

SUBDIVISION AGREEMENT

WINDFALL LIMITED PARTNERSHIP
By its General Partner
WINDFALL GP INC.

PHASE 4B

Town of The Blue Mountains

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SUBDIVISION AGREEMENT

THIS AGREEMENT made as of the 10th day of July, 2020.

BETWEEN:

WINDFALL LIMITED PARTNERSHIP
By its General Partner
WINDFALL GP INC.

(hereinafter referred to as the "Developer")

- and -

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
(hereinafter referred to as the "Town")

WHEREAS the Developer warrants that it is the registered owner of the Lands, which are part of the lands shown on the Draft Plan;

AND WHEREAS the Approval Authority by a decision dated November 15, 2011 as amended by a Decision dated May 10, 2012 gave draft plan approval to the Draft Plan of subdivision as further described in Schedule B to this Agreement;

AND WHEREAS the Parties entered into a Master Development Agreement dated April 16, 2013 and registered in the Land Registry Office as Instrument No. GY82153 on August 16, 2013 (the "MDA") which provides for the development of the lands in phases;

AND WHEREAS the Parties entered into a Subdivision Agreement dated December 6, 2019 and registered in the Land Registry Office as Instrument No. GY185374 on April 14, 2020 (the "Phase 4A Agreement") which provides for the development of the lands described in Registered Plan 16M-71 being Phase 4A of the development of the lands shown on the Draft Plan;

AND WHEREAS this agreement provides for the development of Phase 4B, being the remainder of the lands shown on the Draft Plan.

AND WHEREAS the Town agrees that it will give Final Approval on the condition that the Developer enter into this Agreement which is intended to satisfy the Conditions and one of the requirements to the removal of the holding –h symbol used in the Town's zoning by-law from the Lands.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the Town giving Final Approval, the covenants hereinafter expressed and other good and valuable consideration, the Parties hereto covenant and agree one with the other as follows:

PART I

DEFINITIONS AND BASIS OF AGREEMENT

1.1 Definitions

In this Agreement, including the recitals, the following terms shall have the meanings set out below, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed:

"Accepted Plans" has the meaning ascribed to it in Schedule "D"

"Acceptable Standard" shall mean, generally, with respect to the maintenance and repair of the Works and the Private Services, in a good state of repair in accordance with the requirements of this Agreement, the Engineering Standards,

the Accepted Plans and with all applicable laws, regulations and requirements of the Town and any relevant Governmental Authority that may be prescribed, from time to time, for the appropriate maintenance and repair of the Works. "Acceptable Standard" shall also mean and include, with respect to the operation, maintenance, repair of the Storm Water Management Works, the removal of silt material and the periodic cleaning of the filters therein and the storm flow outlets;

"Agreement" means this agreement;

"Approval Authority" means the County of Grey;

"Basic Services" means the Water Distribution Works, the Sanitary Sewage Collection Works, the Storm Sewer, Storm Drainage and Storm Water Management Works, all road crossings for the Utility Services, Road Works, including base course asphalt but not including curbs and gutters and Rough Grading for a Plan, all as shown on the Accepted Plans;

"Block or block" means a block shown on a Plan;

"Building Code Act" means the Building Code Act, 1992, S.O.1992 c.23 and all regulations thereto;

"Business Day" means any day other than Saturday, Sunday or any statutory or civic holiday in Ontario;

"CBO" means the person holding the title of Chief Building Official for the Town or his designate;

"Certificate of Preliminary Acceptance" means a certificate issued by the Town stating that all of the Works described therein have been installed in accordance with the Engineering Standards, the Accepted Plans and the requirements of this Agreement, to its satisfaction, other than as may be specified in writing by the Town on the date of Preliminary Acceptance, such that the Maintenance Period for the Works described in the certificate may commence;

"Certificate of Final Acceptance" means a certificate issued by the Town stating that all of the Works described therein for the whole or for any part of a Plan have been installed in accordance with the Engineering Standards, the Accepted Plans and the requirements of this Agreement to its satisfaction, the Maintenance Period for the Works described in the certificate has expired and no other obligations under the Agreement remain outstanding with respect to the Works described in the certificate or any matters provided for in this Agreement, other than as may be specified in writing by the Town on the date of Final Acceptance;

"Conditions" means the conditions described in Schedule B which the Approval Authority has imposed in accordance with the provisions of the Planning Act with respect to its approval of the Draft Plan;

"Condominium Act" means the Condominium Act; 1998, S.O. 1998 c.19;

"Condominium Corporation" means a condominium corporation created by the registration of a condominium declaration and description by the Developer for the subdivision, development and servicing of the Lands or part thereof;

"Consultants" has the meaning ascribed to it in Section 2.1;

"County" means the County of Grey;

"Default" means any default by the Developer or a Lot Owner in the performance of its obligations under this Agreement, including the failure of the Developer to design, install, repair and maintain the Works in accordance with all of the

requirements of this Agreement and the failure of the Developer to make any payments to the Town required by this Agreement when due;

"Director" means the person holding the title of Director of Planning and Development Services for the Town or his designate;

"Draft Plan" means the draft approved plan of subdivision and/or condominium as described in Schedule "B" and in the Conditions for the subdivision, development and servicing of the Lands;

"Engineer" means a professional engineer who holds a Certificate of Authorization for municipal engineering applications from the Association of Professional Engineers of Ontario;

"Engineering Standards" means the Town's current approved design criteria, design standards, specifications, maintenance standards and procedures for the design, installation and maintenance of the Works in effect on the date of this Agreement, a copy of which are on file in the Town Clerk's Office and may be viewed during normal office hours;

"Final Acceptance", with respect to the Public Works, means the date on which the Town has passed an Assumption By-law for the Public Works for the whole or any part of a Plan in accordance with Section 3.12, and with respect to the Private Services, means the date on which the Town has issued a Certificate of Final Acceptance for the Private Services;

"Final Approval" means the release by the Town of a final plan of subdivision and/or condominium for the subdivision of the Lands or any part thereof to the Approval Authority for final approval under the Planning Act;

"Final Inspection" means a final inspection of a building or structure by the CBO in accordance with the Final Inspection Standards – Building Department in effect at the time of the inspection;

"Final Lot Grading Certificate" has the meaning ascribed to it in Section 2.28;

"Fire Chief" means the person holding the title of Fire Chief for the Town or his designate;

"Government Authority" means any government authority or agency, including conservation authorities that are specifically referred to in the Conditions or have jurisdiction over the Lands or the design, installation or maintenance of any part of the Works;

"Highway" means a highway as described in the Municipal Act under the jurisdiction of the Town and includes land dedicated to the Town by a Plan as a public highway which has not been assumed for public use by a by-law of the Town;

"install" shall also mean do, provide, construct, reinstall or reconstruct;

"Lands" shall mean the lands described in Schedule "A", which are all of the lands to be included in the Plan for the development of Phase 4B, being the remainder of the lands shown on the Draft Plan.

"Lot or lot" means a lot shown on the Plan;

"Lot Owner" means the registered owner of a lot or block as a successor in title to the Developer;

"Maintenance Period" means a minimum period of two (2) years following of Preliminary Acceptance of all the Works, except for top course asphalt, including

curbs and gutters, where it means a minimum period of one (1) year following the date of Preliminary Acceptance, and continuing until Final Acceptance;

"Notice" means any written notice, demand, request, direction or instructions given and received in accordance with the provisions of Section 12.2;

"Overall Grading Plan" means the overall grading and drainage plan for the Plan, being one of the Accepted Plans;

"Parkland or Parkland Dedication" means land which is to be conveyed to the Town for park or other public recreational purposes;

"Parkland Payment" means the sum of money calculated in accordance with Town policy which the Developer is required to pay to the Town in lieu of the conveyance to the Town of lands for park or other public recreational purposes;

"Parties" mean the Developer and the Town;

"person" includes a corporation and the successors, assigns, heirs, executors, administrators and other legal representatives of a person;

"Plan" means any one of the final plans of subdivision, common elements condominium or vacant land condominium which the Developer has registered in accordance with the provisions of the Planning Act and the Condominium Act for the purpose of subdividing the whole or any part of the Lands, all of which plans are described in Schedule "B"

"Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended or any successor statute;

"Power Utility" means Hydro One Networks Inc. or Collus PowerStream, whichever has jurisdiction to supply electric power to the Lands;

"Preliminary Acceptance" means the date upon which the Town has issued a Certificate of Preliminary Acceptance;

"Pre-Servicing Certificate" means the certificate described in Section 3.12 of the Pre-servicing Agreement;

"Pre-Servicing Works" means Works that are installed prior to Final Approval;

"Private Roads" means the roads, driveways and parking areas and internal street lighting and other lighting installed thereon included in the common elements of a Condominium Corporation;

"Private Services" means those Works, including Private Roads, described in Part 3 of Schedule "D" which are to be retained, owned, operated, maintained, repaired, reconstructed and replaced by the Developer, or its successors and assigns, at their own expense in perpetuity;

"Public Works" means those Works described in Part 2 of Schedule "D" which are to be owned, operated and maintained by the Town following Final Acceptance;

"Rough Grading" means grading the Lands in general conformity to the Accepted Plans to the satisfaction of the Town to achieve positive drainage and prevent ponding of water on the Lands;

"Security" has the meaning ascribed to it in Section 3.1:

"Town Lands" means all lands owned by the Town, including public highways under the jurisdiction of the Town;

“Treasurer” means the person holding the title of Director of Finance and Information Services (Treasurer) for the Town or his designate;

“Utility Services” means all of the utility services for each Plan including hydro-electric, gas, telephone, cable television and telecommunication, but does not include the Street Lighting Works or other lighting included in the Public Works and the Private Services;

“Works” means all of the works, services, facilities, landscaping, fencing, drainage culverts, driveways matters and things, including the Private Services, shown on the Accepted Plans which are required by the Town, the utility corporations, including the Power Utilities and all Government Authorities to be designed, installed and done by the Developer for the subdivision, development and servicing of the Lands and includes all other works, services, facilities, landscaping, fencing, matters and things referred to in this Agreement and the Special Provisions set out in Schedule “G”. Where the subject matter or context of a particular section of this Agreement requires reference to an individual component of the Works, it may be referred to by its individual name (i.e. the Grading and Drainage Works, the Storm Water Management Works);

“Works Fee” has the meaning ascribed to it in Section 8.2;

All other capitalized terms shall have the meanings ascribed to them in this Agreement.

1.2 Interpretation of Agreement

- (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (b) Unless the context otherwise requires, in this Agreement words importing the singular include the plural and vice versa and words importing a gender include all genders.
- (c) Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" unless the context otherwise requires.
- (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (e) All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
- (f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
- (g) The Parties agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
- (h) All references to parts, sections, clauses, paragraphs and schedules unless otherwise specified are references to parts, sections, clauses, paragraphs and schedules of this Agreement.

- (i) The Conditions, the Engineering Standards and the Accepted Plans are incorporated into and form part this Agreement and shall have the same force and effect as if the information shown on them were contained in the body of this Agreement.

1.3 Administration of Agreement

This Agreement shall be administered on behalf of the Town by the Director, unless another Town official is specifically referred to in this Agreement. Where under the terms of this Agreement, decisions, approvals, Notices and certificates are to be made, given or issued by the Town, such decisions, approvals, Notices and certificates shall be made, given or issued by the Director or other Town official, in their sole and absolute discretion, acting reasonably.

Where the Town corresponds with the Consultants with respect to any matter arising out of this Agreement, such correspondence shall be deemed to be correspondence received by the Developer.

1.4 Lands Affected

This Agreement applies to Lands.

1.5 Joint Authors

Each Party acknowledges and agrees that it has participated in the drafting of this Agreement and that no portion of this Agreement shall be interpreted less favorably to either Party because that Party or its legal counsel was primarily responsible for the drafting of that portion.

1.6 Recitals

The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

1.7 Scope of Agreement and the MDA

- (a) This Agreement is an agreement within the meaning of and authorized by section 51(26) of the Planning Act and was imposed by the Approval Authority as one of the Conditions. This Agreement shall define the obligations and duties of the Developer and the Town with respect to the subdivision, development and servicing of Phase 4B of the development the lands in accordance with the Conditions and, without limiting the generality of the foregoing, shall include the design, installation, repair and maintenance of the Works to be provided and such other matters as may be more specifically set out herein.
- (b) The Parties agree that the MDA shall remain in full force and effect until the earlier of the date the draft approval for the Draft Plan lapses under subsection 51(32) of the Planning Act, subject to the ability to acquire extensions to the draft approval of the Draft Plan, or the date the Town has executed a subdivision agreement for the last phase of the development of the lands shown on the Draft Plan.

1.8 Development of the Lands and Phasing

The Parties agree that lands shown on the Draft Plan shall be subdivided, developed and serviced only in accordance with the Draft Plan and the Conditions in such phases as may be approved by the Town and the Approval Authority. The phasing is generally described in Schedule "C". This Agreement is for the development and servicing of Phase 4B only.

PART II

WORKS

DESIGN AND INSTALLATION OF THE WORKS

2.1 Consultants

Wherever, under the terms of this Agreement, the Developer is required to design and install any Works the Developer shall retain one or more Engineers and one or more landscape architects registered with the Ontario Association of Landscape Architects (the "Consultant(s)") to carry out all the necessary engineering and landscaping requirements for the subdivision, development and servicing of the Lands in accordance with this Agreement.

All the engineering requirements set out in this Agreement, including the issuing of certificates for the engineering Works shall be the responsibility of the engineering Consultant and all the landscaping requirements set out in this Agreement, including the issuing of certificates for the landscaping Works shall be the responsibility of the landscaping Consultant.

