

DEVELOPMENT AGREEMENT PAY-ON DEMAND SURETY BOND

BOND NO.: [REDACTED]

AMOUNT: \$ [REDACTED]

KNOW ALL PERSONS BY THESE PRESENTS, that

[REDACTED],

as **Principal**, hereinafter called the “**Principal**”,

and

[REDACTED],

as **Surety**, hereinafter after called the “**Surety**”,

are held and firmly bound unto The Corporation of the City of Brampton, as **Obligee**, hereinafter called, the “**Obligee**”, in the amount of [REDACTED] Dollars (\$ [REDACTED]) in lawful money of Canada, for the payment of which sum, well and truly made, the **Principal** and the **Surety** bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the **Principal** and the **Obligee** have entered into, or will enter into, a development agreement with the file number [REDACTED] (said agreement is by reference made a part hereof and is hereinafter referred to as the “**Development Agreement**”) with respect to lands known as [REDACTED] in the City of Brampton, in the Province of Ontario.

NOW THEREFORE, the condition of this obligation is such that if the **Principal** shall, in the opinion of the **Obligee**, do and perform all of the stipulations, conditions, covenants and terms of the Development Agreement, then this obligation shall be void and of no effect; otherwise, it shall remain in full force and effect.

PROVIDED, however, the foregoing obligation is subject to the following terms and conditions:

1. Whenever the **Principal** shall be declared in writing by the **Obligee** to be in default under the Development Agreement, and the **Obligee** intends to make a claim under this bond, the **Obligee** shall promptly notify the **Principal** and the **Surety** in writing of such default in the form of a demand, the form of which is attached to this bond as Schedule “A” (the “**Demand**”).
2. On determination by the **Obligee**, in its sole and absolute discretion, that the **Principal** is in default of its obligations under the Development Agreement, the **Surety** and **Principal** agree and guarantee that the **Surety** will make payments to the **Obligee** for amounts demanded by the **Obligee**, up to an aggregate of the bond amount set out above, within fifteen (15) business days (“**business day**” means a day from Monday to Friday, other than a holiday as defined in

section 87 of the *Legislation Act, 2006*(collectively, the “**Demand Period**”) after the **Surety**’s receipt of a Demand from the **Obligee**.

3. This bond is irrevocable, and payment will be made notwithstanding any objection by the **Principal**. Where a Demand in the prescribed form has been delivered to the **Surety**, it shall be accepted by the **Surety** as conclusive evidence of its obligation to make payment to the **Obligee**, and the **Surety** shall not assert any defence or grounds of any nature or description for not making payment to the **Obligee**, in whole or in part, pursuant to such Demand, including but not limited to, any of the following reasons: (a) that a default has not occurred; (b) that the **Principal** committed any fraud or misrepresentation in its application for the bond; (c) that the amount set out in the Demand is not appropriate, warranted or otherwise not in accordance with the Development Agreement; or (d) any bankruptcy, reorganization, or insolvency of the **Principal** or any successor or assignee thereof.
4. The **Surety**'s liability under this bond is unconditional and shall not be discharged or released or affected by any arrangements made between the **Obligee** and the **Principal** or by any dispute between the **Surety** and **Principal**, or the taking or receiving of security by the **Obligee** from the **Principal**, or by any alteration, change, addition, modification, or variation in the **Principal**'s obligation under the Development Agreement, or by the exercise of the **Obligee** or any of the rights or remedies reserved to it under the Development Agreement or by any forbearance to exercise any such rights or remedies whether as to payment, time, performance or otherwise (whether or not by any arrangement, alteration or forbearance is made without the **Surety**'s knowledge or consent). All payments by the **Surety** shall be made free and clear without deduction, set-off or withholding.
5. The **Obligee** may make multiple Demands under this bond.
6. This bond cannot be amended without the express approval of the **Obligee**.
7. The amount of the bond may be reduced from time to time as advised by notice in writing by the **Obligee** to the **Surety**.
8. Each payment made by the **Surety** under this bond shall reduce the amount of this bond.
9. In no event shall the **Surety** be liable for a greater sum than the amount of this bond.
10. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the **Obligee**.
11. This bond shall only apply to a singular project and the works set out in the Development Agreement.

12. When the **Principal** has completed all works required by the Development Agreement to the **Obligee's** satisfaction, all maintenance and rectification periods contained within the Development Agreement have expired, and the **Obligee** has finally assumed all works in writing, the **Obligee** shall return this bond to the **Surety** for termination or advise the **Surety** in writing that this bond is terminated, in accordance with the terms of the Development Agreement.

