

SUBDIVISION & CONDOMINIUM AGREEMENT

**for
139 Brophy's Lane**

BETWEEN:

L. & W. PROPERTIES LIMITED
(hereinafter referred to as the "Developer")

- and -

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

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SUBDIVISION AGREEMENT

THIS AGREEMENT made the 22 day of *September*, 2025

BETWEEN:

L. & W. PROPERTIES LIMITED
(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 all of the lands shown on the Draft Plan;

AND WHEREAS the Developer intends to develop the Lands as a sixteen (16) unit and seven (7) block plan of subdivision and common elements condominium;

AND WHEREAS the Developer has applied to the Approval Authority for approval of a plan of subdivision and plan of condominium with respect to the Lands pursuant to the provisions of the *Planning Act*;

AND WHEREAS the Approval Authority gave draft plan approval to the Draft Plan of Subdivision as set out and described at Schedule "B" to this Agreement;

AND WHEREAS the Developer warrants and represents that there are no encumbrances of the Lands, save and except any registered municipal agreements and registered agreements with publicly regulated utilities, any minor easements for the supply of domestic utility or telecommunication services to the Lands or adjacent properties, any easements for drainage, storm or sanitary sewers, public utility lines, telecommunication lines, or other services;

AND WHEREAS the Town is authorized by subsection 51(26) of the Planning Act to enter into this Agreement to require the Developer to construct and install certain watermains and water service connections, stormwater management systems, sewers and sanitary sewers, roadways, structures, sidewalks, landscaping, conservation work and any other requirements or services as set out in this Agreement and to make financial arrangements with the Town for the installation and construction of the required services before final approval of the Plan by Approval Authority.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the Town giving Final Approval, the covenants hereinafter expressed, other good and valuable consideration and the sum of TEN DOLLARS (\$10.00) of lawful money of Canada now paid by each of the Parties hereto to each of the other Parties hereto, the receipt whereof is hereby acknowledged, the Parties hereto hereby covenant and agree with each 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:

“Approved 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 and are described in Schedule “D”;

“Acceptable Standard” means, the maintenance and repair of the Works, in a good state of repair in accordance with the requirements of this Agreement, the Engineering Standards, the Approved Plans and with all Applicable Laws for the appropriate maintenance and repair of the Works;

“Applicable Laws” means all statutes, including the Building Code Act, laws, by-laws, regulations, ordinances, orders and requirements of the Town and all Government Authorities, at any time or from time to time in force governing the Lands or the design, installation, maintenance and repair of any part of the Works or the erection of buildings or structures on the Lands;

“Approval Authority” means the County of Grey;

“As Built” in the context of a drawing or document means a document created by or based solely on information provided by a third party that reflects the installed, constructed, or commissioned conditions of a device, machine, equipment, apparatus, structure, system, or other outcome of an engineering project. Since the engineer has not reviewed and verified that the information is complete or accurate, as-built drawings must not be sealed.

“Assumption” means the date on which the Town has passed an Assumption By-law for the Public Works described therein, after which the Town shall assume all ownership and responsibility over the Public Works, in accordance with this Agreement; OR, in the case of Private Works, the date on which all of the following have occurred:

- I. the ownership and responsibility for the Private Works is permanently turned over from the Developer to a condominium corporation and the condominium has been registered;
- II. all applicable two-year Maintenance Period(s) have expired; and
- III. The Developer has obtained Final Acceptance.

“Basic Services” means the Water Distribution Works, the sanitary sewage collection Works, the storm sewer, stormwater drainage and stormwater management Works, all road crossings for the Utility Services, the Road Works, up to and including base course asphalt, temporary asphalt curbs, and staked location of sidewalk, (but not including concrete curb & gutter and sidewalk), Rough Grading, permanent regulatory traffic signs, street name signs, all as shown on the Approved Plans;

“Building Code Act” means the Building Code Act, 1992, S.O.1992 c.23, as amended or any successor statute, and any regulations thereunder;

“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 their designate;

“Certificate of Preliminary Acceptance” means a certificate issued by the Town, as a condition precedent to the issuing of building permits, stating that the Basic Services and such other Public Works as may be described therein have been installed in accordance with the requirements of this Agreement, to the Town’s satisfaction, other than as may be specified on the Certificate;

“Certificate of Final Acceptance” means a certificate issued by the Town stating that all of the Public Works described therein have been installed in accordance with the requirements of this Agreement to its satisfaction 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;

“Communications Plan” means that plan set out in Schedule “O” hereto;

“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;

“Construction Act” means the *Construction Act, RSO 1990, c. C.30*, as amended or any successor statute, and any regulations thereunder;

“Consultant(s)” has the meaning ascribed to it in Section 2.1;

“Contaminant” is as defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19

“County” means the County of Grey;

“Daylight” means to excavate or expose underground infrastructure or Works such that said infrastructure or Works can be inspected and evaluated.

“Default” means a failure to fulfill any requirement or obligation of this Agreement whatsoever by the Developer or a Lot Owner in the performance of its obligations under this Agreement; including, but not limited to, 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 and the failure to abide by any Applicable Laws;

"Director" means the person holding the title of Director of Planning and Development Services for the Town or their designate, being the Manager of Development Engineering;

“Discharge” is as defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19’

“Draft Plan” means the approved draft plan of subdivision as described in Schedule “B” and in the Conditions;

“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 of the Blue Mountains Engineering Standards 2023, and as may be amended by the Town from time to time;

“External Works” means those Works so described in Schedule ‘D’ hereto;

“Final Acceptance” means all of the Works described herein have been completed and installed in accordance with the requirements of this Agreement to the Town’s satisfaction, and the

applicable Maintenance Period has expired, and no other obligations under the Agreement remain outstanding with respect to the Works or any matters provided for in this Agreement, other than Assumption of the Works by the Town, and the Town has issued a Certificate of Final Acceptance;

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

“Final Lot Grading Certificate” has the meaning ascribed to it in Section 2.25;

“Final Walkthrough” means the in-person walkthrough attended on-site by Engineer(s) on behalf of the Developer and Town to identify deficiencies which require rectification prior to Assumption;

“Final Works Fee” has the meaning ascribed to it in Subsection 8.2(b);

“Fire Chief” means the person holding the title of Fire Chief for the Town or their designate;

“Government Authority” means any government authority or agency, including conservation authorities and the Niagara Escarpment Commission 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 a highway under the jurisdiction of the Town which has not been assumed for public use by a by-law of the Town;

“Lands” shall mean the lands described in Schedule “A”;

