

**CITY OF CAMBRIDGE**  
**BOXWOOD BUSINESS CAMPUS**  
**OFFER TO PURCHASE**

TO: **THE CORPORATION OF THE CITY OF CAMBRIDGE**, (the "Vendor")

THE UNDERSIGNED: [REDACTED] or to whom it may direct (the "Purchaser") hereby agrees to and with the Vendor to purchase [REDACTED] acres of property ("the Property") in the City of Cambridge, in the Regional Municipality of Waterloo and Province of Ontario, described as Part Lot [REDACTED] Beasley's Broken Front Concession designated as Part [REDACTED] on Registered Reference Plan **58R-18484**, hereto (the "Property"), at a price of [REDACTED] Dollars (**\$000,000.00**), calculated at a price of Three Hundred Thousand Dollars, (\$300,000.00) per acre. The parties hereby agree that the Purchase Price is calculated on the basis of the exact acreage of the Property, as determined by the survey prepared by a licensed Ontario land surveyor.

The Purchase Price shall be payable as follows:

- a. [REDACTED] Dollars (**\$00,000.00**) by cheque to the Vendor, as a deposit to be held pending completion or other termination of this agreement and to be credited on account of the purchase price on Closing; and
- b. the balance of the purchase price, namely [REDACTED] Dollars (**\$000,000.00**), subject to adjustments, shall be payable to the Vendor on Closing.

1. **GRADING.**

The Purchaser acknowledges that the Property being sold hereunder will be on an "as is" basis and the Property is graded to a rough grade elevation approved by the Deputy City Manager, Development and Infrastructure Department of the City of Cambridge. The Purchaser shall be responsible to provide, at its own expense, any soil bearing capacity tests as may be required. The Vendor assumes no responsibility with respect to the suitability of the Property for building purposes or any other purpose.

2. **SERVICES.**

The Vendor has installed minimal services to the edge of the Property as follows:

- a. **One 150mm** water connection; and
- b. **One 150mm** sanitary sewer connection; and
- c. **One \_\_\_mm** storm connection.

The Purchaser may submit a request to the City for oversizing of services. The City, if in agreement with the request, will perform the necessary works for the oversizing and the Purchaser shall remain responsible for all costs related thereto.

The Purchaser acknowledges and agrees that it shall be required to comply with the City's policies and the Regional Municipality of Waterloo Official Plan for Water Resources Protection Strategy for the retention of storm water on the Property and storm water management.

The Purchaser shall be required, at its expense, to permanently cap any unused water, sanitary sewer or storm connections in accordance with City policy/direction.

3. *HYDRO SERVICES.*

The parties acknowledge and agree that the Property is located in an industrial park with standard hydro services available. The Purchaser shall be required to arrange with Energy+ Inc. for the provision of specific hydro-electric services to the Property. All costs for such services, including the provision of underground services where required, shall be the responsibility of the Purchaser.

4. *DEED/CLOSING DOCUMENTS.*

The deed or transfer shall, save for the Land Transfer Tax Affidavit, which shall be prepared in registerable form by and at the expense of the Vendor. The following documents shall be the only documents that the Vendor is responsible for delivering on Closing: Statement of Adjustments, Undertaking to Readjust, Declaration of Possession, Direction of Funds and a Certificate respecting municipal services as represented in this Agreement.

5. *CLOSING DATE.*

The transaction or purchase and sale contemplated under this Offer to Purchase shall be completed (the "Closing") on [REDACTED] or such other date as may be agreed to in writing by the parties (the "Closing Date").

6. *EASEMENTS.*

The Purchaser acknowledges that the Vendor may require easements over the Property for construction of public utility services to be provided by the Vendor to adjacent properties, and the Purchaser covenants to grant such requisite and necessary public utility easements if required, provided that the location of such easements will not interfere with the development of the Property for the Purchaser's intended use and site plans including the construction of a building of the square footage and purpose required by the Purchaser, on the Property.

7. *AGREEMENT NOT ASSIGNABLE.*

This Agreement is not assignable or transferable by the Purchaser, except to a subsidiary, parent or other affiliate corporation of the Purchaser, as defined in the *Business Corporations Act*, R.S.O. 1990, c. B.16, Section 1(2), as amended.