The Consultants shall be retained at all times until all of the requirements of this Agreement have been complied with to the satisfaction of the Town. In the event, for whatever reason, a Consultant ceases to provide the consulting services required by this Agreement to the Developer, the Developer shall immediately cease all operations which that Consultant was responsible for until the Developer retains a replacement Consultant.

The Developer shall provide an executed copy of this Agreement and a copy of the Engineering Standards to each of the Consultants and obtain and provide to the Town a written acknowledgement from each of the Consultants that they have received copies of these documents.

The Developer's agreements or contracts with the Consultants shall require the Consultants to provide the following consulting services to the satisfaction of the Town:

- (a) act as the Developer's technical representative in all matters pertaining to the design, installation and maintenance of the Works;
- (b) prepare all studies, investigations, environmental site assessments and reports required by the Town for the Works and the Lands, design the Works in strict conformity to the Engineering Standards, and prepare, sign, and seal all required plans, drawings and specifications for the Works which shall include a certificate from the Landscape Architect to the effect that all required plans, drawings and specifications for the Landscape Works are in conformity to the Overall Grading Plan;
- (c) prepare, when applicable, all necessary tender documents and contracts for the installation of the Works;
- (d) obtain, in conjunction with the Town or its agents, the necessary approvals for the installation of the Works from any required Governmental Authority;
- (e) provide, to the satisfaction of the Town, full time resident field inspection at the subdivision site by an engineer or other qualified person, contract administration and certification of installation of the Works. The Town may, where reasonably necessary, require, the Developer to provide an additional full time resident engineer or other qualified person at the subdivision site in furtherance of the Developer's obligation aforesaid;
- (f) obtain all records of construction of the Works, deposit with the Town signed and sealed "as recorded" plans of all the Works, including lot grading and street lighting plans depicting the location of ducts, wires, power connection points to the Power Utility's system poles and pedestals and an electronic version of these same "as recorded" plans all in accordance with the Engineering Standards, for the review and approval of the Town;

- (g) until Final Acceptance of all of the Works, prepare, in accordance with the Engineering Standards, and provide to the Town and the CBO, for acceptance, a lot grading and drainage plan for each lot or block on each Plan (including lots or blocks owned by the Town), for which a building permit application is made (the "Lot Grading Plan") showing additional grading details, including final grade elevations for the lot or block and certify on the Lot Grading Plan that the proposed lot or block grading and drainage shown on the Lot Grading Plan is in substantial conformity with the Overall Grading Plan;
- (h) prepare and provide to the Town and the CBO a certificate for each lot or block on each Plan (including lots and blocks owned by the Town) for which the Consultant prepared a Lot Grading Plan (the "Final Lot Grading Certificate") indicating the final grade elevation of the lot or block and certifying that the lot or block has been graded in substantial conformity with the Overall Grading Plan and the Lot Grading Plan for the lot or block;
- (i) provide to the Town, as and when required, copies of any or all contracts or subcontracts or both entered into by or on behalf of the Developer for the construction of any or all of the Works, together with any or all of the following contract documentation:
 - (i) certificates of the substantial performance given pursuant to the provisions of the Construction Lien Act; and
 - (ii) particulars of publication of the certificate of the substantial performance.
- (j) certify to the Town that there are no lien claims relating to any of the completed Works as and when the Developer requests the Town to reduce the Security or accept or assume the Works; and
- (k) provide to the Town all of the other certificates required to be provided by this Agreement.

The Developer shall, within twenty (20) Business Days of receipt by the Developer of a Notice from the Town requiring it to do so, replace any Consultant with a replacement Consultant if the Town, acting reasonably, determines that the Consultant to be replaced is not providing the foregoing consulting services required by this section to the satisfaction of the Town.

2.2 Engineering Standards

All Works required to be designed, installed, provided and maintained pursuant to this Agreement shall be designed, installed, provided and maintained in strict accordance with the Engineering Standards. By the execution of this Agreement the Developer acknowledges having received a copy of the Engineering Standards. All submissions to the Town shall be made in accordance with the Engineering Standards. The Engineering Standards shall apply to all Works required for plans of common elements condominium and vacant land condominium.

2.3 Changes to the Engineering Standards

Despite anything contained in this Agreement, including the acceptance of the Accepted Plans, if the Town or any Government Authority changes or causes changes to any of the Applicable Laws and/or the Engineering Standards for any of the Works which the Developer;

- (a) is required to install before the particular Works are installed, the Developer shall, at its own expense, if required by Notice given by the Town redesign and install the particular Works referred to in the Notice in accordance with the new Applicable Laws and/or the revised engineering standards; or

- (b) is required to maintain, if installed before the start of the Maintenance Period, the Developer shall, if required by Notice given by the Town maintain the particular Works referred to in the Notice in accordance with the new Applicable Laws and/or the revised engineering standards.

In the event the Engineering Standards are revised by the Town, the revised engineering standards shall be deemed to be the Engineering Standards within the meaning of this Agreement and all the provisions of this Agreement shall apply to them.

2.4 Installation of the Works

The Developer shall, at its own expense unless otherwise provided by this Agreement and within the time limits specified by this Agreement, design, pay for, install and complete in a good and workmanlike manner to the satisfaction of the Town and all Government Authorities all of the Works in strict accordance with the Engineering Standards, the Accepted Plans and the requirements of this Agreement.

2.5 Accepted Plans

The signing and stamping of the Accepted Plans "Accepted for Construction" by the Town shall not absolve the Developer and the Consultants of the responsibility for errors in and or omissions from the Accepted Plans.

2.6 Amendments to the Accepted Plans

All Works shall be installed and maintained in strict accordance with the Engineering Standards, the Accepted Plans, except where the Town consents in writing to an amendment to the Accepted Plans.

In the event any Accepted Plan is subsequently amended such plans, when signed and stamped "Accepted for Construction" by the Town, shall be deemed to be Accepted Plans within the meaning of this Agreement and all the provisions of this Agreement shall apply to them.

2.7 Cash in Lieu of the Installation of Works

The Town may by Notice given at any time and from time to time prior to Preliminary Acceptance of the Works within any Plan, require the Developer to pay to the Town an amount equal to the cost of installing any of the Works shown on the Accepted Plans as estimated by the Town in lieu of the Developer installing these Works. These payments are non-refundable and the Developer shall make payment to the Town, within twenty (20) Business Days of receipt of the Notice demanding payment.

2.8 Works Not Functioning

If at any time and from time to time prior to Final Acceptance of the Works within any Plan the Town decides that a particular Work or Works are not functioning satisfactorily, the Developer shall, at its own expense, if required by Notice given by the Town redesign and reinstall the particular Work or Works which do not function satisfactorily, or design and install such additional Works as may be necessary to insure that the Works required by this Agreement function satisfactorily.

2.9 Additional Works Fee and Security

The Developer shall, when given Notice by the Town, pay to the Town the Works Fee and deposit the Security in accordance with sections 8.2 and 3.1 respectively for the redesigned works or additional works referred to in Sections 2.3 or 2.8 or the Works or additional Works shown on the amended plans referred to in Section 2.6, within twenty (20) Business Days of receipt of the Notice demanding payment of the Works Fee and deposit of the Security.

2.10 Utility Services

- (a) The Utility Services for the Plan shall be installed as a total underground installation at no cost to the Town and with no obligation of the Town to install the Utility Services. The location of the Utility Services and the detailed plans and specifications for the Street Lighting System shall be shown on the Accepted Plans described in this Agreement. The detailed plans and specifications for the Utility Services shall form part of the agreements between the Developer and the utility providers for the installation of the Utility Services.
- (b) The Developer shall, prior to Final Approval, enter into a secured agreement with the Power Utility which requires the electrical distribution system for the Plan to be installed and energized prior to the occupancy of the first dwelling to be constructed on the Plan. A copy of such agreement shall be delivered to the Town prior to Final Approval.
- (c) The Developer shall, prior to Final Approval, make arrangements in writing with the other utility providers who will be providing Utility Services to the Plan which require these Utility Services to be installed and energized prior to the occupancy of the first dwelling to be constructed on the Plan. A copy of such arrangements shall be delivered to the Town prior to Final Approval.
- (d) The Developer shall install and energize the Street Lighting System for the Plan prior to the occupancy of the first dwelling to be constructed on the Plan.
- (e) The Developer is responsible for informing all the utility providers of its intention to commence any construction on the Lands.
- (f) The Developer shall include in all agreements of purchase and sale for lots within the Plan, a statement advising the purchaser of the Utility Services which will be provided to the lot by the utility providers and advising the purchaser that it is the obligation of the utility providers to install the Utility Services and not the Town's

2.11 Prior to Commencement of Installation

No work shall be commenced on any of the Works and Utility Services for any Plan until the designs for all the Works and soil tests have been accepted by the Town and all necessary approvals and permits have been obtained from any required Government Authority, including the CBO. The Town may stop any work that is commenced without its acceptance or the necessary permits or direct that such work be stopped. Any Works installed by the Developer prior to this Agreement coming into force, except the Pre-Servicing Works, shall not be accepted by the Town until such time as the Consultants have certified to the Town in writing that such Works have been carried out in strict accordance with the Engineering Standards, the Accepted Plans and the requirements of this Agreement. The Developer shall provide all the information and expose or reconstruct any Works which the Town may require. The cost of all such reconstruction, including required testing and the Town's costs shall be paid by the Developer.

2.12 Commencement of Installation

The Developer shall prior to the installation of any Works, including the installation of Utility Services, give to the Town five (5) Business Days' Notice of the date upon which installation of any Works, including Utility Services, is scheduled to commence.

2.13 Site Meetings

During the installation of the Works the Developer shall hold such site construction meetings as the Town may require by Notice, commencing with a pre-construction meeting, with the Town, the Consultants and the Developer's contractors to discuss, among other things, any concerns any party may have with respect to the installation of the Works. The Developer shall provide minutes of each meeting to the Town within five (5) Business Days from the date of the meeting.

2.14 Completion of Works

It is the intention of this Agreement that all of the Works for each Plan shall be installed or otherwise provided expeditiously and continuously and completed within the times set out in the completion schedule set out in Schedule "F" unless such times are extended in writing by the Town. If the work is not performed in accordance with the completion schedule, the Developer shall be considered to have failed to proceed with reasonable speed, provided however that if the work is delayed by an unavoidable delay, the completion date shall be extended by the period of such delay. If, in the opinion of the Town, the installation of some of the Works should be delayed, the Town, by Notice may direct that such work be delayed until the date specified in the Notice.

REQUIREMENTS FOR THE WORKS

2.15 Water Supply and Watermains

- (a) The Developer shall not connect any part of the Water Distribution Works to an existing municipal watermain unless authorized by Notice given by the Town.
- (b) After the Water Distribution Works, including the fire hydrants, for a Plan or any part thereof have been commissioned to the satisfaction of the Town, the Town shall be solely responsible for operating these Works and the Developer shall not open or close any valve, hydrant or gate in Water Distribution Works or Town's system of water supply or alter or interfere with the Water Distribution Works or Town's system of water supply in any manner, unless authorized by Notice given by the Town.
- (c) The Developer acknowledges that the Water Distribution Works shown on the Accepted Plans for Plans of Common Elements or Vacant Land Condominium shall, after Final Acceptance of these Works, be owned by the Town. The Developer shall transfer to the Town easements, if any, as described in Schedule "I", over the lands of the Condominium Corporation for these Works and all appurtenances thereto, including access to individual water shut off valves, water meters and water sampling stations.
- (d) The Developer shall adjust the grade of any or all water service boxes, valve chambers, valve boxes and hydrants as may be required by the Town.

2.16 Location of Water Service Boxes

Water services boxes for each lot or block are not to be located in a proposed driveway unless otherwise directed in writing by the Town. The Developer shall relocate any water service box out of any proposed driveway that has not been approved by the Town in writing.

2.17 Fire Hydrants

The Developer acknowledges and understands that it shall be its sole responsibility to pay the cost of the Town maintaining all fire hydrants shown on the Accepted Plans until Final Acceptance.

2.18 Use in Accordance with Water By-law

The Developer acknowledges and agrees that the use of water, watermains, valves, water services and hydrants and all appurtenances shall be subject to the Town's current Water By-law. The Developer agrees not to use any existing watermain systems, including hydrants, for the purpose of flushing or testing any watermain required to be constructed and installed under this Agreement without the prior written approval of the Town and until a temporary water meter has been installed by the Town, at the Developer's expense, to record the amount of water used for flushing or testing. The Developer shall be responsible for the cost of installing and subsequently removing such temporary water meter as well as the costs of the water used for such flushing and testing

at the rates applicable from time to time and levied by the Town. The Developer shall also be responsible for all costs associated with the maintenance of the temporary water meter.

2.19 Sanitary and Storm Sewers

The Developer shall:

- (a) connect and drain all sanitary and storm sewers to outlets approved by the Town or such other Government Authorities as may be applicable;
- (b) not connect any sewer to the existing sewer system unless authorized by Notice given by the Town;
- (c) not connect the roof drainage system or the foundation drainage system to either the storm sewer system or the sanitary sewer system.

2.20 Sewer Video Inspection Program

The Developer shall:

- (a) undertake and pay for a sewer video inspection program for all new storm and sanitary sewers installed as part of the Works for each Plan. This program shall be undertaken by a qualified provider, to be approved by the Town prior to video inspection being undertaken.
- (b) provide the Town with video tapes and written reports in a format as specified by the Town.
- (c) carry out the video inspection:
 - (i) prior to Preliminary Acceptance of the applicable Works by Town; and
 - (ii) prior to Final Acceptance of the Works or at any other time if required by the Town;
- (d) remove all silt and debris from the sewers prior to the video inspection taking place and to rectify any sewer deficiencies that may be outlined in the report or as required by the Town.