“Landscape Architect” means a landscape architect registered with the Ontario Association of Landscape Architects;

“Lot” means a lot or block shown on the Plan;

“Lot Grading Plan” has the meaning ascribed to it in Section 2.24:

“Lot Owner” means the registered owner of a Lot shown on the Plan and includes the Developer when it is the registered owner of a Lot;

“Maintenance Period” means a minimum period of two (2) years following issuance of a Certificate of Preliminary Acceptance for the Works described therein, and continuing until Assumption of said Works;

“Municipal Act” means the Municipal Act, 2001 S.O. 2001, c.25, as amended or any successor statute, and any regulations thereunder;

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

“OLS” means Ontario Land Surveyor;

“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 Parkland;

“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 the final plan(s) of subdivision which the Developer has registered in accordance with the provisions of the Planning Act for the purpose of subdividing the whole or any part of the Lands;

“Planning Act” means the Planning Act, R.S.O. 1990, c. P.13, as amended or any successor statute, and any regulations thereunder;

“Power Utility” means Hydro One Networks Inc. or EPCOR Electricity Distribution Ontario Inc., whichever has jurisdiction to supply electric power to the Lands;

“Preliminary Acceptance” means the Basic Services or some or all of the other Works have been completed and installed in accordance with the requirements of this Agreement, to the Town’s satisfaction, and the Town has issued a Certificate of Preliminary Acceptance;

“Pre-Service or Pre-Servicing” means the installation of Pre-Servicing Works in accordance with a Pre-Servicing Agreement with the Developer;

“Pre-Servicing Works” means that part of all of the Works which are installed in accordance with a Pre-Servicing Agreement with the Developer;

“Private Works” means all of the buildings, structures, works, servicing, facilities, landscaping, fencing, matters and things as identified in Schedule “D” and as shown on the Approved Plans or referred to in this Agreement which are to be designed, installed, owned, operated, maintained, repaired, reconstructed, and replaced in perpetuity by the Developer, a Lot Owner, or their successors and assigns, including a condominium corporation;

“Public Works” means those Works described in Schedule “D” and as shown on the Approved Plans which are to be owned, operated and maintained by the Town following Assumption;

“Record Drawings” means documents created to accurately reflect as-constructed, as-built or as fabricated conditions and that have been sealed by a professional engineer after verifying that the documents are accurate.

“Rough Grading” means grading the Lands in conformity with the Approved Plans;

“Security” has the meaning ascribed to it in Section 3.1:

“Site Coordination Plan” means the plan attached at Schedule “L” hereto;

“Stop Work Order” has the meaning ascribed to it in Section 2.45;

“Street Lighting System” means a minimum standard for street lighting which shall be LED lighting set on 9 m sectional steel or concrete poles. Each light must be controlled by a dusk to dawn photoelectric cell. Power feed shall be completely underground. The lights shall generally be placed on the south or east side of the road. Particular care shall be taken to adequately illuminate the intersections. Under no circumstances shall street light poles be located in the front slope or centreline of ditches. Architectural style luminaries and poles will be considered on a case-by-case basis. The Town reserves the right to limit the number of alternative styles and types within the Town.

“Town Lands” means all lands and easements 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 IT Services/Treasurer for the Town or their designate;

“Utility Services” means all of the utility services required for the servicing of the Lands, including, but not necessarily limited to, hydro-electric, gas, telephone, internet, cable television and telecommunication, and includes the Power Utility, but does not include the Street Lighting System or other lighting included in the Works;

“Water Distribution Works” means the watermain and related appurtenances, including without limitation, water main pipe, fittings, restraints, valves, hydrants, autoflusher, and water services and water boxes;

“Works” means all of the works, utilities, infrastructure, grading and drainage, services, facilities, landscaping, fencing, culverts, driveways, roads, sidewalks, curbs, gutters, matters and things shown on the Approved Plans or referred to in this Agreement, including but not limited to Pre-Servicing Works, Public Works, Private Works, External Works and those Works referred to in Schedules D and E, 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. 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;

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

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) The Developer acknowledges and agrees that it shall be responsible for the complete cost of performance and enforcement of all of its obligations pursuant to this Agreement unless specifically relieved from such responsibility by the terms of this Agreement. 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 specifically stated otherwise.
- (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 Approved 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

- (a) This Agreement shall be administered on behalf of the Town by the Director, unless another Town official is specifically referred to in this Agreement for such purposes. 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, in their sole discretion, acting reasonably.
- (b) Where the Town is required to correspond with a Consultant with respect to any matter arising out of this Agreement, such correspondence shall be made to both the Consultant and the Developer.
- (c) The Parties acknowledge that Parts I to XII of this Agreement constitute 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.
- (d) In the event of a conflict between:
 - (i) any provisions in Parts I to XII of this Agreement with any provision in the Schedules, including anything shown on the Approved Plans, the provisions in the Schedules and shown on the Approved Plans shall govern; and
 - (ii) any provisions in Schedule "G" with anything shown on the other Schedules and the Approved Plans the provisions in the Schedule "G" shall govern.
- (e) Where the provisions of this Agreement provide the Town the right or obligation to take steps to remediate, protect, construct, or otherwise step into the shoes of the Developer upon the Developer having done or failed to do something required by this Agreement, including an event of Default, then such provision shall be read so as to be contingent upon the Town first giving Notice to the Developer of such failure, and requiring the Developer to rectify the failure within twenty (20) Business Days from receipt of such Notice. This Subsection 1.3(e) shall not apply in cases of emergencies where a real and imminent threat to health or safety exists.
- (f) The Developer covenants and agrees not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the Town's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision of the Planning Act interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that this provision shall not be severable from the terms of this Agreement. This provision may be pleaded by the Town in any action or proceeding as an estoppel to any denial of such right.

1.4 Lands Affected

This Agreement applies to the 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 favourably 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 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 requirements are described in Schedule "C".

The Developer agrees that the development of the Lands shall proceed in one phase. Should development proceed in sub-phases, the Developer agrees that an amendment to this agreement and the submission of a phasing plan will be required, to the satisfaction of the County and the Town.

1.8 Public Disclosure

The Developer covenants and agrees that this Agreement and all schedules or attachments hereto, including but not limited to the Approved Plans, may be made publicly available, posted on the Town's website or otherwise made available to all members of the public and the Developer hereby consents to such disclosure.

