

TIE-BACK AGREEMENT

(the "Agreement")

THIS AGREEMENT is made as of April 1, 2021

B E T W E E N:

THE REGIONAL MUNICIPALITY OF PEEL

(the "Region")

- and -

DANIELS HR CORPORATION

(the "Owner")

WHEREAS the Owner is the registered owner of the lands municipally known as 5025, 5035 & 5065 Erin Mills Parkway in the City of Mississauga and more particularly described in Schedule "A" attached hereto (hereinafter the "Owner's Lands");

AND WHEREAS the Region is the registered owner of the lands described as Erin Mills Parkway (Regional Road 1), in the City of Mississauga, in the Regional Municipality of Peel and more particularly described in Schedule "B" attached hereto (hereinafter the "Region Lands");

AND WHEREAS pursuant to sections 9 and 11 of the *Municipal Act*, 2001, c.25, the Region has agreed to permit the tie-backs subject to the terms and conditions herein;

AND WHEREAS the Owner is developing three residential apartment buildings on the Owner's Lands (the "Project");

AND WHEREAS the Owner has requested permission to have certain Works (as defined below) encroach upon a portion of the Region Lands as set out in the plans referred to in Schedule "C" attached hereto (the "Tie-Back Area");

AND WHEREAS to the Owner's knowledge and belief, the Works do not impede pedestrian and/or vehicular traffic in any significant manner;

AND WHEREAS the Owner has investigated and satisfied itself that the Works do not impact any underground utilities or infrastructures;

AND WHEREAS the Region has agreed to permit the Works to remain in place until such time as the Works are no longer required, at which time, the tie-backs will be de-stressed, as set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the fees paid by the Owner to the Region and of the mutual covenants and agreements herein contained, (the sufficiency of which is mutually agreed to) and subject to the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1.0 PERMISSION TO CONSTRUCT

1.1 The Owner, including the Owner's contractors, subcontractors, employees and express agents, are hereby granted non-exclusive permission to construct, install and use within the Tie-Back Area certain structures and improvements described as a system of shoring, anchors, piles and tie-backs on the Excavation Shoring Plans, dated January 29, 2021 and prepared by Isherwood Geotechnical Engineers (the "Excavation Shoring Plans") listed hereto in Schedule "C" (hereinafter the "Works"), on such terms and conditions as are set out herein. The Region's acceptance of the Excavation Shoring Plans listed hereto in

Schedule "C" does not imply that the Region and/or its consultants have any liability whatsoever, or have waived any rights or remedies, in respect of any deficiencies in those plans. For clarity and certainty, the Region does not have authority to authorize encroachments onto lands owned by the Corporation of the City of Mississauga, and no such encroachment is authorized under this agreement.

- 1.2** The Owner covenants and agrees that it shall retain a qualified Professional Engineer to supervise the Works, and that it shall provide to the Region certification from a qualified Professional Engineer to the satisfaction of the Commissioner of Public Works, or their designate as follows:
- a) following construction of the Works, that the Works have been completed in accordance with the Excavation Shoring Plans listed hereto in Schedule "C"; and
 - b) that the tie-backs as noted in the Excavation Shoring Plans listed hereto in Schedule "C" have been de-stressed in accordance with clause 3.0.
- 1.3** The Owner shall not be permitted to alter, install, implement, remove, or deal with the Works in any way other than as stipulated in this Agreement and the Excavation Shoring Plans listed hereto in Schedule "C", unless it has the prior written consent of the Region.
- 1.4** Prior to the commencement of any construction activities related to the Works, the Owner shall contact the Region to set up a pre-construction meeting to determine inspection milestones, including but not limited to pre-construction site assessment and Ontario Land Survey (OLS) property line validation. The Owner shall prepare a report documenting the pre-construction site assessment, such as the condition of public infrastructure and/or utilities within or adjacent to the municipal rights-of-ways in the vicinity of the Tie-Back Area. The report shall also include the construction survey and any other identified requirements. The Owner covenants and agrees to submit the said report to the Commissioner of Public Works or their designate for review and acceptance.
- 1.5** Prior to the commencement of any construction activities related to the Works, the Owner shall apply for and obtain a Road Occupancy and a temporary construction access permit from the Region's Public Works Department (Traffic Engineering/Transportation Division), and a Shoring approval from the Region's Development Services Section.
- 1.6** The Owner covenants and agrees that prior to the commencement of the Works it shall obtain all necessary approvals and permits for the Works as required by the Region, as well as from any other applicable government authorities and agencies including, but not limited to, The Regional Municipality of Peel, the City of Mississauga, the Credit Valley Conservation/Toronto and Region Conservation Authority, Ministry of Transportation, Alectra Utilities Corporation, Canadian National Railways, Ministry of the Environment Conservation and Parks, NAV Canada, Greater Toronto Airport Authority or any other agency or government body having authority with respect to the Works and/or the Owner's Lands and the Region Lands. Further, the Owner covenants and agrees to obtain permission from the owners of any properties on which the Works encroach.
- 1.7** The Owner covenants and agrees to retain a qualified Professional Engineer to monitor the placement, and vertical and horizontal movements of the piles, at locations approved by the Region's Commissioner of Public Works or their designate, within the Tie-Back Area, and submit "Monitoring Reports", all to the satisfaction of the Commissioner of Public Works, respecting such monitoring to the Region in accordance with the following:
- a) During placement of the piles, to ensure compliance with the Excavation Shoring Plans;
 - b) After the piles are installed and before any excavation;
 - c) After the excavation reaches each level of tie-backs and prior to the stressing of the anchors;
 - d) One day after the anchors are stressed; and