8. *TITLE.*

- a. The Purchaser is to be allowed until 3:00 p.m. on the Due Diligence Date to examine title to the Property ("Title") at its own expense and to satisfy itself that there are no outstanding work orders or deficiency notices affecting the Property. Purchaser shall not call for the production of any title deed, abstracts, or other evidence of Title except such as are in the possession of the Vendor.
- b. Vendor hereby consents to all municipal or other governmental authorities releasing to the Purchaser, information in their files concerning the Property and Vendor shall execute and deliver to the Purchaser within ten (10) business days after written request such further authorizations as Purchaser may reasonably require in this regard.
- c. Provided that Title to the Property is good and free of all encumbrances, save and except the Development Covenants and Restrictions (as defined in Section 19 below), and that there are no outstanding work orders or deficiency notices affecting the Property, the Purchaser will accept Title to the Property on Closing.

- d. If any valid objection to Title is made in writing to the Vendor on or before 3:00 p.m. on the Due Diligence Date, which the Vendor shall be unable or unwilling to remove, and which the Purchaser will not waive, this Agreement shall, notwithstanding any intermediate acts or negotiations in respect of such objections, be null and void, and the Deposit shall be returned to the Purchaser without interest and without deduction and the Vendor shall not be liable for any costs or damages. Save as to any valid objection so made within such time or any matter arising after such time which goes to the root of title, the Purchaser shall be conclusively deemed to have accepted Title of the Vendor.

9. *CLOSING ARRANGEMENTS.*

Where each of the Vendor and Purchaser retain a lawyer to complete the Offer to Purchaser of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, Chapter L.4 and the *Electronic Registration Act*, S.O. 1991, Chapter 44, and any amendments thereto, the Vendor and Purchaser acknowledge and agree that the exchange of closing funds, non-registerable documents and other items (the "Requisite Deliveries") and the release thereof to the Vendor and Purchaser will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada.

10. *VENDOR'S REPRESENTATIONS.*

The Vendor hereby represents to the Purchaser and acknowledges:

- a. This Agreement has been validly executed and delivered by the Vendor and constitutes a valid and legally binding obligation of the Vendor, enforceable against it in accordance within its terms.
- b. The Vendor is the sole registered and beneficial owner of the Property.
- c. There are no agreements, options or other rights pursuant to which the Vendor is, or may become, obligated to sell the Property or interest therein to any person other than to the Purchaser.
- d. To the best of the Vendor's knowledge, there are no material contracts, agreements or unregistered easements, rights of way or other unregistered encumbrances affecting the Property or any part thereof which the Purchaser will be subject to or required to assume on Closing other than easements or agreements required in connection with Site Plan Approval (as defined in Section 27 below) and except as have been or will be disclosed to the Purchaser as part of the Due Diligence Deliveries (as defined in Section 28 below).
- e. There are no leases, agreements to lease, license, rights of occupation, tenancy arrangements or other rights pursuant to which any person has a right to use, possess, or occupy the Property.
- f. The Vendor has not received written notice of and is not aware of any litigation or proceeding outstanding that affects title to the Property.
- g. True and complete copies of all known existing environmental assessments, audits, investigations, inspections, tests and reports, including any inspections, investigations and tests relating to the Lands in the possession or control of the

Vendor, (the “Environmental Reports”) have been or will be delivered, to the best of its ability, to the Purchaser as part of the Due Diligence Deliveries.

- h. Except as disclosed in the Environmental Reports provided to the Purchaser as part of the Due Diligence Deliveries, during the period of the Vendor’s ownership of the Property, the Vendor: (A) has not used or permitted the use of the Property to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, product or process hazardous substances; (B) has not caused or permitted the release or discharge of any hazardous substance on or in the vicinity of the Property; (C) has not undertaken any remediation or clean-up of any hazardous substance on or in the vicinity of the Property except as set out in the Environmental Reports.
- i. The Vendor has not received any written notice of any expropriation or condemnation relating to the Property.
- j. The Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

11. *EXTERNAL REPRESENTATION.*

It is agreed that there is no representation, warranty, collateral agreement or condition affecting this agreement or the Property or supported hereby other than as expressed herein in writing.

12. *APPROVAL OF PLANS.*

The building or buildings to be erected on the Property and the location thereof, and the filling, grading and drainage patterns on the Property shall be subject to prior approval by the City. The Purchaser shall submit such plans or drawings as may reasonably be required to facilitate the City’s planning process.

13. *CONSTRUCTION.*

The Purchaser covenants that it is purchasing the Property for the purpose of construction of an industrial building.

14. *ZONING.*

The Purchaser shall investigate the current zoning provision applicable to the Property to ensure its proposed use meets the Purchaser’s requirements.

