

ENCROACHMENT AGREEMENT

BETWEEN:

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

OF THE FIRST PART

-AND-

2022662 ONTARIO INC.
(hereinafter called "the Owner")

OF THE SECOND PART


WHEREAS the Owner is the registered owner of the lands municipally known as 5500 Dixie Road in the City of Mississauga, 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 an existing pylon sign on an existing concrete base (hereinafter referred to as the "Encroachment") to encroach upon a portion of the widened limits of Dixie Road (Regional Road 4) (hereinafter referred to as the "Region Road") being described as lying within the limits of Parts 1 and 2 on Reference Plan 43R-9351 and retained in file ENC-13018 with the Region;

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 for a term of twenty (20) years, commencing on June 1, 2013 and terminating on May 31, 2033 (hereinafter referred to as the "Term").
3. The Owner agrees to pay the Region the following:

(a)	Administration fee (one time)	\$500.00, plus applicable taxes
(b)	Registration fee (Registry Office)	\$71.30, includes applicable taxes
(c)	Annual fee (each year throughout Term)	\$300.00, plus applicable taxes
4. 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.


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5. At the end of the Term, the Owner shall, at its 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.
6. 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.
7. The Owner agrees not to hold the Region responsible in any way for any loss, accident, or damage or injury to person or persons on the Region Road 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.
8. 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.
9. The Owner further acknowledges and agrees that, in the event the Region exercises its right to enter onto the Region Road to repair any sanitary sewer, watermain or any other public works that may be on, under or upon the Region Road, 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.
10. 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.
11. That the rights conferred by this Agreement shall not be assignable.


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12. 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 or ordinary prepaid mail to the following addresses:

If intended for the Owner, at:

**2022662 Ontario Inc.
7664 Yonge St.
Thornhill, Ontario L4J 1V7**

and if intended for the Region, at:

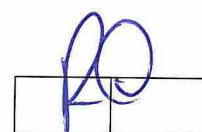
**The Regional Municipality of Peel
10 Peel Centre Drive, Suite B, 6th Floor
Brampton, ON L6T 4B9**

**Attention: Manager of Real Estate
 905-791-7800, Extension 7624**

Fax: 905-791-3645

Or to such other address or fax number 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, 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 (5th) 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 or Fax as aforesaid.

13. 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.
14. The Owner shall obtain and maintain throughout the Term a comprehensive insurance policy with a minimum liability coverage of FIVE MILLION DOLLARS (\$5,000,000.00) 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.



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15. This Agreement, when executed by the said Parties shall constitute a binding agreement.

IN WITNESS WHEREOF the Owner has on the 28 day of August, 2013 affixed its corporate seal attested by the hands of the duly authorized officer(s).

2022662 Ontario Inc.

PER: 
Name: ~~James Matthews~~ Ralph Oakley
Title: Authorized Signing Officer

I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF The Regional Municipality of Peel has on the _____ day of _____, 2013 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, Ext. 7624

Realty File No.: ENC-13018
Legal File No.: 24437
Date: May 21, 2013


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SCHEDULE "A"

Schedule "A" forms an integral part of this Agreement between The Regional Municipality of Peel (the Region) and 2022662 Ontario Inc. (the Owner).

PIN:
13294-0242(LT)

Legal Description:

Part Lot 3, Concession 3 East of Hurontario Street (formerly Township of Toronto), designated as Parts 5, 6, 7, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 on Plan 43R-14814 save and except Part 1 on Plan 43R-25622, City of Mississauga, Regional Municipality of Peel.



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