2.21 Highways and Private Roads

The Developer shall:

- (a) install all the underground Basic Services, including all road crossings for the Utility Services, prior to installing the granular and stone bases for municipal services on all Highways and Private Roads and laying the base course of asphalt;
- (b) obtain the approval of the Town for the granular and stone bases for municipal services on all Highways and Private Roads prior to laying the base course of asphalt;
- (c) obtain the approval of the Town to install curbs and lay the top course of asphalt, which approval may be withheld by the Town until sixty percent (60%) of the buildings or structures permitted to be constructed on the lots, blocks or units within the Plan by the Town's zoning by-law have been substantially completed;
- (d) until Final Acceptance, install or cause to be installed all drainage culverts and driveways on Highways.
- (e) be responsible for the clean-up and repair of all Highways, including boulevards, and Private Roads upon which obstructions or mud and dust are created by the installation and maintenance of any Works or which are damaged by the

installation and maintenance of any Works, regardless of the persons responsible for the obstructions, mud, dust or damage and to undertake such works as are necessary to clear and clean the Highways and Private Roads or repair the damage within twenty-four (24) hours of verbal notification, and that, if the Developer fails to comply, the Town shall be entitled, but not obligated, to arrange for the necessary work to be undertaken at the Developer's expense and to draw upon any Security provided under this Agreement to the extent necessary to pay such costs in connection therewith;

- (e) subject to Section 3.8 with respect to the Private Roads, maintain all Highways and Private Roads for vehicular traffic and shall maintain all sidewalks on all Highways and Private Roads for pedestrian traffic during all phases of construction until such Highways been assumed by the Town.

2.22 Winter Maintenance of Highways and Private Roads

- (a) The Developer shall, until Final Acceptance, snowplow, sand and carry out winter maintenance on all Highways, Private Roads and sidewalks within each Plan to the satisfaction of the Town.
- (b) Prior to Final Acceptance, the Developer may, if the Town so agrees, make arrangements to have the Town carry out winter maintenance at the expense of the Developer on the traveled portions of Highways within a Plan that are connected by asphalt to assumed public highways if manholes and catch basins are ramped on the base course asphalt and to have the Town carry out winter maintenance at the expense of the Developer on sidewalks on Town Lands. The Developer acknowledges and agrees that such winter maintenance shall not constitute Final Acceptance of any Highways and it specifically absolves and indemnifies the Town from any and all loss or liability of every nature and kind whatsoever in connection with such winter maintenance.
- (c) The Developer shall pay a fee based on rates established by the Town for such work and that nothing herein shall be construed as being maintenance by the Town for the purposes of creating any statutory duty on the Town for the maintenance of the Highways or with respect to the Final Acceptance of the Highways as public highways, it being understood and agreed that the Town's status in undertaking this work is as a subcontractor or agent of the Developer and not as a municipality.

2.23 Traffic Control Devices

The Developer shall erect permanent regulatory traffic control devices conforming to the Accepted Plans Town prior to Preliminary Acceptance of the Basic Services and maintain all the permanent traffic control devices until Final Acceptance.

2.24 Street Name, Parking and Fire Route Signs

The Developer shall erect permanent street name, parking and fire route signs conforming to the Town's specifications, at locations approved by the Town prior to Preliminary Acceptance of the Basic Services and maintain the permanent street name, parking signs and fire route signs until Final Acceptance.

2.25 Pavement Markings

The Developer shall install and maintain all the pavement markings on the Highways and Private Roads required by the Engineering Standards.

2.26 Grading and Drainage

The Developer shall:

- (a) until Final Acceptance, cause the Consultant to provide to the Town a Lot Grading Plan for each lot or block on the Plan (including lots or blocks owned by the Town),

for which a building permit application is made and the Developer agrees that no building permits will be issued until such plans have been provided to and accepted by the Town. After Final Acceptance, the registered owner of the lot or block for which a building permit application is made shall at its expense retain an Engineer to provide to the Town, prior to the building permit being issued, a Lot Grading Plan for the lot or block;

- (b) until Final Acceptance, be responsible for all grading and drainage of the Lands in accordance with the Overall Grading Plan and the Lot Grading Plans and in accordance with the Engineering Standards and accepted engineering practices;
- (c) until Final Acceptance, correct or rectify any drainage problems by altering the grade of or by constructing catch basins, swales, retaining walls or other structures as may be necessary to correct or rectify such problems, if, in the opinion of the Town, such problems occur due to improper grading or due to non-compliance with the Overall Grading Plan and/or the Lot Grading Plans by the Developer and/or its successors and assigns and other persons;
- (d) until Final Acceptance, correct or rectify any grading deficiencies to the satisfaction of the Town within three (3) weeks, weather permitting, of being given Notice by the Town to do so;
- (e) on the sale of any lot or block, reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the lot or block at all times prior to Final Acceptance to undertake drainage rectification work and modifications to the surface drainage features of the said lot or block in accordance with the Overall Grading Plan and the Lot Grading Plans. Should drainage rectification work become necessary in the opinion of the Town at any time prior to Final Acceptance the Developer shall carry out this drainage rectification work at its own expense when so instructed by the Town;
- (f) not alter the grading or change the elevation or contour of the land shown on the accepted Overall Grading Plan and the Lot Grading Plans except in accordance with amended grading and drainage plans accepted by the Town; and
- (g) shall include in all agreements of purchase and sale for lots, blocks or units within each Plan, a covenant by the purchaser in which the purchaser agrees not to alter the grading or change the elevation or contour of the land shown on the Overall Grading Plan and the Lot Grading Plan, except in accordance with amended grading and drainage plans accepted by the Town.

Despite anything contained in this Agreement, after a Final Lot Grading Certificate has been provided to the Town for a lot or block:

- (a) the Developer shall have no further responsibility or obligation with respect to the grading and drainage of the lot block or unit described in such Final Lot Grading Certificate; and
- (b) the registered owner of the lot or block described in such Final Lot Grading Certificate shall assume responsibility for the grading and drainage of the lot or block and shall not alter the grading or change the elevation or contour of the lot or block shown on the Lot Grading Plan except in accordance with amended grading and drainage plans accepted by the Town.

2.27 Lot Grading and Drainage – Individual Lots

The Developer, while it is the owner of a lot and the Lot Owner upon becoming the registered owner of a lot, shall:

- (a) prior to a making an application for a building permit for the construction of any buildings on the lot cause the Consultant or an Engineer to prepare and provide to the Town a Lot Grading Plan for each lot the Plan for which a building permit

application is made. The Lot Grading Plan shall be accepted by the CBO prior to a building permit being issued.

- (i) The Lot Grading Plan shall show the siting of all buildings and structures on the lot, the driveway location, site servicing, and the lot grading and drainage in substantial conformity to the Overall Grading Plan.
 - (ii) The Consultant or an Engineer shall provide the Town with a certificate certifying that the Lot Grading Plan is in substantially compliance with the Overall Grading Plan.
 - (iii) The Lot Grading Plans when accepted by the Town shall be deemed to be Accepted Plans within the meaning of this Agreement and all the provisions of this Agreement shall apply to them.
- (b) be responsible for all grading and drainage of the Lands in accordance with the Overall Grading Plan and the Lot Grading Plan and in accordance with the Engineering Standards and accepted engineering practices;
 - (c) correct or rectify any drainage problems by altering the grade of or by constructing catch basins, swales, retaining walls or other structures as may be necessary to correct or rectify such problems, if, in the opinion of the Town, such problems occur due to improper grading or due to non-compliance with the Overall Grading Plan and the Lot Grading Plan;
 - (d) correct or rectify any grading deficiencies with respect to the Overall Grading Plan and the Lot Grading Plan to the satisfaction of the Town within three (3) weeks, weather permitting, of being given Notice by the Town to do so; and
 - (e) not alter the grading or change the elevation or contour of the land shown on the accepted Overall Grading Plan and the Lot Grading Plan except in accordance with amended grading, drainage plans accepted by the Town.

2.28 Final Lot Grading Certificate

The Developer, while it is the owner of a lot and the Lot Owner upon becoming the registered owner of a lot shall provide to the CBO a Final Lot Grading Certificate, which includes the final grade elevation of the lot or block, from the same Consultant or Engineer who prepared the Lot Grading Plan indicating that the grading of lot has been completed in conformity with the Overall Grading Plan and the Lot Grading Plan and in accordance with the Engineering Standards and accepted engineering practices. This certificate will be delivered to the Town for approval prior to Final Inspection.

2.29 Tree Preservation

The Developer shall, until Final Acceptance:

- (a) preserve the existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved;
- (b) install the tree protection fencing shown on the Tree Preservation and Landscape Plan to the satisfaction of the Town prior to the start of any construction activity within a Plan, which fencing shall remain in place until all grading, construction activity of any kind, and Landscape Works within the Plan are completed;
- (c) not remove any trees or vegetation without the prior written approval of the Town except such trees and vegetation that are diseased or dead or such trees and vegetation that are designated for removal on the Tree Preservation and Landscape Plan;

- (d) require the Consultant to supervise and approve the installation of the tree protection fencing and ensure that the tree protection fencing remains in place during the entire period of construction activity of any kind within a Plan and that the Consultant will notify the Town that this fencing has been installed in accordance with the Tree Preservation and Landscape Plan;
- (e) undertake every precaution necessary to prevent damage to existing trees and vegetated areas, include the following:
 - (i) areas within the tree protection fencing shall remain undisturbed and shall not be used for the storage of surplus soil, debris and building materials or equipment;
 - (ii) no contaminants will be dumped or flushed where feeder roots of vegetation exist;
 - (iii) no vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction; and
 - (iv) no rigging cables shall be wrapped around or installed in trees to be preserved.
- (f) replace, to the satisfaction of the Town, any existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved which are removed without prior written approval of the Town except such trees and vegetation that are diseased or dead;
- (g) on the sale of any lot or block, reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the lot or block at all times to install and maintain the tree protection fencing and replace any existing trees and vegetation removed in contravention to the provisions of this Agreement.
- (h) provide Security in an amount shown in Schedule "E" to the Town to ensure compliance with the tree preservation and replacement requirements of this Agreement, which Security may be drawn upon and used up to its full amount in accordance with the provisions of Section 3.2.

2.30 Landscape Works (See Schedule "G")

2.31 Siltation and Erosion Control Works

The Developer shall install the siltation and erosion control works shown on the Accepted Plans prior to the start of any construction activity on the Lands and these Works shall remain in place and be maintained by the Developer until all grading, construction activity of any kind, and landscape Works on the Lands are completed and the Town has advised the Developer by Notice that these Works may be removed. The Security required for these Works set out in Schedule "E" shall not be reduced or released until the Town is satisfied that the parts of the Lands requiring the siltation and erosion control works are fully vegetated and there is no reasonable expectation of future erosion on these lands.

2.32 Boulevards and Vacant Lots and Blocks

The Developer shall:

- (a) at all times prior to Final Acceptance keep all the boulevards of Highways within or abutting a Plan free and clear of all materials and obstructions; and
- (b) carry out continuous maintenance to the satisfaction of the Town on all vacant lots or blocks within each Plan. Such maintenance will include weed control, biannual spraying, grass and weed cutting to maintain a height not exceeding 250

millimeters, cleanliness of the lot or block by removal of debris and maintenance of approved drainage through grading when required by the Town.

GENERAL CONDITIONS

2.33 Existing Services

The Developer shall repair any damage to any existing municipal (including the County) services, works or facilities, whether assumed by the Town or otherwise and whether within a Plan or external thereto, caused by the installation and maintenance of the Works required by this Agreement or otherwise caused by the development of the Lands. Without limiting the generality of the foregoing or limiting the liability of the Developer, should there be a breach of this provision, the Developer shall repair the existing municipal services upon being given Notice by the Town to do so. A failure by the Developer to repair or rectify such damage to existing municipal services constitutes a Default.

2.34 Limited Means of Access

The Developer agrees that all construction traffic shall enter and leave the Lands using only the Highways, Private Roads and other access points approved by the Town for this use. The Developer shall, when required by the Town, install barricades at the end of other Highways and Private Roads providing access to the Lands to prevent these Highways and Private Roads from being used for construction traffic. The Developer shall maintain these barricades in place until the Town instructs the Developer to remove them.

2.35 Inspection by Town

The Town may inspect the installation of the Works and shall have the power to stop any work or direct the Consultant to stop any work in the event that in its opinion the work is not being performed in accordance with the requirements of this Agreement or being performed a manner that may result in a completed installation or construction that would not be satisfactory to the Town.

The Developer agrees that the Town, its employees, agents and contractors or any other authorized persons may enter upon the Lands and inspect the installation of any Works, but such inspection shall in no way relieve the Developer from its responsibility to inspect the said installation itself. If the installation of the Works is not, in the opinion of the Town being carried out in accordance with the provisions of this Agreement or in accordance with accepted engineering or landscaping practices, the Town may issue instructions to the Developer and/or to the Consultants to take such steps as may be deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be given by Notice or may be verbal, in which case the Town shall confirm them by Notice within forty-eight (48) hours. In the event that neither the Developer nor the Consultants is present at the site of the Works to receive such verbal instructions, the Town may instruct the contractor(s) to cease work forthwith.

2.36 Additional Tests

The Developer acknowledges and agrees that the Town may conduct or require the Developer to conduct, at the expense of the Developer, any tests that he considers necessary to satisfy it as to the proper installation and maintenance of the Works.

2.37 Town May Repair Works

In the event that the Developer, at any time prior to Final Acceptance, fails to keep any of the Works in a proper state of repair as required by this Agreement, including without limitation Section 3.3, the Town may upon five (5) Business Days' Notice, enter upon the Lands and make such repairs as are necessary at the Developer's expense. The Developer shall pay to the Town, within twenty (20) Business Days of receipt by the

Developer of a Notice demanding payment, all costs of the work incurred in making the said repairs as determined by the Town.