1.9 Representations and Warranties

The Developer hereby represents and warrants to the Town as follows and acknowledges that the Town is relying on such representations and warranties in entering into this Agreement:

- (a) It is duly incorporated, organized and validly subsisting under the laws of its jurisdiction of incorporation and is qualified and able to own or lease property, and to carry on business, in Ontario.
- (b) It has full power and authority to carry on its business and to enter into this Agreement and any agreement or instrument referred to or contemplated by this Agreement and to carry out and perform all of its obligations and duties hereunder and thereunder.
- (c) It has duly obtained all corporate approvals and the authorizations of any governmental authority required for the execution, delivery and performance of this Agreement and such execution, delivery and performance and the consummation of the transactions herein and therein do not conflict with or result in a breach of any covenants or agreements contained in, or constitute a breach of or default under or result in the creation of any encumbrance under, the provisions of its constating documents or any shareholders' or directors' resolution or any indenture, agreement or other instrument whatsoever to which it is a party or by which it is bound and does not contravene any applicable Laws of any governmental authority.
- (d) This Agreement has been duly executed and delivered by it and is valid, binding and enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, and other laws of general application limiting the enforcement of creditors rights generally and to the fact that specific performance and other equitable remedies are available only in the discretion of a court.
- (e) It has not committed an act of bankruptcy, is not insolvent and is able to meet its obligations as they come due, has not proposed a compromising arrangement to its creditors generally, has not had any petition for a receiving order in bankruptcy filed

against it, has not made a voluntary assignment in bankruptcy, has not taken any proceedings with respect to a compromise or arrangement, has not taken any proceeding to have itself declared bankrupt or wound-up, has not taken any proceeding to have a receiver appointed in respect of any part of its assets, has not had any encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or become levied upon any of its property.

- (f) It owns its respective fee simple right, title and interest in and to the Lands free and clear of all encumbrances, other than those specifically contemplated and/or permitted by this Agreement.
- (g) It acknowledges and agrees that any municipal approvals, including zoning and subdivision approvals, do not verify or confirm the adequacy of soil conditions and the Developer accepts full responsibility for soil conditions, including soil and/or groundwater and surface water contamination.

1.10 Scope of Agreement

This Agreement defines the obligations and duties of the Developer with respect to the subdivision and development of the Lands which shall include the installation, construction, repair and maintenance of certain Works as defined and stipulated in this Agreement. Without limiting the generality of the foregoing, the obligations and duties may include other Works to be constructed, payments to be made to the Town and to such other persons or entities, and such other matters as may be more specifically set out herein. In addition, this Agreement defines the responsibilities of the Developer related to the Final Acceptance and Assumption of the Works within and related to the development of the Plan of Subdivision or any parts thereof.

The requirement of the Developer to enter into this Agreement and assume all the obligations and requirements herein is a fundamental consideration without which the Town would not: have approved the rezoning, subdivision, or development of the Lands; grant Final Approval; have executed this Agreement; have issued building permits with respect to the Lands.

PART II

WORKS

DESIGN AND INSTALLATION OF THE WORKS

2.1 Consultants

- (a) The Developer has retained one or more Engineers and one or more Landscape Architects (respectively the “Engineering Consultant” and the “Landscaping Consultant” and collectively the “Consultant(s)”) to carry out all the necessary engineering and landscaping requirements for the subdivision, development and servicing of the Lands and Works in accordance with this Agreement.
- (b) 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.
- (c) 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, or the termination of this Agreement, whichever occurs first. In the event that, 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.
- (d) The Developer shall provide an executed copy of this Agreement, the Approved Plans, and the Engineering Standards to each of the Consultants
- (e) The Developer shall require the Consultants to provide the following consulting services to the satisfaction of the Town, the allocation of which services as between the Consultants shall be at the sole discretion of the Developer in consultation with such Consultants:
 - i. act as the Developer's technical representative in all matters pertaining to the design, installation and maintenance of the Works;
 - ii. 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 Landscaping Consultant to the effect that all required plans, drawings and specifications for the Landscape Works are in conformity to the approved site grading plans;
 - iii. prepare, when applicable, all necessary tender documents and contracts for the installation of the Works;
 - iv. obtain, in conjunction with the Town or its agents, the necessary approvals for the installation of the Works from any required Government Authority;
 - v. 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.
 - vi. deposit with the Town, in electronic format, signed and sealed Record Drawings of all Public Works, and As Built Drawings of all the other 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 in accordance with the Engineering Standards to the satisfaction of the Town;

- vii. provide to the Town a statutory declaration from the Developer stating 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
- viii. provide to the Town all of the other certificates required to be provided by this Agreement.

2.2 Applicable Laws

- (a) All Works required to be designed, installed, provided and maintained by the Developer pursuant to this Agreement shall be designed, installed, provided and maintained in strict accordance with all Applicable Laws and the Engineering Standards. All submissions to the Town shall be made in accordance with the Applicable Laws and the Engineering Standards. Nothing in this Agreement shall relieve the Developer from compliance with all Applicable Laws.
- (b) The Developer shall ensure that all contractors installing, maintaining or otherwise working on Town Lands or the Works, including Works intended to be but not yet, accepted or assumed by the Town, shall comply with the requirements of the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1, and associated regulations, as may be amended from time to time; and comply with the requirements of the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, and associated regulations, as may be amended from time to time. The Developer hereby agrees to indemnify and save harmless the Town and its agents, contractors and employees from all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly from a failure to comply with these requirements.

2.3 Changes to the Applicable Laws or Engineering Standards

- (a) Despite anything contained in this Agreement, including the acceptance of the Approved Plans, if the Town or any Government Authority changes or causes changes to any of the Applicable Laws and/or the Engineering Standards, as may apply to any of the Works which the Developer;
 - I. 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
 - II. has installed before the completion of the Maintenance Period, and is required to maintain, then the Developer shall, if required by Notice given by the Town maintain and/or performance test the Works identified in the Notice in accordance with the revised Applicable Laws and/or Engineering Standards, to the Town's satisfaction.

2.4 Permits & Approvals

- (a) The Developer shall, prior to commencing any work on the Lands including the erection of any buildings or structures thereon other than Pre-Servicing Works, obtain
 - (i) Written permission to commence work from the Town; and
 - (ii) all of the necessary permits and approvals from any required Government Authority for such work; and
 - (iii) all the necessary permits from the CBO for the Works shown on the Approved Plans that are governed by the Building Code Act.

2.4.1 Installation of the Works

- (a) The Developer shall, unless otherwise provided by this Agreement, at its own expense and within the time limits specified by this Agreement, design, pay for, install, construct, complete, and maintain in a good and workmanlike manner all of the Works in strict accordance with all

Applicable Laws, the Engineering Standards, the Approved Plans and the requirements of this Agreement, to the satisfaction of the Town, the CBO and all Government Authorities.