- e) Weekly, during excavation until four (4) weeks after the excavation is completed and monthly thereafter until the permanent structure is completed and all voids between the permanent structure and the shoring are backfilled.
 - f) Six months thereafter.
 - g) The Monitoring Reports shall be accompanied by a letter sealed by the Professional Engineer to indicate which piles have experienced movement, how much movement was experienced, why such movement was experienced, and what corrective actions need to be undertaken to mitigate further movements.
- 1.8** The Owner covenants and agrees to direct the qualified Professional Engineer to notify the Region forthwith in the event that any adverse vertical or horizontal movement recorded during the monitoring referred to in clause 1.7. The Owner further covenants and agrees that remedial works satisfactory to the Commissioner of Public Works or their designate shall be undertaken immediately to prevent further movements, and that the Owner shall not resume excavation until such time as the Owner has received written permission from the Commissioner of Public Works to resume the excavation.
- 1.9** Where the Works are approved to be located in the vicinity of public infrastructure, the Owner shall submit to the Commissioner of Public Works, and prior to the commencement of any construction activities related to the Works, a report and accompanying plans to demonstrate how such public infrastructure (bridges, retaining walls, piping, conduits, etc.) will be protected and monitored during installation of the Works. The Owner agrees to include in the Monitoring Reports in clause 1.7 monitoring reports for the public infrastructure in accordance with clause 1.7(a) to 1.7(d) above. The Owner further agrees to submit with each monitoring report a letter sealed by the Owner's Professional Engineer to indicate whether such public infrastructure and its related appurtenances has experienced movement, how much movement was experienced, why such movement was experienced, and what corrective actions need to be undertaken to mitigate further movements.
- 1.10** The Works are to be installed in a manner consistent with industry standards, in accordance with sound engineering practices, and with any and all requirements of the Region and all governmental authorities.
- 1.11** The Owner shall use commercially reasonable efforts to ensure that the installation of the Works shall be carried out in such a way as to minimize interference and/or interruption to any use of or other operations on the Tie-Back Area, and the Owner shall promptly comply with all reasonable instructions given by the Region for the purpose of minimizing any such interference and/or interruptions.
- 1.12** The Owner, its agents, contractors and subcontractors or those for whom the Owner is responsible at law shall not use or deposit onto the Tie-Back Area any contaminant as defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and shall be responsible, at its sole cost, for any environmental cleanup as a result of its actions or omissions.
- 1.13** The Region makes no representation or warranty with respect to the condition or suitability of the Region Lands for the Owner's intended use.
- 1.14** The Owner, its agents, contractors and subcontractors or those for whom the Owner is responsible at law shall not do or permit any act or thing which constitutes a nuisance or which is offensive or of annoyance to the Region or the public generally. Without limiting the generality of the foregoing, the Owner shall not cause or permit any unusual or objectionable noises, light or odours to emanate from the Tie-Back Area.
- 1.15** The Owner shall be responsible for, and shall pay upon demand and indemnify the Region in respect of, the reasonable costs incurred by the Region, and including any consultant the Region may deem necessary to provide periodic advice to the Region, in connection with this Agreement and the Works being completed by or on behalf of the Owner including, without limitation, site inspections and attendances and review of relevant plans.