2.38 Emergency Repairs

At any time prior to Final Acceptance, if any of the Works, including the Water Distribution Works, do not function or do not function properly in the opinion of the Town, or require necessary immediate repairs to prevent damage or hardship to any persons or to any property, the Town may enter upon the Lands and make whatever repairs may be deemed necessary at the expense of the Developer. The Developer shall pay to the Town, within twenty (20) Business Days of receipt by the Developer of a Notice demanding payment, all costs of the work incurred in making the said repairs as determined by the Town. The Town shall advise the Developer forthwith by Notice of the nature and extent of the emergency and repairs which were necessary. Such undertaking to repair shall not be deemed a Preliminary Acceptance of the Works by the Town or a Final Acceptance by the Town of any liability in connection therewith and shall not release the Developer from any of its obligations under this Agreement.

2.39 Applicable Laws

- (a) In installing and maintaining the Works, the Developer shall comply with all statutes, laws, by-laws, regulations, ordinances, orders and requirements of all Government Authorities having jurisdiction at any time from-time to time in force. Without limiting the foregoing, the Developer agree to comply with, and cause to be complied with, the provisions of the Occupational Health and Safety Act, the Environmental Protection Act and the Ontario Water Resources Act and any regulations, policies and guidelines relating thereto, including all obligations of the constructor and employer under the Occupational Health and Safety Act and regulations as applicable, and any obligation to obtain any approval or permit required under the Environmental Protection Act or the Ontario Water Resources Act or any regulations, policies and guidelines relating thereto. The Developer further agrees to handle and dispose of all materials in accordance with the foregoing legislation.
- (b) The Developer shall do, cause to be done or refrain from doing any act or thing as directed by the Town if at any time the Town considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of any applicable laws above. If the Developer fails to comply with such direction, the Town may take action to rectify the situation at the expense of the Developers and in this regard the Town also shall be entitled to draw upon the Security.

2.40 Indemnity

The Developer shall indemnify and save completely harmless the Town and its elected officials, officers, agents, contractors and employees from and against all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with a Default, the design, installation or operation of any of the Works required under this Agreement, the maintenance and repair or lack of maintenance and repair of such Works by the Developer pursuant to the terms of this Agreement, the use of the Works by any person or any defect in workmanship or material until Final Acceptance of all of the Works by the Town, except the Private Services and in perpetuity with respect to the Private Services.

2.41 Damage and Debris

The Developer covenants and agrees:

- (a) that all Town Lands that may be used by the Developer or parties employed by the Developer or others during the installation and maintenance of the Works shall be kept in a good and usable repair and condition until Final Acceptance and if, in the sole opinion of the Town, such Town Lands are damaged in any way prior to Final

Acceptance by the Developer or parties employed by the Developer, such Town Lands will be repaired or restored immediately to the satisfaction of the Town.

- (b) to maintain satisfactory personnel and equipment available to sweep the Highways and Private Roads within a Plan as necessary to prevent nuisance mud and dust or as directed by the Town, and this operation will continue until Final Acceptance of all of the Works by the Town.
- (c) not to foul any Highways outside the limits of a Plan, including tracking of mud or other materials thereon and further agrees to provide the necessary persons and equipment to be available on reasonable notice at all times to keep such Highways clean and that all trucks making deliveries to or taking materials from the Lands shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish, or debris on the abutting highways and streets;
- (d) not to allow and to restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on any lands within a Plan, including Town Lands and private land.
- (e) to clear debris and garbage on any land within a Plan if so requested by Notice given by the Town and that the Town shall have the authority to remove such debris and garbage at the cost of the Developer if the Developer fails to do so within forty-eight (48) hours of being advised to do so;
- (f) that, if in the opinion of the Town, the requirements of this Section 2.41 are not complied with, the Town will do the work as required by the Town at the Developer's expense. The Developer shall pay to the Town, within twenty (20) Business Days of receipt by the Developer of a Notice demanding payment, all costs of the work incurred by the Town as determined by the Town.

2.42 Rights to Enter

- (a) The Developer, for itself and its successors and assigns, hereby grants to the Town, and its employees, agents, contractors and workmen and other persons duly authorized by the Town the right at all times and from time to time, to enter on the Lands or any part thereof for the purposes of inspecting, installing, operating, altering, maintaining and repairing any of the Works, including the grading and drainage of the Lands or any part thereof in accordance with the requirements of this Agreement and for rectifying a Default of the Developer or a Lot Owner.
- (b) On the sale of any lot and on the creation of any Condominium Corporation, the Developer shall reserve such rights as may be necessary to enable the Developer or its agents to enter on the lot or the common elements of the Condominium Corporation at all times prior to Final Acceptance to inspect, install, operate, alter, maintain and repair any of the Works, including the grading and drainage of the Lands of any part thereof in accordance with the requirements of this Agreement and to fulfill the Developer's obligations under this Agreement.

2.43 Land Use Permit

- (a) Section 2.43(b) does not apply to Works shown on the Accepted Plans or required to be installed by the Developer in accordance with the requirements of this Agreement;
- (b) The Developer or a Lot Owner shall not install or alter or permit to be installed or altered any works, including culverts and driveways, berms, fencing, trees, shrubs, hedges, landscaping of any kind, signboards, construction materials or other objects on Town Lands without first obtaining from the Town a Land Use Permit required by the Town's Land Use Permit By-law 2014-65 or an successor by-law thereto for such work.

PART III

SECURITY, PRELIMINARY ACCEPTANCE, MAINTENANCE AND FINAL ACCEPTANCE OF THE WORKS

3.1 Security

- (a) In order to guarantee total performance of this Agreement by the Developer, the Developer shall provide to the Town, upon execution of this Agreement a letter of credit or letters of credit in the amount or amounts determined by the Town and set out in Schedule "E" (the "Security"). The letter of credit shall be from an Ontario Branch of a Canadian Chartered Bank, Trust Company or Credit Union and in a form approved by the Treasurer. The Developer covenants and agrees that the letter(s) of credit shall be kept in full force and effect and that it will pay all premiums on the letter(s) of credit as they become due until such time as the Town returns the letter(s) of credit in accordance with the provisions of this Agreement.
- (b) Wherever in this Agreement a letter of credit is required to be filed with the Town, the Developer may instead deposit cash or a certified cheque to be cashed, in an amount equal to the letter of credit and such deposit shall be held by the Town as Security in accordance with this Agreement provided that no interest shall be payable on any such Security.
- (c) The Developer acknowledges that upon the transfer of ownership of any of the Lands, the Town will not return any letter of credit or cash deposit required under this Agreement until the new developer files a substitute letter of credit or letters of credit or deposits cash or a certified cheque to be cashed in the required amounts with the Town.

3.2 Developer in Default

- (a) The Developer agrees that the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify any Default, despite the specific allocation of costs of the Works and the Security set out in Schedule "E".
- (b) If the Developer fails to make any payment demanded by the Town pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Developer of a Notice demanding payment, such failure constitutes a Default and the Treasurer shall be entitled to draw upon and use all or a part the Security to rectify the Default and make the payment, together with the interest thereon, to the Town.
- (c) If, in the sole and absolute opinion of the Town, the Developer is in Default, other than a Default referred to in Subsection 3.2(b), the Town, except in cases of emergencies, shall give Notice to the Developer of the Default and require the Developer to rectify the Default. If the Default is not rectified within Twenty (20) Business Days after receipt by the Developer of such Notice or within such time period as may be designated in the Notice by the Town, then
 - (i) the Town shall have full authority and power immediately to purchase such materials, tools and machinery and to employ such contractors or workmen as in the opinion of the Town are required for the proper rectification of the Default, to enter upon the Lands and to do all such work and things, including the installation of Works, as are necessary to rectify the Default to the satisfaction of the Town, at the cost and expense of the Developer. In cases of emergencies, such work may be done without prior Notice but the Developer shall be notified forthwith. The cost of such work will be calculated by the Town, whose decision shall be final. It is understood and agreed that such costs shall include a management fee of fifteen per cent (15%) of the cost of the labour, materials, tools, machinery, and applicable taxes; and

- (ii) the Treasurer may, at any time draw on and use all or part of the Security to pay the cost, as calculated by the Town, of any works or things, including the installation of Works, done by the Town pursuant to the provisions of this section to rectify the Default.
- (d) The Developer agrees that any entry on the Lands and any work done by the Town pursuant to the provisions of this section shall not be an Preliminary Acceptance and/or Final Acceptance of the Works by the Town and the Preliminary Acceptance of any liability in connection therewith nor a release of the Developer from any of its obligations under this Agreement.

3.3 The Construction Act

- (a) The Developer shall comply with all of the provisions of the Construction Act (Ontario), as amended, from time to time (in this Section 3.3 called the "Act"). Without limiting the generality of the foregoing, the Developer shall hold in its possession all the statutory holdbacks and any additional funds required to be held by the Act. These hold-backs and funds shall not be disbursed except in accordance with the Act.
- (b) The Developer shall, at its own expense, within ten (10) Business Days of receiving Notice from the Town to do so, pay, discharge, vacate, and obtain and register a release of, all charges, claims, liens, and all preserved or perfected liens, made, brought or registered pursuant to the Act which affect any Town Lands and/or Public Works and which arise out of the performance of this agreement by the Developer and its servants, employees, agents and contractors.
- (c) The Developer shall indemnify and hold harmless the Town from all losses, damages, expenses, actions, causes of action, suits, claims, demands and costs whatsoever which may arise either directly or indirectly by reason of any failure, neglect or refusal by the Developer to comply with the Act or by reason of any action brought against the Town pursuant to the Act and arising out of the performance of this agreement by the Developer and its servants, employees, agents and contractors.
- (d) Despite anything contained in this Agreement, the Treasurer may, at any time, draw on and use of all or part of the Security:
 - (i) to pay, discharge, vacate, and obtain and register a release of all charges, claims, liens, and all preserved or perfected liens, made, brought, or registered pursuant to the Act which affect any Town Lands and/or Public Works in the event the Developer defaults in the performance of subsection 3.3(b) of this Agreement; and
 - (ii) to pay to the Town any amounts owing to them pursuant to subsection 3.3(c) of this Agreement.
- (e) The Developer acknowledges that the Town shall not be required to reduce or release the Security in accordance with Sections 3.7 and 3.11 until the Town is satisfied that all of the provisions of Section 3.3 have been complied with.

3.4 Preliminary Acceptance of the Works

In this section and section 3.5 "Works" means the completed Works within a Plan proposed by the Developer for a Certificate of Preliminary Acceptance.

As a condition precedent to the Town issuing a Certificate of Preliminary Acceptance the Developer shall:

- (a) in respect of the Basic Services within the Plan, flush all sewers, manholes, and catch basins free of road materials, building debris, and other foreign matter to

clean such materials from the system, capture all such materials to the satisfaction of the Town to ensure that they do not move off the Lands, provide video inspection and any other tests required by the Town and rectify any deficiencies the video inspection and tests may reveal;

- (b) sweep roadway pavement, including sidewalks, within the Plan free of building debris and earth deposits, and clean and remove such material from the site;
- (c) rectify and repair all known defects and deficiencies in the Works unless otherwise agreed in writing with the Town;
- (d) submit to the Town:
 - (i) a certificate by a registered Ontario Land Surveyor (OLS) that the surveyor has confirmed the areas and frontages of all lots, blocks and units within the Plan and has located or replaced all standard iron bars as shown on the registered plan, and has located or properly re-established all block corners, the beginnings and ends of all curves including all corner roundings and all points of change in direction of streets. The OLS will also provide the Town with an electronic file for the registered Plan in the Town then current standard;
 - (ii) all certificates of the substantial performance of all contracts and subcontracts as required by the Construction Act (Ontario) for the Works, together with the proof of publication thereof, a certificate of the Consultants certifying that the construction lien period (60 days) has expired and it has received no notice of lien in respect of the Works pursuant to the Construction Act (Ontario) and a statutory declaration from the Developer stating that all contractors and subcontractors associated with the installation of the Works have been paid and that there are no outstanding lien claims in respect of the installation of the Works pursuant to the Construction Act (Ontario);
 - (iii) a certificate verifying the establishment of horizontal control monuments and vertical benchmarks in the Plan, as required by the Town;
 - (iv) all required digital data, hard copy plots, and report information as specified by the Town, including red-lined "as recorded" plans of the Works;
 - (v) a certificate from the Consultants indicating the final costs of installing the Works and an updated estimate cost of completing the remainder of the Works shown on the Accepted Plans.;
 - (vi) a certificate from the Consultants stating that all the Works have been installed and are functioning in strict accordance with the Engineering Standards, the Accepted Plans and the requirements of this Agreement,
 - (vii) a certificate from the Consultants stating that all traffic control devices, street and parking signs and fire route signs within the Plan have been installed in accordance with the Engineering Standards and the Accepted Plans and the Town's by-laws to the satisfaction of the Town, and that the Town has received an inventory of all traffic control devices within the Plan; and
 - (viii) a certificate from the Consultants summarizing the certification of the grading of all the lots, blocks and units within the Plan completed to date.
- (e) if required by the Town, pay the additional Works Fee required by Subsection 8.2(b);
- (f) provide proof of payment for the maintenance and energy costs for illumination within the Plan;

- (g) provide proof of payment for all outstanding costs associated with snowplowing; and
- (h) rectify and repair all street and traffic signs and traffic control devices within the Plan.

3.5 Certificate of Preliminary Acceptance

The first Certificate of Preliminary Acceptance issued for a Plan shall be a Certificate of Preliminary Acceptance for the Basic Services for the Plan, including the Pre-Servicing Works and thereafter the Developer may request additional Certificates of Preliminary Acceptance as the installation of further increments of ten percent (10%) of the Works are completed.

