FOURTH LICENSE EXTENSION AND AMENDING AGREEMENT

THIS AGREEMENT made in duplicate as of May 1, 2020.

BETWEEN:

THE CORPORATION OF THE COUNTY OF BRUCE

(the “Licensor”)

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES

(the “Licensee”)

WHEREAS:

A. By a license agreement dated May 1, 2000 (the “Original License”), the Licensor did license unto Her Majesty the Queen in right of Ontario as represented by the Chair of the Management Board of Cabinet (the “Chair”) for a term of five (5) years commencing on May 1, 2000 and ending on April 30, 2005 (the “Original Term”), the premises more particularly described as courtroom facilities comprising an area of one thousand, seven hundred and ninety-five (1,795) square feet on the second (2nd) floor (the “Licensed Premises”), in the building municipally known as 215 Cayley Street (the “Building”), in the Town of Walkerton, in the Province of Ontario (the “Lands”), as more particularly described in Schedule “A” attached hereto, in addition to other terms and conditions as set out therein.

B. The Licensor and the Chair agreed to extend the Original Term by a per diem extension agreement (gross) dated May 1, 2005 (the “First License Extension and Amending Agreement”) with an extension term commencing on May 1, 2005 and ending on April 30, 2010 (the “First Extension Term”), in addition to other terms and conditions as set out therein.

C. By Order in Council No. 1487/2005, approved and ordered September 21, 2005, all of the powers and duties assigned by law to the Chair in respect of the acquisition and disposition of real property, or interests therein, by any means and the holding and management of real property, or interests therein, were assigned to the Minister of Public Infrastructure Renewal (“MPIR”).

D. By Order in Council No. 1617/2008, approved and ordered September 17, 2008, all of the powers and duties assigned by law to the MPIR in respect of infrastructure and any other matters were transferred and assigned to Minister of Energy and Infrastructure (“MEI”).

E. The Licensor and the MEI agreed to extend the First Extension Term by a license extension and amending agreement dated May 1, 2010 (the “Second License Extension and Amending Agreement”) with an extension term commencing on May 1, 2010 and ending on April 30, 2015 (the “Second Extension Term”), in addition to other terms and conditions as set out therein.

F. Pursuant to the terms of the Second License Extension and Amending Agreement, the MEI was entitled to extend the Second Extension Term for two (2) additional terms of five (5) years each.

G. By Order in Council No. 1320/2010, approved and ordered September 15, 2010, all of the powers and duties assigned by law to the MEI under Order in Council No. 1617/2008 in respect of infrastructure matters, including but not limited to the powers, duties, functions and responsibilities of the MEI in respect of the Ministry of Government Services Act.
R.S.O. 1990, c.M.25 in respect of real property matters, were transferred and assigned to the Minister of Infrastructure ("MOI").

H. Ontario Infrastructure and Lands Corporation ("OILC") has been delegated MOI's authorities and responsibilities with respect to real property in the name of MOI subject to certain conditions by Delegation of Authority of Ontario Infrastructure and Lands Corporation under the Ministry of Infrastructure Act, 2011, S.O. 2011, c. 9, Sched. 27.

I. By Order in Council No. 1376/2011, approved and ordered July 19, 2011, the MOI shall exercise the powers and duties assigned by law to the MOI or that may otherwise be assigned to or undertaken by the MOI in respect of infrastructure and any other matters related to the MOI's portfolio.

J. By Order in Council No. 219/2015, approved and ordered February 18, 2015, all of the powers and duties previously assigned and transferred to the MOI under Order in Council No. 1376/2011, save and except as set out in Order in Council No. 219/2015, were assigned and transferred to the Minister of Economic Development, Employment and Infrastructure ("MEDEI").

K. The MEDEI exercised its first right to extend the Second Extension Term by a license extension and amending agreement dated May 1, 2015 (the "Third License Extension and Amending Agreement") with an extension term commencing on May 1, 2015 and ending on April 30, 2020 (the "Third Extension Term"); in addition to other terms and conditions as set out therein.

L. Pursuant to the terms of the Third License Extension and Amending Agreement, the MEDEI was entitled to extend the Third Extension Term for one (1) additional term of five (5) years. Together with the one (1) remaining right to extend the Second Extension Term, the MEDEI had a total of two (2) rights to extend.