15. *COVENANTS TO SURVIVE CLOSING.*

The representations and covenants herein contained shall be binding upon the Vendor and the Purchaser and shall survive closing, completion and registration of a Transfer to the Purchaser.

16. *TENDER.*

Any tender of documents or money hereunder may be made upon the solicitor acting for the party on whom tender is desired, and it shall be sufficient that a negotiable, certified cheque may be tendered instead of cash.

17. *TIME OF ESSENCE.*

This offer, when accepted, shall constitute a binding contract of purchase and sale and time shall in all respects be of the essence thereof.

18. *HARMONIZED SALES TAX.*

The Purchaser hereby acknowledges and agrees that the Purchase Price herein does not include the Harmonized Sales Tax ("HST") and that the Purchaser shall be responsible to pay and remit any applicable HST which is in addition to the Purchase Price. Notwithstanding the foregoing, the Purchaser shall be entitled to "self-assess" its liability for HST provided it shall have complied with the applicable provisions of the Excise Tax Act allowing self-assessment and provided that it shall deliver to the Vendor on or before closing, an indemnity with respect to the Purchaser's liability for remittance of the HST.

19. *DEVELOPMENT COVENANTS AND RESTRICTIONS.*

The Property hereby agreed to be sold shall be subject to the development covenants and restrictions more particularly set out in Schedule "A" (the "Development Covenants and Restrictions") hereto attached, to run with the Property. The advantage and benefit of the covenants and restrictions as more particularly set out in Schedule "A" shall be for the following property, that is to say, as described in Instrument No. 2175 for the Corporation of the Town of Galt, being part of Subdivision Lots 2 and 3 of the Eleventh Concession on the West side of the Grand River, now in the City of Cambridge, and now known as part of Lot Number 33, according to Plan D-3 in the Registry Office for the Registry Division of Waterloo (No. 58) known municipally as "Dickson Park", which lands are hereby constituted the "Dominant Tenement" and the advantage and benefit as aforesaid are hereby expressly annexed to the said "Dominant Tenement" and the covenants and restrictions herein shall be deemed to run with the land, and to touch and concern the Property hereby agreed to be sold, which Property is hereby constituted the "Servient Tenement". The Development Covenants and Restrictions will be registered on the Property prior to the registration of the Transfer to the Purchaser.

20. *DEVELOPMENT CHARGES.*

The parties acknowledge and agree that the Purchase Price is inclusive of all development fees or charges that may be levied by the Vendor in respect of the initial development of the Property and the Vendor agrees that it shall not levy, assess or charge and the Property shall be exempt from any further development fees or charges imposed by the City in respect of the initial development of the Property. The Purchaser acknowledges that the Property remains subject to any development fees or charges that may be levied, assessed or charged by the Regional Municipality of Waterloo, the Waterloo Region District School Board and the Waterloo Catholic District School Board in connection with the initial development and by the Vendor and such other authorities in connection with any future development or redevelopment of the Property.

21. *ELECTRONIC TRANSMISSION.*

The Vendor and Purchaser agree that this Offer to Purchase may be made by facsimile or email transmission and that the signatures on the document delivered or sent by facsimile or email transmission shall be considered valid and binding as if they were original. Subsequent to any agreement being concluded by facsimile or email transmission, the Vendor and Purchaser agree to execute and deliver original copies of the said agreement to each other as soon as is reasonably practicable. This Agreement may be executed in counterparts.

22. *TIME FOR ACCEPTANCE.*

This offer shall be irrevocable by the Purchaser until 3:00 p.m. on                     , 2017 after which time, if not accepted, this offer shall be null and void. This offer, if and

when accepted, shall constitute a binding contract of purchase and sale (the “Agreement”) between the Vendor and the Purchaser.

23. *VENDOR'S STATUTORY AUTHORITY.*

The Vendor represents and warrants it has all necessary statutory authority and has taken all necessary steps and proceedings to enter into this Agreement and complete the transaction contemplated hereunder (the “Purchase Transaction”).

24. *SUCCESSORS AND ASSIGNS.*

This Agreement shall be binding upon the Vendor and the Purchaser and their respective successors and permitted assignees.

25. *GOVERNING LAW AND DISPUTES.*

The Purchaser agrees that:

- i) this Agreement shall be governed and construed in accordance with the laws of the province of Ontario;
- ii) any action or proceeding relating to this Agreement shall be subject to the jurisdiction of the Superior Court of Ontario and returnable in the Central South Region and for that purpose the Purchaser irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court;
- iii) it irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this Agreement on any jurisdictional basis, including forum non conveniens; and
- iv) it shall not oppose the enforcement against it, in any other jurisdiction, of any judgement or order duly obtained from an Ontario court.