Every Certificate of Preliminary Acceptance shall show the cost of the Works for which the certificate is issued as determined by the Town whose decision shall be final.

The Town covenants and agrees that a Certificate of Preliminary Acceptance shall be issued by the Town upon fulfillment of the following conditions:

- (a) the Town has inspected the Works and the Developer has rectified and repaired to the satisfaction of the Town all defects and deficiencies in the Works found by this inspection, unless otherwise agreed in writing with the Town; and
- (b) the Developer has complied with all of the requirements of this Agreement to the satisfaction of the Town.

The Town may issue a Certificate of Preliminary Acceptance for all of the Works for the whole or for any part of the Plan.

3.6 Documentation to Reduce Security

Prior to the reduction of Security held by the Town for any Works, the Developer must submit the following documentation to the Town:

- (i) a request for a reduction of Security describing the completed Works for which a reduction is requested;
- (ii) a Certificate of Preliminary Acceptance for the completed Works for which a reduction is requested; and
- (iii) a statutory declaration from the Developer stating that all contractors and subcontractors associated with the installation of the completed Works described in the application for reduction have been paid and that there are no outstanding lien claims in respect of the installation of these Works pursuant to the Construction Lien Act (Ontario);

3.7 Reduction of Security

- (a) After initially completing installation of the Basic Works and subsequently after completing further increments of ten per cent (10%) of the Works, and subject to the Town receiving the documents noted in section 3.6, the Developer may from time to time apply for and the Town may/shall reduce the amount of the Security by an amount equal to seventy-five percent (75%) of the cost of the Landscape Works and ninety per cent (90%) of the cost of all other the Works shown on the Certificate of Preliminary Acceptance for the completed Works. The remaining amount of the Security together with the Lot Grading Security, the Siltation and Erosion Control Security and Tree Preservation Security set out in Schedule "E" shall be retained by the Town until the expiration of the Maintenance Period and Final Acceptance.

- (b) Despite anything contained in this Agreement there shall be no reduction in the Security:
 - (i) where such reduction would result in the amount of the remaining Security being less than the aggregate total of:
 - i. one hundred and five (105%) of the estimated cost as determined by the Director, whose decision shall be final, of the Works and other matters, including rectification of deficiencies or Defaults, which have not been completed or carried out; plus
 - ii. twenty-five percent (25%) of the cost of the completed Landscape Works; plus,
 - iii. twenty-five percent (25%) of the cost of the completed Sidewalks, Curbs and Gutters; plus,
 - iv. one hundred percent (100%) of the Lot Grading Security; plus
 - v. one hundred percent (100%) of the Tree Preservation Security; plus
 - vi. one hundred percent (100%) of the Siltation and Erosion Control Security for areas at risk of erosion and sedimentation; plus
 - vii. six percent (6%) of the cost of uncompleted Works for Engineering; plus,
 - viii. other Security that may be outlined in Schedule E; plus
 - ix. ten percent (10%) of the cost of the other completed Works which are shown on the Certificates of Preliminary Acceptance; plus,
 - x. any outstanding payments due to the Town as an obligation under this Agreement; or,
 - (ii) when the Developer is in Default.
- (c) The Developer shall not be entitled to any reduction and/or release of the Grading Security, the Siltation and Erosion Control Security and Tree Preservation Security set out in Part 2 of Schedule "E" until Final Acceptance.
- (d) Despite the provisions set out in paragraphs (a), (b) and (c) above, the Lot Grading Security referred to in Part 2 of Schedule "E" for a lot may be released in accordance with Section 2.27.

3.8 Maintenance and Repair of the Works

- (a) Despite that the Town is responsible for the operation of the Water Distribution Works as provided in Section 2.15, the Developer shall maintain and keep in a proper state of repair and operation all of the Works (including the maintenance and repair of the Water Distribution Works and the Private Services) installed by the Developer, to Acceptable Standards and to the satisfaction of the Town, for the Maintenance Period and until Final Acceptance.
- (b) The Developer shall maintain and water in accordance with the following landscaping maintenance requirements set out in Section 3.8(c), all trees, sod, and other landscaping shown on the Accepted Plans for a period of two (2) years from the time of planting or laying and shall replace all trees, sod, and landscaping failing to establish a healthy growth within this period. The foregoing maintenance and replacement provision shall apply to all replacement trees, sod, and landscaping planted or laid pursuant to this subsection unless the Developer

makes satisfactory arrangements with the Town prior to Final Acceptance of these Works by the Town to provide Security for the maintenance and replacement of the replacement trees, sod, and landscaping.

- (c) Water to maintain soil moisture conditions for optimum establishment, growth, and health of plant material without causing erosion. Cut grass monthly or as otherwise required by the Town and remove weeds monthly from planting beds and tree pits. Apply pre-emergent herbicide to planting beds and tree pits at installation and each spring or fall. Remove dead plants and plants not in satisfactory condition, as determined by the Town and make replacements in the same or next growing season. Annually remove dead or broken branches from plant material.
- (d) The Developer shall maintain the Tree Protection Works and the Siltation and Erosion Control Works during the period when any Works and buildings are being installed or constructed on the Lands.
- (e) The Maintenance Period for the Pre-Servicing Works shall commence at the same time as the Maintenance Period for the Basic Services commences.

3.9 Final Acceptance of the Works

In this section and sections 3.10 and 3.12 "Works" means the completed Works within a Plan proposed by the Developer for Final Acceptance.

As a condition precedent to the Town issuing a Certificate of Final Acceptance, the Developer shall:

- (a) clean all sewers, manholes, and catch basins within the Plan to be free of road materials, building debris, and other foreign matter, and clean such materials from the system, capture all such materials to the satisfaction of the Town to ensure that they do not move off the Lands, provide a sewer video inspection and any other tests required by the Town and to rectify any deficiencies the video inspection and tests may reveal;
- (b) sweep, clean and remove any debris and earth deposits from all roadway pavement within the Plan;
- (c) rectify and repair all defects and deficiencies in the Works including damages, settlements or depressions to the above ground infrastructure unless otherwise agreed in writing with the Town;
- (d) provide proof of payment for all costs required to be paid by the Developer by this Agreement;
- (e) rectify and repair grading problems associated with any lot or block within the Plan;
- (f) clean out, including the removal of all silt material and rectify and repair damages to the Storm Water Management Works;
- (g) rectify and repair damage to any retaining walls within the Plan;
- (h) pay all outstanding invoices that the Town may have issued concerning emergency repairs and other matters arising out of this Agreement; and
- (i) make all plant material replacements pursuant to the conditions of the warranty period and the requirements of this Agreement;
- (j) submit to the Town:
 - (i) a certificate by a registered Ontario Land Surveyor (OLS) that the surveyor has confirmed the areas and frontages of all lots, blocks and units within the Plan and has located or replaced all standard iron bars as shown on the

registered plan, and has located or properly re-established all block corners, the beginnings and ends of all curves including all corner roundings and all points of change in direction of streets. The OLS will also provide the Town with an electronic file for the registered Plan in the Town then current standard;

- (ii) a statutory declaration from the Developer stating that all contractors and subcontractors associated with the installation and maintenance of the Works have been paid and that there are no outstanding lien claims in respect of the installation and maintenance of the Works pursuant to the Construction Act (Ontario);
- (iii) a certificate verifying the establishment of horizontal control monuments and vertical benchmarks within the Plan, as required by the Town;
- (iv) all required digital data, hard copy plots, and report information as specified by the Town;
- (v) a certificate from the Consultants certifying that all the Works required by this Agreement have been installed and are functioning in strict accordance with the Engineering Standards, the Accepted Plans, including the storm water management report and the requirements of this Agreement;
- (vi) the certificates required to be provided by Section 2.27;
- (vii) a composite utility plan and "as recorded" plans of all the underground Works, including Utility Services and street lighting plans depicting the location of ducts, wires, power connection points to Power Utility's system poles and pedestals signed and sealed by the Consultants and an electronic version of the composite utility plan the "as recorded" plans all in accordance with the Engineering Standards for the review and approval of the Town; and
- (viii) a written request for the return of the unused balance of any refundable deposits paid to the Town by the Developer.

3.10 Conditions for Final Acceptance of the Works

The Town covenants and agrees that the Final Acceptance of the Works shall take place upon fulfillment of the following conditions to the satisfaction of the Town:

- (a) seventy-five percent (75%) of the buildings or structures permitted to be constructed on the lots, blocks or units within the Plan by the Town's zoning by-law have been substantially completed;
- (b) the Town has inspected the Works and the Developer has rectified and repaired to the satisfaction of the Town all defects and deficiencies in the Works found by this inspection, unless otherwise agreed in writing with the Town;
- (c) the Developer has complied with all of the requirements of this Agreement to the satisfaction of the Town; and
- (d) the Town has issued the Certificate of Final Acceptance.

The Town may, as a further condition of Final Acceptance of the Works, require the Developer to enter into an agreement with the Town with appropriate Security to deal with any remaining deficiencies or outstanding matters as determined by the Town including the maintenance and replacement of trees and landscaping in accordance with the requirements set out in Schedule "G".

3.11 Release of Security at Final Acceptance

Upon the enactment of an Assumption By-law in accordance with Section 3.12 the Developer shall be entitled to a release of the Security for the Public Works in the amount set out in the by-law and return of the unused balance of any refundable deposits paid to the Town by the Developer.

Upon the Town issuing a Certificate of Final Acceptance for Private Services the Developer shall be entitled to a release of the Security for the Private Services in the amount set out in the certificate.

3.12 Assumption By-law

After issuing a Certificate of Final Acceptance for Public Works, the Director shall submit a written report to the Town Council that the Public Works described therein have been installed in accordance with the requirements this Agreement, that all accounts in connection therewith have been paid, that all financial requirements have been met or will be met on the passing of an Assumption By-law and that the Public Works described therein are in the required condition to be assumed. When all of the requirements of this section have been fulfilled, the Town shall pass an Assumption By-law for the Public Works described in the Certificate of Final Acceptance. Upon an Assumption By-law being passed, the ownership of the Public Works described in the by-law and the responsibility for the maintenance and operation of these Public Works shall vest in the Town despite the earlier transfer of lands or easements related to these Public Works and the Developer shall have no claims or rights thereto other than those accruing to it as an Developer of land abutting on public highways where these Public Works were installed.

3.13 Ownership and Maintenance of the Private Services

Prior to Final Acceptance the Developer shall be responsible for the maintenance, repair and operation of the Private Services in accordance with section 3.8.

After Final Acceptance, the Private Services shall be retained, owned, operated, maintained (including winter road maintenance), repaired, reconstructed and replaced to Acceptable Standards in accordance with the Accepted Plans by the Developer or its successors and assigns, including the Condominium Corporation, at their own expense in perpetuity.

The Parties agree that the Town shall have no obligation or responsibility whatsoever for the operation, maintenance, repair, reconstruction and replacement of the Private Services or for any other costs relating to the Private Services.

PART IV

SPECIAL PROVISIONS

4.1 Special Provisions

The Parties covenant and agree to comply with all of the Special Provisions set out in Schedule "G". All of the works, services, facilities, matters and things required by the Town, the County and Government Authorities for the subdivision, development and servicing of the Lands referred to in the Special Provisions set out in Schedule "G" shall be deemed to be Works within the meaning of this Agreement.

PART V

BUILDING PERMITS AND OCCUPANCY

5.1 Building Permit Issuance

The Developer, for itself and its successors and assigns, which includes a Lot Owner, upon becoming the registered owner of a lot, agrees that neither it nor any other person on its behalf will apply for or be entitled to receive any building permits or will appeal

pursuant to Section 25 of the Building Code Act any decisions of the CBO refusing to issue building permits until:

- (a) The Plan, and where applicable, the final plans of Common Elements Condominium or Vacant Land Condominium have been registered;
- (b) This Agreement has been executed by the Parties and registered against the title to the Lands;
- (c) The Town has issued a Certificate of Preliminary Acceptance for the Basic Services for that part of the Plan which includes the lot or block described in the application for building permit; (See also Section 4 of Part 1 of Schedule "G")
- (d) the Town has confirmed that an adequate water supply for firefighting operations and satisfactory access for firefighting equipment is available to service the Lands and, if applicable, "Fire Route" signs have been installed in accordance with the Town's Fire Route By-law;
- (e) the Treasurer has confirmed that all development charges, taxes, levies, fees and other payments required under this Agreement for the lot or block for which the building permit is applied for have been paid in full or secured by sufficient Security;
- (f) the Town's Solicitor has confirmed that all necessary conveyances of land, easements and reserves have been received free and clear of all encumbrances and have been registered against title;
- (g) the Town has certified that, on lots or blocks on which easements have been imposed or for lots, blocks or units immediately adjacent to such easements, the required Works have been installed within the limits of the easements granted to the Town;
- (h) the lot or block for which the building permit is applied for is zoned accordingly to permit the development, including the removal of the holding -h symbol and the requirements of the Town's site plan control area by-law have been complied with;
- (i) the Lot Grading Plan for the lot or block for which the building permit application is made has been provided to and accepted by the Town;
- (j) All other requirements of the Building Code Act and the Town Building By-law have been satisfied; and
- (k) all other applicable requirements of this or any other agreement that are required to be satisfied prior to building permit have been satisfied, , including the Special Provisions set out in Section 4.1 and Schedule "G", if any.