- (b) Notwithstanding anything else contained in this Agreement to the contrary the Developer shall, with respect to Works shown on the Approved Plans that are governed by the Building Code Act, comply with all of the requirements of the Building Code Act to the satisfaction of the CBO. In the event of a conflict between any provision of the Building Code Act and any provision of this Agreement, the Building Code Act shall prevail to the extent of the conflict.
- (c) The Developer shall be solely responsible for the cost of the Works as required by this Agreement. The Town shall not be required to pay any expenses or cost related to the Works unless expressly stated in this Agreement or as expressly required by statute. In the event that the Town incurs any costs or expenses respecting the construction of the Works for which the Developer is responsible, such expenses shall be paid by the Developer forthwith on demand.

2.5 Approved Plans

- (a) The Developer shall construct the Works in strict accordance with the Approved Plans and any deviation therefrom shall not be permitted without the express written permission of the Town.
- (b) The signing and stamping of the Approved Plans "Accepted for Construction" by the Town shall not absolve the Developer or the Consultants of the responsibility for errors and/or omissions in the Approved Plans or in the construction of the Works.

2.6 Amendments to the Approved Plans

- (a) In the event any Approved Plans require amendment and the Developer has prepared additional plans for approval, including at the Town's request, such amended plans and additional plans, when signed and stamped "Accepted for Construction" by the Town, shall be deemed to be Approved Plans within the meaning of this Agreement and all the provisions of this Agreement shall apply to the amended Approved Plans.
- (b) If at any time and from time to time during the development of the Plan, an Engineer acting for the Town is of the opinion that additional, modified, or different services, works or infrastructure are necessary to adequately provide for the operation, functioning or maintenance of the Works required by this Agreement, or for the proper and adequate servicing of the Plan/development, the Developer shall construct, install or perform such additional, modified, or different services, works, or infrastructure at the written request of the Town, and at the Developer's sole expense.

2.7 Utility Services

- (a) The Developer shall install the Utility Services (except the internal street lighting poles and fixtures) as underground infrastructure, 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 Approved 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 the occupancy of the first dwelling to be constructed on the Lands, enter into a secured agreement(s) with the various Utility Services which are providing utilities to the Lands. A copy of such agreement(s) shall be delivered to the Town prior to the occupancy of the first dwelling to be constructed on the Lands.
- (c) The Developer shall ensure that the electrical distribution system is installed and energized prior to the occupancy of the first dwelling to be constructed on the Lands.
- (d) The Developer shall, prior to the occupancy of the first dwelling to be constructed on the Lands, 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 the occupancy of the first dwelling to be constructed on the Lands.

- (e) The Developer shall install and energize the Street Lighting System for the Plan prior to the occupancy of any dwellings to be constructed on the Lands. The street lighting system on all roadways shall be designed and constructed to the satisfaction of the Town, and all external lighting, including street lighting, shall be dark-sky compliant
- (f) The Developer is responsible for informing all the utility providers of its intention to commence any construction on the Lands.
- (g) 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.
- (h) The cost of providing Utility Services shall be borne by the Developer and the Town shall not be responsible for any of the costs of providing Utility Services to the Lands.
- (i) The Developer agrees to relocate existing utilities as made necessary by the subject development, at the sole expense of the Developer.

2.8 Prior to Commencement of Construction

Other than Pre-Servicing Works, no work shall be commenced on any of the Works and Utility Services until the designs for all such Works and soil tests have been accepted by the Town in the Approved Plans and all necessary approvals and permits have been obtained from any required Government Authority, including the CBO. The Town may stop any Works commenced without its approval or the necessary permits or direct that such Works be stopped. Any Works installed by the Developer prior to this Agreement coming into force, 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 Approved Plans and the requirements of this Agreement. The Developer shall provide all the information and expose or reconstruct any Works which the Town may, acting reasonably, require to satisfy the requirements of this subsection. The cost of all such reconstruction as reasonably required, including required testing and the Town's costs, shall be paid by the Developer.

2.9 Commencement of Installation

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

2.10 Site Meetings

During the installation of the Works the Developer shall hold such site construction meetings as the Town may reasonably 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 record and provide minutes of each meeting to the Town within five (5) Business Days from the date of the meeting.

2.11 Completion of Works

It is the intention of this Agreement that all of the Works, unless otherwise completed as Pre-Servicing Works, shall be installed or otherwise provided expeditiously and completed within the times set out in the completion schedule set out in Schedule 'F' unless such times are mutually extended in writing by the Town and Developer. In the event that the Developer fails to install the Works or, having commenced

to install the aforesaid Works, fails to or neglects to proceed with reasonable speed after reasonably notice of such by the Town, the Town may, without further notice, declare the Developer in Default in accordance with section 3.3, and take all such actions as deemed necessary by the Town in accordance with section 3.3 to rectify the Default to the Town's satisfaction.

2.12 Specifications to the Town

It is understood that in the event that the Town must enter upon the said Lands and have Public Works completed or repaired due to situations as outlined above, any or all original mylars, linens and specifications prepared by the Consulting Engineer must be turned over to the Town for its use should it require same. It is agreed that a copy of this clause shall be delivered by the Developer to each and every builder obtaining a building permit for any Lot or part of a Lot on the said Plan.

SPECIFIC REQUIREMENTS FOR THE WORKS

2.13 Water Supply and Watermains

- (a) The Developer shall not connect or Daylight any part of the Water Distribution Works to an existing municipal watermain unless authorized by Notice given by the Town's water department.
- (b) After the Water Distribution Works, including the fire hydrants, 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 appurtenance 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's Water Department.
- (c) Prior to the commissioning of Water Distribution Works, 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.
- (d) The Developer agrees that although the Town shall be responsible for operating the Water Distribution Works (where a Public Work), including the fire hydrants, the Developer shall be responsible for any damage to or repair or replacement of, the Water Distribution Works and Fire Hydrants until Assumption, unless the damage is caused by the Town during operation of those Works.

2.14 Location of Water Service Boxes

- (a) Water services boxes shall be located in a location satisfactory to the Town, as shown on the Approved Plans and shall be installed in said location prior to commissioning of the water distribution Works.

2.15 Use in Accordance with Water By-law

- (a) 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 Water By-law then in force. 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.