26. *PURCHASER'S CONDITIONS.*

The obligation of the Purchaser to complete the Purchase Transaction shall be subject to the following conditions in favour of the Purchaser:

- a. On or before 3:00 p.m. on 2017, (the “Due Diligence Date” and the period from the Vendor’s acceptance of this offer to such Due Diligence Date being the “Due Diligence Period”), the Purchaser being satisfied with the results of its Due Diligence in respect of the Property;
- b. On Closing, the representations and warranties of the Vendor contained herein shall be true and accurate in all material respects as if given on the Closing Date; and
- c. On or before Closing, the Vendor shall have executed and delivered all closing documents required herein and complied with or performed all of its other covenants and obligations under this Agreement in all material respects.

The foregoing conditions have been inserted for the sole benefit of the Purchaser and may be waived in whole or in part by the Purchaser in its sole discretion by written notice to the Vendor by the applicable date and time set forth above for the satisfaction of such conditions. Unless the Purchaser gives written notice to the Vendor by the applicable date and time set forth above that the foregoing conditions have been satisfied or waived, the foregoing conditions shall be deemed not to have been satisfied or waived and this Agreement shall automatically terminate without any further action by either of the parties hereto and the Deposit shall be returned to the Purchaser without

deduction and without interest and neither the Vendor nor the Purchaser shall have any further liability to the other hereunder.

27. *VENDOR'S CONDITIONS.*

- a. The obligation of Vendor to complete the Purchase Transaction shall be subject to the condition that on or before Closing the Purchaser shall have paid the balance of the Purchase Price, executed and delivered all closing documents required herein and complied with or performed all of its other covenants and obligations under this Agreement in all material respects. The foregoing condition has been inserted for the sole benefit of the Vendor and may be waived in whole or in part by the Vendor in its sole discretion by written notice to the Purchaser on or before Closing. If Closing occurs, the foregoing condition shall be deemed to have been satisfied.
- b. The Purchaser covenants with the Vendor that it must independently obtain all necessary governmental and agency approvals and/or permits to proceed with its intended use of the land (these include but are not limited to: site plan control, Planning Act, agency approvals, and any and all other Municipal and Regional approvals).

28. *VENDOR'S DUE DILIGENCE DELIVERIES.*

On or before the Vendor's execution of the Purchase Agreement, the Vendor has agreed to make reasonable efforts to locate and shall deliver or make available to the Purchaser the following to the extent found in the Vendor's possession (the "Due Diligence Deliveries"):

- a. copies of any contracts, agreements or unregistered easements, rights of way or other unregistered encumbrances affecting the Property which the Purchaser will be required to assume;
- b. copies of any surveys, plans or drawings in respect of the Property in the possession of the Vendor; and
- c. copies of all known documents, records and reports relating to the Property (including without limitation, environmental, geotechnical, compaction and servicing reports) in the possession of the Vendor.

In addition, on or before the Due Diligence Date, the Vendor shall deliver or make available to the Purchaser a registered reference plan or plan of subdivision laying out the Property as a separate lot or lots thereon.

29. *DUE DILIGENCE.*

The Purchaser and its agents, consultants and representatives shall have access to the Property and the Due Diligence Deliveries at any time during the Due Diligence Period to perform such due diligence investigations, reviews, tests and studies in respect of the Property as the Purchaser deems necessary or advisable including without limitation zoning and potential for future development; legal title; physical and engineering inspections; environmental inspections, audits and tests (including intrusive Phase II inspections); geotechnical inspections and soil tests; compliance with all applicable laws and regulations; economic and financial feasibilities; and any other matters relating to the Property of interest to the Purchaser (the "Due Diligence"). All tests and inspections relating to the Property shall be conducted at the sole risk and expense of the Purchaser and the Purchaser shall insure its undertaking, business and equipment so as to protect and indemnify and save harmless the Vendor from any and all costs, claims, demands, damages, fines, suits, actions, and judgments made, brought or recovered against the Vendor, for any bodily injury, death or property damage caused by or resulting from the operation and business carried on by Purchaser under this Agreement.