5.2 Occupancy of Buildings

The Developer, for itself and its successors and assigns, which includes a Lot Owner upon becoming the registered owner of a lot, agrees that neither it nor any other person on its behalf shall occupy or permit the occupancy of any building or structure or part thereof until:

- (a) The underground electrical distribution system, the street lighting system, the telephone system and gas services, where applicable, have been installed, energized and approved by the Town;
- (b) the permanent traffic and street signs have been installed and approved by the Town; (See also Section 4 of Part 1 of Schedule "G")
- (c) the building, including water line and sanitary sewer and connections thereto, have been constructed in accordance with the plans approved by the Town and in

accordance with the Building Code Act and any other applicable building standards;

- (d) "Record" drawings for any or all of the Works or other matters, whether they are classified as Works or not which in the reasonable opinion of the Town shall be required, are provided to the satisfaction of the Town; and
- (e) a certificate of occupancy has been issued by the CBO

5.3 Final Inspection

The Developer, for itself and its successors and assigns, which includes a Lot Owner upon becoming the registered owner of a lot, agrees that a Final Inspection will be requested in a timely manner for any building or structure that has been occupied in accordance with Section 5.2 and that the Final Inspection will be conducted by the CBO in accordance with the Final Inspection Standards – Building Department in effect at the time of the inspection provided that the Consultant or the Engineer has provided the Final Lot Grading Certificate for the lot or block to the Town in accordance with this Agreement and has furnished the Town with copies of all inspection reports prepared by them during the course of construction.

5.4 Lots or Blocks for Future Development

The Developer agrees that no building permits will be issued for the lots and blocks described in Schedule "I" as Lots or Blocks for Future Development save and until these lots or blocks are combined with adjacent lands to create building lots in conformity with the applicable zoning by-law and have direct frontage or access to a public highway.

5.5 Model Homes

- (a) Building permits may be issued for model homes prior to Final Approval and the installation of the Basic Services provided that the Developer and the builders comply with the Town's Model Home Policy. This policy requires, among other things, that the lot or block for which the building permit is applied for is zoned accordingly to permit the construction of the model home, including, where applicable, the removal of the holding –h symbol from the zoning by-law and that the Developer and that the builder enter into a Model Home Site Plan Agreement with the Town, with appropriate security, in a form satisfactory to the Town.
- (b) Where building permits have been issued to permit the construction of model homes, adequate water supply and access for firefighting purposes shall be available to the lot or block at all times during construction and occupancy of such model homes as may be determined in the of the Town.

PART VI

FIRE

6.1 Compliance with Fire Code

The Developer shall comply with all relevant provisions of the Ontario Fire Code and acknowledges that all fire hydrants shall be maintained in operating condition and shall be readily available and unobstructed for use at all times.

6.2 Firebreak Lots

- (a) The Parties agree that every seventh (7th) lot on a Plan shall be designated as a firebreak lot and the following provisions shall apply.
- (b) The Developer covenants and agrees that notwithstanding that a building permit has been issued for lots designated as firebreak lots, no construction shall proceed until the exterior finish cladding, roofing and windows on the building abutting each

side of the firebreak lot has been completed, unless otherwise approved by the Fire Chief.

- (c) Where the Developer requests a change in the designation firebreak lots, a change may be made subject to the approval of the Fire Chief and the payment of a transfer fee as required by the Fire Chief for each change in designation in firebreak lots or units.
- (d) The Developer covenants and agrees that no construction will commence on a designated firebreak lot without the written approval of the Fire Chief.

6.3 Fire Route Signs

The Developer shall install all signs required by the Town's Fire Route By-law when directed to do so by the Municipal Law Enforcement Officer.

PART VII

PLANNING

7.1 Site Plan Control

The Developer shall comply with the requirements of the Town's Site Plan Control Area By-law.

7.2 Holding Zones

The Developer acknowledges and agrees that no part of the Lands shall be developed until the -h holding symbol in the Town's zoning by-law for that part of the Lands proposed to be developed has been removed from the zoning by-law in accordance with Section 36 of the Planning Act and in compliance with the requirements of the Town's zoning by-law, two of which are, the execution of this Agreement, a Supplementary Subdivision Agreement, if required, and registration of a Plan for that part of the Lands proposed to be developed.

7.3 Common Element Condominium Corporations

In the event any part of the Lands are to be developed by a plan of common elements condominium, the Developer shall obtain approval for and register, forthwith after registration of the plan of subdivision, a plan of common elements condominium. Prior to Final Approval of any plan of common elements condominium, the Developer shall submit to, and obtain the approval of the Town of the form and content of the condominium declaration and description. The declaration and description shall include the provisions set out in Part 2 of Schedule "G".

7.4 Street Names

The Developer covenants and agrees that the streets on each Plan, including Private Roads, shall bear names approved by the Town.

7.5 Building Numbers and 911 Numbers

The Developer covenants and agrees that all building numbers and 911 numbers within a Plan shall be the numbers allocated by the Town. To obtain such numbers, the Developer shall provide to the Town a copy of the Final Approval Plan, upon which the Town shall designate the number for each lot or block.

PART VIII

FINANCIAL ARRANGEMENTS

8.1 Fees and Charges

The Developer shall pay to the Town, upon execution of this Agreement, the payments, fees, charges and rates as set out in Schedule "H".

8.2 Works Fee

- (a) The Developer shall pay to the Town, upon execution of this Agreement, a non-refundable works fee in accordance with the requirements of the Town's Fees and Charges By-law related to Engineering Fees in force at the date of this Agreement (the "Works Fee"). The amount of the Works Fee to be paid is set out in Schedule "H".
- (b) In the event that the actual cost of the Works exceeds the estimated cost of the Works set out in Schedule "E", as a result of a change in the design of the Works or otherwise, the Town shall recalculate the Works Fee using the final costs of installing the Works as certified by the Consultants and approved by the Town (the "Final Works Fee"). The Developer shall pay to the Town prior to Preliminary Acceptance an amount equal to the difference between the Works Fee set out in Schedule "H" and the Final Works Fee.

8.3 Disbursement and Expenses

- (a) In addition to the non-refundable administration fee referred to in Section 8.1, the Developer shall pay to the Town, within twenty (20) Business Days of receipt of a Notice demanding payment, the full amount of such costs, expenses and disbursements as may be or are incurred by the Town in connection with the preparation, administration and enforcement of this Agreement, including, without limiting the generality of the foregoing, the Town's legal costs, the costs of other consultants, the cost of registration of this Agreement against title to the Lands, the costs of registration of all documentation related to conveyance and dedications of lands and easements under this Agreement, and all documents and all agents' fees related to such registrations (the "Agreement Costs").
- (b) As security to ensure payment of the Agreement Costs by the Developer, the Developer shall pay to the Town, upon execution of this Agreement a refundable deposit of Town's Fees and Charges By-law related to Planning Fees in the amount set out in Schedule "H" to be used by the Town for the purpose of paying the Agreement Costs. The Developer shall replenish this refundable deposit to its full amount within twenty (20) Business Days of receipt of a Notice providing details of the amounts of the Agreement Costs incurred by the Town and requesting replenishment of this deposit. Failure to replenish this deposit constitutes a Default and the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify the Default and replenish the deposit.

8.4 Tax Arrears

The Developer shall pay all taxes outstanding against the Lands prior to the execution of this Agreement by the Town.

8.5 Tax Levies

The Developer agrees that it shall be solely liable to pay all taxes levied, or to be levied, on the Lands in accordance with the tax rolls until such time as the Lands have been assessed and entered on the tax roll according to the registered Plan.

8.6 Designated Fees, Charges and Rates

The Developer shall pay, upon execution of this Agreement, all designated fees, charges and rates now imposed, assessed and levied upon the Lands, including but not limited to

levies under the Local Improvement Act, Ontario Water Resources Act, Public Utilities Act, Drainage Act, and Municipal Act, 2001, all as set out in Schedule "H".

8.7 Lawful Levies and Rates

Notwithstanding the Works to be constructed and installed, the services to be performed and the payments to be made pursuant to this Agreement by the Developer, the Lands shall remain liable in common with all other assessable property in the Town to all lawful rates, levies, fees and charges of the Town.

8.8 Local Services and Local Connection Charges

The Developer acknowledges and agrees that all charges, payments, Works to be installed, studies to be carried out and all other obligations contained in this Agreement or the cost thereof (except where a charge is referred to herein as a "development charge") are characterized as:

- (a) local services installed or provided at the expense of the Developer related to or within the Plan as a condition of approval under s. 51 of the Planning Act;
- (b) connections to water and sewer facilities installed at the expense of the Developer; or
- (c) services denoted on Accepted Plans or specifically noted in the Agreement for which the Developer is making no claim for credits from the development charge by-law,

and are not charges related to development within the meaning of the Development Charges Act, 1997.

8.9 Development Charges

The Developer acknowledges that the Town has enacted the development charges by-laws pursuant to the Development Charges Act, 1997 described in Schedule "H" which apply to the Lands. Subject to any special provisions with respect to development charges set out in Schedules "G" and "H", the Developer shall pay the development charges imposed by these by-laws in the amounts and at the times provided by these by-laws as set out in Schedule "H".

8.10 Development Charge Credits

The Developer hereby releases and forever discharges the Town from any and all claims for credits against development charges payable under any development charges by-laws of the Town which apply to the residential dwelling units in Phase 4B and the Developer hereby waives all such claims for credits except for the credits that may be specified in Schedule "H". Any such credits so specified herein and the calculation thereof shall be deemed to be conclusive and binding on the Developer.

8.11 Default of Payment

If the Developer fails to make any payment demanded by the Town pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Developer of a Notice demanding payment and no Security is available or the Security is insufficient to make the payment, the Developer agrees that such payment, together with interest thereon, shall be added to the tax rolls for the Lands and collected in like manner as taxes in accordance with Section 446 of the Municipal Act, 2001.

8.12 Interest on Payment Demands

If the Developer fails to make any payment demanded by the Town pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Developer of a Notice demanding payment such failure constitutes a Default and such

payment shall then bear interest from the date of the Default at the same interest rate as the Town charges on tax arrears.

PART IX

INSURANCE

9.1 General Liability Insurance Policy

- (a) Prior to commencing any work on the Lands the Developer shall take out and keep in full force and effect until Final Acceptance of all of the Works, at its sole cost and expense, the following minimum insurance:

- (i) Commercial General Liability insurance applying to all operations of the Developer which shall include coverage for bodily injury liability, property damage liability, products and completed operations liability, contractor's protective liability, contractual liability, non-owned automobile liability, contingent employers liability and employees as additional insureds..

This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and underpinning or from any other activity or work that may be done in connection with the development of the Plan.

This policy shall be written with limits of not less than [REDACTED] exclusive of interest or costs, per occurrence and shall include the Town as an additional insured;

This policy shall provide primary insurance coverage and not excess to any other insurance available to the Town.

- (ii) Automobile Liability (Owned and/or Leased Vehicles) insurance with an inclusive limit of liability of not less than [REDACTED] exclusive of interest or costs, per occurrence for loss or damage resulting from bodily injury to or death of one or more persons and for loss or damage to property. This policy must cover all vehicles owned, leased or operated by or on behalf of the insured; and

- (iii) Environmental Pollution Liability insurance to cover third party bodily injury and property damage claims arising out of sudden and accidental pollution, including but not limited to unexpected and unintentional spill, discharge, emission, dispersal, leakage, migration, release or escape of pollutants. The coverage cannot be limited to hostile fire only.

This policy shall be written with a limit of not less than [REDACTED] exclusive of interest or costs, on a claims-made basis, or such other limit as the Town may reasonably require.

- (b) These policies shall not be terminated, cancelled, or materially altered unless written notice, by registered mail, of such termination, cancellation, or material alteration is given by the insurers to the Town at least sixty (60) days before the effective date thereof.
- (c) The premiums on these policies must be paid initially for a period of one year and the policies shall be renewed for further one-year periods until all the Works required under this Agreement are installed and assumed by the Town. If required by the Town, the Developer shall prove to the satisfaction of the Town that all premiums on these policies have been paid and that all insurance is in full force and effect.
- (d) The Developer shall deliver with this Agreement (if not previously delivered) certified copies of these policies of insurance or a certificate of insurance setting

out the essential terms and conditions of insurance, the form and content of which shall be satisfactory to the Town.

- (e) The Developer shall file a renewal certificate with the Town not later than one (1) month before the expiry date of any policy provided pursuant to this Agreement, until the Town has indicated in writing that the policy need not continue in force any longer. In the event that such renewal certificate is not received, the Town shall be entitled to either renew the policy at the expense of the Developer or to order that all work on the Lands cease until the policy is renewed.
- (f) These policies shall provide for cross-liability and severability of interest protecting the Town against claims by the Developer as it were separately insured and providing that the Town shall be insured notwithstanding any breach of any condition in the policy by any other insured.

9.2 No Relief

The issuance of such policies of insurance shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, for which the Developer is or may be liable under this Agreement or at law.

9.3 Notice of Cancellation

If the Town receives notice from the insurer that it has cancelled or refused to renew the insurance, or that it intends to do so, or if the Town otherwise determines that the insurance has lapsed or is about to lapse without renewal or replacement, the Town may, on Notice to the Developer and at the sole cost and expense of the Developer, obtain insurance in accordance with this section. In such circumstances, the Town shall be entitled to obtain new insurance or add the necessary insurance coverage to the Town's blanket insurance. The Developer shall forthwith, upon receipt of Notice thereof from the Town, reimburse the Town for the cost of such insurance payable as noted above. In addition, the Town shall, at its sole discretion and option, be entitled to draw upon any Security posted under this Agreement to cover the costs of the insurance.