M. By Order in Council No. 1342/2016, approved and ordered September 14, 2016, all of the powers and duties previously assigned and transferred to the MEDEI under Order in Council No. 219/2015 in respect of infrastructure and other matters are assigned and transferred to the MOI.

N. By Order in Council No. 1152/2018, approved and ordered October 22, 2018, certain responsibilities in respect of government property under the Ministry of Infrastructure Act, 2011, S.O. 2011, c. 9, Sched. 27 and other responsibilities were assigned and transferred from the MOI to the Minister of Government and Consumer Services.

O. The Licensee has now exercised its second right to extend the Second Extension Term, as amended and extended, in accordance with the terms of the Second License Extension and Amending Agreement, with an extension term commencing on May 1, 2020 and expiring on April 30, 2025 (the "Fourth Extension Term").

P. The Original License, the First License Extension and Amending Agreement, the Second License Extension and Amending Agreement, the Third License Extension and Amending Agreement and this fourth license extension and amending agreement (the "Fourth License Extension and Amending Agreement") are hereinafter collectively referred to as the "License", except as specifically set out herein.

Q. The parties have agreed to extend and amend the License on the following terms and conditions:

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the sum of Two Dollars ($2.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The parties hereto confirm that the foregoing recitals are true in substance and in fact.
2. The License is hereby extended for a further term of five (5) years commencing on May 1, 2020 and ending on April 30, 2025 (the “Fourth Extension Term”), at an annual license fee of Five Thousand Dollars ($5,000.00) (the “License Fee”), payable in advance in equal monthly instalments of Four Hundred and Sixteen Dollars and Sixty-Seven Cents ($416.67) on the first day of each month during the Fourth Extension Term.

The annual License Fee is based on fifty (50) days of use per annum at a rate of One Hundred Dollars ($100.00) per day. Any additional days of use will be paid for by the Licensee at the above-mentioned daily rate upon receipt of an invoice from the Licensor for such additional use, such invoice to be issued once a year at the end of the calendar year in which such charges were incurred.

Any additional days are to be invoiced to the following:

“Ministry of the Attorney General
720 Bay Street
5th Floor
Toronto, ON M5G 2K1
Attention: Manager, Leasing Services”

3. The Licensee shall pay to the Licensor all applicable Sales Taxes assessed on the License Fee payable by the Licensee to the Licensor under this License.

“Sales Taxes” means all business transfer, multi-usage sales, sales, goods and services, harmonized sales, use, consumption, value-added or other similar taxes imposed by the Government of Canada and/or Ontario upon the Licensor, or the Licensee, or in respect of this License, or the payments made by the Licensee hereunder or the goods and services provided by the Licensee hereunder including, without limitation, the use of the Licensed Premises and the provision of administrative services to the Licensee hereunder.

4. The Licensee shall continue to have the right to terminate this License or alter the number of days per annum for which use of the Licensed Premises is designated hereunder at any time, by giving the Licensor not less than thirty (30) days’ prior written notice of termination without penalty, compensation, damages or bonus.

In the event the Licensee exercises such right of termination, the Licensor shall promptly refund the Licensee any prepaid License Fee with respect to the period following the effective date of the early termination, calculated on a pro rata basis based on the remaining number of days in the current license period.

5. The extension contemplated pursuant to this Agreement is subject to all the covenants and agreements contained in the License, as amended, renewed and extended from time to time, save and except:

(a) The Licensor shall set-up the Licensed Premises for the provision of court services, including without limitation, the set-up of all chairs, tables, portable dais, printers and/or facsimile machines and all related equipment and accessories (collectively referred to as the “Court Facilities”), to the satisfaction of the Licensee, acting reasonably, no later than 8:30 a.m. on each day of use, and to dismantle the Court Facilities after the Licensee’s use thereof at the end of each day of use.