2.16 Sanitary and Storm Sewers

- (a) The Developer covenants and agrees to:
- I. connect and drain all sanitary and storm sewers to outlets as shown on the Approved Plans as approved by the Town, and if applicable as approved by other Government Authorities;
 - II. not connect any sewer to the existing sewer system unless authorized by Notice given by the Town;
 - III. not connect the roof drainage system or the foundation drainage system to either the storm sewer system or the sanitary sewer system;
 - IV. install a complete system of sanitary and storm sewers and appurtenances to service the Lands in accordance with the Approved Plans;
 - V. complete any upgrades to existing sanitary or storm sewers or drainage systems as required to provide adequate services to the Lands. The Developer acknowledges and agrees that the Town is not under any obligation to undertake any particular servicing improvements at any particular time and that the decision to proceed with such improvements shall be at the sole discretion of the Town.

2.17 Sewer Video Inspection Program

- (a) The Developer covenants and agrees to:
- I. undertake and pay for a sewer video inspection program for all new storm and sanitary sewers installed as part of the Works. This program shall be undertaken by a qualified provider, to the satisfaction of the Town.
 - II. provide the Town with video footage of the sewer inspection and written reports in a format as specified by the Town.
 - III. carry out the video inspection:
 - a. prior to Preliminary Acceptance of the applicable Works by Town; and
 - b. prior to Final Acceptance of the Works or at any other time if required by the Town;
 - IV. 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.

2.18 Highways

- (a) The Developer covenants and agrees to:
- I. install all the underground services prior to installing the granular and stone bases for municipal services on all Highways and laying the base course of asphalt;
 - II. install Utility Service Road crossings prior to laying base course asphalt;
 - III. obtain the approval of the Geotechnical Engineering Consultant pursuant to a review satisfactory to the Town for the sub-grade prior to placing the granular materials on all the Highways;
 - IV. obtain the approval of the Consultant Geotechnical Engineer with a review satisfactory to the Town for the granular and stone bases for municipal services on all Highways prior to laying the base course of asphalt; and
 - V. ensure the appropriate horizontal and vertical alignments of all roads and underground services including their intersection geometrics.

2.19 Winter Maintenance of Highways

- (a) The Developer shall be solely responsible for all winter maintenance of the private roads and sidewalks within the Lands, including, but not necessarily limited too, snowplowing, sanding, and salting as required.

2.20 Traffic Control Devices

- (a) The Developer shall erect permanent regulatory traffic control devices conforming to the Approved Plans prior to Preliminary Acceptance of the Basic Services and maintain all the permanent traffic control devices until Final Acceptance.

2.21 Street Name, Parking and Fire Route Signs

- (a) 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 Assumption.

2.22 Pavement Markings

- (a) The Developer shall install and maintain all the pavement markings on the Highways and private roads required by the Engineering Standards.

2.23 Grading and Drainage

- (a) The Developer shall:
 - a. until Assumption:
 - i. be responsible for all grading and drainage of the Lands in accordance with the Approved Plans and in accordance with the Engineering Standards and accepted engineering practices;
 - ii. correct or rectify any drainage problems on the Lands by altering the grade of the Lands or by constructing additional Works such as catch basins, swales, retaining walls or other structures, infrastructure, or Works as may be deemed necessary by the Director to correct or rectify such problems;
 - iii. correct or rectify any grading deficiencies, weather permitting, on the Lands within twenty (20) Business Days' of being given Notice to do so; and,
 - iv. correct or rectify any issues or deficiencies in down-stream drainage or Storm Water Management Works, whether within the Lands or outside, to facilitate the proper and safe operation, function, and drainage of the Works and Lands.
 - b. not alter the grading or change the elevation or contour of the Lands as shown on the Approved Plans except in accordance with amended grading and drainage plans approved by the Town.
 - c. Ensure that all vacant Lots shall be Rough Graded with soil and seed such that best efforts are taken to ensure there is no standing water, and the vacant lot is maintained in general conformity with the approved comprehensive grading plan.
 - d. on Lots owned by the Developer, if construction on the Lot has not commenced at the time of Final Walkthrough, topsoil and seed any Rough Graded area, to the satisfaction of the Town; and
 - e. engage a qualified Engineer to prepare a drainage and grading plan for the Lands to verify major and minor drainage routes and drainage outlets within the Lands, and/or as shown on the Approved Plans. The drainage and grading plan shall also include the linkages to local and regional stormwater management systems that service the Lands.

2.24 Lot Grading and Drainage – Individual Lots

- (a) The Lot Owners shall be bound by and adhere to the Approved Plans and Building Permits and shall:
 - a. prior to making an application for a building permit for the construction of any buildings on a Lot cause an Engineer to prepare and provide to the Town a Lot Grading Plan for the Subject Lot. The Lot Grading Plan shall be accepted by the CBO prior to a building permit being issued and shall show the siting of all buildings and structures on the Lot, the driveway location, site servicing, and that the Lot grading and drainage is in conformity to the Approved Plans. The Engineer shall provide the CBO with a certificate certifying that the Lot Grading Plan is in compliance with the Approved Plans.
 - b. be responsible for all grading and drainage of the Lot in accordance with the Approved Plans and the Lot Grading Plan;
 - 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 CBO, such problems occur due to improper grading or due to non-compliance with the Approved Plans and the Lot Grading Plan;

- d. correct or rectify any grading deficiencies with respect to the Approved Plans and the Lot Grading Plan to the satisfaction of the CBO within three (3) weeks, weather permitting, of being given Notice by the CBO to do so;
 - e. not alter the grading or change the elevation or contour of the land shown on the Approved Plans and the Lot Grading Plan except in accordance with amended grading, drainage plans accepted by the CBO; and
 - f. if construction on the subject Lot has not commenced at the time of Final Walkthrough, Topsoil and seed any Rough Graded area, to the satisfaction of the Town.
- (b) The Approved Plans and the Lot Grading Plans when approved by the Town shall also be deemed to be approved drainage and grading plans within the meaning of the Town's Alteration of Grade By-law 2002-78 as amended from time to time or any successor or replacement by-law thereto, and all the provisions of said by-law shall apply to the Approved Plans and the Lot Grading Plans.

2.25 Final Lot Grading Certificate

- (a) The Lot Owner shall provide to the CBO a Final Lot Grading Certificate, which includes the final grade elevation of the subject Lot or block, from the same Engineer who prepared the Lot Grading Plan indicating that the grading of the subject Lot has been completed in conformity with the Approved Plans and the Lot Grading Plan. This certificate shall be delivered to the CBO for approval prior to the CBO's inspection of the Lot.