PART X

CONVEYANCE OF LANDS AND EASEMENTS TO TOWN

10.1 Parkland Dedication and Parkland Payment

- (a) The Developer shall, at its own expense upon registration of each Plan, transfer to the Town, free of all encumbrances, the Parkland Dedication described in Part 1 of Schedule "I". The total acreage of these lands is final and not subject to adjustment or re-conveyance in part to the Developer after Final Approval. The Parties acknowledge that the transfer of the Parkland Dedication is a requirement of the Conditions.
- (b) The lands described in Part 2 of Schedule "I" shall not be considered for the purpose of determining the Parkland Dedication or the Parkland Payment.
- (c) The Developer shall, prior to execution of this Agreement, pay to the Town the Parkland Payment required by Schedule "H". the amount of this payment is final and not subject to adjustment.

10.2 Transfer of Lands and Easements

The Developer shall, at its own expense upon registration of each Plan, transfer or cause to be transferred to the Town and the other persons named in Part 2 of Schedule "I" and the Easement Memo, at no cost or charge and free and clear of all encumbrances, the lands described in Part 2 of Schedule "I" for purposes other than Parkland Dedication and the easements described in the Easement Memo. The Parties acknowledge that the transfer of these lands and easements is a requirement of the Conditions.

10.3 Registration of Transfers and Solicitor's Certificate

The Developer shall prior to Final Approval deliver to the Town, for approval by the Town, a draft of the final plan which the Developer proposes to register, drafts of all reference plans required for the transfer of the lands and the easements required by Schedule "I", draft transfers in electronic form for the transfer of the lands and the easements required by Schedule "I", and a draft Order of Registration Agreement. The Developer shall, forthwith after the registration of the Plan, register the approved reference plans and transfers of lands and easements and other documents in accordance with the approved Order of Registration Agreement and provide the Town with a Solicitor's Certificate, in a form satisfactory to the Town, certifying that the Town and the other persons named in Part 2 of Schedule "I" have good title to the lands and easements transferred pursuant to this Agreement free from all encumbrances.

10.4 Additional Lands and Conveyances

If the Town subsequently determines that other lands or easements or other interests over other lands are required for purposes of completing installation of the Works, the Developers shall convey same on demand, free of all prior liens, charges, claims or encumbrances, to the Town if the Developers own such lands and otherwise shall use reasonable commercial efforts to arrange to have such lands, easement or other interests conveyed to the Town.

10.5 Inhibiting Order

If required by the Town, the Developer shall present an application, in a form approved by the Town, for an order inhibiting any dealings with the Lands to the applicable Land Registrar immediately following the registration of a Plan. The Developer covenants not to do anything that will affect the registered title of that part of the Lands registered as a Plan after registration of the Plan until the inhibiting order is entered against title to the Lands. The Developer acknowledges that the Town shall not be obligated to register any documents in compliance with the inhibiting order or to apply to have the inhibiting order removed from title until the Developer has supplied all documents in compliance with this Agreement in registrable form to the Town and all other documents required to provide discharges, releases and postponements with respect to any charges, mortgages or encumbrances with respect to the Lands have been registered against title to the Lands.

PART XI

RESTRICTIVE COVENANTS & WARNING CLAUSES

11.1 Restrictive Covenants

The Developer covenants and agrees that the restrictive covenants contained in Schedule "J" will be registered separately against the title to the lots, blocks or units within each Plan as restrictive covenants running with the Lands, it being the intention that the burden of these covenants shall attach to and run with the Lands and be binding on subsequent owners of the Lands.

11.2 Notices and Warning Clauses

The Developer shall include the notices and warning clauses set out in Schedule "K" into all agreements of purchase and sale entered into subsequent to the execution of this Agreement for all properties, land, buildings and structures constructed or situated on the lots, blocks or units on each Plan.

11.3 Development Charges Notice

The Developer shall provide notice to the first purchaser of any lots, blocks or units in the Plan, upon transfer of the lots, blocks or units, of all development charges related to the

Plan, including development charges already paid by the Developer or development charges that may be payable in the future.

PART XII

ADMINISTRATION

12.1 Registration of Plan

The Developer shall register the final plan as soon as possible upon Final Approval and approval by the Approving Authority.

12.2 Notices

- (a) Any Notice to be given by the Town to the Developer with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered or sent by facsimile transmission to the Developer at the address shown on Schedule "A" or such other address of which the Developer has by Notice notified the Municipal Clerk and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.
- (b) Any Notice to be given by the Developer to the Town with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered or sent by facsimile transmission to or delivered to:

**Town of The Blue Mountains
32 Mill Street,
Box 310, Thornbury, ON, N0H 2P0
Attention: Planning and Development Services Department
Facsimile: (519) 599-3664**

or such other address of which the Town has by Notice the Developer and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.

- (c) Any Notice shall be deemed to have been given to and received by the party to which it is addressed;
 - (i) if delivered, on the date of delivery;
 - (ii) if mailed, on the fifth day after mailing thereof; or
 - (iii) if faxed, on the date of faxing, as confirmed

12.3 Nullification of this Agreement

If the first proposed Plan is not registered within two (2) years from the date of execution of this Agreement, the Town may, at its option and on twenty (20) Business Days' Notice to the Developer, declare this Agreement null and void and of no further effect. Any Security held at the time of nullification of this Agreement shall be returned forthwith to the Developer, less any amounts drawn by the Town from the Security to remedy any Defaults occurring before the nullification of this Agreement and drawn to pay any costs incurred by the Town to return the Lands to a safe and presentable condition. The refund of any fees, levies or other charges paid by the Developer pursuant to this Agreement shall be in the sole discretion of the Town but the Developer acknowledges that under no circumstances will interest be paid on any refund.

12.4 Registration of Agreement

The Parties hereby covenant and agree that this Agreement shall be registered upon title to the Lands. The Developer further shall pay all costs associated with the

preparation and registration of this Agreement, as well as all other costs incurred by the Town as a result of the registration of any other documents pertaining to this Agreement, including but not limited to, the transfers of the lands and easements referred to in Schedule "I", the Restrictive Covenants referred to in Schedule "J" and any amendments to this Agreement notwithstanding that such registration may have been solely at the instance of the Town. The Developer hereby authorizes the Town Solicitor or his designate to execute on behalf of the Developer all documents necessary to register this Agreement in the Land Registry Office.

12.5 Postponement and Subordination

The Developer covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or encumbrances as may be deemed necessary by the Town to postpone and subordinate their interest in the Lands to the interest of the Town to the extent that this Agreement and the easements referred to in Schedule "I" shall take effect and have priority as if it had been executed and registered before the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands.

12.6 Enforcement

The Developer acknowledges that the Town, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement and recover any amounts or costs owing to it in accordance with Section 442 of the Municipal Act.

12.7 Other Applicable Laws

Nothing in this Agreement shall relieve the Developer from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any Government Authority.

12.8 Waiver

The failure of the Town at any time to require performance by the Developer of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Town of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Town shall specifically retain its rights at law to enforce this Agreement.

12.9 Extension of Time

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Developer and the Town, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

12.10 Governing Law

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

12.11 Successors & Assigns

It is hereby agreed by and between the Parties hereto that this Agreement shall be enforceable by and against the Parties hereto, their heirs, executors, administrators, successors and assigns, including the Condominium Corporation and that the Agreement and all the covenants by the Developer herein contained shall run with the Lands.

12.12 No Fettering of Discretion

Despite any other provisions of this Agreement, the Parties hereto agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the Town Council which authorized the execution of this Agreement or any of its successors councils in the exercise of any of Council's discretionary powers, duties or authorities. The Developer hereby acknowledges that it will not obtain any advantageous planning or other consideration or treatment by virtue of it having entered into this Agreement or by virtue of the existence of this Agreement.

PART XIII LIST OF SCHEDULES

The following schedules are attached hereto and form part of this Agreement:

"SCHEDULE A" being a Description of the Lands;

"SCHEDULE B" being the Conditions and a Description of the Plan;

"SCHEDULE C" being the Phasing Requirements for the Plan;

"SCHEDULE D" being a Description of the Accepted Plans and Private Services;

"SCHEDULE E" - being the Estimated Cost of Installation the Works and the Security Requirements;

"SCHEDULE F" being the Completion Schedule for the Installation of the Works;

"SCHEDULE G" being the Special Provisions

"SCHEDULE H" being a List of the Financial Obligations of the Developer;

"SCHEDULE I" being the Lands and Easements to be conveyed to the Town and Others;

"SCHEDULE J" being a list of the Restrictive Covenants for the Lands;

"SCHEDULE K" being a list of Notices and Warning Clauses.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals duly attested by the hands of their proper signing officers in that behalf.

WINDFALL LIMITED PARTNERSHIP
By its General Partner
WINDFALL GP INC.

Name J. David Bunston
Title President
I have authority to bind the corporation

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

Mayor / Alar Soever

Clerk - Corrina Giles

c/s

SCHEDULE "A"

**This schedule forms part of a Subdivision Agreement between Windfall GP Inc.
and
The Corporation of the Town of The Blue Mountains**

DESCRIPTION OF THE LANDS

PHASE 4B

(Geographic Township of Collingwood),

Town of The Blue Mountains, County of Grey,

PIN (LT)

Lots 1 to 40, Plan 16M -

Town of The Blue Mountains (formerly Township of Collingwood) County of
Grey

ADDRESS OF THE DEVELOPER FOR SERVICE

Windfall GP Inc.
c/o Georgian International Limited
85 Bayfield Street,
Suite 500
Barrie, Ontario
Canada, L4M 3A7

SCHEDULE "B"

**This schedule forms part of a Subdivision Agreement between Windfall GP Inc.
and
The Corporation of the Town of The Blue Mountains**

DESCRIPTION OF THE DRAFT PLAN AND CONDITIONS

1. DESCRIPTION OF THE DRAFT PLAN

Draft Plan 42T-2010-03 dated August 24, 2011 as red line revised March 19, 2012 prepared by Bousfields Inc. DWG. #; 0765-116dp – 609 dwelling units

2. Description of the Conditions

Approval Authority's Conditions for Draft Plan 42T-2010-03 set out in the Approval Authority's Decision dated November 15, 2011 as amended by the Approval Authority's Decisions dated May 10, 2012, September 16, 2014 and October 13, 2016.

3. Description of the Plan for Phase 4B

Plan of Subdivision prepared by Patten & Thomsen, Ontario Land Surveyors, Job No. 86-25-12
Showing Lots 1 to 40

SCHEDULE "C"

**This schedule forms part of a Subdivision Agreement between Windfall GP Inc.
and
The Corporation of the Town of The Blue Mountains**

PHASING

Part 1 - GENERAL PHASING REQUIREMENTS

1. The lands shown on the Draft Plan shall be subdivided, developed and serviced in accordance with the phasing provisions set out in the MDA and this Agreement.

Phase 4A – Registered Plan 16M-71 consisting of Lots 1 to 43 shown on the Plan, together with all of Sycamore Street and Hawthorne Street.

Phase 4B - This Agreement applies only to Phase 4B which consists of the following lots shown on the Plan

Lots 1 to 40 shown on the Plan,

SCHEDULE "D"

**This schedule forms part of a Subdivision Agreement between Windfall GP Inc.
and
The Corporation of the Town of The Blue Mountains**

ACCEPTED PLANS AND PRIVATE SERVICES

PART 1 - ACCEPTED PLANS - ALL WORKS – Phases 4A and 4B

In this Agreement:

"Accepted Plans" means all the studies, reports, designs, plans, drawings and specifications for the installation of the Works, signed and sealed by one or more Engineers and one or more Landscape Architects (individually the "Engineering Consultant" or the "Landscaping Consultant" and collectively the "Consultants") who prepared them the originals of which have been signed and stamped in red ink "Accepted for Construction" by the Town on October 30, 2019.

All the Public Works shown on the Accepted Plans providing Public Works to service the Phase 4B Lands were installed in accordance with the requirement of the Phase 4A Agreement and the provision of that agreement shall apply to these works.

The provisions of this agreement shall apply to all of the Works installed or to be installed on the Phase 4B Lands.

Where the subject matter or context of any particular section of this Agreement requires reference to an individual Accepted Plan, it may be referred to by its individual name.

The Accepted Plans have been delivered to the Consultants, are on file with the Town Clerks Office and may be viewed during normal office hours

PART 1 – DESCRIPTION OF THE ACCEPTED PLANS

Engineering Works

Prepared, signed and sealed by:

Tatham Engineering – Engineering Consultant
Project Name: Windfall Limited Partnership – Windfall Phase 4
Project Number 111179-4
Dated; May 2019
Revision Date – October 10, 2019
"Accepted for Construction" by the Town: October 30, 2019

Landscaping Works

Prepared, signed and sealed by:

Envision Tatham – Landscaping Consultant
Project Name; Windfall Limited Partnership – Windfall Phase 4
Project: ET 111179-4
Dated: October 7, 2019
Revision Date: October 9, 2019
"Accepted for Construction" by the Town: October 30, 2019

Electrical Drawings

Prepared, signed and sealed by:

Runge & Associates Inc. - Engineering Consultant

Project Name: Windfall Limited Partnership – Windfall Phase 4
Project Number 11129T-06
Dated; October 2019
Revision Date: October 17, 2019
Dated: "Accepted for Construction" by the Town: October 30, 2019

PART 2 - DESCRIPTION OF THE PUBLIC WORKS

All the Public Works shown on the Accepted Plans

PART 3 – DESCRIPTION OF THE PRIVATE SERVICES

Nil

SCHEDULE "E"

This schedule forms part of a Subdivision Agreement between Windfall GP Inc. and
The Corporation of the Town of the Blue Mountains

SECURITY REQUIRED

The following Security has been provided to the Town as Security to be used as security in
the accordance with the requirements the Phase 4A Agreement for the development and
servicing of Registered Plan 16M-71

PLAN 16M-71 - PHASE 4A SECURITY

1	Twenty five percent (25%) of the cost of completed curbs, gutters and sidewalks	\$Nil
2	Twenty five percent (25%) of the cost of completed landscaping	\$Nil
3	Ten percent (10%) of the cost of all other completed works	
4	One Hundred and five percent (105%) of the cost of uncompleted works	
5	Six percent (6%) Engineering on uncompleted works	
6	Grading and Tree Preservation Security	
7	Other Security Required –	\$Nil
	TOTAL SECURITY	\$

The Parties agree that this Security shall also be used as the Security in
accordance with the requirements of this Agreement.