- a. General Liability Insurance: The Purchaser shall maintain liability insurance acceptable to the Vendor throughout the term of this Agreement. Coverage shall consist of a comprehensive policy of public liability and property damage insurance in an amount of not less than \$5,000,000 per occurrence. Such insurance shall name the Vendor as an additional insured thereunder and shall be endorsed to include a Cross-Liability Endorsement with a Severability of Interests Clause and Non-Owned Automobile Liability.
- b. Automobile Liability Insurance: (if applicable) the Purchaser shall maintain automobile liability insurance on all Owned and Leased Automobiles to a limit of \$2,000,000 throughout the term of this Agreement.
- c. Professional Liability Insurance: The Purchaser shall take out and keep in force until three (3) years after this Agreement is no longer in effect, Professional Liability insurance in the amount of \$1,000,000 providing coverage for acts, errors and omissions arising from their professional services performed during the Due Diligence Period.
- d. Provisions: The Purchaser shall forward Certificates of Insurance evidencing this insurance with the executed Agreement. These Certificates shall state that coverage will not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail to the Vendor. It is also understood and agreed that in the event of a claim any deductible or self-insured retention under this policy of insurance shall be the sole responsibility of the Purchaser and that this coverage shall be primary insurance as respects the City. Any insurance or self-insurance maintained by the City shall be considered excess of the Purchaser's insurance and shall not contribute with it. The City reserves the right to modify the insurance requirements as deemed suitable.

The Purchaser shall be required to restore the Property to its previous condition, which existed prior to any tests or inspections carried out pursuant to this paragraph. In addition, prior to conducting any tests and inspections relating to the Property, the Purchaser shall provide prior notice to the Vendor and shall use reasonable efforts to co-ordinate the scheduling of any such tests and inspections with the Vendor.

30. *VENDOR'S ASSISTANCE.*

The Vendor covenants and agrees to co-operate with and provide reasonable assistance to the Purchaser in respect of the Purchaser's applications for and efforts to obtain any permits or approvals required from other governmental authorities, including the Regional Municipality of Waterloo, the Ministry of the Environment and the Ministry of Transportation, in connection with the Purchaser's proposed development of the Property. The Parties acknowledge that the City, when exercising its governmental authority, will do so in accordance with legislation, by-laws, policies, procedures and regulations in force at the time of application.

31. *COMMISSION.*

The Parties agree there will be a Three Percent (3%) commission of the Purchase Price payable to                     , the Purchaser's Broker, upon successful completion of this transaction, which commission shall be the sole responsibility of the Vendor.



IN WITNESS WHEREOF the Purchaser has hereunto affixed its corporate seal under the hands of its proper officers duly authorized in that behalf this \_\_\_ day of \_\_\_\_\_, 2017.

**COMPANY NAME**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the Corporation

Purchaser's Lawyer: Name: \_\_\_\_\_  
Firm name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_  
Email: \_\_\_\_\_

**THE CORPORATION OF THE CITY OF  
CAMBRIDGE** hereby accepts the above offer and  
agrees to and with the Purchaser to carry out the same  
on the terms and conditions above mentioned this  
day of \_\_\_\_\_ 20167

Approved by Council  
By-Law \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
DOUG CRAIG, Mayor

\_\_\_\_\_  
MICHAEL DI LULLO, Clerk

Vendor's Lawyer: Nadia Koltun, Assistant City Solicitor  
The Corporation of the City of Cambridge  
50 Dickson Street, P.O. Box 669  
Cambridge, ON N1R 5W8  
Tel: 519-740-4683 x 4274 Fax: (855) 351-9223  
Email address: koltunn@cambridge.ca

**SCHEDULE "A"**

**CITY OF CAMBRIDGE**

**BOXWOOD BUSINESS CAMPUS**

**DEVELOPMENT COVENANTS AND RESTRICTIONS**

**1. DEFINITIONS.**

In these development covenants:

- a. "Building" shall include, but shall not be limited to, any water tower, smoke stack, power transformer, pump house, roof structure, air conditioning unit tank, pollution abatement equipment, underground facilities and services and any addition to any building or structure.
- b. "City" means The Corporation of the City of Cambridge.
- c. "Date of Purchase" shall mean the date on which a Purchaser receives a deed of the Property from the City.
- d. "Property" means the property described in the Offer to Purchase to which these development covenants are attached.
- e. "Purchaser" shall include the transferee described in the transfer of the Property from the City and any subsequent owner, lessee or mortgagee in possession of the Property.
- f. "Substantially Complete" means that the industrial building to be constructed on the Property is ready for use or is being used for the purposes intended and that the industrial building is capable of completion at a cost of not more than 3 percent of the first \$500,000.00 of the construction contract price for the industrial building, 2 percent of the next \$500,000.00 of the construction contract price and 1 percent of the balance of the construction contract price.