2.26 Tree Preservation

- (a) The Developer until Assumption or turnover to the condominium corporation, and the Lot Owners at all times shall:
- I. preserve the existing trees and vegetation shown on the Approved Plans to be preserved;
 - II. install the tree protection fencing shown on the Approved Plans to the satisfaction of the Town prior to the start of any construction activity within the Lands, which fencing shall remain in place until all grading, construction activity of any kind, and Landscape Works are completed;
 - III. not remove any trees or vegetation shown as being preserved on the Approved Plans 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 Approved Plans, or otherwise as may be permitted by Applicable Laws;
 - IV. require the Landscaping 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 the Lands and that the Landscaping Consultant will notify the Town that this fencing has been installed in accordance with the Approved Plans;
 - V. undertake every precaution necessary to prevent damage to existing trees and vegetated areas, indicated on the Approved Plans as being preserved, including the following:
 - a. 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;
 - b. no contaminants will be dumped or flushed where feeder roots of vegetation are known or may be reasonably expected to exist;
 - c. no vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction except where shown on the Approved Plans, or as otherwise may be permitted by law or approved by applicable Government Authorities; and
 - d. no rigging cables shall be wrapped around or installed in trees indicated on Approved Plans as to be preserved.
 - VI. replace, to the satisfaction of the Town, any existing trees and vegetation shown on the Approved Plans as to be preserved which are removed without prior written approval of the Town except such trees and vegetation that are diseased or dead;
 - VII. on the sale of any Lot reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the Lot 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;

- VIII. provide Security, if applicable, 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 Sections 3.1 and 3.2 of this Agreement.

- (b) The Developer for itself and the Lot Owners acknowledge that the Town, in addition to any other remedy it may have under this Agreement and at law, shall also be entitled to enforce this Section in accordance with the Town's Tree Preservation By-law No. 2010-68 as amended from time to time or any successor or replacement by-law thereto.

2.27 Landscape Works

- (a) The Developer shall provide to the Town a Landscape Plan showing the final proposed Landscaping of the Lots and Lands. The Developer covenants and agrees that the Landscape Plan and the work outlined in that plan shall constitute Works within the meaning of this Agreement.

2.28 Siltation and Erosion Control Works

- (a) The Developer shall install the siltation and erosion control works shown on the Approved Plans prior to the start of any construction activity on the Lands. These siltation and erosion control Works shall remain in place and be maintained by the Developer until: a) all grading, construction activity of any kind, and landscape Works on the Lands are completed, b) there is no reasonable expectation of future erosion on the Lands, and c) the Town has advised the Developer by Notice that these siltation and erosion control Works may be removed. The Security required for these Works set out in Schedule "E" shall not be reduced or released until the Town has advised the Developer that the siltation and erosion control Works may be removed. In any event, the Security for these Works shall not be reduced below the minimum as set out in Sections 3.1 and 3.2 of this Agreement.
- (b) The Developer agrees that any temporary stormwater management, construction mitigation, sediment and erosion control measures must be approved by the Town and in place prior to site alteration with the exception of such measures undertaken pursuant to the Pre-Servicing Agreement.

2.29 Boulevards and Vacant Lots and Blocks

- (a) The Developer shall:
- I. at all times prior to Assumption keep all the boulevards of Highways within or abutting the Lands free and clear of all materials and obstructions; and
 - II. carry out continuous maintenance to the satisfaction of the Town on all vacant or unoccupied Lots on the Lands. Such maintenance will include weed control, biannual spraying, grass and weed cutting to maintain a height not exceeding 250 millimeters, cleanliness of the Lot by removal of debris and maintenance of approved drainage through grading when required by the Town.
- (b) Each Lot Owner shall, upon the granting of an occupancy permit for the subject Lot, carry out continuous maintenance to the satisfaction of the Town on that Lot. Such maintenance will include weed control, biannual spraying, grass and weed cutting to maintain a height not exceeding 250 millimeters, cleanliness of the Lot by removal of debris and maintenance of approved drainage through grading when required by the Town.

2.30 Top Course Asphalt

- (a) The Developer shall install the top course (final course) of asphalt on the roads and highways within the Lands in accordance with the timelines set out in the 'Ontario Provincial Standards

for Roads and Public Works', and in any event, not later than two (2) years from the date of completion of the base course of asphalt. The failure of the Developer to install the top course asphalt as herein described shall constitute a Default

2.31 Fill

- (a) The Developer acknowledges and agrees that any fill or excess soil on the Lands shall be governed and regulated by Ontario Regulation 406/19 as amended.

2.32 Topsoil Screening and Stockpiling

- (a) The Developer shall ensure that any screening or processing of soil shall be completed and cease no later than July 1 of a calendar year. In the event that screening or processing is not complete by July 1, the Developer agrees to shape and hydroseed any soil stockpile or processed soil and shall not be entitled to re-commence screening or processing until October 1 of the same calendar year.
- (b) The Developer shall ensure that all necessary Ministry of the Environment, Conservation and Parks permissions, permits and approvals, as applicable, are in place prior to the commencement of any soil screening or processing.

2.33 Site Access

- (a) The Developer shall at all times abide by the Site Coordination Plan as attached at Schedule "L". The Developer further covenants and agrees that they shall not use any open Town owned roads (whether assumed or unassumed), or Town Lands for any construction related vehicles without prior written permission of the Town.

2.34 Mud and Dust

- (a) The Developer shall adopt reasonable dust mitigation protocols to minimize the impact of dust and mud on any adjacent lands. The Developer agrees to use and implement all reasonable dust and mud mitigation measures and techniques when requested by the Town.

GENERAL CONDITIONS

2.35 Existing Services

- (a) The Developer shall repair any damage to any existing municipal (including County) services, works, infrastructure or facilities, whether assumed by the Town or otherwise and whether within the Lands or external thereto, to the extent caused by the installation and maintenance of the Works required by this Agreement or otherwise caused by the development of the Lands by the Developer. 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, to the extent caused by the Developer. A failure by the Developer to repair or rectify such damage to existing municipal services constitutes a Default.

2.36 Limited Means of Access

- (a) The Developer agrees that all construction traffic shall enter and leave the Lands using only the Highways 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 providing access to the Lands to prevent these Highways from being used for construction traffic. The Developer shall maintain these barricades in place until the Town instructs the Developer to remove them.
- (b) The Developer shall ensure that suitable construction traffic routes are identified to the satisfaction of the Town.