13. If the **Surety** at any time delivers, at least ninety (90) days prior, written notice to the **Obligee** and to the **Principal** of its intention to terminate this obligation, the **Principal** shall deliver to the **Obligee**, not less than sixty (60) days prior to the termination of this bond, financial security in the amount of this bond in a form acceptable to the **Obligee**. If the replacement financial security is not provided by the **Principal** or is not accepted by the **Obligee**, this bond shall remain in full force and effect. For clarity, the **Surety** shall not exercise its right to terminate hereunder within the Demand Period where a Demand has been sent to the **Surety** and **Principal** by the **Obligee**.

14. Nothing in this bond shall limit the **Principal's** liability to the **Obligee** under the Development Agreement.

15. Neither this bond nor any right or obligation under this bond may be assigned by the **Surety**.

16. This bond shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of Ontario without regard to conflict of laws principles. The **Principal** and **Surety** hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Ontario.

17. All Demands and notices under this bond shall be delivered by hand, registered mail or courier, and if to the **Surety**, with a copy by email to the **Principal**, at the addresses set out below, subject to any change of address in accordance with this Section. All other correspondence may be delivered by regular mail, registered mail, courier, or email. A change of address for the **Surety** is publicly available on the Financial Services Regulatory Authority of Ontario website. The address for the **Principal** may be changed by giving notice to the other parties setting out the new address in accordance with this Section.

The Surety:

Name:
Address:
Email:

The Principal:

Name:
Address:
Email:

The Obligee:

The Corporation of the City of
Brampton
2 Wellington Street West
Brampton, ON L6Y 4R2
Attention: Manager, Capital &
Development Finance

Email:
admin.development@brampton.ca

A Demand and notice are conclusively deemed to have been received on the day upon which it is delivered, or, if mailed, then three (3) business days following the date of mailing, as the case may be. If the postal service is interrupted or is substantially delayed, all Demands and notices will only be delivered by hand or by courier.

18. The **Surety** agrees to indemnify the **Obligee** from and against any and all claims related to the Bond, holding the **Principal** responsible for repaying any money paid by the **Surety** to the **Obligee** in the process of settling a claim.
19. As per O. Reg. 461/24 (as amended from time to time) under the *Planning Act*, R.S.O. 1990, c.P.13 (as amended from time to time), this bond shall be of an insurer that is licensed under the *Insurance Act*, R.S.O. 1990 c I.8 (as amended from time to time) to write **Surety** insurance and that is rated:
 - (a) by Dominion Bond Rating Service as “A” or higher;
 - (b) by Fitch Ratings as “A-” or higher;
 - (c) by Moody’s Investors Service Inc. as “A3” or higher;
 - (d) by Standard and Poor’s as “A-” or higher; or
 - (e) by A.M. Best Company, Inc. as “A-” or higher.
20. The **Surety** represents and warrants that it has been incorporated in Canada for at least ten (10) years prior to the date of issue of this bond and has the capability to issue a **Surety** bond in Canadian dollars. The **Surety** agrees to provide documentation in support of the same to the **Obligee**, upon request by the **Obligee**.
21. Notwithstanding anything to the contrary herein, the **Surety** and **Principal** acknowledge and agree that where the credit rating or other qualification(s) of the **Surety** does not meet the **Obligee**’s criteria, as determined by the **Obligee** in it’s sole discretion, the **Obligee**’s City Treasurer shall have the right to conduct a further review of the matter and make a determination that protects the interests of the **Obligee** and its stakeholders.

[Remainder of page intentionally left blank. Signature page to follow.]

IN TESTIMONY WHEREOF, the **Principal** has hereto set its hand and affixed its seal and the **Surety** has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this _____ day of _____, 20____, in the presence of:

[PRINCIPAL]

[CORPORATE SEAL]

Per: _____
Name:
Title:
I have the authority to bind the Corporation.

[SURETY]

[CORPORATE SEAL]

Per: _____
Name:
Title:
Attorney in Fact.

SCHEDULE "A"

DEMAND - NOTICE OF DEFAULT

Date:
Surety:
Address:

Attention:

RE: Development Agreement Bond No.: _____ **(the "Bond")**
Principal: _____ **(the "Principal")**
Obligee: _____ **(the "Obligee")**
Agreement : _____ **(the "Development Agreement")**

Dear _____,

Pursuant to the above referenced Bond, the **Obligee** hereby declares a default under the Development Agreement.

The **Obligee** hereby demands that the **Surety** honour its fifteen (15) business days payment obligation as per the terms of the Bond. We hereby certify that we are entitled to draw on the Bond pursuant to the terms of the Development Agreement and demand payment of \$ _____ under the terms of the Bond.

Payment Instructions:

Sincerely,

THE CORPORATION OF THE CITY OF BRAMPTON
