

THIS GARDEN SUITE TRANSFER OF OWNERSHIP AGREEMENT

made this _____ day of 201___, BETWEEN:

THE CORPORATION OF THE COUNTY OF BRANT
being a Municipal Corporation (hereinafter referred to as the "County")
OF THE FIRST PART

-and-

(hereinafter collectively referred to as the "Owner")
OF THE SECOND PART

WHEREAS:

- (a) The Owner is the Owner of the land described in Schedule "A" (hereinafter referred to as the "Land");
- (b) The Owner wishes to transfer the time remaining on an existing Council approved garden suite by entering into this Garden Suite Transfer of Ownership Agreement with the County;
- (c) The County is prepared to approve the Transfer of Ownership for the existing Garden Suite in the form originally approved by Council on _____ upon the condition that the Owner enters into this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESS that, in consideration of the mutual covenants herein contained and in consideration of the approval by the County of the Site Plan in accordance with the provisions of Section 207.2 of the *Municipal Act*, as amended, the parties hereto agree as follows:

1. GARDEN SUITE

For the purposes of this Agreement, the Garden Suite that is the subject of this Transfer of Ownership Agreement;

- 1.1 shall be a one-unit residential structure containing a bathroom, kitchen facilities and one or two bedrooms,
- 1.2 shall have a floor area of not more than 103 square metres and a length of not more than 24 metres,
- 1.3 shall be a portable, or demountable one-storey structure, without any basement, self-contained dwelling installed on a temporary basis as a free-standing unit in the rear or side yard of the Land,
- 1.4 shall be designed to be removed and relocated when it is no longer required,
- 1.5 shall be placed and supported in a proper fashion and enclosed with appropriate skirting,
- 1.6 shall be connected to water supply, electrical, and other necessary services and utilities from the existing residential structure shown on the Site Plan,
- 1.7 Garden Suite shall have its own on-site sewage system to meet Ontario Building Code.

- 1.8 shall be ancillary to the existing residential structure shown on the Site Plan,
- 1.9 shall only be occupied by _____ and _____, for residential purposes temporarily.

2. DEVELOPMENT

The Owner shall maintain the Garden Suite in accordance with the Site Plan attached to the original Garden Suite Agreement dated _____; and thereafter the Land shall be used by the Owner in accordance with and in conformity with the Site Plan.

3. SEWAGE SYSTEMS

As a condition of the approval by the County of the Transfer of Ownership Agreement, the provision, maintenance and use of the following facilities and matters are required and regulated as follows:

- 3.1 The Owner agrees to maintain the existing sewage systems located on the Land for the Garden Suite.
- 3.2 In the event of failure of the aforementioned sewage system, the Owner agrees to submit an application and obtain approval from the Approval Authority, pursuant to Part VIII of the *Building Code*, for the construction of a new sewage system to service the existing Garden Suite in accordance with the Site Plan referred to in Section 2.

4. REMOVAL OF GARDEN SUITE

The Owner shall remove the Garden Suite from the Land and restore the Land, as nearly as it is practical so to do, to the condition it was prior to the installation of the Garden Suite by no later than _____, being the date of the expiry of the Temporary Use Zoning By-law Amendment No. _____, provided that, if the term of such Temporary Use Zoning By-law is extended in accordance with the provisions in that behalf of the *Planning Act*, then the date for the removal of the Garden Suite from and the restoration of the Land shall be similarly extended to a date that is no later than the expiry of the Temporary Use Zoning By-law as so extended.

5. MUNICIPAL ACT REMEDY

The replacement of sewage systems required by paragraph 3 shall be undertaken and maintained by the Owner at his sole risk and expense and the removal of the Garden Suite from the Land and the restoration of the Land as required by paragraph 4 shall be completed by the Owner at their sole risk and expense and, in all cases, 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 326 of the *Municipal Act* shall apply for the purpose of securing rectification of the default.

6. OTHER REMEDIES

In addition to any other remedy which the County may have against the Owner for breach of this Agreement, and in particular for failing to replace sewage systems as required by paragraph 3 or for failing to remove the Garden Suite and restore the Land as required by paragraph 4, the County, at its option, after first giving the Owner at least five (5) day's written notice;

- 6.1 May enter and re-enter the Land to remove and replace the sewage systems required by paragraph 3 and/or to remove the Garden Suite

and to restore the Land as contemplated by paragraph 4 and the County may recover the cost of so doing from the Owner;

6.2 May make any payment which ought to have been made by the Owner and recover the amount thereof from the Owner; and/or

6.3 May do any other thing required of the Owner by this Agreement and recover the cost of so doing from the Owner; provided that, if in the County's opinion the doing of anything herein authorized to be done is immediately necessary to prevent damages or hardship to persons or property, the County may do such thing forthwith without giving notice of its intention so to do; and it is understood and agreed by the parties that the entry upon the Land by the County or the doing of anything by the County as authorized by this paragraph 6 shall be as agent of the Owner and shall not be deemed in any way to relieve the Owner of the obligations of this Agreement.

7. COURT ACTIONS

In addition to any other remedy, which the County may have against the Owner for breach of this Agreement, the County may bring action to restrain or to compel specific performance of all or any part of this Agreement and for damages.

