permits, and permissions (including, without limitation, any necessary rezoning) for development of the Land and construction of the Improvements before commencing the work requiring such approval, consent, permit, or permission; and (d) pay all fines, penalties, interest, or other costs imposed by any Governmental Authorities in connection with any violation by the Tenant of any Applicable Laws or to comply with any Applicable Laws.

Section 4.06 - Baseline Environmental Condition. The Parties agree that the report by the Tenant's environmental engineer, EXP Services Inc. (Mackenzie Russell, M.Sc. Mark McCalla, P. Geo. Environmental Technician, Senior Geoscientist Earth and Environment Earth and Environment), sets out that there are no Hazardous Substances present on the Land on the Effective Date and recommends that no environmental remediation activity is necessary on the Land. The Parties agree that the Landlord is not required to undertake any environmental remediation work respecting the Land.

Section 4.07 - Compliance with Environmental Laws. Without limiting the generality of Section 4.05 of this Lease, the Tenant, at its expense, shall comply, at all times, with all Environmental Laws as they relate to all or any part of the Leased Premises, including, without limitation:

- (a) promptly remove, in accordance with all Applicable Laws, any Hazardous Substances brought on the Leased Premises (other than by the Landlord or those for whom it is responsible for in law) contrary to Environmental Laws during the Term or Due Diligence Conditional Period;
- (b) promptly remove, in accordance with all Applicable Laws, from surrounding properties, all Hazardous Substances brought onto the Leased Premises during the Term or Due Diligence Conditional Period (other than by the Landlord or those for whom it is responsible for at law) that migrated from the Leased Premises onto such surrounding properties contrary to Environmental Laws;
- (c) during the Term, keep the Land in the condition set out in the most current baseline environmental report contemplated in Section 4.06 of this Lease, subject to reasonable wear and tear; and
- (d) pay, on or before payment is due, all fines, penalties, interests, and costs imposed by any Authority for any contravention of Environmental Laws relating to the operations on the Land during the Term or the Due Diligence Conditional Period.

Section 4.08 - Notify the Landlord of Contraventions of Environmental Laws. During the Term and Due Diligence Conditional Period, the Tenant shall promptly notify the Landlord in writing of:

- (a) all and any spills, discharges, or other releases of Hazardous Substances onto the Leased

Premises, or from the Leased Premises onto other properties, that is in contravention of Environmental Laws;

(b) all and any notices of violation, directions, or orders issued by any Authority in relation to a contravention of Environmental Laws relating to the Leased Premises; and

(c) when each contravention as in Section 4.08(a) or Section 4.08(b) above is remediated and when any and all related orders, notices, or directions are closed by the issuing Authority.

Section 4.09 - Reports. During the Term and Due Diligence Conditional Period, the Tenant shall provide the Landlord with copies of all tests, studies, notices, claims, demands, requests for information, or other communications relating to the presence or spill, discharge, or other release of any Hazardous Substances at, on, under, over, emanating from, or migrating to or from the Leased Premises.

ARTICLE V - CONSTRUCTION

Section 5.01 - Initial Improvements and Alterations. The Tenant proposes to design, develop, and construct residential dwellings on the Land. The Tenant agrees that all or any part of the Improvements during the Term shall not be connected to, integrated with, or otherwise depend on improvements on surrounding properties other than the Land. The Tenant has the right during the Term to, at its expense, construct, alter, expand, demolish, reconstruct, renovate, improve, and replace Improvements from time to time, without further consent from the Landlord, subject to compliance with all Applicable Laws, this Article V, and the other provisions of this Lease. Nothing in this Section 5.01 shall prevent the Tenant from not reconstructing damaged or destroyed Improvements during the Term as the Tenant is entitled to do under Section 7.02 and Section 7.03 of this Lease.

Section 5.02 - Development Approvals and Payments. The Tenant, at its expense, shall be responsible for obtaining all licenses, permits, consents, and approvals from Authorities, school boards, and Utility providers as required by Applicable Laws to develop the Land and construct and operate the Improvements, including, without limitation, site plan approvals, minor variances, and zoning by-law amendments. The Tenant shall also be responsible for, and pay, post or deposit promptly when due all charges, taxes, rates, fees, assessments, duties, levies, and security of any kind imposed or required by any Authority, school board, or Utility provider with respect to the development of the Land, construction of the Improvements, or the operations on the Land, including, without limitation, development charges, payments of cash in lieu of parkland dedication, building permit fees, and utility security deposits. The Tenant, at its expense, shall also be responsible for obtaining all approvals and paying all amounts as required under Permitted Encumbrances or other private restrictions to develop the Land and construct the Improvements. The Landlord has no responsibility or liability for obtaining such approvals or paying such costs before or during

the Term.

Section 5.03 - Pre-Construction. The Tenant, at the Tenant's expense, shall be responsible for the design and layout on the Land of the Improvements, which shall conform to and comply with the requirements of all Applicable Laws and this Article V. The Tenant, at the Tenant's expense, shall be responsible for completing all work necessary to prepare the Land for construction, including, without limitation, surveying, grading, and excavation work and putting up hoarding or other security fencing, in accordance with all Applicable Laws. The Landlord has no responsibility or liability for the design and layout of the Improvements or for preparing the Land for Improvements before or during the Term.

Section 5.04 - Servicing. The Tenant shall contribute, up to a maximum contribution to be negotiated between the Parties, to installing, connecting, and maintaining all services to service the Land as necessary for the development of the Land for construction and operation of the Improvements, including, without limitation, connections to municipal infrastructure. Such services shall include, without limitation, Utilities, driveways, retaining walls (if necessary), sidewalks, lighting, parking areas, and equipment for Utilities. The Landlord has no responsibility or liability for providing, supplying, and maintaining Utilities nor any other services to all or any part of the Leased Premises before or during the Term.

Section 5.05 - Construction of Improvements. The Tenant shall not permit anyone to commence any work contemplated in this Article V of this Lease on the Land until the Tenant has obtained all required permits and approvals for such work from the applicable Authorities and from other parties under Permitted Encumbrances (if required by the terms of such Permitted Encumbrances). The Tenant shall not permit anyone to commence any work contemplated in this Article V on the Land until the Tenant and its contractors have obtained the insurance they are required to maintain during construction under this Lease. The Tenant shall only engage qualified contractors, engineers, architects, and professionals that are properly licensed to work on the Improvements. While any work contemplated in this Article V is being carried out on the Land, the Tenant shall, and shall cause its employees, representatives, and contractors to, carry out their work diligently and as expeditiously as possible, in a good and workmanlike manner, in compliance with all construction contracts for such work and in compliance with all Applicable Laws. The Tenant shall take all actions to ensure that the design and layout of the Improvements and the built Improvements comply at all times with all Applicable Laws, including, without limitation, obtaining any required occupancy permits and causing Authorities to close their permit files for built Improvements. The Tenant shall not permit any work contemplated under this Article V (other than design and planning work under Section 5.03) to be carried out on the Land before the Commencement Date or after expiry of the Term. Upon request from time to time, the Tenant shall provide the Landlord with evidence satisfactory to the Landlord

that the Tenant is complying with any and all of the requirements of this Section 5.05 of this Lease.

Section 5.06 - Maintenance and Repair. During the Term, the Tenant, at the Tenant's expense, shall operate, maintain, repair, and replace all and every component of the Leased Premises. At all times during the Term, the Tenant, at the Tenant's expense, shall keep the Land and Improvements in good order and condition, reasonable wear and tear excepted, as would a prudent owner of comparable premises and in conformity with no less than the minimum requirements of all Applicable Laws and insurers of all or any part of the Leased Premises. Such standard shall include, without limitation: (a) keeping the environmental condition of the Land to the standard set out in Section 4.07(c) of this Lease; (b) keeping the Improvements to the standard in this Section regardless of the reason that repair, or replacement is being done; and (c) keeping the Leased Premises clean and clear of snow, ice, and debris. The Landlord is not required at any time to prepare, construct, maintain, repair, replace, clean, alter, or improve the Leased Premises, or any part of them. Nothing in this Section 5.06 shall prevent the Tenant from demolishing Improvements or replacing Improvements with new Improvements instead of repairing them as the Tenant is entitled to do under Section 5.01, Section 7.02, and Section 7.03 of this Lease, nor from removing tenant's trade fixtures and chattels as the Tenant is entitled to do under Section 5.07 of this Lease.

Section 5.07 - Chattels and Tenant's Trade Fixtures. During the Term, the Tenant, its subtenants and others claiming by, through or under the Tenant shall keep their tenant's trade fixtures and chattels at the Leased Premises in good order and condition, subject to reasonable wear and tear, and may remove their tenant's trade fixtures from the Leased Premises, subject to Section 2.06(c) of this Lease, and provided that the Tenant, at its expense, causes any damage to the Leased Premises from such removal to be repaired to the standard required by this Lease.

Section 5.08 - Inspections by Landlord. During the Term and Due Diligence Conditional Period, the Landlord, its agents, and contractors may enter the Leased Premises, on at least forty-eight (48) hours prior written notice to the Tenant (except in the case of an emergency where notice shall be provided as soon as possible), to inspect the Leased Premises and view their state of repair, including, without limitation, the environmental condition of the Land. The Landlord agrees to use its reasonable commercial efforts to minimize interference to the businesses operating on the Leased Premises during such inspections. If such inspections reveal deficiencies that are inconsistent with the standard of repair required by Section 5.06 of this Lease, the Landlord may, but is not obligated to, give the Tenant notice of such deficiencies and the Tenant shall make the necessary repairs within the time specified in such notice.

Section 5.09 - Co-operation from Landlord. The Landlord agrees that, during the Term and Due

Diligence Conditional Period, it will, at the Tenant's expense, co-operate with the Tenant so that the Tenant may obtain approvals from Authorities, public utility providers and parties in Permitted Encumbrances for the lawful development and construction of Improvements by the Tenant that are in compliance with the terms of this Lease, provided that there are no financial consequences to the Landlord and the Land is not devalued by same. Without limiting the generality of the foregoing, the Landlord agrees to:

- (a) Grant easements to Authorities or public utility providers over parts of the Leased Premises for the purposes of providing services and Utilities to the Leased Premises or for other public purposes as required for the Tenant to obtain approvals from Authorities to proceed with the lawful development and construction of Improvements in accordance with the terms of this Lease.
- (b) Transfer parts of the Land to an Authority, school board, or public utility provider for road widenings, parks, schools, utilities, or other public purposes as required by such Authority, school board or public utility provider for it to approve and the Tenant to proceed with the lawful development and construction of Improvements in accordance with the terms of this Lease.
- (c) Join in with the Tenant and consent to rezoning applications, official plan amendments, building permit applications, site plan agreements, and similar development or construction applications and agreements as necessary for the Tenant's lawful development or construction of Improvements in accordance with the terms of this Lease.
- (d) Postpone its interest in this Lease to the rights of the Authority, school board, or public utility provider in an easement or agreement under Section 5.09(a) or Section 5.09(c) of this Lease.

Section 5.10 - Construction Liens. During the Due Diligence Conditional Period and the Term, the Tenant shall not cause or permit any liens under the construction lien legislation applicable to the Leased Premises to be registered against the title to all or any part of the Landlord's or Tenant's interests in the Leased Premises in respect of work done or materials supplied to the Leased Premises on behalf of the Tenant, its subtenants or anyone else claiming through or under any of them. If any such construction lien is registered against the Leased Premises, then the Tenant, at its expense, shall cause such lien to be discharged or vacated within 30 (thirty) days of the Tenant becoming aware of it, except for construction liens against the Tenant's leasehold interest in the Leased Premises and not the Landlord's freehold interest which the Tenant is properly contesting in good faith. The Tenant shall discharge or vacate all such construction liens against its leasehold interest in the Leased Premises that it is contesting in good faith upon the earlier of: (a) the matter being finally determined, and (b) the Tenant becoming aware, whether from notice from the Landlord or otherwise, that the Landlord's freehold interest in the Leased Premises is subject to sale or otherwise encumbered by such contested construction lien, or such contested construction lien places the Landlord in default under a Freehold Mortgage or jeopardizes the Landlord's ability to obtain a Freehold Mortgage. If the Tenant does not remedy any default under this Section 5.10 of this Lease before the expiry of the

applicable cure period in Section 9.01 of this Lease, the Landlord may, but shall not be obligated to, pay the amount necessary to discharge or vacate such construction lien, without being responsible for making any investigation as to the validity or accuracy thereof, and the amount so paid, together with all costs and expenses (including legal fees) incurred by the Landlord in connection therewith, shall be deemed Additional Rent reserved under this Lease due and payable in accordance with Section 3.11 of this Lease.

ARTICLE VI - INSURANCE ; INDEMNITIES ; RELEASES

Section 6.01 - Insurance. It is the intent of the Parties that all risk of loss for the Leased Premises be shifted to the Tenant's insurance, to the maximum extent practicable, and personally on to the Tenant to the extent not insured for by the Tenant's insurance, including, without limitation, for the Landlord Parties' negligence. Accordingly, during the Due Diligence Conditional Period and the Term, the Tenant shall maintain, or cause to be maintained, the insurance required in accordance with this Article VI of this Lease. Insurance maintained by the Landlord, if any, whether or not paid for, in whole or in part, by the Tenant, shall not release the Tenant from any liability under this Lease nor shift any liability onto the Landlord.

Section 6.02 - Requirements for all Insurance. All insurance policies required to be maintained by the Tenant under Article VI of this Lease shall:

- (a) be written on an occurrence basis, except for errors and omissions insurance and environmental liability insurance issued on a claims-made or hybrid basis, or as otherwise consented to by the Landlord in writing prior to the issuance, amendment, or renewal of such policy;
- (b) provide that such insurance is primary to and not contributory with any similar insurance carried by the Landlord, if any;
- (c) include the Landlord as an additional insured;
- (d) include each Freehold Mortgagee and Leasehold Mortgagee as an additional insured on liability policies and as a loss payee under a standard mortgage clause for property insurance policies, unless required otherwise by such Freehold Mortgagee or such Leasehold Mortgagee;
- (e) include an undertaking by the insurer in each policy not to cancel or make a material change to the policy without first giving the Landlord, Freehold Mortgagees (if any) and Leasehold Mortgagees (if any) thirty (30) days' prior written notice of cancellation or material change;
- (f) not contain a co-insurance clause for property insurance policies;
- (g) be with insurers licensed to conduct business in the province or territory where the Leased Premises are located, and which have a high insurance company credit rating within the insurance industry; and
- (h) contain a waiver by the insurer of subrogation against the Landlord and the rest of the Landlord

Parties, to support the release in Section 6.16 of this Lease, and a waiver of subrogation against all and any Freehold Mortgagees if required by such Freehold Mortgagee.

Section 6.03 - Premiums. The premiums for all the insurance policies in this Article VI of this Lease shall be paid by the Tenant to the relevant insurer on or before the dates such payments are due. The Tenant shall, within thirty (30) days of payment, furnish to the Landlord duplicate receipts or other satisfactory evidence of the payment.

Section 6.04 - Builder's Risk Insurance. During the Term and Due Diligence Conditional Period, at all times during site preparation of the Land and demolition, construction, and major repairs of Improvements, the Tenant, at its expense, shall maintain, or cause its general contractor to maintain, insurance protecting the Landlord, Tenant, Tenant's contractors, and their subcontractors, from loss or damage that occurs during the course of construction on the Land to buildings, equipment, tools, Improvements, and other property at the Leased Premises, on an "all risks" basis including, without limitation, resulting damage from faulty workmanship and design error and to the extent possible, all the perils to be insured for under the policy in Section 6.07 of this Lease, in the amount of 100% of the estimated final construction costs for the Improvements under construction, including soft costs, plus the cost of the materials and products used in the construction.

Section 6.05 - Workers' Compensation Insurance. During the Term and Due Diligence Conditional Period, at all times during site preparation of the Land and demolition, construction, and major repairs of Improvements, the Tenant, at its expense, shall maintain, and cause its contractors and their subcontractors to maintain, workers' compensation insurance as required by Applicable Laws in the province or territory where the Leased Premises are situated.

Section 6.06 - Errors and Omissions Insurance. At all times during the Term and Due Diligence Conditional Period, the Tenant shall maintain, or cause its contractors to maintain, professional errors and omissions insurance covering all architects, engineers, specialists, and consultants hired for the design, development, and construction of the Improvements, in an amount and with coverage as a prudent developer of a project similar to the Improvements would require, on a claims-made basis. Coverages shall be specific for this project and not aggregated with insurance for other undertakings of the insureds.

Section 6.07 - Property Insurance. At all times during the Term and Due Diligence Conditional Period (except, respecting an Improvement, during the time that the builder's risk insurance in Section 6.04 of this Lease applies to that Improvement), the Tenant, at its expense, shall maintain property insurance covering

loss or damage to the Improvements, in an amount equal to the full replacement cost thereof, from "all risks" (as such term is used in the insurance industry in the province or territory where the Leased Premises is situate) and additional perils including, without limitation, fire, flood, earthquake, sewer back-up, collapse, and by-laws.

Section 6.08 - Tenant's Personal Property. At all times during the Term and Due Diligence Conditional Period, the Tenant, at its expense, shall maintain insurance coverage for loss or damage to the Tenant's personal property, chattels, and tenant's trade fixtures located in, on or at the Leased Premises (including, without limitation, equipment, machinery, appliances, inventory, stock-in-trade, and furniture), in an amount equal to the full replacement cost thereof, from "all risks" and all the same perils which are insured for under the property insurance policy under Section 6.07 of this Lease. The Tenant shall require each of its subtenants to maintain such insurance for the subtenant's personal property, chattels, and tenant's trade fixtures located in, on, or at the Leased Premises.

Section 6.09 - Boiler and Machinery Insurance. At all times during the Term and the Due Diligence Conditional Period (including during periods of site preparation, construction, demolition, and major repairs of Improvements if insurable objects exist during such periods), the Tenant, at its expense, shall maintain comprehensive broad form boiler and machinery insurance on all boilers, elevators, mechanical and electrical equipment servicing buildings, and all other pressure vessels, machinery, equipment, and objects located on the Leased Premises that are insurable under such type of policy, on a blanket repair or replacement basis, with limits for each accident in an amount not less than the full replacement cost of all the property insured for under the policies under Section 6.07 and Section 6.08 of this Lease, and against all risks and additional perils which are insured for under the policies under Section 6.07 and Section 6.08 of this Lease.

Section 6.10 - Business Interruption Insurance. At all times during the Term and Due Diligence Conditional Period, the Tenant, at its expense, shall maintain business interruption insurance, covering loss of income by the Tenant because of a total or partial suspension or interruption in the operations at the Leased Premises or a delay in the commencement of such operations and income therefrom due to a delay in completion of construction of Improvements, caused by damage to or destruction of all or part of the Leased Premises from any of the perils required to be insured for under the insurance in Section 6.04 and Section 6.07 of this Lease, in an amount sufficient to meet Rent payments and other recurring payments under this Lease for twelve (12) months if the loss occurs after construction was completed and operations and income had commenced at such damaged or destroyed Improvements, and in the amount of anticipated annual Base Rent payments (assuming full occupancy) for twelve (12) months if the loss occurs before operations and income have commenced at the damaged or destroyed Improvements due to a construction

delay.

Section 6.11 - Commercial General Liability/Public Liability Insurance. At all times during the Term and Due Diligence Conditional Period (including, without limitation, during and after periods of site preparation, demolition, construction, or major repairs on the Land), the Tenant, at its expense, shall maintain commercial general liability insurance, on an occurrence basis, covering all claims and liability for bodily injury (including death) and property damage (including loss of use thereof), arising out of the ownership, development, construction, repair, demolition, occupancy, use, management, or maintenance of, or the operations on, the Leased Premises, in an amount not less than three million Dollars (\$3,000,000.00) per occurrence. Such policy shall include cross-liability and severability of interest clauses in favour of the Landlord. Such policy shall include endorsements (or separate policies) for, without limitation, tenant's legal liability, contractual liability, non-owned automobile liability, owned automobile liability, personal injury, employment practices liability, and owners' and contractor's protective insurance. Without limiting the foregoing, the contractual liability endorsement shall cover the performance by the Tenant of the indemnities given by it in this Lease and all the Tenant's other insurable obligations under this Lease. However, the limit of this, or any other, insurance policy shall not limit the Tenant's liability under the indemnities given by it in this Lease or its liabilities under any other provisions of this Lease.

Section 6.12 - Environmental Impairment Liability Insurance. At any time during the Due Diligence Conditional Period and the Term, if there is a high risk, in the Tenant's opinion, of pollution or environmental contamination from a permitted use under this Lease carried on by the Tenant, its subtenant or anyone claiming through or under the Tenant, of all or part of the Leased Premises, then the Tenant shall maintain environmental liability insurance, in an amount as would a prudent landowner carrying on such use, including, without limitation, coverage for clean-up costs and business interruption for spills, gradual pollution, and migration of contamination, on a claims-made basis.

Section 6.13 - Additional Insurance. The Tenant shall obtain and keep in force during the Term any other form of insurance as the Landlord reasonably requires from time to time, in form, in amount and for insurance risks against which a prudent owner would insure.

Section 6.14 - Delivery of Insurance Certificates. On the first day of the Due Diligence Conditional Period, at least five (5) days before the first day of the Term, during the Term before the start of any period of construction, demolition or major repair of Improvements, at each policy renewal date, and from time to time during the Term upon reasonable request from the Landlord, the Tenant shall deliver to the Landlord, all Freehold Mortgagees (if any) and all Leasehold Mortgagees (if any) at the time, in accordance with the

notice provision in this Lease, insurance certificates or, if requested, certified copies of policies, evidencing that all insurance required to be carried by the Tenant in accordance with this Article VI of this Lease is in place.

Section 6.15 - Payments for Tenant by Landlord. If the Tenant fails to procure the insurance required to be procured by it under this Article VI of this Lease, or fails to pay any premium of such insurance, the Landlord shall have the right, but not the obligation, after expiration of any applicable cure period in Section 9.01 of this Lease, to procure on behalf of the Tenant any such insurance, and to pay on behalf of the Tenant any such payment or payments as may be necessary. Any sum(s) so paid or expended by the Landlord on behalf of the Tenant shall be reimbursed and paid by the Tenant to the Landlord as Additional Rent, payable in accordance with Section 3.11 of this Lease. Without limiting the generality of Section 6.01 of this Lease, all insurance procured, or premiums paid for by the Landlord under this Section 6.15 of this Lease shall not release the Tenant from any liability under this Lease and the Landlord shall not have assumed any liability under this Lease by procuring or paying for any such insurance.

Section 6.16 - Release of Landlord Parties by Tenant. The Tenant hereby releases the Landlord Parties from all liability, costs, losses, and claims whatsoever respecting injury (including death, bodily injury, and personal injury) sustained by the Tenant or any other persons or entities, and damage to the property (including loss thereof) of the Tenant (including, without limitation, the Improvements and personal property) or the property of any other persons or entities, occurring at or on the Leased Premises during the Term, Due Diligence Conditional Period, or any overholding period due to any cause whatsoever, including, without limitation, any injury or damage caused or contributed to by the negligence of any or all of the Landlord Parties, except that the Landlord Parties shall not be released by this Section 6.16 from all or any default by the Landlord under this Lease. This release is not limited by the insurance or amount of insurance maintained or required to be maintained by the Tenant.

Section 6.17 - Indemnification of Landlord by Tenant. The Tenant hereby indemnifies and holds the Landlord harmless of and from any and all liability, costs (including, without limitation, legal and defense), losses, damages, injuries, and claims (including WSIB) whatsoever incurred, sustained, or which may be incurred or sustained by it, whether made or brought by the Tenant or anyone else, arising from, related to, or in connection with: (a) any and all negligent or intentional act or omission on the part of any or all of the Tenant Parties; (b) any and all default by the Tenant under this Lease; (c) any and all release contrary to Environmental Laws by the Tenant, its subtenants or anyone else of Hazardous Substances onto the Land and/or surrounding properties during the Term, Due Diligence Conditional Period or any overholding period, and activities to remediate such contamination; or (d) any and all injury (including death, bodily

injury, and personal injury) to any persons or entities and damage to the Improvements or any other property (including loss thereof) of the Tenant or of any other persons or entities, occurring at or on the Leased Premises during the Term, Due Diligence Conditional Period, or any overholding period due to any cause whatsoever, including, without limitation, such injury or damage caused or contributed to by the negligence of any or all of the Landlord Parties, except for a default by the Landlord under this Lease. In case any action or proceeding is brought against the Landlord by reason of any claim mentioned in this Section 6.17, the Tenant, upon notice from the Landlord, shall, at the Tenant's expense, resist or defend such action or proceeding in the Landlord's name, if necessary, by counsel for the insurance company, if such claim is covered by insurance, or otherwise by counsel approved by the Landlord. The Landlord agrees to give the Tenant prompt notice of any such claim or proceeding. This indemnification survives the expiration or earlier termination of this Lease, or the dissolution or, to the extent allowed by Applicable Laws, the bankruptcy or insolvency of the Tenant. This indemnification does not extend beyond the scope of this Lease and does not extend to claims exclusively between the Landlord and Tenant arising from the terms, or regarding the interpretation of, this Lease. This indemnity is not limited by the insurance, or the amount of insurance required to be maintained by the Tenant under this Lease or that is maintained by the Tenant.

