

THIS AGREEMENT made in quadruplicate, this _____ day of _____, 2012.

BETWEEN:

THE CORPORATION OF THE COUNTY OF BRANT

hereinafter called the "County"

- and -

1140506 Ontario Inc.

hereinafter called the "Owner"

WHEREAS the Owner owns property, being Part Lot 4, Range 1, NHR, County of Brant, geographical Township of Brantford known as 1744 Colborne Street East; and,

WHEREAS the Owner proposed to add additional non production facilities to the permitted mushroom operation located on said property; and,

WHEREAS the County adopted By-law No. 157-03 imposing the Site Plan Control pursuant to Section 41 of the Planning Act, RSO 1990, as amended; and,

WHEREAS the Owner is required to execute this Development Agreement prior to the issuance of a building permit.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the payment by the Owner to the County of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada, receipt whereof is hereby acknowledged, and the mutual covenants and conditions hereinafter contained the parties hereto agree as follows:

SECTION 1 – PROPERTY IDENTIFICATION

1.1 The Owner's lands are described on the attached Schedule 'A', Description of Lands, as shown on the attached Schedule 'B' Site Development Plan, both Schedules attached hereto and forming part of this Agreement.

SECTION 2 – PREVIOUS SITE PLAN CONTROL AGREEMENTS

2.1 The parties agree that upon full execution and registration of this Agreement, it shall supersede and replace any previous site plan control agreement(s) registered on title to the Site respective of this approval and its specific development lands.

SECTION 3 – DEFINITIONS

IN THIS AGREEMENT:

3.1 OWNER shall include the registered Owner or Owners in fee simple, from time to time, of the lands described in Section 1 of this Agreement and/or their respective heirs, executors, administrators and assigns and in addition to its accepted meaning, shall mean and include an individual, an association, a partnership or an incorporated company, and wherever the singular is issued herein, it shall be constructed as including the plural.

3.2 COUNTY shall mean the Corporation of the County of Brant.

3.3 MTO shall mean the Ministry of Transportation.

3.4 MOE shall mean the Ministry of Environment.

3.5 GRCA shall mean the Grand River Conservation Authority.

SECTION 4 – VEHICULAR INGRESS AND EGRESS

SAME 4.1 The Owner agrees to restrict the means of vehicular ingress and egress to and from the property and premises described in Section 1 to the location marked on Schedule 'B' Site Development Plan, and agrees that any construction required for the development between the traveled portion of the street and the property shall be constructed by the Owner at his expense and to the specification of the County.

NEW 4.2 The Owner agrees to ensure that a proper Fire Route on site is established and maintained to provide adequate access at all times, for emergency vehicles and equipment.

SECTION 5 – DRAINAGE

SAME 5.1 Site grading and drainage provisions shall be established and maintained by the owner.
Any development of the subject lands shall require provisions for the collection and management of all surface waters originating on and/or passing through the site.

NEW 5.2 The Owner agrees, at no expense to the County, to have prepared and certified by a Licensed Professional Engineer, Ontario, a site plan indicating the proposed location of all buildings, driveways, landscaping, buffering, fencing, lighting, parking/loading areas and the proposed grading for and drainage of the development area, any storm water management area, servicing, including any private sewage system and/or water supply, and to obtain prior to the issuance of a Building Permit the confirmation of the County and/or GRCA, that there is no objection to the site plan.

NEW 5.3 The Owner agrees to provide written certification from the design engineer that all grades and elevations as shown on the approved lot grading plan have been complied with within one year of occupancy and prior to the release of any securities.

SECTION 6 – CONSTRUCTION

UPDATED 6.1 The Owner agrees that all construction shall conform in all respects to Schedule 'B' Site Development Plan, or such other site plan as may be approved by the County within the parameters of Section 41 of the Planning Act, RSO 1990, as amended. The Owner agrees that any and all landscaping, tree planting; buffering, earth berms and fencing shall be constructed, installed and/or planted in accordance with Schedule 'B' Site Development Plan prior to the release of any securities. Such items shall be maintained by the Owner to the satisfaction of the County.

NEW 6.2 The Owner agrees that all works are to be completed in accordance with the County's Engineering and Development Standards current at the date of registration of this agreement.