2.0 TERM

2.1 The term of this Agreement (the "Term") shall commence on the date of execution of this agreement or a permit for the Works is issued (the "Commencement Date") and thereafter shall expire upon delivery of written notification from the Region that it has received certification from the Owner's Professional Engineer confirming that the tie-backs have been de-stressed to the satisfaction of the Commissioner of Public Works and, that all of the Owner's obligations under this agreement have been satisfied.

3.0 DE-STRESS TIE-BACKS

3.1 The Owner acknowledges and agrees that the Works shall become redundant once the construction of underground structures is fully completed and the tie-backs are abandoned. The Owner covenants and agrees:

- a) to decommission and/or remove the piles and shoring system to a minimum of 2.5 metres below existing grade only where the piles encroach on the Region Lands to the satisfaction of the Commissioner of Public Works;
- b) to backfill all excavations or voids within the public right-of-ways with suitable granular material and compacted to 95 percent Modified Proctor Density in layers of no more than 300 millimetres, or
- c) that in the event that backfilled material cannot be satisfactorily compacted, to fill all excavations or voids within the public right-of-ways with unshrinkable fill up to 1.25 metres below finished grade and the remainder in accordance with 3.1 b);

all to the satisfaction of the Commissioner of Public Works and at the Owner's sole cost.

3.2 The Owner covenants and agrees to restore the Tie-Back Area and Region Lands, including making any repairs identified in accordance with clause 1.4, to the satisfaction of the Commissioner of Public Works after it has been certified that the tie-backs have been de-stressed in accordance with clause 3.3, at its sole cost.

3.3 Prior to issuance of the Engineer's certification as required in clause 1.2(b), the Owner shall de-stress all tie-backs, and shall provide a de-stressing inspection report indicating that the all Work related to tie-back de-stressing has been completed

3.4 The Owner shall, at its sole cost and expense, provide to the Commissioner of Public Works as built drawings within ninety (90) days of the installation of the final tie-back in order to confirm final locations of the Works in the Tie-Back Area. As built drawing shall comply with the Region's Linear Infrastructure Public Works CAD Submission Requirements, June 2015, as amended.

3.5 The Owner acknowledges that upon completion of the de-stressing, the tie-back materials remaining within the Tie-Back Area shall be considered abandoned by the Owner and to be part of the Region Lands and as such is property of the Region.

3.6 Prior to construction, if the Owner provides the Region with a letter from a Licensed Professional Engineer indicating that fiberglass tiebacks will be used and stating that fiberglass tiebacks that have not been de-stressed will not pose any danger nor risk to the Region, its contractors, agents, nor equipment, nor the property of the Owner during future work on the Region's infrastructure, and if the Region accepts in writing the contents of the letter, all de-stressing requirements of the Owner laid out in this agreement will be deemed to have been fulfilled.

4.0 MAINTENANCE AND REPAIR

4.1 In addition to the requirements of clause 1.7, the Owner shall maintain the Works and keep same in a good state of repair at the Owner's sole cost and expense. Without limiting the generality of the foregoing, the Region may at any time give written notice to the Owner requiring that certain maintenance or repair work be carried out with respect to the Works. Forthwith upon receipt of such notice, the Owner shall commence all work described

therein and shall have such work completed to the satisfaction of the Region within the time period stipulated in the said notice.

- 4.2 The Owner covenants and agrees to repair any municipal infrastructure and/or utilities damaged by the Owner's actions, at the Owner's sole cost, to the satisfaction of the Commissioner of Public Works.
- 4.3 During the Term, the Owner shall take all necessary precautions to provide for the safety and welfare of the public as a result of the presence, installation and maintenance of the Works and the use of the Tie-Back Area and with respect thereto the Owner shall be responsible for the safety of all pedestrians and other users of the highway and property including the Tie-Back Area. If the enjoyment or safety of any person or installations on or around Region Lands might be interfered with, the Owner shall after receiving notice from the Region in writing, sufficiently repair or alter the same so as to remove or remedy the issue as noted in the notice.
- 4.4 The Region shall have the right to enter onto the Tie-Back Area during the Term at any reasonable time for the purpose of installing or maintaining any utility or municipal service or any other purpose the Region deems necessary.

5.0 FINANCIAL

- 5.1 As consideration for the Works in the Tie-Back Area, the Owner shall pay to the Region an annual fee payable, in the amount of THREE HUNDRED DOLLARS (\$300.00) plus applicable taxes, each year during the Term. The Owner shall, simultaneously upon executing this Agreement, deliver to the Region a certified cheque or bank draft in the amount of NINE HUNDRED AND FOUR DOLLARS (\$904.00) inclusive of the applicable taxes as the fee for the first year of the Term and the Administration fee. Subsequent payments of the annual fee shall be paid to the Region on or before the yearly anniversary of the commencement of the Term noted in clause 2.1.

The Owner agrees to pay the Region the following:

- | | | |
|-----|--|----------------------------------|
| (a) | Administration fee (one time) | \$ 500.00, plus applicable taxes |
| (b) | Annual fee (each year throughout Term) | \$ 300.00, plus applicable taxes |

- 5.2 The Owner covenants and agrees to pay to the Region, upon execution of this Agreement, its reasonable legal fees in connection with the negotiation and preparation of this Agreement.
- 5.3 The Owner covenants and agrees to pay to the Region its reasonable legal fees incurred as result of exercising its rights and remedies under this Agreement.
- 5.4 The Owner shall, simultaneously upon executing this agreement, deliver to the Region an irrevocable letter of credit from a Schedule 1 Canadian Chartered Bank or other negotiable security approved by the Region Treasurer in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00), (the "Letter of Credit") as security for the Owner's obligations under this Agreement and the Owner's Crane Swing Agreement with the Region executed for the same Project. The Owner acknowledges and agrees that the Region may authorize the use of or draw on the Letter of Credit in accordance with clauses, 9.1 and 10.1 of this Agreement or on the basis of the Owner's default under this Agreement. For clarity, the Letter of Credit may be drawn for the purposes of this Agreement and/or the Owner's Crane Swing Agreement with the Region. If the Owner is not in default under this Agreement the Region shall release the Letter of Credit to the Owner upon the expiration of the Term as detailed in clause 2.1. and the Owner's Crane Swing Agreement, the Region shall release the Letter of Credit to the Owner upon the later of the expiration of the Term of either this Agreement or the Owner's Crane Swing Agreement with the Region for the same Project.

6.0 INSURANCE

- 6.1 The Owner shall take out and keep in full force and effect until termination of this Agreement, the following minimum insurance:
- a) **Commercial General Liability** insurance applying to all operations of the Owner which

shall include coverage for bodily injury liability, property damage liability, completed operations liability, contractor's protective liability, contractual liability, and non-owned vehicle liability.

- i. This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and underpinning or from any other activity or work that may be done in connection with this Agreement.
- ii. Such policy shall be written with limits of not less than **FIVE MILLION DOLLARS (\$5,000,000)** exclusive of interest or costs, per occurrence and shall include the Region and/or its agent(s) as an additional insured; and
- iii. Such policy shall be primary and shall not act as co-insurance or as excess to any policy maintained by the Region and shall contain a severability of interests clause and cross liability clause.

6.2 Such policy shall not be terminated, cancelled, or materially altered unless written notice, by registered mail, of such termination, cancellation, or material alteration is given by the insurers to the Region at least thirty (30) days before the effective date thereof.

6.3 The said policy of insurance stipulated herein shall be issued in the Province of Ontario and underwritten by insurers licensed in the Province of Ontario to underwrite such insurance.

6.4 The Owner shall deposit with the Region, prior to execution of this Agreement, a certificate of insurance on a form provided by the Region.

6.5 The Owner shall file a renewal certificate with the Region not later than one (1) month before the expiry date of any policy provided pursuant to this agreement, until the Region has indicated in writing that the policy need not continue in force any longer. In the event that such renewal certificate is not received, the Region shall be entitled to renew the policy at the expense of the Owner.

6.6 The issuance of such a policy of insurance shall not be construed as relieving the Owner from the responsibility for other or later claims, if any, for which it may be held responsible.