(b) The Licensee shall be entitled to extend the License for two (2) further terms of five (5) years each (each a “Further Extension Term”). Each Further Second Extension Term shall be upon the same terms and conditions of the License except that there shall be no further right of extension and except for the License Fee, which shall for each Further Extension Term be based upon the market license rate as determined by the parties as of the date which is not less than six (6) months prior to the commencement of each Further Extension Term, or failing such agreement, by arbitration in accordance with the Arbitration Act, 1991, S.O. 1991, c.17, as amended, or any successor act. The Licensee shall give written notice to the Licensor of its extension of this License not less than six (6) months prior to the end of the Fourth Extension Term or Further Extension Term, as the case may be.
The Licensor and the Licensee acknowledge and agree that the extension rights granted in subsection 5(b) of this Fourth License Extension and Amending Agreement shall supersede any remaining extension rights contained in the Second License Extension and Amending Agreement and the Third License Extension and Amending Agreement and any such remaining extension rights contained in the Second License Extension and Amending Agreement and the Third License Extension and Amending Agreement shall be of no further force and effect.

(c) Section 6.13 of the Original License is hereby amended to provide the following addresses for notice to the Licensee:

"Ontario Infrastructure and Lands Corporation
One Stone Road West, 4th Floor
Guelph, Ontario N1G 4Y2
Attention: Vice President, Asset Management
Fax: (519) 826-3330

With a copy to:
Ontario Infrastructure and Lands Corporation
777 Bay Street, Suite 900
Toronto, Ontario M5G 2C8
Attention: Vice President, Legal Services (Real Estate and Leasing)
Fax: (416) 326-2854

And an additional copy to:
CBRE Limited
18 King Street East, Suite 1100
Toronto, Ontario M5C 1C4
Attention: Global Workplace Solutions - Director, Lease Administration - OILC
Fax: (416) 775-3989"

(d) In the Definitions section of the Original License, the definition of “Open Data” shall be inserted:

"Open Data" means data that is required to be released to the public pursuant to the Open Data Directive."

(e) In the Definitions section of the Original License, the definition of “Open Data Directive” shall be inserted:

"Open Data Directive" means the Management Board of Cabinet’s Open Data Directive, updated on April 29, 2016, as amended from time to time."

(f) Section 4.6, Assign or Sublet, shall be deleted in its entirety and replaced with the following:

"Section 4.6
Assign or Sublicense

(A) Not to assign this License, sublicense, part with or share possession of the Licensed Premises or any part thereof (in each case, a “Transfer”) without the prior written consent of the Licensor, such consent not to be unreasonably withheld, delayed or conditioned.

(B) Despite the foregoing, the Licensor acknowledges and agrees the Licensee may, without the Licensor’s consent, change the occupant of the Licensed Premises, in whole or in part, or sublicense or assign this License to any of the following (each shall be referred to herein as a “Permitted Transfer” to a “Permitted Transferee”), namely, any municipal, provincial or federal (in each case to the extent applicable) (i) governmental agency, board or commission, (ii) ministry, (iii) Crown corporation, or (iv) department or Person affiliated with the Licensee or its service providers, and the Licensee
shall be released from all its liabilities and obligations hereunder in the event of an assignment or sublet to a Permitted Transferee. The Licensor specifically acknowledges and agrees that the use or occupation of all or part of the Licensed Premises by any Permitted Transferee does not constitute an assignment or sublet and does not require the Licensor's consent. The Licensor also acknowledges and agrees that, notwithstanding anything herein contained to the contrary, the Licensee may, without the Licensor's Consent, but upon notice to the Licensor, permit portions of the Licensed Premises to be used by the Licensee's service providers.

(C) If the Licensor's consent is required for an assignment or sublicense, then the Licensor's consent shall be deemed to have been given unless the Licensor notifies the Licensee in writing of the reasons for the Licensor's disapproval within fifteen (15) days of receipt of the request. Notwithstanding anything to the contrary contained in this License, the Licensor shall be liable for any loss, damages, costs, and expenses incurred by the Licensee (including solicitors' fees on a substantial indemnity basis) in respect thereof as a result of the Licensor unreasonably withholding or unduly delaying its consent to an assignment, subletting or other transfer proposed by the Licensee hereunder. The Licensor also acknowledges and agrees that, notwithstanding anything herein contained, the Licensee may, without the Licensor's Consent but upon notice to the Licensor, permit portions of the Licensed Premises to be used by the Licensee's service providers. With respect to any assignment or sublicense requiring the Licensor's consent, the Licensee will prepare and provide to the Licensor an assignment of license or sublicense, as the case may be, on the Licensee's standard form, duly executed by the assignee or sublicensee, as the case may be.