Section 6.18 - Loss Payable under Property Insurance. The loss payable under any and all property insurance policies maintained by the Tenant insuring against damage to the Leased Premises by any covered perils (including, without limitation, those policies required under Section 6.04, Section 6.07, Section 6.08, Section 6.09, and Section 6.10 of this Lease), shall be payable to either the Tenant or the Leasehold Mortgagee, if any. Such proceeds of insurance shall be applied (by the Tenant or Leasehold Mortgagee) to the cost of repairing, demolishing, rebuilding, or replacing the damaged portions of the Leased Premises, in accordance with Article V and Article VII of this Lease, except for the proceeds of business interruption insurance which shall be payable to the Landlord for Rent. If the Tenant exercises its termination right in Article VII of this Lease, then all proceeds of property insurance payable for the total or substantial damage or destruction of the Leased Premises shall belong to and be paid to the Tenant or its Leasehold Mortgagee, except for any portion of the insurance proceeds attributable to the Landlord's reversionary interest and its Freehold Mortgagee's interest in the Leased Premises which shall be paid to the Landlord or its Freehold Mortgagee. The Landlord and Tenant each agree to use its commercially reasonable efforts to obtain the consent of its mortgagees to insurance proceeds being payable and applied in accordance with this Section 6.18 of this Lease.

ARTICLE VII - DAMAGE AND DESTRUCTION; EXPROPRIATION

Section 7.01 - Damage and Destruction. If, during the Term, all or any part of the Leased Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which

insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, neither the Tenant nor the Landlord may terminate this Lease (subject to Section 7.03 below), the Tenant may not surrender possession of all or any part of the Leased Premises and there shall be no abatement of Rent nor reduction of other amounts payable by the Tenant under this Lease, notwithstanding any Applicable Laws to the contrary.

Section 7.02 - Repair, Demolish, Rebuild or Replace. If, during the Term, all or any part of the Leased Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, the Tenant, at its expense, shall repair, rebuild, replace or demolish such damaged or destroyed Improvements on the Land, in accordance with Article V of this Lease, as soon as reasonably possible after the occurrence of the damage or destruction. The Tenant shall use the proceeds from the property insurance (except for business interruption insurance) it maintains under Article VI of this Lease to pay for such repair, demolition, rebuilding, or replacement, and to the extent the insurance proceeds are not enough to cover all the costs and expenses thereof, the Tenant shall be responsible to pay for any shortfall. In no event shall the Landlord be obligated to repair, demolish, rebuild, or replace all or any part of the Leased Premises or pay any of the costs or expenses thereof. If the Tenant demolishes damaged or destroyed Improvements without the intention of rebuilding or replacing them or does not replace or rebuild them within a reasonable time after demolition, then the Tenant shall ensure that the Land is graded or levelled with adequate drainage and does not contain partially demolished structures or demolition debris.

Section 7.03 - Tenant's Early Termination Right for Damage of Destruction. If all or fifty (50)% (based on area) or more of the Leased Premises are totally or substantially damaged or destroyed by fire or any other casualty in the Term and the cost to rebuild, repair or replace the Leased Premises would be five million Dollars (\$5,000,000.00) or higher, then the Tenant may terminate this Lease within three (3) months after the occurrence of such damage or destruction on 3 months' prior written notice to the Landlord. The Tenant's remain responsible for clearing and grading the land as per Section 7.02. If the Tenant exercises its right to terminate under this Section 7.03, then on the termination date the Tenant shall surrender the Land to the Landlord in accordance with Section 2.06 of this Lease.

Section 7.04 - Expropriation. If, during the Term, all or part of the Leased Premises are expropriated for any public or quasi-public purpose by an authority with the power to expropriate real property, or if all or part of the Leased Premises are taken or sold for any public or quasi-public purpose by an agreement with an expropriating authority in lieu of an expropriation by that expropriating authority, then:

- (a) Each of the Landlord and Tenant may make a claim for compensation with the expropriating

authority for its interest in the portion of the Leased Premises which was expropriated and participate in the expropriation proceedings. The Parties agree to co-operate with each other so that each receives the maximum compensation it is entitled to by Applicable Laws. If there is a single award for the Landlord's freehold and Tenant's leasehold interests in the expropriated land, then such award shall be apportioned between the Landlord and Tenant, and each Party's proportionate share shall be determined by Arbitration if the Parties cannot agree on their shares within ten (10) days after the date the Tenant receives notice of the expropriation from the expropriating authority or the Landlord.

(b) This Lease shall terminate with respect to the portion of the Leased Premises expropriated or sold in lieu of expropriation on the date that possession of such expropriated portion is given to or taken by the expropriating authority. Subject to Section 7.04(c) below, this Lease shall continue in effect with respect to the portion of the Leased Premises remaining, without amendments, except that the expropriated land shall be excluded from the Leased Premises.

(c) If such expropriation or taking in lieu of expropriation makes the Leased Premises unsuitable for the Tenant's development or Permitted Use, in the Tenant's opinion acting reasonably, then the Tenant may terminate this Lease on written notice to the Landlord delivered within thirty (30) days of the Tenant's receipt of written notice of the expropriation from the Landlord or the expropriating authority. If this termination right is exercised, the Lease shall terminate on the termination date in Section 7.04(b) above.

ARTICLE VIII - ASSIGNMENT; SUBLEASE; MORTGAGES

Section 8.01 Assignment or Transfer. The Tenant shall have the right, subject to the applicable provisions of this Article VIII, without the consent of the Landlord, to assign all of its interest in this Lease to any Person (hereinafter called an "**Assignee**") whether by operation of law, sale, exchange or otherwise (except for mortgaging), a transaction or series of transactions that results in a change of Control of the Tenant, or if the Tenant is a corporation, a reorganization, merger or amalgamation with another corporation, provided that: (a) the Landlord is provided with prior written notice of the transaction including the proposed effective date, name of the Assignee, transferee or resulting corporation and, if applicable, financial information evidencing compliance with clause (b) of this Section 8.01; (b) the Assignee, unless it is an Affiliate of the Tenant, or the Tenant after the change in Control, reorganization, merger or amalgamation, as applicable, is an entity as creditworthy as the Tenant at the time of the change of Control, assignment, reorganization, merger or amalgamation, as applicable, with sufficient assets to satisfy the Tenant's obligations under this Lease; and (c) the Assignee, if any, enters into a written agreement with the Landlord, effective from and after the effective date of the assignment, change in Control, amalgamation, reorganization or merger, as applicable, expressly agreeing to perform, observe and be bound by all of the

Tenant's obligations under this Lease. Upon any assignment of this Lease, change of Control, merger, reorganization or amalgamation of the Tenant, the Tenant shall not be released from its obligations, covenants and liabilities under this Lease and shall remain contractually bound to perform and observe the obligations of the Tenant under this Lease, except the assignor shall be released upon an assignment if the Assignee is an Affiliate of the Tenant. If the Tenant's interest in this Lease is assigned or transferred in violation of the provisions of this Article VIII, such assignment or transfer shall be void and of no force and effect against the Landlord, and the Tenant shall be in default under this Section 8.01 of this Lease.

Section 8.02 - Subleases. From and after the Commencement Date, the Tenant shall have the right, subject to the applicable provisions of this Article VIII, without the consent of the Landlord, to sublease all or part of the Leased Premises to any Person, whether by a sublease, occupancy agreement, licence or other agreement granting rights for the use or occupancy of space in the Leased Premises (other than by mortgage) (each a "**Sublease**"), provided that the term of all and any Sublease is shorter than the Term (excluding any unexercised renewal, extension or overholding periods). The Tenant may, from time to time, request, by written notice to the Landlord, that the Landlord enter into a non-disturbance and attornment agreement with any subtenant of all or part the Leased Premises permitting such subtenant's tenancy to continue at its subleased premises until the expiry of the term of its Sublease, on the terms in its Sublease or such amended terms as required by the Landlord, acting reasonably, if this Lease is terminated by the Landlord because of a default under this Lease by the Tenant, provided that: (a) the subtenant in the relevant Sublease shall attorn to the Landlord upon the termination of this Lease in the non-disturbance and attornment agreement; (b) the request for such a non-disturbance and attornment agreement is accompanied by a fully executed copy of the relevant subtenant's Sublease and any amendments thereto; (c) the Sublease satisfies the requirements of this Section 8.02; (d) such non-disturbance and attornment agreement is in the form and substance required by the Landlord, and signed first by the subtenant; and (e) the Landlord incurs no costs for preparing and entering into such non-disturbance and attornment agreement and the Tenant pays all of the Landlord's out-of-pocket expenses (including, without limitation, the Landlord's legal costs for any negotiations of the non-disturbance and attornment agreement) before the Landlord returns a fully executed non-disturbance and attornment agreement to the subtenant. Upon any Sublease of all or part of the Leased Premises, the Tenant shall not be released from its obligations, covenants, and liabilities under this Lease. If the Leased Premises are subleased by the Tenant in violation of the provisions of this Article VIII, such Sublease shall be void and of no force and effect against the Landlord and the Tenant shall be in default under this Section 8.02 of this Lease.