SECTION 7 – PARKING, LOADING, OPEN STORAGE

SAME 7.1 The Owner agrees to provide sufficient parking spaces and loading spaces and such spaces together with any open storage shall be in compliance with the County's Zoning By-law, as amended and in accordance with Schedule 'B' Site Development Plan.

SECTION 8 – REFUSE

SAME 8.1 The Owner agrees to provide bins/containers for the storage of garbage and/or recycling in the location as identified on Schedule 'B' Site Development Plan and ensure that refuse is contained and removed at the Owner's expense, and that the property is kept clean and tidy of refuse/debris.

SECTION 9 – SERVICING

SAME 9.1 The Owner acknowledges that all services located on private property are to be owned, maintained and operated in perpetuity by the Owner.

SECTION 10 – WASTEWATER TREATMENT AND REUSE SYSTEM

NEW TECHNOLOGY 10.1 The Owner agrees to install at his sole cost a mushroom barn effluent treatment and non potable water reuse system as shown on Schedule 'B' Site Development Plan prior to the release of any required securities.

NEW 10.2 The Owner agrees to be responsible for the routine maintenance and inspection of the mushroom barn effluent treatment and non potable water reuse system.

NEW 10.3 The Owner will cause to be filed with the County annual maintenance and inspection reports of said system.

SECTION 11 – CONTAMINATION

SAME 11.1 The Owner agrees to ensure that no contamination at any time shall be discharged onto the ground surface that may enter into any watercourse, ditch or neighbouring lands.

SECTION 12 – PAVING, DUST CONTROL

NEW 12.1 The Owner agrees to pave with asphalt those areas on the site as identified on Schedule 'B' Site Development Plan to a standard acceptable by the County. Proper dust control measures shall be undertaken by the Owner to the satisfaction of the County for those areas that are not hard surfaced and that may generate dust from time to time as a result of weather conditions and vehicular and/or equipment traffic.

SECTION 13 – WELL AT 1730 COLBORNE STREET EAST

NEW The Owner agrees to have the existing drilled well located at 1730 Colborne Street East and shown on the Site Plan attached to this agreement as "Schedule 'B'" independently tested once a year for a 3 year period, at his expense, to ensure the availability of a potable water source under the Safe Drinking Water Act 2002.

SECTION 14 – DEVELOPMENT CHARGES

NEW 14.1 The Owner agrees to make payment, if any, of development charges applicable pursuant to the Development Charges By-law applicable at the date of issuance of building permit.

SECTION 15 – OCCUPANCY AND USE OF BUILDINGS

NEW 15.1 The Owner agrees to complete all of the terms of this Agreement prior to any use and/or occupancy of the additions shown on Schedule 'B' Site Development Plan.

SECTION 16 – SECURITY

UPDATED WORDING AND OBLIGATIONS FOR SECURITIES (for all of Section 16) 16.1 The Owner shall provide security for the performance, in accordance with this agreement, of all the Owner's obligations under this Agreement and the following provisions shall apply:

16.1.1 Upon the execution of this Agreement the Owner shall lodge with the County an irrevocable Letter of Credit, cash or certified cheque in favour of the County, in an amount equal in the aggregate to (1) 50% of the estimated cost of all outstanding site works, excluding buildings, as shown on the Schedule 'B' Site Development Plan and (2) 100% of all outstanding works performed in the road allowance as shown on the Schedule 'B' Site Development Plan.

16.1.2 The amount of the security to be provided shall be based on cost estimates prepared by the Owner's consulting engineer as reviewed and approved by the County or as amended by the County.

16.1.3 The facilities and works required by this Agreement shall be provided and maintained by the Owner at the Owner's risk and expense and to the satisfaction of the County; and, in default thereof, in addition to any other remedies which may be available to the County, the provisions of Section 446 of the *Municipal Act, 2001* shall apply for the purpose of securing rectification of the default.

16.1.4 The Owner agrees that the County shall have the right at any time and from time to time to enter upon the Land for the purposes of monitoring compliance with this Agreement and the Site Plan and in that connection to make sure test and inspections as to the County acting reasonably, and to make and to call for and obtain any document, contract, plan, specification, record or other writing or thing which, in the County's opinion, may be desirable to obtain in order to facilitate such monitoring and inspection, and, if the County shall deem it advisable, to engage technical consultants to assist in the performance of any monitoring or inspection the cost of which technical consultants, if engaged, shall recoverable from the Owner forthwith on demand provided that such costs are supported by proper invoices and copies provided to the Owner. The County shall comply with all laws, rules and regulations while on the Land.