8. BUILDING PERMIT REMEDY

In addition to any other remedy which the County may have against the Owner for breach of this Agreement in the event of a default by the Owner under this Agreement, the County may withdraw or revoke any other building permit granted to any other person in respect of the Land and may refuse to issue further building permits in respect of the Land until the default has been rectified.

9. COUNTY COSTS

The Owner agrees to deposit with the County, and the County acknowledges having received as security, an irrevocable letter of credit in favour of the County, and in a form acceptable to the County, in the amount of FIVE THOUSAND (\$5,000.00) DOLLARS to reimburse the County for its actual costs incurred for legal fees and disbursements and for the cost of administration, supervision and all other work required by the County in connection with this Agreement, including the negotiations leading to and the preparation of this Agreement and costs arising out of the enforcement of this Agreement, including realizing upon any security given hereunder. If this amount is insufficient, the Owner shall reimburse the County for such actual costs from time to time as and when requested by the County; and if this sum exceeds the actual costs, the County shall refund to the Owner such excess at such time as the Garden Suite and septic system has been removed from the Land and the Land has been restored as required by paragraph 4.

10. FUTURE SITE PLANS

The Owner agrees to enter into such further development agreements as may be deemed necessary, prior to the issuance of building permits for construction on the Land.

11. REGISTRATION OF AGREEMENT

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. 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.

12. OWNER'S TITLE

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.

13. OTHERS WITH TITLE INTERESTS

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 encumbrancer 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 tile 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 shall be in a form acceptable to the Registry Office for registration purposes.

14. COUNTY'S DISCRETION

Where in this Agreement the County is given discretion, or the right to make a decision, in matters relating to the administration of this Agreement the County shall act by its Clerk or such other officer as the Clerk or Council of the County may designate for such purpose. Before exercising its discretion or making its decision, the County may seek the advice of a Solicitor, an Engineer or a planning or other consultant as may be relevant to the matter in respect of which the discretion is to be exercised or the decision to be made.

15. EXPENSE OF OWNER

Every provision of this Agreement by which the Owner is obliged in any way shall be deemed to include the words "at the expense of the "Owner" unless the context specifically otherwise requires.

16. INTEREST AND LIEN

In the event that there are monies due from the Owner to the County which have not been paid within fifteen (15) days after demand therefore by the County, interest shall be payable on the amount due at the rate of twelve (12%) per cent per annum calculated from the date of demand; and the amount due together with interest thereon shall constitute a lien upon the Land.

17. ESTOPPEL

The Owner shall not call into question, directly or indirectly, in any proceedings whatsoever, in law or in equity, or before any administrative tribunal, the right of the County to enter into this Agreement or to enforce each and every term, covenant and condition herein contained and this Agreement shall be pleaded as an estoppels against the Owner in such proceedings.

18. TIME

Time shall be of the essence hereof in all respects; and the right of the County to require strict performance by the Owner of any and all obligations imposed upon it hereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

19. NOTICE

Any notice or any other communication required or permitted to be given under this Agreement shall be in writing and, unless some other method of giving the same is accepted by the person to whom it is given, shall be given by registered mail or by being delivered to the person to whom it is to be given at the appropriate address set out below,

to the Owner:

and to the County: The Corporation of the County of Brant
26 Park Avenue,
P.O.Box 160
Burford, ON, N0E 1A0

or such other address as may be furnished by such person, and such notice or other communication shall be deemed effective, as the case may be, at the time of delivery thereof or four (4) business days after the date of mailing thereof unless postal employees at the point of mailing or at the point of delivery are on strike at any time during the four (4) business days following the time of mailing in which event it shall be effective when delivered to the addressee.

20. SEVERABILITY

If any provision of this Agreement shall be found or declared by a Court of competent jurisdiction to be invalid, unenforceable or *ultra vires* the County, then such provision shall conclusively be deemed to be severable and the remainder of this Agreement mutatis mutandis, shall be and remain in full force and effect.

21. NUMBER AND GENDER

In this Agreement, unless the contrary intention appears, words importing only singular number or masculine gender shall include more persons, parties or things of the same kind than one and the feminine and neuter gender; and if there be more than one Owner, including any subsequent Owner of the Land, the covenants of such Owner shall be joint and several.

22. TITLES

It is understood and agreed by the parties hereto that the titles inserted at the head of paragraphs and clauses in this Agreement are intended for ease of reference and do not alter or have any bearing upon the interpretation of the paragraph or clause which they entitle.

IN WITNESS WHEREOF the parties have hereto affixed their respective corporate seals attested by the hands of their respective proper officers duly authorized in that behalf and the individual parties have hereunto set their hands with witness present.

SIGNED, SEALED AND DELIVERED
in the presence of:

) THE CORPORATION OF THE
) COUNTY OF BRANT

)
)
)
)

Mark S. Pomponi
General Manager
Development Services

)
)
)
)

Witness

)
)
)
)

Witness

)
)

DRAFT

SCHEDULE "A"

to

THE GARDEN SUITE TRANSFER OF OWNERSHIP AGREEMENT made this
_____ day of _____, 201___,

BETWEEN:

THE CORPORATION OF THE COUNTY OF BRANT

OF THE FIRST PART

-and-

OF THE SECOND PART

"LAND"

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying
and being in the County of Brant, and being composed of: