

ENCROACHMENT AGREEMENT

BETWEEN:

THE REGIONAL MUNICIPALITY OF PEEL  
(hereinafter called "the Region")

OF THE FIRST PART

-AND-

BARBARA ANN SEELEY  
RICHARD GRAHAM SEELEY  
NATALIE KIPLING  
CRAIG KIPLING  
(hereinafter called "the Owner")

OF THE SECOND PART

**WHEREAS** the Owner is the registered owner of the lands being legally described on Schedule "A" attached hereto (hereinafter referred to as the "**Owner's Lands**");

**AND WHEREAS** the Owner has requested the Region to permit a parking lot (hereinafter referred to as the "Encroachment") to encroach upon the widened limits of Queen Street East (Regional Road 136) as shown hatched in black on Schedule "C" attached hereto (hereinafter referred to as the "**Encroachment Area**");

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

**NOW WITNESSETH** that in consideration of the mutual covenants and agreements hereinafter set out, the parties agree as follows:

1. The recitals herein are true and accurate.
2. Subject to the provisions hereinafter set out, the Region permits the Owner to have the Encroachment remain in whole or part until such a time as the Region determines at its sole discretion, that the lands are required for the purposes of improvement or widening of the Regional Road 136 (hereinafter referred to as the "**Term**").
3. The Owner agrees to pay the Region the following:

(a) Administration fee (one time)	<b>\$500.00, plus applicable taxes</b>
(b) Registration fee (Registry Office)	<b>\$77.62, includes applicable taxes</b>
(c) Annual fee (each year throughout Term)	<b>\$300.00, plus applicable taxes</b>
4. The Owner is the owner of the Encroachment.
5. Notwithstanding Section 2, this Agreement may be terminated at any time by either party upon sixty (60) days written notice to the other party. The Owner agrees to remove the Encroachment at the Owner's sole expense within sixty (60) days of any such notice of termination. The Owner shall restore the area previously occupied by the Encroachment in a manner satisfactory to the Region, acting reasonably. The Owner agrees not to make any claims, demands, and/or commence any actions, suits, proceedings or maintain the same for any and all costs, damages, losses, compensations, injurious affection arising from the Encroachment or as a result of the early termination of this Agreement.
6. At the end of the Term, the Owner shall, at their sole cost and expense, remove the Encroachment and restore the area previously occupied by the Encroachment in a manner satisfactory to the Region, acting reasonably. The Owner agrees not to make any claims, demands, and/or commence any actions, suits, proceedings or maintain the same for any and all costs, damages, losses, compensations, injurious affection arising from the Encroachment or as a result of the termination of this Agreement.
7. The Owner agrees and covenants that it will bear all costs associated with the Encroachment. The Owner agrees and covenants that the Encroachment is now in a good and workmanlike condition and in compliance with all municipal by-laws and the laws of the Province of Ontario and shall be maintained in a good and workmanlike condition throughout the Term of this Agreement.
8. The Owner agrees not to hold the Region responsible in any way for any loss, accident, or damage or injury to person or persons within the Encroachment Area resulting from the

Encroachment. The Region shall not in any event whatsoever be liable or responsible in any way for any kind of liability, suit, claim, demand, fine, action, or proceeding of any kind for which the Owner, or those for whom they are in law responsible, may become liable or suffer by reason of the Encroachment, including any breach of or non-performance by the Owner of any provision of this Agreement, saving and excepting therefrom the sole gross negligence by the Region, or those for whom it is in law responsible. The Owner agrees to indemnify and save harmless the Region of and from all liabilities, fines, damages, suits, claims, demands, actions, and cost for such actions for which the Region may become liable or suffer by reason of the Encroachment, its use and or removal. Without restricting the generality of the foregoing, the Owner shall indemnify and save harmless the Region of and from all damages to persons or properties as a result of such Encroachment and its use and/or removal. This provision shall apply and survive the termination of this Agreement with respect to any act or omission that occurred during the Term of this Agreement.