16.1.5 In addition to any other remedy which the County may have against the Owner for breach of this Agreement, after first giving five (5) days' notice to the Owner, the County may, at any time and from time to time, realize upon and enforce any security available to it under this Agreement and use the funds derived therefrom to pay the cost of doing any work or thing in respect of which the Owner is in default, or to recover such costs if the County has done such work or thing prior to realizing upon and enforcing the security. If the funds derived from the security exceed the amount due to the County, the excess shall be refunded to the Owner when the work required of the Owner by this Agreement and the Site Development Plan have been completed to the reasonable satisfaction of the County; but, if there is a deficiency, the same shall be recoverable from the owner forthwith upon demand. The County shall provide to the Owner an accounting of any costs in connection with the foregoing.

16.1.6 Any security held by the County under this Agreement shall be released after completion, to the satisfaction of the County, of construction or works as shown on the Schedule 'B' Site Development Plan and as required by this Agreement. Prior to the release of final security subject to 14.1.7, the Owner shall satisfy the County by:

16.1.6.1 Providing to the County a Final Completion Certificate issued by a qualified professional certifying that construction of all works shown on the Site Development Plan and required by this Agreement as shown on Schedule 'B' Site Development Plan have been fully and completely installed, constructed in accordance with the Schedule 'B' Site Development Plan and in accordance with this Agreement; and

16.1.7 So long as the Owner is not in default under this Agreement, the amount of the security provided as required by this Agreement may be reduced from time to time to an amount which, in the opinion of the County, is adequate to secure the faithful performance of the remaining obligations of the Owner hereunder; provided that no release of security or reduction in such Letter of Credit shall be made until there is first filed with and approved by the Count a certificate issued by the Owner and by the Owner's Engineer as to the value of that part of the obligations of the Owner which have been completed to the date of the certificate and as to the cost of completing the remaining obligations of the Owner hereunder.

SECTION 17 – REGISTRATION

NEW

17.1 The Owner agrees that this Agreement shall be registered against the title to the land as described on the attached Schedule 'A' Description of Lands, in the appropriate Land Titles Office to the intent and purpose that this Agreement and all of the Owner's covenants herein shall run with the land. At the expense of the Owner, it shall be the responsibility of the County to register said Agreement forthwith, following execution by all parties and the adoption of the authorizing by-law by Council. The County shall provide the Owner with details of such registration upon completion of same. The Owner hereby agrees to pay all costs associated with said registration prior to registration.

NEW 17.2 The Owner agrees to provide to the County a solicitor's certificate of title in a form acceptable to the County's Legal Department upon execution of this Agreement.

NEW 17.3 The Owner agrees that any future alterations/changes and/or expansions to any component of the site shall require a new application for Site Plan Control; and a subsequent amendment to this Agreement. However, the County agrees that any minor modification to the Site Plan shall, at the discretion of County staff, not warrant such application, provided the intent of this Agreement is not compromised.

SECTION 18 – OWNER'S TITLE

SAME 18.1 The Owner represents and warrants to the County that, at the date of this Agreement and at the date of the registration of this Agreement upon title, the Owner will be the Owner in fee simple of the Land free of all liens and encumbrances, save and except for those items described on Schedule 'C' attached hereto.

SECTION 19 – OTHERS WILL TITLE INTERESTS

UPDATED 19.1 The Owner represents and warrants to the County that, at the date of this Agreement and at the time of the registration of this Agreement upon the title to the Land, all persons having any interest in the land as owner, mortgagee, tenant, easement holder or other encumbrances are as described in Schedule 'C' attached to this Agreement and that each mortgagee have executed consents to this Agreement and to its registration on title and have executed agreements postponing their respective interests in the land to this Agreement, and as of the registration of this Agreement upon the title to the Land. The Owner shall cause to be delivered such executed postponement to the County and the County will cause to be registered said postponements on the title to the subject lands at the time of registration of this Agreement. The postponements to be in a form acceptable to the Registry Office for registration purposes.