All capitalized terms that are not defined herein shall have the meanings ascribed to them in the Offer to Purchase to which these development covenants are attached.

**2. COVENANTS RUN WITH PROPERTY.**

The Purchaser, to the intent that these covenants shall run with the Property herein described and any part thereof, for itself, its successors and assigns covenants with the City, its successors and assigns, that the Purchaser and its successors in title from time to time of all or any part or parts of the said Property will observe and comply with the stipulations, restrictions, and provisions herein set forth, and that nothing shall be erected, fixed, placed or done upon the said Property or any part thereof in breach or violation or contrary to the fair meaning of the said stipulations, restrictions and provisions contained in this agreement and that the Purchaser will have executed by every Purchaser from it like covenants so that all persons hereafter holding or claiming under the Purchaser shall be bound to observe and comply with the said stipulations, restrictions and provisions, set forth in these covenants.

**3. BUILDING REQUIREMENTS.**

- a. The Purchaser agrees within one year of the Date of Purchase, to start construction thereon of an industrial building or buildings, to cover not less than twenty per cent (20%) (rounded to the nearest whole number) of the area of the Property, the plans for which have been approved by the City, and subject to Section 11 herein, to Substantially Complete construction of such building or

buildings and all landscaping required in connection therewith within one year of the start of such construction; provided that, in the event that weather conditions do not permit completion of landscaping and exterior work within that time, such period for completion of landscaping and exterior work may be extended by the City as may reasonably be required. The City shall be kept informed of all construction schedules, any changes thereto, and of any delay in construction which might occur. Provided the Purchaser starts and completes construction within the said time periods as contemplated above, the City shall sign and deliver a full and final release of the option set out in paragraph 3.b below.

- b. If the Purchaser does not start and substantially complete construction (as the term “substantially complete” is defined herein) of an industrial building or buildings in accordance with the provisions of paragraph 3.a. above, within the periods therein set out, the City shall have the option of repurchasing the said Property from the Purchaser at 90% of the original purchase price, without interest, less the actual costs of the City which were incurred in the original sale of the Property and which will be incurred in purchasing the Property, which costs may include real estate commissions, Land Transfer Tax, registration costs, legal fees and such other costs as are determined by the City. The said option may be exercised by the City on sixty (60) days’ notice in writing at any time within five (5) years of the time of the Purchaser’s default; provided that the Purchaser may at any time after three (3) years from the time of default, give notice in writing to the City requiring the City to exercise the option to repurchase the Land as aforesaid. If, after receiving such notice from the Purchaser, the City does not exercise its right to repurchase the said Property by giving notice in writing of such intention within ninety (90) days of receipt of the said notice from the Purchaser, then the City’s right to repurchase the said Property under the provisions of this paragraph shall terminate and the City shall sign and deliver to the Purchaser a full and final release of said option. Save as to the requirement as to the time of construction, all other covenants made on behalf of the Purchaser herein shall in any event continue in full force and effect.
- c. Subject to the last sentence of this Clause 3.c, the Purchaser covenants that it will not sell the said Property or any part thereof to any person, firm or corporation without first offering in writing to sell such Property to the City at the original purchase price less the actual costs of the City which were incurred in the original sale of the Property and which will be incurred in purchasing the Property, which costs may include real estate commissions, Land Transfer Tax, registration costs, legal fees and such other costs as are determined by the City. The City shall have ninety (90) days from the receipt of an offer made by the Purchaser under the provisions of this Clause 3.c, to accept such offer which acceptance shall be in writing. If the City does not accept an offer to sell made by the Purchaser under the provisions of this Clause 3.c, the City’s right to repurchase the Property so offered shall terminate. The right to purchase such Property contained in this Clause 3.c will expire upon the Purchaser fulfilling all of the building requirements as set out in Clause 3.a hereof.
- d. In the event that the Purchaser at any time determines that it is unable to start and/or complete construction as herein provided, the Purchaser may request the City to extend the time within which such construction is to be started or completed as the case may be. The City may grant such extension on such terms and conditions as may be agreed upon. In any event, if any extension of time is granted, the Purchaser shall be required to pay to the City by way of liquidated damages:
  - i. An amount equal to the amount of total property taxes which the Purchaser would have been required to pay had a building or buildings been constructed as above required, and

- ii. An amount equal to any increase in value of the Property. For the purposes of this clause, the term, “an amount equal to any increase in value of the Property” shall mean the difference between the amount paid by the Purchaser and the amount which would be paid for the Property based on the price established by the City for industrial property as at the time of the request for the extension.
- e. In the event the Purchaser is not in default under the provisions of this Clause 3, the Purchaser may offer to sell such Property to the City at the original purchase price less the actual costs of the City which were incurred in the original sale of the Property and which will be incurred in purchasing the Property, which costs may include real estate commissions, Land Transfer Tax, registration costs, legal fees and such other costs as are determined by the City. The City shall have 30 days from the receipt of an offer made by the Purchaser under the provisions of this Clause 3.e to accept such offer which acceptance shall be in writing. If the City does not accept an offer to sell made by the Purchaser under the provisions of this Clause 3.e, the remaining provisions of this Clause 3 shall continue in full force and effect.