Section 8.03 - Leasehold Mortgages. Notwithstanding any other provisions of this Lease to the contrary, the Tenant shall have the right during the Term to grant Leasehold Mortgages and to register such Leasehold Mortgages on title to the Leased Premises, without the Landlord's prior consent, provided that:

- (a) no Event of Default exists at the time the Leasehold Mortgage is granted;

- (b) all rights acquired under the Leasehold Mortgage are subject to each of the provisions in this Lease and to all rights and interests of the Landlord under this Lease; and
- (c) the Leasehold Mortgagee delivers to the Landlord a copy of the registered Leasehold Mortgage (or a fully executed copy if the Leasehold Mortgage will not be registered) together with written notice specifying the name and address of the Leasehold Mortgagee, within thirty (30) days of the Leasehold Mortgage being granted or registered. The Tenant shall not be released from liability under this Lease by all and any Leasehold Mortgage.

Section 8.04 - Rights of Leasehold Mortgagees. The Landlord agrees, for the benefit of each Leasehold Mortgagee whose Leasehold Mortgage complies with Section 8.03 of this Lease, that while payment and obligations under its Leasehold Mortgage are outstanding, the following shall apply:

- (a) **Lease Amendments or Surrender.** There shall be no cancellation, material amendments or acceptance of a surrender of this Lease without the prior written consent of the Leasehold Mortgagee, such consent not to be unreasonably withheld or delayed. Notwithstanding the foregoing (but, in any event, subject to the Leasehold Mortgagee's curative rights set forth in Section 8.04(b) of this Lease and its rights to a replacement lease in Section 8.04(c) of this Lease), nothing herein shall be deemed to prohibit the Landlord from terminating this Lease in accordance with its terms or exercising, if any, the Landlord's option to purchase or right of first refusal as provided for in this Lease.
- (b) **Notice and Right to Cure.** The Landlord shall give the Leasehold Mortgagee, in accordance with the notice methods set out in Section 10.02 of this Lease and to the address provided by the Leasehold Mortgagee under Section 8.03 of this Lease, a copy of any notice of default or notice of termination under this Lease that it gives to the Tenant, at the same time as it delivers such notice to the Tenant. The Leasehold Mortgagee shall then have the right (but not the obligation), during the same period of time after delivery of the notice on it as is given to the Tenant under this Lease, to remedy or cause to be remedied the Tenant's default under this Lease. If the time under this Lease for the Tenant to remedy its default under this Lease is not enough time for the Leasehold Mortgagee to remedy or cause to be remedied such Tenant's default, the Landlord may grant the Leasehold Mortgagee such longer period of time as is reasonably necessary for the Leasehold Mortgagee to remedy the default or cause the default to be remedied, provided the default is not a default in the payment of Rent or other monetary sums under this Lease and the Leasehold Mortgagee has commenced to remedy or cause to be remedied such default within the initial time period for the Tenant to remedy in this Lease, and diligently proceeds with such remedy to completion thereafter. The Landlord shall accept performance by, or at the instigation of, the Leasehold Mortgagee as if it had been done by the Tenant.
- (c) **Replacement Lease.** If the Landlord is entitled by the provisions of this Lease to terminate this

Lease because of a default under this Lease by the Tenant, or if the Lease is disclaimed by a trustee or the Tenant in insolvency or bankruptcy proceedings, the Landlord shall not re-enter or terminate this Lease except in accordance with this Section 8.04(c) of this Lease. The Landlord shall deliver written notice to the Leasehold Mortgagee that it intends to terminate the Lease due to a default by the Tenant, or that the Lease has been disclaimed in insolvency or bankruptcy proceedings. The Leasehold Mortgagee shall then have thirty (30) days from the date it received, or was deemed to have received under Section 10.02 of this Lease, such notice to: (A) deliver written notice to the Landlord that it elects to enter into a Mortgagee Lease; (B) enter into such Mortgagee Lease; and (C) satisfy the conditions in Section 8.04(c)(i) to Section 8.04(c)(iii) below. If, within the time required above, no notice is delivered by the Leasehold Mortgagee, the Leasehold Mortgagee delivers notice that it elects not to enter into a Mortgagee Lease, the Leasehold Mortgagee does not execute the Mortgagee Lease or all of the conditions in Section 8.04(c)(i) to Section 8.04(c)(iii) below are not satisfied, then the Landlord may terminate this Lease in accordance with its provisions and the Leasehold Mortgagee shall be deemed to have waived any rights it had to enter into a new lease with the Landlord. The Landlord's obligation to enter into a Mortgagee Lease is conditional upon the Leasehold Mortgagee causing the conditions below to be satisfied before or on the date of execution and delivery of the Mortgagee Lease by the Leasehold Mortgagee:

- (i) The Leasehold Mortgagee shall pay all arrears of Rent and all other overdue sums due to the Landlord under this Lease by the Tenant.
 - (ii) The Leasehold Mortgagee shall pay the Landlord's out-of-pocket costs, including legal fees, which the Landlord shall have incurred for negotiation, preparation, and execution of the Mortgagee Lease.
 - (iii) The Leasehold Mortgagee shall remedy, or cause to be remedied, all defaults by the Tenant under this Lease, except for defaults which by their nature cannot be cured by the Leasehold Mortgagee and shall pay all of the Landlord's costs related to such defaults and remedies.
- (d) **Enforcement of Leasehold Mortgage.** The Leasehold Mortgagee may enforce its Leasehold Mortgage and take title to the Tenant's leasehold interest in the Leased Premises in any lawful way, including without limitation, by taking possession of the Tenant's leasehold interest in all or part of the Leased Premises by itself or by a receiver or receiver and manager, and selling or assigning the Tenant's leasehold interest in the Leased Premises under this Lease by any lawful contractual or statutory power of sale right or upon any right of foreclosure, subject to compliance with Section 8.01 for an assignment, sale or transfer, and provided that the Leasehold Mortgagee delivers prior written notice that it is enforcing its Leasehold Mortgage to the Landlord and its Freehold Mortgagees.

(e) **Leasehold Mortgagee's Liability.** The Leasehold Mortgagee shall not be liable for any of the Tenant's obligations under this Lease except during the time that the Leasehold Mortgagee owns the Tenant's leasehold interest in the Leased Premises under this Lease or while the Leasehold Mortgagee, by itself or by a receiver or receiver and manager, is a mortgagee in possession enforcing its Leasehold Mortgage, during which times the Leasehold Mortgagee shall be liable for the Tenant's obligations under this Lease. The Leasehold Mortgagee shall be entitled to the Tenant's rights and benefits under this Lease while it owns the Tenant's leasehold interest in the Leased Premises under this Lease or while the Leasehold Mortgagee, by itself or by a receiver or receiver and manager, is a mortgagee in possession enforcing its Leasehold Mortgage, only if the Leasehold Mortgagee: (i) executes an agreement in favour of the Landlord and its Freehold Mortgagees assuming the Tenant's obligations under this Lease while in possession; and (ii) cures any existing defaults by the Tenant, except for non-monetary defaults which by their nature the Leasehold Mortgagee cannot cure, by the date it takes possession or ownership, or after it takes possession and ownership if the default by the Tenant is a non-monetary default that cannot be cured by this date but which the Leasehold Mortgagee has commenced to cure by this date and is diligently proceeding to cure thereafter. The Leasehold Mortgagee shall be released from liability under this Lease and no longer entitled to rights and benefits under this Lease upon an assignment of this Lease by the Leasehold Mortgagee, or its receiver or receiver and manager, to a new tenant in compliance with Section 8.01 of this Lease. The Leasehold Mortgagee shall be released from liability under a Mortgagee Lease upon an assignment of the Lease by the Leasehold Mortgagee, or its receiver or receiver and manager, to a new tenant in compliance with the assignment and transfer provisions of the Mortgagee Lease.