2.37 Inspection by Town

- (a) The Developer agrees that the Town, its employees, agents and contractors or any other authorized persons may, at all reasonable times and upon reasonable notice to the Developer (except in the case of an emergency, as determined by the Town) enter upon the Lands and inspect the installation of any Works in furtherance of the terms of this Agreement, but such inspection shall in no way relieve the Developer from its responsibility to inspect the said installation itself.
- (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 reasonably considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of this Agreement or any applicable laws. 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.

2.38 Additional Tests

- (a) The Town may, at its discretion, carry out independent qualitative or quantitative tests on the Works to confirm compliance with the terms of this Agreement and the Approved Plans , and the Developer, or their contractors, shall permit the Town or its employees, agents, contractors or other authorized person to enter the Lands to conduct such tests at any time prior to Assumption. The Developer agrees that if the Town determines, in its sole discretion, acting reasonably, that said tests are required to ensure the proper installation, functioning, or maintenance of the Works, the Developer shall be responsible for the costs of the testing.

2.39 Town May Repair Works

- (a) In the event that the Developer, at any time prior to Assumption, fails to keep any of the Works in a proper state of repair as required by this Agreement, and fails to take steps to correct this state of repair upon receipt of reasonable Notice from the Town, the Town may declare the Developer in Default and proceed to undertake the necessary remediation and repair in accordance with the Default provisions of this Agreement.

2.40 Emergency Repairs

- (a) At any time prior to Assumption, 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.

2.41 Damage and Debris

- (a) The Developer covenants and agrees:
 - I. 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.
 - II. to maintain satisfactory personnel and equipment available to sweep the Highways and Private Roads within the Lands as necessary to prevent nuisance mud and dust or as

directed by the Town, and this operation will continue Assumption of all of the Works by the Town.

- III. Not to unreasonably foul or damage any Highways or land or property outside the limits of the Lands, 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;
- IV. not to allow and to restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on the Town Lands and private land not owned by the Developer;
- V. to clear excessive debris and garbage on any land within or adjacent to the Lands 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;
- VI. that, if in the opinion of the Town, the requirements of this Section 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, upon reasonable prior notice to the Developer, to enter on the Lands or any part thereof for the purposes of inspecting 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 the Developer shall reserve such rights as may be necessary to enable the Developer or its agents to enter on that Lot at all times prior to Final Acceptance to inspect, install, operate, alter, maintain and repair any of the Works to fulfill the Developer's obligations under this Agreement.

2.43 Land Use Permit

- (a) 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 municipal land use permit By-law 2014-65, as amended or replaced from time to time, for such work. Notwithstanding the foregoing, this subsection 2.43(a) does not apply to Works shown on the Approved Plans or required by this Agreement to be installed by the Developer.

2.44 Communication Plan

- (a) The Developer covenants and agrees to abide by a Communications Plan, as described in Schedule "O" hereto. The Developer further agrees that if the Communications Plan requires that Notice or communications be given before any step is taken, the Developer shall not take such step until such Notice or communication is given. In the event the Developer fails to give Notice or facilitate required communication, the Town may issue a Stop Work Order and the Developer shall cease all work on the lands related to the failure to give Notice until proper Notice or Communication is given or made.
- (b) The Developer covenants and agrees to provide, or require that the Consultant provide, a Communications Plan to notify the Town and area residents of significant construction activities to the satisfaction of the Town.

- (c) At a minimum the Communication Plan shall provide:
- (i) installation of a project notification sign, 1.2 m x 2.4 m minimum, to Town template, at each construction access to the Lands and visually obvious to the public, at least forty-eight (48) hours' before the start of any site alteration and/or construction and maintained for full duration of construction of the Works
 - (ii) Notification of the site alteration and construction project to proximate property owners as deemed appropriate in consultation with the Town's Development Engineering division via hand/mail delivery.
 - (iii) Schedules of intended site activities updated routinely (typically weekly to bi-weekly) and posted on a publicly accessible website (which may be copied or duplicated on the Town's website) and/or physical location adjacent to the Lands.
 - (iv) A minimum of two weeks' notice to the public via publicly accessible website following Town approval and prior to commencement of:
 - i. Significant site activities such as site alteration works (e.g. tree clearing & grubbing, commencement of site servicing/grading, placement of asphalt, concrete curbs and sidewalk, and landscaping).
 - ii. Off-site works on Town owned lands/roads following receipt of a Municipal Land Use Permit (MLUP).

2.45 Stop Work Order

- (a) A Stop Work Order shall mean an order, issued by the Town, which requires the Developer or their contractors, agents, employees or assigns, to immediately cease any work, works, activity or construction if, in the opinion of the Town:
- a. the work, works, activity or construction poses a threat to person or property;
 - b. the work, works, activity or construction or any circumstance on the Lands is considered an emergency by the Town;
 - c. the work, works, activity or construction is in contravention of, or not in compliance with, the terms and conditions of this Agreement, including the Applicable Laws and Approved Plans;
 - d. the Works are not functioning properly or as designed;
 - e. additional or different Works, services, or infrastructure are required to facilitate the proper and adequate servicing of the Lands/Plan.
- (b) Nothing in a Stop Work Order shall prohibit the Developer or their contractors, agents, employees or assigns from continuing work or Works for the sole purpose of securing the Lands or preventing damage to person or property.
- (c) The Town agrees to forthwith rescind a Stop Work Order once the remedial action as outlined in the Stop Work Order has been fulfilled, at the Town's discretion, acting reasonably.
- (d) The Developer covenants and agrees to indemnify the Town and that the Town shall not be responsible or liable for any damages or losses incurred by the Developer or its contractors, agents, employees or assigns, as a result of the issuance of any Stop Work Order by the Town, unless said Stop Work Order was issued maliciously, negligently, or in bad faith.
- (e) The failure of the Developer or their contractors, agents, employees or assigns to comply with a Stop Work Order shall constitute a Default.