#### 4. *TAXES.*

The Purchaser shall, in any event, pay all property taxes accruing on any of the said Property during the period of its ownership.

#### 5. *APPROVALS.*

- a. *Erection of Buildings.* The Purchaser covenants and agrees that no building, structure, or any addition thereto shall be erected on the said Property and no building permit shall be applied for affecting the said Property until plans respecting the following facilities and matters have received the approval of the City:
  - i. Widening of highways that abut on the Property that are being developed or redeveloped.
  - ii. Subject to The Public Transportation and Highway Improvement Act, R.S.O. 1990, c. P.50, facilities to provide access to and from the Property such as access ramps and curbing including the number, location and size of such facilities and the direction of traffic thereon.
  - iii. Off-street vehicular parking and loading areas and access driveways including the surfacing of such areas and driveways.
  - iv. Walkways and all other means of pedestrian access.
  - v. Removal of snow from access ramps, driveways, parking areas and walkways.
  - vi. Grading or change in elevation or contour of the Property and the disposal of storm, surface and waste water from the land and from any buildings or structures thereon. Such plans must comply with both the City requirements and the Regional Municipality of Waterloo.
  - vii. Conveyance to the municipality, without cost, of easements required for the construction, maintenance and improvement of any existing or newly required watercourses, ditches, land drainage works and sanitary sewage facilities on the Property.
  - viii. Floodlighting of the Property or of any building structures thereon.

- ix. Walls, fences, hedges, trees, shrubs or other suitable groundcover to provide adequate landscaping of the Property or protection to adjoining lands.
  - x. Vaults, central storage and collection areas and other facilities and enclosures as may be required for the storage of garbage and other waste material including any other substance that may pose a risk to groundwater.
  - xi. Plans showing the location of all buildings and structures to be erected on the Property and the location of the other facilities required by the by-law.
  - xii. Perspective drawings and plans showing building elevations and cross sections of industrial buildings.
- b. *Preparation of Designs.* All plans and specifications submitted for approval must be prepared by a registered Architect or Engineer selected by the Purchaser, and shall bear his stamp.
- c. *Criteria for Approval.* Approval of plans and specifications shall be based on the criteria established in the “Urban Design Guidelines” publication for the Cambridge Business Park. These are in effect to create a high quality business park. The following criteria are listed for emphasis:
- i. The architectural design of buildings will result in quality buildings with clear lines constructed of glass, manufactured or natural stone, and precast concrete as preferred materials. Other materials will be reviewed on an individual basis with respect to the architectural quality.
  - ii. For single tenant buildings, the parking located between the building’s front façade and front property line be limited to visitor parking and designated accessible parking of prescribed area and location. For multi-tenant buildings, one row of parking will be permitted between the building’s front façade and the front property line with additional landscaping to assist in screening parking from street view. The remaining parking requirements will be located to the sides and rear of the building.
  - iii. Landscaping will include foundation plantings near the building and a minimum density of 10 deciduous trees per acre of land selected from the City’s list of approved tree species, or through consultation with City. The City prefers that native trees and shrubs be used.
  - iv. Sustainability features are encouraged in the design of the site and building.
- d. *Application for Approval.* Application to the City for approval shall include, but not necessarily be limited to, plans respecting the facilities and matters referred to in Paragraph 5.a above, and to the following:
- i. Indicating the dimensions and area of the Property, front, side and rear yards, rail spur lines, utilities, sodded areas, gardens, signs, exterior lighting, all proposed operations on or uses of the Property, buildings and structures, and staging of construction and development.

The landscaping plan shall include the basic drainage concept using open channels to convey water from the Property, where storm sewers are not available. Where inground storm connections are existing, the site drainage and the storm lateral connection will be required. Storm

water holding ponds shall be incorporated in the drainage system wherever feasible.