(f) **Direct Agreement with Landlord.** Within a reasonable time after request by the Tenant or Leasehold Mortgagee, the Landlord shall enter into an agreement with the Leasehold Mortgagee and the Tenant (and the Freehold Mortgagees, if any), agreeing to all of the provisions of Section 8.03 and Section 8.04 of this Lease, in a form and substance reasonably satisfactory to the Leasehold Mortgagee and the Landlord (and Freehold Mortgagees, if any), and provided the same has been previously executed by the Tenant and the Leasehold Mortgagee.

Section 8.05 - Transfer by Landlord. If the Landlord sells, assigns, or otherwise transfers (whether by operation of law or otherwise) all or part of its fee simple interest in the Leased Premises and/or this Lease to any Person (a "**Landlord Transferee**"), the transferor shall deliver to the Tenant, on or before the effective date of such transfer, the express written covenant of the Landlord Transferee covenanting in favor of the Tenant and all and any Leasehold Mortgagees at the time to be bound by all the obligations and liability of the Landlord under this Lease and under any agreement with such Leasehold Mortgagee under

Section 8.04(f) of this Lease, from and after the effective date of the transfer to the Landlord Transferee, and upon delivery of such covenants the transferor shall be released from all liability and obligations under this Lease whatsoever.

Section 8.06 - Freehold Mortgages. The Landlord may grant Freehold Mortgages at any time without the Tenant's consent. The Tenant agrees that this Lease shall automatically be subordinate to all and any Freehold Mortgages unless the Freehold Mortgagee requires that this Lease have priority over its Freehold Mortgage, and that the Tenant shall attorn, upon request, to each Freehold Mortgagee that takes possession of the Leased Premises or takes other steps to enforce its Freehold Mortgage, provided that each Freehold Mortgagee agrees not to terminate this Lease or otherwise disturb the Tenant's possession of the Leased Premises during the Term so long as the Tenant is not in default under this Lease. The Landlord and Tenant agree to, before or on the day that a Freehold Mortgage is granted and registered on title to the Leased Premises, enter into a subordination, attornment and non-disturbance agreement with each Freehold Mortgagee, which agreement shall be in a form and substance satisfactory to the Freehold Mortgagee, the Landlord and the Tenant, each acting reasonably, and shall contain the following terms, among other terms reasonably satisfactory to the Freehold Mortgagee, Landlord and Tenant:

- (a) The Tenant's confirmation of the subordination of this Lease to the Freehold Mortgage as in the first paragraph of this Section 8.06.
- (b) The Tenant's confirmation to attorn to the Freehold Mortgagee as in the first paragraph of this Section 8.06.
- (c) The Freehold Mortgagee's non-disturbance covenant as in the first paragraph of this Section 8.06.
- (d) Any amendments or modifications to the Lease reasonably required by the Freehold Mortgagee if it becomes a mortgagee in possession or the owner of the Landlord's fee simple interest in the Leased Premises.
- (e) The Freehold Mortgagee's agreement in favour of the Leasehold Mortgagees that it is bound by and will observe and perform the Landlord's obligations in Section 8.03 and Section 8.04 of this Lease, and in any separate tri-party agreement with the Leasehold Mortgagee under Section 8.04(f) of this Lease, if the Freehold Mortgagee becomes a mortgagee in possession or the owner of the Landlord's fee simple interest in all or part of the Leased Premises, and that it will, if it enforces its Freehold Mortgage, obtain the same covenant to be bound, observe and perform from any purchaser or transferee from the Freehold Mortgagee of the Landlord's fee simple interest in all or part of the Leased Premises and/or this Lease.
- (f) Covenants by the Freehold Mortgagee to provide the Leasehold Mortgagees with copies of

notices of default and intention to enforce security that it gives to the Landlord at the same time as such notices are given to the Landlord, provided the Leasehold Mortgagee agrees to provide the Freehold Mortgagee with copies of notices it provides to the Tenant of default and intention to enforce its security at the same time as it delivers such notices to the Tenant.

ARTICLE IX - DEFAULT; REMEDIES

Section 9.01 Events of Default. Each of the following events shall be an event of default under this Lease ("**Event of Default**"):

(a) If the Tenant shall fail to pay any item of Rent, or any part thereof, when the same shall become due and payable and such failure shall continue for thirty (30) days after written notice from the Landlord to the Tenant.

(b) If the Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants, or agreements contained in this Lease (other than defaults described in Section 9.01(a) of this Lease), and such failure shall continue for a period of thirty (30) days after written notice thereof by the Landlord to the Tenant specifying such failure[, unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done, or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as the Tenant shall have commenced curing the same within such thirty (30) day period and shall diligently, continuously, and in good faith prosecute the same to completion.

(c) If:

(i) the Tenant makes an assignment for the benefit of creditors, becomes insolvent, is adjudicated a bankrupt, files a petition in bankruptcy or files any petition or proposal seeking any reorganization, arrangement, liquidation, dissolution, winding-up or similar relief for itself under any present or future law;

(ii) the filing of any involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of ninety (90);

(iii) contrary to this Lease or without the Landlord's prior written consent, the Tenant has made an agreement to sell all or substantially all of its assets, including its leasehold estate in the Leased Premises under this Lease;

(iv) any trustee, receiver, or liquidator of the Tenant or of all or any substantial part of its properties or of the Leased Premises shall be appointed in any action, suit, or proceeding by or against the Tenant and such proceeding or action shall not have been dismissed within ninety (90) days after such appointment; and/or

(v) the Tenant has had its property seized or attached in satisfaction of a judgment and such execution or attachment shall not be vacated or removed against the Leased Premises by court order, bonding, or otherwise within a period of ninety (90) days].

Section 9.02 - Remedies. Upon the occurrence of an Event of Default by the Tenant, the current month's rent together with the next three months' rent shall become due and payable immediately as accelerated rent, and the Landlord may, at its option, exercise any and all of the remedies available to it under this Lease or Applicable Laws, including, without limitation, the remedies listed below:

- (a) **Cure Tenant's Events of Default.** Without terminating this Lease and re-entering the Leased Premises, enter into and upon the Leased Premises, or any part thereof, and remedy or attempt to remedy all and any Events of Default committed by the Tenant, in which event the Tenant shall reimburse the Landlord as Additional Rent for all costs and expenses incurred by the Landlord in remedying or attempting to remedy all and any Tenant's Event of Default. The Tenant agrees that the Landlord's right reserved in this Section 9.02(a) does not obligate the Landlord to remedy or attempt to remedy any Event of Default of the Tenant or take any other action. The Tenant further agrees that any action taken by the Landlord under this Section 9.02(a) shall not impose or shift any liability or obligations on to the Landlord, and the Landlord shall not be liable for any damages resulting to the Tenant from such action, entry, or performance of any work by the Landlord upon the Leased Premises.
- (b) **Termination and Re-Entry.** Give written notice to the Tenant that the Landlord is terminating this Lease and re-entering the Leased Premises, sixty (60) days after delivery of such notice to the Tenant, subject to the rights of Leasehold Mortgagees under this Lease or under a tri-party agreement between the Landlord and Leasehold Mortgagee pursuant to Section 8.04(f) of this Lease.
- (c) **Re-Letting.** Without terminating this Lease and re-entering the Leased Premises, enter upon and re-let all or any part of the Leased Premises for the account of the Tenant.
- (d) **Damages.** To bring suit against the Tenant for the collection of Rent, payment of other amounts arising and owing by the Tenant under this Lease and/or all and any damages and expenses incurred by the Landlord resulting from the Tenant's Event of Default, including, without limitation, to bring proceedings for Rent and other amounts under this Lease past due without terminating this Lease or re-entering the Leased Premises, or if the Landlord does terminate this Lease and re-enter the Leased Premises, to bring proceedings for amounts due to the termination date and which would have been due until the end of the Term of this Lease had it not been terminated, subject to any amounts actually paid to the Landlord for the remainder of the Term by any new tenant, if any.
- (e) **Distress.** The Tenant hereby waives the benefit of any present or future legislation that eliminates,

limits or purports to eliminate or limit the Landlord's right of distress and the Tenant agrees with the Landlord that, notwithstanding any such legislation, all of the Tenant's chattels and personal property from time to time on the Leased Premises shall be subject to distress for arrears of Rent and the fulfilment of all the Tenant's obligations under this Lease. If the Landlord makes any claim against the Tenant pursuant to this Lease, this Section may be pleaded as an estoppel against the Tenant in any legal proceeding brought to contest the Landlord's right to distress any of the Tenant's chattels and other personal property as are named as exempted in such legislation, the Tenant hereby waiving each and every benefit that it could or might have arising from such legislation.