9. The Owner agrees that there shall not be any addition, vertically, horizontally or otherwise, to the Encroachment. In the event that the Encroachment is being added to or materially altered, it will be relocated within the Owner's Lands. Upon such removal or relocation, this Agreement will be terminated.
10. The Owner further acknowledges and agrees that, in the event the Region exercises its right to enter onto the Encroachment Area or the widened limits thereof for any type of construction, installation, alteration, removal, replacement, reconstruction, repair, maintenance and/or inspection to the Encroachment Area or any of the Regional infrastructure therein the Region shall not be responsible for repairing or replacing the Encroachment and the Owner shall assume any and all costs and responsibilities relating to the replacement of same.
11. Nothing in the Agreement shall be construed to mean that the Region by virtue of this Agreement has assumed the responsibility of such compliance or any compliance with any municipal by-laws. The Owner covenants to fully comply with any order, by-law, law, regulation, and direction of any lawful authority, including the municipal, provincial, or federal governments or their respective agents with respect to the Encroachment.
12. The parties acknowledge and agree that the rights conferred by this Agreement shall be assignable to any purchaser of the Owner's Lands or to any successor corporation of the Owner, with the prior written consent of the Region, which consent will not be unreasonably withheld provided that any such assignee pays to the Region the appropriate fees for encroachments on Regional Roads and further that any such assignee, upon assuming ownership of the Owner's Lands, agrees to assume the obligations of the Owner under this Agreement and provide written notice of such assumption to the Region.
13. In the event that such assignee is a condominium corporation the assignee shall execute the Undertaking and Consent to Registration set out in Schedule "B" herein. The Owner covenants to include full, complete and accurate information within the condominium declaration and disclosure statement as to the obligations contained in this Agreement in accordance with the *Condominium Act, 1998*, S.O. 1998, c.19, as amended.
14. Any notice to be given or document to be delivered to the Owner or the Region shall be sufficiently given or delivered if delivered personally or if sent by facsimile transmission, email or ordinary prepaid mail to the following addresses:

**If intended for the Owner, at:**

**Craig Kipling  
19793 Main Street  
Alton, ON L7K 0C2**

**Email: [ckipling@healthyposture.ca](mailto:ckipling@healthyposture.ca)**

and if intended for the Region, at:

**The Regional Municipality of Peel**  
**10 Peel Centre Drive, Suite B, 6<sup>th</sup> Floor**  
**Brampton, ON L6T 4B9**

**Attention:     Manager, Real Property and Facility Acquisitions**  
**905-791-7800, Extension 7636**

**Fax:             905-791-3645**  
**Email:          [realpropertyrequest@peelregion.ca](mailto:realpropertyrequest@peelregion.ca)**

Or to such other address, fax number or email address as either party may from time to time notify the other. Any notice or other communication given by personal delivery shall be conclusively deemed to have been received by the party to which it is addressed on the day of actual delivery thereof, or if given by fax or email, on the first business day following the transmittal thereof. Any notice sent by prepaid first class mail shall be deemed to have been delivered on the fifth (5<sup>th</sup>) business day following the date of mailing thereof provided that the postal services have not been interrupted in which case notice shall only be given by personal delivery, fax or email as aforesaid.