7.0 INDEMNITY

7.1 The Owner hereby covenants and agrees to indemnify and save harmless the Region, its Chair, elected officials, employees, agents and contractors, from and against any and all claims, demands, actions, cause of actions, costs, losses, liabilities or expenses for which they may become liable or incur as a result of any type of damage or loss, including but not limited to property damage and personal injury, arising out of the presence (in whole or in part), installation, use, operation, and/or dismantlement of the Tie-Backs or any other part of the Works, the duties and obligations in this Agreement or breach thereof, any act or omission by the Owner or those for whom it is responsible and/or its permitted successors and assigns, or their employees, agents, contractors or invitees which causes or contributes to any such injury, damage or loss, save and except where caused by negligence on the part of the Region and those for whom it is responsible at law.

7.2 The obligation of the Owner to indemnify the Region, its Chair, elected officials, employees, agents and contractors, under this Agreement, shall not and does not confer upon the Owner any right or authority to settle or take any steps, proceedings or do anything in the name of the Region, in respect of any claim, demand, action or proceeding which may be brought against the Region and in respect of which the Owner is obligated to indemnify the Region.

7.3 The Owner covenants and agrees that it shall take all steps necessary to avoid construction liens being registered against title to the Region Lands as a result of the activities of the Owner in connection with the Tie-Backs. The Owner shall indemnify and save harmless the Region from and against all actions, causes of action, claims, demands and expenses whatsoever which the Region may incur as a result of the registration of any such construction liens. In the event of the registration of any such construction liens, the Owner

covenants and agrees that within ten (10) days of receiving notice of a lien to either take reasonable steps to discharge and vacate the same from title, or, in the alternative, commence the appropriate application under the Construction Act R.S.O 1990, c. C.30. seeking relief to vacate and discharge the same.

- 7.4 The parties hereby expressly declare that it is neither their intention nor their agreement that any arrangements between them shall constitute or be deemed to constitute the Owner and the Region as partners, joint venturers or agents of each other.

8.0 RELEASE AND WAIVER

- 8.1 The Owner hereby remises, releases and forever discharges the Region, its elected officials, employees, agents and contractors, of and from any and all claims, actions, causes of action and other proceedings and any liability for damages, costs and expenses for or relating to any loss which the Owner may suffer arising out of or occasioned by the presence upon the Region Lands of the Works, including any work undertaken by the Owner or the Region, its contractors or agents as permitted by this Agreement.

9.0 EMERGENCY REPAIRS

- 9.1 If the Commissioner of Public Works deems in his or her reasonable opinion that an emergency exists or may exist as a result of the Works being or possibly becoming a source of danger to the health and safety of the public, the Commissioner of Public Works may take measures on behalf of the Owner, without notice to the Owner, as the Commissioner of Public Works may deem necessary to remove the danger or potential danger created by the encroachment. Where the Commissioner of Public Works elects to take any action under this clause, the expenses incurred by the Region in so doing shall be promptly repaid by the Owner to the Region within five (5) business days of the Region providing written notice to the Owner of the expenses owing. If the expenses are not paid within five (5) business days of the Region providing notice of how much is owing, such expenses may be drawn from the Letter of Credit with no further notice to the Owner. If the Letter of Credit is insufficient to pay the outstanding amount, it will become a debt due to the Region and may be collected from the Owner in any manner permitted by law, including being added to the tax roll for the Property and recovered in the same manner and with the same penalties as municipal taxes on real property.

10.0 REMEDIES AVAILABLE TO REGION

- 10.1 In the event that the Owner is in default of any of the terms in this Agreement, the Region may deliver to the Owner written notice of such default which written notice shall specify the default. The Owner agrees to either cure such default within five (5) business days after receipt of written notice from the Region or where such default cannot be cured with five (5) business days, to give written notice to the Region within such five (5) business day period of a methodology acceptable to the Region acting reasonably and based upon best practices (including a proposed timetable for implementation or completion of same, as the case may be, certified by the Owner's consultants where necessary), to remedy such default. In the event that the default is not cured within the five (5) business day period or the methodology is not acceptable to the Region acting reasonably, without further notice to the Owner, the Region may, in its absolute and unfettered discretion, make any payment, carry out any work, or do any other thing which is the obligation of the Owner to do under this Agreement and the Owner shall within five (5) business days of receiving written notice (notifying the Owner of the amount owing), reimburse the Region in full for all sums so paid, including any and all costs and expenses incurred by the Region in carrying out any such work or doing such things. If the costs and expenses are not paid to the Region within five (5) business days of receiving written notice (notifying the Owner of the amount owing), such amount may be drawn from the Letter of Credit with no further notice to the Owner. If the Letter of Credit is insufficient to pay the outstanding amount, it will become a debt due to the Region and may be collected from the Owner in any manner permitted by law, including being added to the tax roll for the Owner's Lands and recovered in the same manner and with the same penalties as municipal taxes on real property.