SCHEDULE "G"

**This schedule forms part of a Subdivision Agreement between
Windfall GP Inc. and
The Corporation of the Town of The Blue Mountains**

SPECIAL PROVISIONS

PHASE 4B

PART 1 - WORKS PROVISIONS

1. Landscape Works

The Developer:

1.1 shall plant trees and landscaping in accordance with the Accepted Plans.

1.2 shall lay topsoil to a minimum depth of 100 millimeters, unless otherwise shown on the Accepted Plans, on all boulevards and on the front, side and rear yards of each of the lots or part lots or blocks or units on the Plan and place sod on all boulevards where grassed surface required prior to the occupancy of any buildings or structures;

1.3 despite anything contained in this Agreement, agrees

- a. to maintain the trees and landscaping for a period of two (2) years after being advised in writing that the Town is satisfied with the newly planted trees and landscaping;
- b. that should any newly planted tree or landscaping require replacement during this guarantee period, the tree and landscaping shall be replaced immediately and shall have an additional two (2) year maintenance period placed on this new planting;
- c. that a tree or landscaping will not be accepted until an uninterrupted period of growth of at least two (2) years.

1.4 agrees that no wording will be included in any agreement of purchase and sale that states or creates an expectation that there will be a tree in front of or upon each lot, and

1.4. agrees, if required by the Town, to pay to the Town in accordance with Section 2.7 of this Agreement an amount equal to the cost of planting any of the trees and landscaping shown on the Accepted Plans in lieu of the Developer planting these trees and landscaping.

2. Sediment Control

2.1 The Developer shall be responsible to monitor sediment in the storm sewer and structures downstream of any site servicing construction to ensure that they are maintained regularly and cleaned out at the completion of each phase of construction (flushed). Additionally the Phase 1 SWM facilities will be cleaned/maintained in accordance with the O&M Manual.

2.2 The Town may, at its sole discretion require the Phase 1 storm water management facility or other works be cleaned to remove sediment that may have been allowed to leave Phase 4B.

3. Pressure Reduction Valves

The Developer shall provide individual pressure reducing valves for each dwelling to be constructed on the Plan.

4. Installation of the Basic Services

The Parties agree despite the provisions with respect to the Installation of Basic Services set out in Section 4 of Part 1 of Schedule "G" to the Phase 4A Agreement, Section 5.1(c) of the Phase 4A Agreement shall continue to apply with respect to issuing of building permits for dwelling units proposed to be constructed on the Phase 4B Lands

PART 2- PLANNING PROVISIONS

1. Homeowners Association and the Private Services and Community Facilities

1.1 The Parties acknowledge that Developer has incorporated Windfall Homeowners Association by Ontario Letters Patent dated July 24, 2014 and that Blocks 43, 44, 45, 46, 47, 48, 49, 54, 56, 59, 60, 62 and 63 shown on Plan 16M-42 (the "Community Lands") shall be transferred to the Homeowners Association.

1.2. The Developer shall be solely responsible for the design, installation, management, maintenance, repair and replacement of the "Private Services" described in the subdivision agreement for Plan 16M-42 and other facilities and assets of value to the Developer or the Homeowners Association installed on the Community Lands by the Developer or the Homeowners Association (collectively the "Community Facilities") until the Community Lands are transferred to the Homeowners Association and thereafter the Community Facilities shall be owned, operated, maintained, repaired, reconstructed and replaced to Acceptable Standards in accordance with the Accepted Plans by the Homeowners Association at their own expense in perpetuity.

1.3. The Parties agree that the Town shall have no obligation or responsibility whatsoever for the installation, operation, maintenance, repair, reconstruction and replacement of the Community Facilities or for any other costs relating to the Community Facilities

1.4. In order to ensure that the costs associated with the Community Facilities can be recovered from each homeowner within the Plan the Developer shall register a common elements condominium corporation (the "CECC") for Phase 4B of the development of the Lands in a form satisfactory to the Town by no later than six (6) months from the date of registration of the Plan. The parcels of tied land identified in the CECC will correspond with each lot shown on the Plan. The common element for the CECC will consist of a Block 61 shown on the Plan 16M-42 being a small parcel of open space lands sufficient to satisfy the requirements of the Condominium Act and all regulations thereto. The CECC shall be a member of the Homeowners Association and shall be required to contribute to the costs of the Homeowners Association and the Community Facilities.

PART 3- FINANCIAL PROVISIONS

Nil

PART 4 - COUNTY PROVISIONS

The Parties acknowledge County Development Charges are due at the time of Building Permit in the amount applicable at that time.

PART 5 – OTHER

1. Administration of the Agreement

1.1 The Parties acknowledge that Parts I to XII of this Agreement constitutes the Town's Standard Form of Subdivision Agreement and that some provisions of Parts I to XII may not apply to the subdivision, development and servicing of the Lands. This Agreement shall be administered by the Town on the understanding that if the Town determines that a particular provision of this Agreement does not apply to the subdivision, development and servicing of the Lands, it will not apply such provision, without the necessity of amending this Agreement to delete the non- applicable provision from this Agreement.

1.2. In the event of a conflict between:

- (a) any provision in the MDA with any provision in this Agreement, this Agreement shall govern; or
- (b) any provisions in Parts I to XII of this Agreement with any provision in the Schedules, including anything shown on the Accepted Plans, the provisions in the Schedules and shown on the Accepted Plans shall govern: or
- (c) any provisions in Schedule "G" with anything shown on the other Schedules and the Accepted Plans the provisions in the Schedule "G" shall govern.

2. NVCA Fee

The Developer shall pay to the NVCA, prior to Final Approval all development fees for Phase 4B as required by the NVCA.

SCHEDULE "H"

**This schedule forms part of a Subdivision Agreement between
Windfall GP Inc. and
The Corporation of the Town of The Blue Mountains**

LIST OF FINANCIAL OBLIGATIONS OF THE DEVELOPER

PHASE 4B

1. Parkland Payment (s 10.1)	Nil
2. Works Fee (s 8.2)	Nil
3. Deposit for Agreement Costs (s 8.3)	Nil
4. Agreement Preparation Fee	
5. Municipal Fees and Charges (s 8.1 & 8.6)	Nil
6. Development Charges – Phase 4B	

For the purposes of this Agreement:

“By-law 2019-17” means the Town’s Development Charges By-law 2019-17 as amended from time to time or any successor or replacement by-law thereto;

1. The Parties agree that the provisions of By-law 2019-17 shall govern the payment of development charges with respect to dwelling units to be constructed on the Lands.
2. The Parties agree that the development charges for Roads and Related, Waterworks System and Sanitary Sewage System service categories which are set out in the following Section 3 are required to be paid by the Developer in accordance with Section 16(3) of By-law 2019-17 on the execution of this Agreement by the Developer.
3. Development Charges Payable on the execution of this Agreement by the Developer being the rate per unit in effect until December 31, 2020

Unit Type – Single and Semi Detached

Roads and Related	61 Units @		per unit =	
Water	61 Units @		per unit =	
Wastewater	61 Units @		per unit =	
Development Charges Payable				
Less Credits				
Wastewater	61 units @		per Unit =	
Development Charges Payable (Less Credits)				

4. The Parties acknowledge and agree that the development charges for the services categories in By-law 2019-17 other than for Roads and Related, Waterworks System and Sanitary Sewage System service categories referred to in Section 3 above shall be paid in accordance with the provisions of By-law 2019-17 at the time a building permit is issued.

PART - 3

Storm Water Management System Maintenance Payment -Nil

SCHEDULE "I"

**This schedule forms part of a Subdivision Agreement between
Windfall GP Inc. and
The Corporation of the Town of The Blue Mountains**

PHASE 4B

LANDS AND EASEMENTS TO BE CONVEYED TO THE TOWN

Note: Lot and Block Numbers are in accordance with the Plan

PART 1 PARKLAND DEDICATION (s10.1)

Nil

PART 2 OTHER LANDS TO BE CONVEYED (s10.2)

Town

Nil

1. Highway Widening (dedicated on the Plan): Nil
2. Reserves: Nil
3. Landscape Blocks: Nil
4. Valleylands and Other Open Space: Nil
5. Walkways: Nil
6. Storm Water Management Lands: Nil
7. Future Highway: Nil
8. Environmental Buffers: Nil
9. Sanitary Sewer: Nil
10. Entry Feature: Nil
11. Emergency Access: Nil

County

Nil

Other Persons

Nil

PART 3 EASEMENTS TO BE CONVEYED (s10.2)

Town

To be advised

Other Persons

To be advised

PART 4 LANDS FOR FUTURE DEVELOPMENT

Nil

SCHEDULE "J"

**This schedule forms part of a Subdivision Agreement between
Windfall GP Inc. and
The Corporation of the Town of The Blue Mountains**

RESTRICTIVE COVENANTS

In these Restrictive Covenants, the terms CBO, Engineer, Overall Grading Plan, Landscape Consultant, Lot Grading Plan, Final Lot Grading Certificate, Final Inspection, Lot Owner, Town and Town Lands shall have the meanings ascribed to them in the Subdivision Agreement for Registered Plan 16M-**, registered as Instrument Number ***** (the "Subdivision Agreement").

Grading and Drainage

No Lot Owner shall make an application for a building permit for a lot on the Plan until the Lot Owner has, at the Lot Owner's expense, retained an Engineer to prepare and provide to the Town a Lot Grading Plan and a Final Lot Grading Certificate for the lot. A building permit will not be issued until the Lot Grading Plan has been accepted by the Town and the Lot Owner has provided security to the Town. A Final Inspection will not be made by the CBO and the security will not be returned to the Lot Owner until the Town approves the Final Lot Grading Certificate.

No Lot Owner shall commence any grading on any lot or remove any trees from any lot until the Town accepts the Lot Grading Plan.

No Lot Owner shall alter the grading or change the elevation or contour of the land shown on the Overall Grading Plan and the Lot Grading Plan or alter or interfere with the grading and drainage levels and patterns as accepted by the Town with respect to the said lot except in accordance with an amended Lot Grading Plan accepted by the Town. Without limiting the generality of the foregoing, no Lot Owner shall alter, fill, fence, stop up or allow to become clogged or fall into a state of disrepair, any rear or side yard drainage depression or swale, catch basin or other drainage channel, facility or installation, as such alteration or other action as stated above may cause a failure of the drainage system in the area which will result in civil liability. Lot Owners will agree to indemnify and save the Town completely harmless from all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly, by reason of such alteration or other action as stated above.

No Lot Owner shall be entitled to connect roof leaders to the foundation drain collector or to the weeping tile. Roof leaders shall be required to discharge onto the lot, with the use of concrete splash pads such that the side lot swales will drain the runoff to the road or to the rear of the lots. Underground cisterns to allow capture and reuse of rainwater may be permitted with the prior approval of the Town.

General Restrictive Covenant Provisions

The burden of these restrictive covenants shall be annexed to and run with the title to each lot on the Plan and the benefit of these restrictive covenants shall be annexed to and run with each and every part of the lands on the Plan owned by the Town and the Town Lands abutting the Plan with the intention that these restrictive covenants shall be binding on the Lot Owner and each of its successors in title, from time to time, to each lot or block on the Plan, in perpetuity.

Partial Invalidity

The invalidity in whole or in part of any of these restrictive covenants shall not affect the validity of the other restrictive covenants or remaining portion of these restrictive covenants herein contained.

SCHEDULE "K"

**This schedule forms part of a Subdivision Agreement Windfall GP
Inc. and**

The Corporation of the Town of The Blue Mountains

NOTICE AND WARNING CLAUSES

The Developer shall include the following clauses in every Purchase and Sale Agreement for each lot on the Plan:

Postal Service

Purchasers are advised that door-to-door postal service will not be available within this Plan.

Right of Entry

Purchasers are advised that various provisions of the Subdivision Agreement provide that the Town shall be entitled to enter onto the lots within the Plan in order to carry out various inspections, repairs and maintenance activities.

Land Use Permit

Purchasers are advised that they shall not install or alter or permit to be installed or altered any works, including culverts and driveways, berms, fencing, trees, shrubs, hedges, landscaping of any kind, signboards, construction materials or other objects on Town Lands, including a public highway or easements in favour of the Town, that are not required to be installed by the Developer in accordance with the requirements of the Subdivision Agreement, without first obtaining from the Town a Land Use Permit required by the Town's Land Use Permit By-law 2014-65 or an successor by-law thereto for such work.

Trees

Purchasers are advised that the Landscape Plans may not provide for the planting of a tree in front of or upon each lot.

Grading and Drainage

Purchasers are advised that they are not permitted to commence any grading work on their lot or remove any trees from their lot until the Town has accepted a Lot Grading Plan for the lot as required by the Subdivision Agreement.

Purchasers are advised that a building permit will not be issued until the Town has accepted a Lot Grading Plan for the lot and security has been provided to the Town as required by the Subdivision Agreement.

Purchasers are advised that they are required to grade their lot in accordance with the Overall Grading Plan for the subdivision and the Lot Grading Plan for their lot

Purchasers are advised that they are not permitted to alter the grading of their lot shown on the Overall Grading Plan for the subdivision and the Lot Grading Plan for their lot or remove any the trees on their lot required to be preserved by the Lot Grading Plan for their lot except in accordance with a revised Lot Grading Plan accepted by the Town.