Section 9.03 - No Waiver. No delay or omission of the Landlord to execute any right, remedy or power arising from any default by the Tenant under this Lease shall impair any such right, remedy or power, be construed as a waiver of any such default or any acquiescence to such default or a waiver of or acquiescence to any other default under this Lease.

Section 9.04 - Remedies Cumulative. The Landlord's rights and remedies set forth in Section 9.02 of this Lease and those in other provisions of this Lease are cumulative and in addition to Landlord's other rights and remedies at law or in equity. The Landlord's exercise of any right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy.

ARTICLE X - GENERAL

Section 10.01 - Estoppel Certificates. The Landlord and the Tenant will execute, acknowledge, and deliver to the other five (5) Business Day after a request from the other Party, a certificate that may be relied upon by any prospective or actual Leasehold Mortgagee, Freehold Mortgagee, purchaser, or other assignee of an interest under this Lease or subtenant of any part of the Leased Premises, certifying as to the following:

- (a) That this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications).
- (b) The dates on which the Rent under this Lease has been paid.
- (c) The amount of the Rent then payable.
- (d) That no notice has been given by the Landlord to the Tenant or the Tenant to the Landlord of any default under this Lease which has not been cured and to the best of the knowledge and belief of the Party giving the certificate, no default by either Party exists (or, if there has been any notice given or a default exists, describing the same).
- (e) Such other matters relating to this Lease as reasonably required by the prospective or actual mortgagee, assignee or subtenant of the Party requesting the certificate and to whom the certificate is addressed.

Section 10.02 - Notices. Unless specifically stated otherwise in this Lease, all notices, consents, claims, waivers, demands, and other communications required or permitted hereunder shall be in writing and addressed to the other Party as follows (or as otherwise specified by a Party in a notice given in accordance with this Section 10.02):

Landlord: Township of Elizabethtown-Kitley
 Email: ldrynan@ektwp.ca
 Attention: Leslie Drynan

Tenant: 2440 Rue Yearling
 Saint-Lazare QC J7T 2E3
 Facsimile: 514.893.8448
 Email: raffaele@campushabitations.com
 Attention: Raffaele Freddi

Communications sent in accordance with this Section 10.02 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email, in each case, with confirmation of transmission if sent during the addressee's normal business hours, and on the next Business Day if sent after the addressee's normal business hours; and (d) on the fifth (5th) day after the date mailed by certified or registered mail by the Canada Post Corporation, return receipt requested, postage prepaid. Any Party may change its address for the purposes of this Lease by giving written notice as provided in this Section 10.02 to the other Party.

Section 10.03 - Planning Act. It is an express condition of this Lease that the provisions of section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, and any amendments thereto or any successor statutory provisions thereof, be complied with if applicable.

Section 10.04 - Submission of Matters for Approval. Any matter which must be submitted to and consented to or approved in writing by the Landlord or the Tenant or any matter which must be submitted to the Landlord or the Tenant which may become effective if not denied by the Landlord or the Tenant, as required under this Lease, shall be submitted to the Party whose approval or consent is required under this Lease in accordance with Section 10.02 of this Lease and shall either be approved or rejected by that Party within twenty (20) days after receipt unless a shorter period of time is expressly stated elsewhere in this Lease. The Party whose consent or approval is required under this Lease shall inform the other Party in writing in accordance with Section 10.02 of this Lease of its rejection or approval of such submitted matter within such twenty (20) day period, and failure to deliver any notice within such time period shall be deemed

rejection of that Party's approval. Any review by the Landlord of any matter submitted to the Landlord is for the Landlord's own convenience and purpose only. By undertaking such review, the Landlord does not obtain or have any liability to the Tenant or any other person, including, without limitation, the insurers, and lenders of the Tenant. A dispute as to whether an approval has been improperly withheld, rejected, or delayed, as applicable, shall be submitted to Arbitration.

Section 10.05 - Arbitration. Any dispute between the Parties relating to this Lease, including, without limitation its interpretation and enforcement, unless expressly excluded from Arbitration in a provision of this Lease, shall be decided by arbitration in accordance with the following arbitration procedure ("**Arbitration**"):

- (a) The Landlord and the Tenant agree to jointly appoint a single arbitrator within twenty (20) days after the date a dispute became arbitrable under this Lease. If the parties fail to agree upon a single arbitrator within such time period, then the Landlord shall, within ten (10) days of the expiry date of the time period for the parties to have jointly appointed a single arbitrator, appoint an arbitrator, and inform the Tenant in writing of such appointment. Within ten (10) days of the giving of such information, or if the Landlord fails to notify the Tenant of its appointed arbitrator within the time period required, then within ten (10) days of the end of the Landlord's required time period to make an appointment, the Tenant shall appoint a second arbitrator and shall inform the Landlord in writing of such appointment. The two arbitrators so appointed shall within ten (10) days of the giving of the last-mentioned information appoint a third arbitrator and give notice of such appointment to both the Tenant and the Landlord. If the Landlord or the Tenant fails to appoint an arbitrator within the time limited herein for such appointment, then the arbitrator appointed by the other party shall proceed alone to determine the arbitrable matter. In the event that the two arbitrators so appointed are unable to agree upon a third arbitrator within the time required by this Section, then either the Landlord or the Tenant shall be entitled to make application to the court pursuant to the *Arbitration Act* (Ontario), for selection of a third arbitrator and the provisions of the *Arbitration Act* (Ontario) shall govern such selection. Each party shall bear one-half of the legal costs of any such court application to appoint the third arbitrator.
- (b) The resultant single arbitrator or arbitration panel of three, as the case may be, shall hear the submissions of the parties and render a decision within ten (10) days of the appointment (or deemed appointment) of the single arbitrator or third arbitrator, as applicable. The decision of such arbitrator or of the majority of such arbitration panel shall be final and binding on the Landlord and the Tenant. With respect to such arbitration, unless expressly provided otherwise in another provision of this Lease, each party shall pay: (i) its own legal expenses, including the expenses of its professional and other experts and witnesses; (ii) if a single arbitrator is appointed, one-half of the

fees and expenses of the single arbitrator; (iii) if an arbitration panel is appointed, the fees and expenses of the arbitrator appointed by it and one-half of the fees and expenses of the third arbitrator; and (iv) one-half of any other expenses of such arbitration. The arbitration shall be conducted in accordance with the *Arbitration Act*, except where the provisions of the *Arbitration Act* conflict with the provisions of this Section (in which event the provisions of this Section shall prevail), and except that the provisions of section 45(1) of the *Arbitration Act* or of any successor provision thereto shall not apply to the arbitration. For greater certainty, the parties acknowledge and agree that, with respect to the decision of the arbitrator or arbitrators, as the case may be, there shall be no right of appeal whatsoever therefrom by either party, on a question of fact, or of law, or of mixed fact and law.

Section 10.06 - Force Majeure. Notwithstanding anything to the contrary contained in this Lease, in the event that any Party is delayed or hindered in or prevented from performance of any act, service, duty or obligation required under this Lease other than the payment of Rent or any other monetary obligation, by reason of an event beyond such Party's control (without such party's fault or negligence and other than as a result of financial inability) that by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable (which events may include, without limitation, natural disasters, embargoes, explosions, riots, wars or acts of terrorism) (each, a "**Force Majeure Event**"), then the performance of such act, service, duty or obligation shall be excused for the period of delay, and the period for the performance of any such act, service, duty or obligation shall be extended for a period equivalent to the period of such delay. A delay caused by a Force Majeure Event shall be deemed to exist only if the Party claiming a delay caused by a Force Majeure Event notifies the other Party promptly of such delay in writing, together with an explanation of the Force Majeure Event and the expected length of the delay; provided, however, that any delay in so notifying the other party of any Force Majeure Event shall not negate such Force Majeure Event but shall shorten the period thereof to the extent that such other party was prejudiced by the delay in giving such notice. The Party claiming delay because of a Force Majeure Event shall use all diligent efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized and resume full performance under this Lease.

Section 10.07 - Registration of Lease. Either the Landlord or the Tenant, at the Tenant's expense, may register notice of this Lease on title to the Land, provided that such notice shall not include the financial terms of this Lease. Each party shall, upon the request of the other if necessary to effect registration, execute a document authorizing registration of a notice of this Lease that complies with the requirements of this Section 10.07. The Tenant shall be responsible for the costs of registration of such notice of lease and any land transfer taxes payable upon registration. The Party that registers a notice of this Lease shall provide a

copy of the registration to the other Party upon registration.