10.2 The costs and expenses incurred by the Region and referred to in clauses 9.1 and 10.1 shall include, but are not limited to, the wages and benefits paid to or in respect of any employees or contractors of the Region in respect of the time during which such employees were employed with the Region, supervising or administering the carrying out of such work or things and the replacement cost of any materials owned by the Region and used in connection with the same and any amount equivalent to the amount that would have been the reasonable rental cost of any Region owned equipment used in that connection if the same were not owned by the Region, as well as any other costs or expenses incurred by the Region.

10.3 In the event that:

- a) a default is not cured within five (5) business days after receipt of written notice from the Region of such default and such methodology is not provided to the Region within the five (5) business day period; or
- b) the Owner fails to diligently pursue the remedy to such default as proposed in the methodology; or
- c) the Owner fails to make payment to the Region within five (5) business days after receipt of written notice from the Region indicating the costs and expenses owing to the Region

the Region may terminate this Agreement and/or all tie-back rights granted hereunder by written notice of termination given to the Owner.

11.0 AGREEMENT TO ENTER

11.1 For the purposes of permitting the Region to carry out any of its rights and remedies under this Agreement or at law, the Owner hereby grants to the Region an unlimited and irrevocable right to enter upon and access the Owner's Lands, upon 24 hours' written notice given by the Region unless the Region is acting in accordance with clause 9.1 in which no notice is required to be given by the Region, at all reasonable times, through any of its employees, agents and contractors, including their vehicles, equipment, supplies and materials, and the Owner shall execute such further assurances as may be deemed necessary by the Region to facilitate the right granted herein.

12.0 NO INTEREST IN FAVOUR OF OWNER

12.1 The Owner acknowledges and agrees that the permission hereby granted cannot and does not create or grant the Owner with any interest or easement in, over or upon the Region Lands in which the Works are located.

13.0 EXTENSION OF TIME

13.1 The Region may, in its absolute and unfettered discretion, grant such extensions of time as it deems reasonable or necessary for the performance of the Owner's obligations under this Agreement, provided however, that no such extension nor any other indulgence granted by the Region, or any neglect, refusal or failure to enforce any of the terms and conditions of this Agreement, either in a timely manner or at all, or to take any other remedy shall in any way act as a waiver of the obligations of the Owner under any and all terms of this Agreement.

14.0 SEVERABILITY

14.1 Should any of the terms of this Agreement be found to be illegal, unenforceable or *ultra vires* by a court of competent jurisdiction, then those terms so found shall be severable from this Agreement and the remaining terms herein shall continue in full force and effect.

15.0 REGISTRATION OF NOTICE OF AGREEMENT

15.1 The Owner hereby covenants and agrees that this Agreement and the schedules hereto, or any part thereof, may be registered upon the title of the Owner's Lands. Such registration

shall be at the instance of the Region and at its sole discretion. The covenants, agreements, conditions and undertakings herein contained shall be binding upon the Owner, its successors and permitted assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Region and its lands and highways appurtenant and adjacent to the subject lands.

15.2 The Owner further covenants and agrees to pay to the Region the cost of registration of this Agreement.

16.0 NOTICES

16.1 Any notice under this Agreement is sufficiently given if delivered personally or if sent by registered mail, facsimile or similar electronic means (including e-mail) to the Region at:

**THE REGIONAL MUNICIPALITY OF PEEL
10 Peel Centre Drive, Suite B, 6th Floor
Brampton, ON L6T 4B9**

**Attention: Manager, Real Property and Facility Acquisitions
905-791-7800, Extension 7636
realpropertyrequest@peelregion.ca
Fax: 905-791-3645**

and to the Owner at:

**Daniels HR Corporation
130 Queen's Quay East
West Tower, 8th Floor
Toronto, ON M5A 0P6**

**Attention: Niall Haggart, Executive Vice President
Email: nhaggart@danielscorp.com
Phone: 416-598-2129**

or at such other addresses as the Region and the Owner may designate from time to time. Any party may, at any time by notice given in writing to the other party, change the address for service of notice on it. Notices by registered mail shall be deemed to have been received on the third (3rd) Business Day after the date of mailing. Notices by personal delivery, facsimile or similar electronic means (including e-mail) shall be deemed to have been received at the time of delivery or transmission unless delivered or transmitted on a weekend or holiday, in which case such notice shall be deemed to have been received on the next Business Day. In the event of an interruption in postal service, notice shall be given by personal delivery, facsimile or other electronic means (including e-mail).