SECTION 20 – NOTICE

UPDATED 20.1 The Owner hereby indemnifies and saves harmless the County of and from all loss, actions, costs and damages which the County may suffer, or to be put to, for or by reason of, or on account of the construction, maintenance or existence of buildings, structures and/or improvements for the subject lands. The County shall notify the Owner by written notice of particulars of all such loss, actions, costs and damages, and in the event that such are not paid within thirty (30) days from the date of mailing of the notice, same may be added to the Tax Collector's Roll and collected in the same manner and with like remedies as taxes under the Municipal Act.

20.2 Where any notice is required to be given by one party to this Agreement to another party to this Agreement, such notices shall be given as follows:

(a) County of Brant
General Manager of Development Services
Paris Service Area Office
66 Grand River Street North
Paris, Ontario N3L 2M2

(b) 1140506 Ontario Inc.
c/o Danny Atwal – President
1744 Colborne Street East
Brantford, Ontario N3T 5L4

20.3 It is mutually agreed that notices shall be given by prepaid registered mail and shall be deemed to be given the day following the deposit of said notice in Her Majesty's Post Office.

SECTION 21 – SPECIAL PROVISIONS

SAME 21.1 This Agreement and everything contained herein shall ensure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties hereto.

NEW 21.2 The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any court or administrative tribunal the right of the County to enter into this Agreement and to enforce each and every term of this Agreement and this clause may be asserted and pleaded as an estoppel against the Owner in any such proceeding.

NEW 21.3 Notwithstanding the foregoing, if at any time during the currency of this Agreement, it is found by any court of competent jurisdiction, by any administrative tribunal or ministry of government that this Agreement or any part thereof is ultra vires the County or otherwise void or invalid then no obligation liability of duty of any nature or kind whatsoever, whether in law or in equity shall be imposed upon the County to carry out any part of this Agreement so found to be ultra vires, void or invalid.

NEW 21.4 If any term of this Agreement shall be found to be ultra vires the county or otherwise void, invalid or unenforceable, such term shall conclusively be deemed to be severable and the remainder of this Agreement, mutatis mutandis, shall be and remain in full force and effect.

NEW 21.5 This Agreement is to be interpreted in accordance with the laws of the Province of Ontario. Any dispute or issue raised between the parties as to the interpretation or effect of this Agreement or any part of this Agreement is to be determined or resolved by proceedings taken before a court of competent jurisdiction in Ontario.

NEW 21.6 The Developer agrees that the County shall have the right to enter upon the subject lands from time to time to ensure that the terms of this Agreement and any zoning by-law amendment duly adopted by the County are being fully complied with. The Developer agrees that all deficiencies shall be corrected forthwith to the satisfaction of the County.

IN WITNESS WHEREOF the said parties have hereunto set their hands and seals and affixed their seal attested to by the hands of their proper Officers in that behalf.

SIGNED, SEALED AND DELIVERED)	THE CORPORATION OF THE
in the presence of:)	COUNTY OF BRANT
)	
Authorized by By-law _____)	
of Council on the _____ day of _____)	_____
,2012)	Mayor – R. E. F. Eddy
)	
)	
)	_____
)	Clerk – Jayne Carman
)	
)	
)	_____
)	Danny Atwal
)	President
)	
)	I have authority to bind the Company

SCHEDULE 'A'
DESCRIPTION OF LANDS

The subject lands affected by this Agreement is Part Lot 4, Range 1, NHR, former Township of Brantford, County of Brant all of PIN _____.

SCHEDULE 'B'
SITE PLAN

to the

SITE PLAN CONTROL AGREEMENT

Dated: _____

B E T W E E N:

THE CORPORATION OF THE COUNTY OF BRANT

OF THE FIRST PART

- and -

1140506 ONTARIO INC.

OF THE SECOND PART

SITE PLAN

For the purpose of this Site Plan Control Agreement the Site Plan shall constitute the following item:

B-1 Site Development Plan, identified as 4575-5 prepared by J. H. Cohoon Engineering Limited (Job #4575) for 1140506 Ontario Inc., dated June 25, 2012, revision 3 January 25, 2012.

SCHEDULE 'C'
PERMITTED ENCUMBRANCES

to the

SITE PLAN CONTROL AGREEMENT

Date: _____, 2012

B E T W E E N:

THE CORPORATION OF THE COUNTY OF BRANT

OF THE FIRST PART

- and -

1140506 ONTARIO INC.

OF THE SECOND PART