

ENCROACHMENT AGREEMENT for the property commonly known as municipal address 14 Mill Street and 50 High Street, Vankleek Hill, Ontario.

This Agreement is made in duplicate this _____ day of March, 2022.

BETWEEN: THE CORPORATION OF THE TOWNSHIP OF CHAMPLAIN, (the “Township”), a Municipal Corporation in the County of Prescott,
the Party of the First Part

AND: **The Board of Trustees of the Trinity United Church**
(the “Property Owner”)
the Party of the Second Part

WHEREAS:

1. The Township is the owner of certain lands and premises being PIN 54157-0275 being part of Mill Street, Plan 35, formerly Town of Vankleek Hill, now in the Township of Champlain, in the County of Prescott, and of PIN 54158-0422, being part of High Street, Plan 35, former Town of Vankleek Hill, now Township of Champlain, County of Prescott.
2. The Property Owner is the owner of the lands and premises at 50 High Street and 14 Mill Street (the Church and attached Church Hall), and at 54 & 56 High Street (the semi-detached residential portion), Vankleek Hill, currently collectively described as PIN 54157-0172; being Lots 1, 2, and 3, West Side of High Street, Plan 35 Township of Champlain, except Part 1 Plan 46R-4002, subject to an easement to Bell Canada in R52573;
3. Part 4 on Reference Plan 46R-8094 describes that portion of Mill Street on which part of the Eaves of the Church Hall is located (the “aerial encroachment”), and Part 5 on Plan 46R-8094 describes that portion of High Street on which part of the concrete step of the Church is located (the “surface encroachment”).

4. The Township has agreed that the said encroachments as shown on Plan 46R-8094 will be permitted to remain, but only in accordance with this Agreement.

NOW THEREFORE this Agreement Witnesses that in consideration of the sum of two (\$2.00) Dollars, the receipt of which is hereby acknowledged, the parties agree as follows:

5. The existing Eaves at 14 Mill Street and the existing concrete step at 50 High Street may continue to encroach on the portion of land owned by the Township.

6. The encroachment of the said Eaves onto Part 4 shall be permitted until the said Eaves are demolished, removed or replaced; and the encroachment of the concrete step onto Part 5 shall be permitted until the said step is demolished, removed or replaced. At that time, any right of the Property Owner to the encroachment shall cease.

7. The Property Owner agrees not to make or cause to be made, any alteration or improvements by way of enlargement, to the said encroachments without the prior written consent of the Township.

8. The Property Owner shall maintain the encroachments throughout the term of the Agreement and keep the same in a good state of repair and in a safe condition at the Property Owner's sole expense and cost.

9. If the Property Owner fails to meet the obligations stipulated in Article 8 of this Agreement, the Township may cause the required work to be done and may charge the costs thereof to the Property Owner, and the Township may recover such costs from the Property Owner in like manner as taxes that are due and payable.

10. The Property Owner hereby covenants and agrees that it shall maintain, throughout the term of this Agreement, Commercial General Liability Insurance, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than \$2,000,000 per occurrence, an aggregate limit of not less than \$2,000,000, within any policy year with respect to completed

operations and a deductible of not more than \$1,000, for the building and land located at 14 Mill Street and 50 High Street. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy. This policy shall include but not be limited to:

- a. Name the Municipality as an additional insured
- ~~b. Cross-liability and severability of interest~~
- ~~c. Blanket Contractual~~
- d. Products and Completed Operations
- e. Premises and Operations Liability
- f. Personal Injury Liability
- ~~g. Contingent Employers Liability~~
- h. Tenant's Legal Liability
- ~~i. Work performed on Behalf of the Named Insured by Sub-Contractors~~
- j. Broad Form Property Damage
- k. The policy shall include 30 days' notice of cancellation.

A copy of the insurance certificate shall be provided to the Township as evidence of such insurance within 30 days of ratification of this agreement and prior to each insurance renewal.

In the event that any work/maintenance is to be carried out on the encroachments by a contractor or subcontractor, the contractor or subcontractor shall provide the Township with proof of the same insurance prior to commencement of the work.

In the event that the Property Owner intends to change the use of the building(s), this Agreement shall be reviewed and maybe amended, as required, by the Township.

11. The Property Owner shall defend, indemnify and save harmless the Township, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property, including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance,

fraud or willful misconduct of the Property Owner, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the existence of the encroachments and projections therefrom. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Property Owner in accordance with this Agreement and shall survive this Agreement.

12. In the event that the Township at any time requires for any road improvements the removal of one or both of the Encroachments or the termination of this Agreement, the Property Owner shall, at the Owner's sole cost and expense, remove the Encroachment or Encroachments herein upon:

- (a) six (6) months' notice for the Eaves of the Church Hall (Part 4 on Reference Plan 46R-8094); and
- (b) one (1) months' notice for the concrete steps (Part 5 on Plan 46R-8094)

in writing from the Township to do so, and shall not make any claim against the Township on account of such removal, and shall replace and restore the entire lands to a safe and proper condition, to the satisfaction of the Township. If the Property Owner neglects, refuses or fails to do so within the term specified in the notice, then the Township may remove all installations and restore the said Encroachment Area to a safe and proper condition, and may charge the costs thereof to the Owner, and the Township may recover such costs from the Owner in like manner as taxes that are due and payable.

13. Service of the notice may be made by delivering it to the Property Owner personally, or by mailing it, postpaid and registered, to the last known address of the Property Owner, and in the case of service by registered letter shall be deemed to have been received on the seventh day following its mailing.

14. Nothing herein contained shall be construed as giving the Property Owner anything more than permission for the encroachments and such permission does not give to the Property Owner any easement, title, right or interest in the Township's land.

15. Should any of the terms of this Agreement be found to be illegal, unenforceable or ultra vires by a court of competent jurisdiction, then those

terms so found shall be severable from this Agreement and the remaining terms herein shall continue in full force and effect.

16. This Agreement shall enure to the benefit of and be binding upon all heirs, executors, administrators, successors and assigns of the parties hereto respectively.

17. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

18. Upon completion of the proposed severance of the Property Owner's property it is agreed that this Encroachment Agreement shall be registered at the Property Owner's expense against the retained portion of the property, being the Church and Church Hall, described as Part 1 on Plan 46R-8094.

IN WITNESS WHEREOF the parties have duly caused this Agreement to be executed.

CORPORATION OF THE TOWNSHIP OF CHAMPLAIN

Per _____
Normand Riopel, Mayor

Alison Collard, Clerk

SIGNED, SEALED AND DELIVERED

Witness

Allan Barton for the Property Owner
I have authority to bind the Board of Trustees