17.0 ASSIGNMENT

17.1 This Agreement shall not be assigned or transferred by the Owner without the express written consent of the Region not to be unreasonably withheld or delayed.

17.2 The Owner shall not assign its interest in the Tie-Back Area without the express written consent of the Region not to be unreasonably withheld or delayed.

17.3 Notwithstanding Sections 17.1 and 17.2, the Region acknowledges and agrees that the Owner shall be permitted to assign this Agreement and the Owner's rights herein, without the consent of the Region, to any transferee of a portion of the Owner's Lands pursuant to severances effected in accordance with consent applications currently in progress, provided that the assignee(s) shall enter into an agreement with the Region assuming the Owner's obligations under this Agreement with respect to the portion of the Owner's Lands so transferred.

18.0 SUCCESSORS AND ASSIGNS

18.1 This Agreement shall be binding upon and enure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and permitted assigns.

19.0 EXTENDED MEANINGS

19.1 In this Agreement, words, terms and provisions which are in the singular shall be read as including the plural, the plural shall include the singular, the masculine shall include feminine and the feminine shall include the masculine, as the case may be and the context require.

20.0 CURRENCY

20.1 Unless otherwise provided for herein, all monetary amounts referred to herein shall refer to the lawful money of Canada.

21.0 HEADINGS FOR CONVENIENCE ONLY

21.1 The division of this Agreement into articles and clauses is for convenience only and shall not affect the interpretation or construction of this Agreement.

22.0 ENTIRE AGREEMENT

22.1 This Agreement, including any schedules attached hereto, shall constitute the entire agreement between the parties concerning the transaction contemplated hereby. This Agreement shall not be modified or amended except by written agreement executed and dated by both parties.

23.0 ADDITIONAL CONSIDERATIONS

23.1 The parties shall sign such further or other documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

24.0 GOVERNING LAW

24.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

25.0 TIME OF THE ESSENCE

25.1 Time shall be deemed to be of the essence with respect to all time limits mentioned in this Agreement.

26.0 MUNICIPAL DISCRETION

26.1 The Owner acknowledges that this Agreement shall not in any manner fetter the discretion or authority of The Regional Municipality of Peel under the *Municipal Act, 2001*, as amended and/or the *Planning Act*, R.S.O. 1990, as amended, over the Owner's Lands regarding development and land use regulations.

27.0 NON-MERGER

27.1 The Owner acknowledges and agrees that notwithstanding the expiry of the Term or the termination of this Agreement, the covenants, representations and warranties of the Owner hereunder shall not merge on termination and the Owner shall continue to be bound by and liable under this Agreement, together with all future owners, for any remedy required, or loss suffered by the Region in respect of the Works permitted under this Agreement.

28.0 SCHEDULES


28.1 The schedules attached to this Agreement and listed below shall have the same force and effect as if the information and terms contained therein were contained in the body of this Agreement:

- (a) Schedule "A" - Legal Description of the Region Lands
- (b) Schedule "B" - Legal Description of the Owner's Lands
- (c) Schedule "C" – Excavation Shoring Plans
- (d) Schedule “D” – Additional Clauses

THIS AGREEMENT is duly executed on the 15th day April, 2021 by the of Owner.

OWNER:

DANIELS HR CORPORATION

Per: 

 Name: Niall Haggart
 Title: A.S.O.

I have authority to bind the Corporation.

THIS AGREEMENT is duly executed on the _____ day of _____, 2021 by the Region.

THE REGIONAL MUNICIPALITY OF PEEL

Per: _____
 Name: Aretha Adams
 Title: Deputy Regional Clerk

I have the authority to bind the Corporation.

File No. ENC20125
Date: April 14, 2021

SCHEDULE "A"

Legal Description of Owner's Lands

PIN: 13120-0132

Legal Description: FIRSTLY: PART LOT 9 REGISTRAR'S COMPILED PLAN 1003 PART 3 43R16160; SECONDLY: BLOCK 111 PLAN 43M856 EXCEPT PART 1 43R16160, PARTS 1, 2, 3 & 4 43R39598; S/T LT1087841; THIRDLY: PART LOT 9 REGISTRAR'S COMPILED PLAN 1003 PARTS 4 & 5 43R16160; CITY OF MISSISSAUGA.

SCHEDULE "B"

Legal Description of Region Lands

PIN: 13120-0131

Legal Description: PART BLOCK 111 PLAN 43M856 PARTS 1, 2, 3 & 4 43R39598; S/T LT1087841; CITY OF MISSISSAUGA.

PIN: 13120-0014

Legal Description: PCL BLOCK 110-1, SEC 43M856 ; BLK 110, PL 43M856 , T/W PT LT 2, REGISTRAR'S COMPILED PLAN 1003, PT 20, 43R10557 AS IN RO551159 ; S/T LT1128562 MISSISSAUGA.

SCHEDULE "C"

Excavation Shoring Plans

Prepared by: Isherwood Geotechnical Engineers
Plan No: SH-0, 1, 10, 11, 12, 13, 14, 15 16
Project No: SP-19-148M (ENC20125)
Date of Plans: January 29, 2021
Accepted by: Region of Peel - Public Works Department
Date of Acceptance: February 11, 2021

SCHEDULE "D"

Additional Region Clauses

1. If applicable, the parties agree that the execution of this Agreement may be facilitated through facsimile or electronic means and/or this Agreement may be executed in several counterparts and any such facsimile or electronic copy and any such counterpart shall be deemed to be an original Agreement, and such facsimile or electronic copies or such counterparts together shall constitute one and the same Agreement and shall have the same force and effect as an executed original.
2. If applicable, the parties agree that the execution of this Agreement by either party may be facilitated through an electronic approvals process (the "Approval Process") whereby an e-mail confirmation is provided by the signing party to the other party to evidence the execution of the Agreement and binds the individual/corporation, which e-mail confirmation shall be attached to this Agreement and shall have the same force and effect as an executed original. Each of the parties shall maintain a record of such electronic documents pursuant to this Approval Process and shall provide an executed copy of the Agreement to the other party with a wet signature, within a reasonable time following the termination of the latter of any municipal, provincial, or federal Declaration of Emergency in effect in Peel Region in relation to the COVID-19 pandemic (the "Declaration"). This Approval Process shall apply only to the extent that this Agreement is executed during the period in which the Declaration is in effect.
3. The Owner agrees that it shall as soon as reasonably possible cause the deletion of the following instruments from title to a portion of the Region Lands described within PIN 13120-0131:

PR3689501 – Application to Annex Restrictive Covenants S.119;
 PR3689502 – Notice of Option Purchase; and
 PR3738686 – Application to Annex Restrictive Covenants S.119.

The Owner shall provide the Region with confirmation that the foregoing instruments have been deleted. The Owner agrees that the foregoing obligations shall be at its sole cost and expense.

4. The Owner shall at its sole cost and expense complete all locates and underground verification in advance of their work to ensure no damage is caused to Regional Infrastructure.
5. The Owner shall at its sole cost and expense complete Closed Circuit Television (CCTV) inspections (including the Video, PACP database and Report) of the Region's sanitary and storm sewer pipes (utilizing PACP coding and performed by NAASCO\PACP certified inspectors) contained within the Regional and Local Roads: i) pre construction inspection - prior to commencement of any works (the inspections must be validated by the Region before works may commence – this inspection becomes the baseline for assessing any defects or damage caused by construction when compared with the post construction inspection) ; and (ii) post construction inspection - within thirty (30) days after said works have been completed. The Owner shall provide any inspection reports to the Region's Program Manager, Water & Wastewater Infrastructure Planning and Asset Management State of Good Repair within five (5) business days of completion of any CCTV inspection.

The Owner shall retain CCTV contractors under the Region's approved vendor list for any CCTV inspections completed pursuant to its obligations in this Agreement. The Owner may contact the following for the Region's vendor list and inspection requirements:

Supervisor, Wastewater Collection, Phone: 905-791-7800 x3478

Or

Team Lead CCTV, Phone: 905-791-7800 x7466