(D) Notwithstanding anything herein contained, the Licensee shall have the right upon any Transfer by way of sublicense to direct all rent and other sums payable by the Permitted Transferee under such sublicense to the Licensor rather than to the Licensee; provided, however, that the Licensee shall continue to remain liable for the License Fee and other sums payable hereunder in respect of the Licensed Premises which are demised under such sublicense and, to the extent necessary, shall pay to the Licensor any shortfall in such License Fee or other sums in the event that the amounts paid by the Permitted Transferee are less than the amounts required to be paid.

(E) Any consent by the Licensor to a Transfer shall not constitute a waiver of the necessity for such consent to any subsequent Transfer.”

(g) A new Section 6.24, Counterparts, shall be inserted as follows:

“Section 6.24

Counterparts

This License may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.”

(h) The Licensor agrees that upon the request of the Licensee, the Licensor, and any Person hired by the Licensor: (i) to do work on the Building; or (ii) who requires access to the Licensed Premises to do any work, whether to the Licensed Premises or otherwise, shall undergo security screening checks in compliance with Ontario Government policies. The Licensor further agrees that any Person hired by the Licensor to supply janitorial services to the Building shall be reputable and all of its employees shall be bonded.

(i) All sections, clauses or provisions of the License which oblige the Licensee to pay interest to the Licensor for any reason whatsoever are hereby amended to delete
the obligation of the Licensee to pay interest to the Licensor, in order to conform with the Licensee's obligation to comply with the Financial Administration Act, R.S.O. 1990, c.F.12, as amended.

6. GENERAL

(a) The Licensor and the Licensee hereby mutually covenant and agree that during the Fourth Extension Term they shall each perform and observe all of the covenants, provisions and obligations on their respective parts to be performed pursuant to the terms of the License.

(b) The Licensor and any of its successors, assigns, directors, officers, employees, agents, servants, and representatives shall not engage in any activity where such activity creates a conflict of interest, actual or potential, in the sole opinion of the Licensee, with the License or the exercise of any of the rights or obligations of the Licensor hereunder. The Licensor shall disclose to the Licensee in writing and without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.

For clarification, a “conflict of interest” means, in relation to the performance of its contractual obligations pursuant to this License, the Licensor's other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations pursuant to this License.

(c) Except as otherwise specifically provided in this Fourth License Extension and Amending Agreement, all words and expressions used in the Original License, as amended and extended, shall apply to and be read as applicable to the provisions of this Fourth License Extension and Amending Agreement.

(d) The provisions of this Fourth License Extension and Amending Agreement shall be interpreted and governed by the laws of the Province of Ontario.

(e) The Licensor acknowledges and agrees that the commercial and financial information in this Fourth License Extension and Amending Agreement is subject to the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31, as amended and the Open Data Directive as amended. This acknowledgement shall not be construed as a waiver of any right to object to the release of this Fourth License Extension and Amending Agreement or of any information or documents.

(f) This Fourth License Extension and Amending Agreement shall be binding upon and enure to the benefit of the administrators, successors and/or assigns of the respective parties hereto.

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7. This Fourth License Extension and Amending Agreement shall not be binding upon the Licensee until it has been executed by or on behalf of the Licensee.

EXECUTED by each of the parties hereto under seal on the dates written below.

SIGNED, SEALED AND DELIVERED

Dated this _____ day of __________, 20__.

THE CORPORATION OF THE
COUNTY OF BRUCE

Per:
Name: Mitch Twolan
Title: Warden
Authorized Signing Officer

Per:
Name: Donna VanWyck
Title: Clerk
Authorized Signing Officer

Dated this _____ day of __________, 20__.

HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO AS REPRESENTED BY
THE MINISTER OF GOVERNMENT
AND CONSUMER SERVICES, AS
REPRESENTED BY ONTARIO
INFRASTRUCTURE AND LANDS
CORPORATION

Per: ____________________________
Name: __________________________
Title: __________________________
Authorized Signing Officer
SCHEDULE “A”
Legal Description of Licensed Premises
215 CAYLEY STREET, WALKERTON

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being the Town of Walkerton, in the County of Bruce, in the Province of Ontario, and being composed of Lots 88, 89, 90, 91 and 92 on the south side of Cayley Street, and Lots 108, 109, 110, 111 and 112 on the north side of Jane Street according to a plan of subdivision registered in the Registry Office for the Registry Division of Bruce (No. 7).