15. The Owner consents to the registration of this Agreement on the title to the Owner's Lands and shall execute any or all such documents for such purposes.
16. The Owner shall obtain and maintain throughout the Term a comprehensive insurance policy with a minimum liability coverage of FIVE MILLION DOLLARS (\$5,000,000) per occurrence, covering the Encroachment to protect the Owner and the Region, and those for whom the Region is in law responsible, from any and all claims for damages, personal injury including death, and for claims from property damage which may arise from the Owner's use and/or removal or in relation to the Encroachment under this Agreement, including the use or maintenance or removal of the Encroachment or any act or omission of Owner's contractors, agents or employees while engaged in the work of placing, maintaining, renewing or removing the Encroachment, and such coverage shall include all costs, charges and expenses reasonably incurred with any injury or damage. The insurance policy shall extend to cover the contractual obligations of Owner as stated within this Agreement, shall be in the name of the Owner and shall name The Regional Municipality of Peel as an additional insured thereunder. The policy shall provide that it cannot be cancelled, lapsed or materially changed without at least thirty (30) days' notice to the Region by registered mail. Evidence of insurance satisfactory to the Region shall be provided prior to the execution of this Agreement, and annually thereafter.
17. 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.
18. 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.
19. The Owner acknowledges that the Encroachment Area is within the Credit Valley Conservation Authority Regulated Limit and that the Owner will be required to provide the Region with written confirmation from the Credit Valley Conservation Authority regarding their approval to pave the Encroachment Area.

20. This Agreement, when executed by the said parties shall constitute a binding agreement.

IN WITNESS WHEREOF the Owner has set their hands and seals at Alton this 8 day of October, 2021.

SIGNED, SEALED  
AND DELIVERED  
in the presence of:

[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness

[Signature]  
Barbara Ann Seeley  
[Signature]  
Richard Graham Seeley  
[Signature]  
Natalie Kipling  
[Signature]  
Craig Kipling

IN WITNESS WHEREOF The Regional Municipality of Peel has on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 affixed its name under the hands of its signing officers in that behalf.

THE REGIONAL MUNICIPALITY OF PEEL

PER: \_\_\_\_\_  
Name: Kathryn Lockyer  
Title: Regional Clerk

I have the authority to bind the Regional Corporation.

REAL ESTATE TEAM  
Regional Municipality of Peel  
10 Peel Centre Drive  
Brampton, ON L6T 4B9  
905-791-7800

Realty File No.: ENC- 200032.00  
Legal File No.: N/A  
Date: August 23, 2021  
Project #: WC00000  
Revision Date:

**SCHEDULE "A" – Legal Description**

Schedule "A" forms an integral part of this Agreement between The Regional Municipality of Peel and Barbara Ann Seeley, Richard Graham Seeley, Natalie Kipling and Craig Kipling.

**PIN:** 14276-0229 (LT)

**Legal Description:** Part of Lots 2 and 3, Block 2, Registered Plan Cal5, Town of Caledon, (formerly Township of Caledon, Regional Municipality of Peel, as in Instrument Number RO1144287.



SCHEDULE “B” – Undertaking and Consent to Registration

Schedule “B” forms an integral part of this Agreement between The Regional Municipality of Peel and \*\*\*\*\*

To: THE REGIONAL MUNICIPALITY OF PEEL (the “Region”)

I/WE \_\_\_\_\_ (the “New Owner”) having received a Transfer/Deed of the lands described in PIN \*\*\*\*\* (LT) from \*\*\*\*\* (the “Former Owner”) HEREBY CONSENT(S) to the registration of:

- I. The Encroachment Agreement (the “Agreement”) attached to the said Application made between the Former Owner and the Region, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20 .

The New Owner, in consideration of the Region hereby agreeing to be bound by and to honour the terms of the said Agreement with respect to the New Owner in the same manner as if the New Owner was an original party thereto, and other good and valuable consideration and the sum of Ten (\$10.00) Dollars now paid by the New Owner to the Region, the receipt of which is hereby acknowledged, the New Owner COVENANTS AND AGREES to be bound by and to be subject to the terms of the said Agreement in the capacity of owner as if the New Owner was an original party thereto.

IN WITNESS WHEREOF this Undertaking has been executed by the New Owner this day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
Print New Owner Name:

Per: \_\_\_\_\_ c/s  
Print Name:  
Print Office:

Per: \_\_\_\_\_ c/s  
Print Name:  
Print Office:

SCHEDULE "C" – Sketch of Encroachment Lands

APPENDIX I