ARTICLE XI - MISCELLANEOUS

Section 11.01 - Successors and Assigns. The provisions of this Lease shall be binding upon and inure to the benefit of the Landlord and the Tenant and their respective permitted successors and permitted assigns.

Section 11.02 – Option to Purchase

The Tenant shall have the right, at Tenant's option, to elect to purchase the Land at any time during the Term, including any Extension Term (the "Option to Purchase"), of this Lease for a cash purchase price of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) (the "Purchase Price") less any claims Tenant has against Landlord pursuant to the terms of this Lease. In order to exercise the Option to Purchase, the Tenant shall notify the Landlord in writing and deposit with the landlord the sum of \$10,000 (the "Deposit"). At closing, the Tenant shall be credited with the amount of the deposit. If the Tenant exercises the Option to Purchase, then Tenant shall purchase, and Landlord shall sell the Land, and Title shall be conveyed to the Tenant free and clear of all mortgage encumbrances, and subject only to (i) normal utility easements not interfering with the reasonable use or value of the Premises, and (ii) other exceptions to which Tenant contributed or consented affecting the title to the Premises. The parties agree that a standard sales agreement shall be signed by both parties within 30 (thirty) days after notification of the Tenant's right to exercise the option. Upon the closing of title pursuant to the above-mentioned Purchase Terms, this Lease shall terminate and end. The Option to Purchase shall expire without notice upon the termination of this Lease unless the Option to Purchase was exercised prior to such termination, provided that this Option to Purchase shall continue after any amendment, continuation, or reinstatement of this Lease. In the event that Tenant exercises the Option to Purchase and fails to close, this Lease shall remain in full force and effect.

Section 11.02 - Governing Law. This Lease and the validity, performance and enforcement of this Lease and all matters arising out of or relating to this Lease, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Section 11.03 - Interpretation and Construction. Any captions or headings used in this Lease are for convenience only and do not define or limit the scope of this Lease. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. Whenever the singular or plural number, or masculine or feminine gender is used in this Lease, it shall equally apply to, extend to, and include the other.

Section 11.04 - Severability. If any term or provision of this Lease is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Lease or invalidate or render unenforceable such term or provision in any other jurisdiction.

Section 11.05 - Time Is of the Essence. All time limits stated in this Lease are of the essence of this Lease except as otherwise expressly stated in this Lease.

Section 11.06 - Relationship of Parties. The Landlord and the Tenant agree that the relationship between them is that of landlord and tenant. It is not the intention of the Parties, nor shall anything herein be constructed to constitute the Landlord as a partner or joint venturer with Tenant, or as a "warehouseman" or a "bailee."

Section 11.07 - Entire Agreement; Amendments and Modifications This Lease forms the entire agreement between the parties and no provision hereof shall be altered, waived, amended, or extended, except in writing signed by both parties. Tenant affirms that, except as expressly set forth herein, neither Landlord nor any of its agents has made, nor has Tenant relied upon, any representation, warranty, or promise with respect to the Premises or any part thereof.

Section 11.08 - Counterparts and Electronic Transmission. This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Lease delivered by facsimile, email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date.

LANDLORD:

Township of Elizabethtown-Kitley

By: 

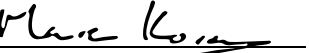
Name: Brant Burrow

Title: Mayor

TENANT:

CAMPUS HABITATIONS HOLDINGS LTD.LES PLACEMENTS

HABITATIONS CAMPUS LTÉE

By: 

Name: ~~MARC KORAN~~

Title: Director

**SCHEDULE A
LAND**

Municipal Address:

3823 County Road 6,
Township of Elizabethtown-Kitley

Legal Description

Part of Lot 6, Concession 3
Geographic Township of Elizabethtown
Township of Elizabethtown-Kitley County of Leeds
PIN: 44158-0097

SCHEDULE B
TENANT'S CONDITION PRECEDENT

1. **Due Diligence Materials.** The Landlord agrees that, within three (3) days following the Effective Date, it will provide to the Tenant:
 - a) original or photostatic copies of all plans, surveys, environmental reports, engineering or other consultant's reports, insurance policies, current realty tax bill and assessment information, development approvals, proposed development plans pertaining to the Land, and any other material information pertaining to the Land currently within its possession or control (the "**Due Diligence Materials**");
 - b) the Landlord's written authorization to permit the Authorities with jurisdiction over the Land to release to the Tenant information in their files with respect to the Land but no inspections by any Authorities are authorized or permitted; and
 - c) a statutory declaration of a senior officer of the Landlord confirming that the deliveries described in (a) and (b) above are complete and accurate [and that there is no other material information pertaining to the Land currently within its possession or control that have not been delivered as aforesaid.
2. **Tenant's Inspections.** The Landlord agrees to allow the Tenant and the Tenant's authorized representatives access to the Land during the period starting on the Effective Date and ending at 11:59 p.m. on the twenty fifth (25th) day thereafter (the "**Due Diligence Conditional Period**") to carry out, at the Tenant's expense, such tests and inspections of the Land as the Tenant or its authorized representatives may deem necessary. Such tests and inspections shall include, without limitation, conducting surveys and soil, groundwater, and environmental tests. The Tenant shall be bound by all the provisions of this Lease during the Due Diligence Conditional Period, except for provisions of this Lease that expressly set out that such provision applies only during the Term.
3. **Damage and Indemnification.** The Tenant shall promptly repair any property damage resulting from its or its authorized representatives' entry upon and inspections of the Land. The Tenant hereby indemnifies the Landlord from any costs, damages, and other liability whatsoever that the Landlord incurs, directly or indirectly, as a result of entry onto the Land and inspections by the Tenant or its authorized representatives under Section 2 of Schedule B of this Lease. This Section shall survive the termination or expiry of this Lease.
4. **Tenant's Due Diligence Condition.** The Tenant's obligation to lease the Leased Premises under this Lease shall be conditional upon the Tenant, in its sole, subjective, unfettered and unreviewable discretion, being satisfied, within the Due Diligence Conditional Period, with the Due Diligence Materials and the results of its tests, inspections and assessment of the Land, including, without limitation, the

Tenant's subjective assessment of the economic viability of the Tenant's proposed initial commercial development on the Land. If the Tenant notifies the Landlord in writing in accordance with Section 10.02 of this Lease during the Due Diligence Conditional Period that the Tenant elects to terminate this Lease because this condition has not been satisfied and will not be waived, then this Lease shall terminate and be at an end effective as of the delivery of such notice and neither Party shall have any further rights or obligations hereunder, except those which are expressly intended to survive termination of this Lease. If, however, the Tenant notifies the Landlord in writing, in accordance with Section 10.02 of this Lease, that this condition is satisfied or waived, or fails to give any notice whatsoever, during the Due Diligence Period, then this Lease will continue to subsist. This condition is included in this Lease for the sole and exclusive benefit of the Tenant and may be waived by the Tenant in the Tenant's sole, subjective, unfettered, and unreviewable discretion (provided, however, that the waiver of such condition shall not constitute a waiver of any breach of any of the Landlord's covenants in this Lease). If the Tenant exercises its termination right under this Section 4 of Schedule B of this Lease, the Tenant shall return vacant possession of the Land to the Landlord on the termination date in the original condition that the Land was in on the Effective Date.

SCHEDULE C
PERMITTED ENCUMBRANCES

Title to the Land may be subject to any and all of the following encumbrances:

1. All matters relating to the title to the Land disclosed on the [parcel register] for the Land on the Effective Date and/or Commencement Date, including without limitation, all of the registrations referred to thereon and all interests and exceptions thereto comprising the legal description of the Land or otherwise noted on the parcel register.
2. The reservations, exceptions, limitations, provisos, and conditions contained in the original Crown grant/patent.
3. Any limitations and provisos contemplated in *Registry Act* (Ontario), and any amendments thereto.
4. Any municipal or other governmental by-laws and laws including, without limitation zoning by-laws, subdivision control provisions and any right of expropriation, access or user conferred or reserved or vested under any statute of Canada or the Province of Ontario.
5. Easements for utilities, development agreements and similar instruments with Authorities registered by the Tenant, or by the Landlord under Section 5.09 of this Lease, as necessary for the tenant's lawful development of the Land in accordance with the provisions of this Lease, provided such registrations are maintained in good standing and complied with by the Tenant, at its expense, throughout the Term and are deleted by the Tenant, at its expense, from title to the Land at the expiration or earlier termination of the Term if the Landlord requests such deletion and the instruments to be deleted are not necessary for the operation of the Remaining Improvements on the expiration or termination date.