- ii. *Building drawings and specifications.* Indicating floor plans, all area calculations, all elevations, description of exterior materials, finishes and colours, coloured perspective drawings from street views, all operations and uses and staging of development.
- e. The Purchaser agrees to develop the said Property and buildings in accordance with plans approved by the City as provided in this agreement. Upon completion of construction, the qualified architect and/or engineer who has prepared the drawings and plans shall supply the City with a certificate showing that all buildings, structures, additions, exterior alterations, and all other matters and facilities requiring the approval of the City under the provisions of these development covenants have been erected, constructed, placed and laid out in strict conformity with such approved drawings and plans.
- f. Any approvals required to be given by the City under the provisions of these development covenants, shall be deemed to have been given if such approval is given in writing by the City's Director of Economic Development.
- g. Nothing in these development covenants and restrictions shall be construed to reduce or lessen any requirements of the City's Official Plan or Zoning By-laws.
- h. As part of the approval of the plans referred to in this Paragraph 5, the Purchaser acknowledges and agrees that the Purchaser may be required to comply with various requirements of other City Departments or government agencies which may not be specified in the Offer to Purchase of which these Development Covenants and Restrictions form a part and the Purchaser covenants and agrees to comply with such requirements at its expense.

## 6. *LANDSCAPING.*

The Purchaser shall landscape the said Property, forthwith on completion of construction, in accordance with the plans which have been approved by the City. Trees shall not be removed by the Purchaser without the consent of the City, except where they are located within the areas proposed for construction or use for loading or parking areas. If any tree is cut down, removed or damaged, the tree shall be replaced to the satisfaction of the City. The Purchaser shall carefully maintain the Property and all landscaping thereof in a safe, clean and first-class condition at all times. If the Property or landscaping are not so maintained, the City may give notice to the Purchaser of default and if the required maintenance is not satisfactorily completed by the Purchaser within thirty (30) days of the giving of such notice, the City shall have the right to enter upon the Property or any part thereof and do such work and perform such maintenance as may be necessary and the cost of such work or maintenance shall be paid by the Purchaser.

In addition to the above landscape requirements, the Purchaser shall also be required to landscape any property between the Property being conveyed to the Purchaser and the gravel or asphalt surface of any abutting public road.

The City shall not provide to the Purchaser any landscaping materials, including topsoil.

## 7. *FENCES.*

No fences shall be erected by the Purchaser without the written approval of the City of the location, design and material, and in accordance with the provisions of City Fences By-law No. 92-05, and any amendments thereto.

8. *STORAGE.*

- a. Nothing shall be stored outside of the buildings on the said Property unless the location and size of the storage area, and the manner in which it is to be screened from public view, shall have first been approved in writing by the City. All storage areas shall be suitably screened with growing trees, hedges, fences, walls or a combination thereof, or in such other manner as may be approved by the City. With the approval of the City, storage of incoming material and outgoing products shall be permitted outside of buildings provided they are located within the area bounded by the rear face of the building, the extension of the side lines of the building and the rear lot line.
- b. A central refuse storage collection area shall be provided and maintained and all refuse shall be located in such area. Such area shall be in a location approved by the City and screened with growing trees, hedges, fences, walls or a combination thereof in such manner as may be approved by the City.

9. *NOTICE.*

Any notice which either the City or the Purchaser is required or permitted to give pursuant to the provisions of these development covenants, may, if intended for the City, be given by written notice personally to the Clerk of the City or mailed to the Clerk by registered mail addressed to The Corporation of the City of Cambridge, 50 Dickson Street, Cambridge, Ontario, N1R 5W8, and if intended for the Purchaser, by written notice left at the business premises of the Purchaser or mailed by registered mail addressed to the Purchaser at its last known business address, and any such notice shall be deemed to have been given at the time it was delivered or mailed, as the case may be.

10. *TIME.*

Time shall be of the essence of this agreement.

11. *FORCE MAJEURE.*

Whenever and to the extent that the Purchaser shall be unable to fulfill, or shall be delayed or restricted in fulfilling, any of the obligations set out in these development covenants by any act or neglect of the City or any of its employees, or by strikes, walkouts, fire, unusual delay by common carriers, or by any other cause beyond the Purchaser's control, then the time for fulfilling any such obligation shall be extended for such reasonable time as may be required by the Purchaser to fulfill such obligation.

12. *RIGHT TO WAIVE.*

Provided always that notwithstanding anything herein contained, the City and its successors shall have power by instrument or instruments in writing from time to time to waive, alter or modify the herein covenants and restrictions as set out in this development schedule in its application to any part of the said Property without notice to or approval of the owner of any other lands.