2.46 Environmental Contamination or Impairment

- (a) If the Town has a reasonable concern that any Works, work, activity or construction on the Lands has created or poses a real or potential impairment to watercourses, surface water, groundwater, any land or the environment, the Town may require the Developer, or its Consultants/contractors/agents, to produce or undertake relevant information, studies, or inspections to the Town to determine if there has been such impairment or there is a risk of same. Such inspections or studies may include an environmental site assessment, hydrogeological study, water quality study, well survey or any other such study as the Town, the Ministry of the Environment, Conservation & Parks ("MECP"), or other Government Authority deem necessary to investigate real or potential contamination or impairment of any lands, the environment, watercourses, surface water, or groundwater.
- (b) The Developer covenants and agrees that if there has been:
- I. a Discharge of a Contaminant;
 - II. an impairment or contamination of any land or the environment;
 - III. an impairment or contamination of a watercourse;
 - IV. an impairment or contamination of surface water or groundwater; then,
- the Developer agrees that it shall:
- I. notify the Town forthwith;
 - II. notify the MECP and any other relevant Government Authority forthwith as required by Applicable Laws;
 - III. take all practicable steps, including the design and installation of restorative or mitigative work or infrastructure, to eliminate and ameliorate the effects of the Discharge of a Contaminant, impairment or contamination of any land, environment, watercourse, surface water, or groundwater, as the case may be, to the satisfaction of the Town, MECP, and/or other Government Authority, as applicable.
- (c) The Developer agrees to compensate the Town for any incurred costs, losses, or damages to the Town as a result of any Discharge of a Contaminant, impairment or contamination of any land, environment, watercourse, surface water, or groundwater, or in exercising the Town's authority under this Agreement in relation, directly or indirectly, to any Discharge of a Contaminant, impairment or contamination of any land, environment, watercourse, surface water, or groundwater.
- (d) The Developer further covenants and agrees that nothing in this Section shall impose any obligation or responsibility on the Town to notify or report any Discharge of a Contaminant, impairment or contamination of any land, environment, watercourse, surface water, or groundwater, nor any obligation or responsibility to employ corrective measures and such obligations shall remain the Developer's sole obligations.

PART III

SECURITY, DEFAULT, ACCEPTANCE, MAINTENANCE AND ASSUMPTION OF THE WORKS

3.1 Security

- (a) The Developer shall provide to the Town, prior to the execution of this agreement by the Town, 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") to cover the fulfillment and performance of the obligations of the Developer arising under this Agreement including but not limited to the construction of the Works, and any other financial matter. The letter of credit shall be from an Ontario Branch of a Canadian Chartered Bank 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, a certified cheque to be cashed, or a surety bond, 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 to the Developer 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 owner 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, or the Town otherwise agrees in writing.
- (d) The Developer hereby acknowledges and agrees that the Town may draw on and use the Security to complete any work or matter required to be done by the Developer pursuant to this Agreement. And further, that any Security filed with the Town may be used for any item or any other matter which, under the terms of this Agreement, is the responsibility or obligation of the Developer, including without limiting the generality of the foregoing, payment of engineering, legal, planning, enforcement or other costs incurred by the Town pursuant to this Agreement.
- (e) The Developer covenants and agrees that the Town may use any or all of the Security to indemnify the Town for any costs, fees, or expenses it incurs in the course of defining itself and its interests against any claim, suit of any kind brought against the Town related to this Agreement or the Developer's obligations as set out in this Agreement or related to the Works.

3.2 Reduction of Security

- (a) The Developer shall not be entitled to any reductions in the Security prior to Preliminary Acceptance. After Preliminary Acceptance, the Developer may request a reduction of Security from the Town, subject to the conditions and provisions of Section 3.1 and this Section.
- (b) The Developer, in requesting any reduction in Security held by the Town for any Works, shall submit to the Town:
 - I. a detailed request describing the completed Works for which the reduction is requested, and the amount of the requested reduction;
 - II. a Certificate of Preliminary Acceptance for the completed Works for which the 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 Act;

- (c) Subject to the Town receiving the documents described in Subsection 3.2(b), the Treasurer will reduce the Security held to the amount of Security required to be retained in accordance with Subsection 3.2(e).
- (d) The Developer acknowledges and agrees that on receipt of each application for reduction of Security, the Town will review and update the total estimated cost of the Works as set out in Schedule "E". The Developer further understands and agrees that any increase in the estimated cost to complete the Works will be applied to the initial total estimated cost of the Works as set out in Schedule "E" as if such were known initially and the subsequent total will form the revised total estimated cost of the Works referred to in this section.
- (e) At no time shall the Security retained by the Town be less than:
 - I. the aggregate total of:
 - a. twenty-five percent (25%) of the cost of the completed landscape Works; plus
 - b. twenty-five percent (25%) of the cost of the completed sidewalks, curbs and gutters; plus
 - c. one hundred percent (100%) of the erosion and sediment control Works; plus
 - d. ten percent (10%) of the cost of the other completed Works which are shown on the Certificates of Preliminary Acceptance or the Certificate of Final Acceptance as the case may be; plus
 - e. one hundred and five (105%) of the estimated cost, as determined by the Town of the Works and other matters, including rectification of deficiencies or Defaults, which have not been completed or carried out; plus
 - f. six percent (6%) of the cost of uncompleted Works for Engineering; plus
 - g. one hundred percent (100%) of the grading Security; plus
 - h. one hundred percent (100%) of the tree preservation Security; plus
 - i. other Security that may be outlined in Schedule "E"; plus
 - j. any additional Works Fee and outstanding payments due to the Town as an obligation under this Agreement;
 - II. any time Security is reduced, the Town may require the Consultant to reassess the cost of the Works at the time the reduction request is made. The Town may base its Security reduction calculations on the reassessed cost of the Works.
- (f) There shall be no reduction in Security when the Developer is in Default.
- (g) If the Town determines, in its sole discretion, acting reasonably, that any reduction in the Security will result in a shortfall with respect to securing the completion of any work or matter by the Developer pursuant to this Agreement, the Town will not be obligated to reduce the Security until such time as the work is complete to the Town's satisfaction, or the Town has sufficient Security to ensure that the work will be completed.

3.3 Default

- (a) If, in the sole and absolute opinion of the Town, the Developer is in Default, other than a Default referred to in Subsection 3.3 (c) or in the case of emergencies, The Town 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 or repair of Works, done by the Town pursuant to the provisions of this section to rectify any Default.
- (b) The Developer agrees that the Treasurer may use any of the Security held by the Town pursuant to this Agreement to rectify any Default, regardless of what Works, fees, or costs the Security was collected for.
- (c) If the Developer fails to make any payment required by 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.
- (d) Any time there is a Default the Town, acting reasonably, may require that all development which may be affected by any Default shall cease until such time as the Default is cured to the satisfaction of the Town, and the Town shall be entitled to pursue as against the Developer all remedies that are legally available. The declaration of this Agreement, or any subsequent Development Agreement, to be in Default may not affect the validity of said Agreements to permit continued development provided the Town is satisfied, and confirms the same in writing, that said Agreements and portion of the Lands are not adversely affected by the default, and that further development can appropriately proceed without the Default being rectified.
- (e) 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 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.

3.4 The Construction Act

- (a) The Developer and the Town shall comply with all of the provisions of the Construction Act (Ontario), as amended, from time to time (in this Section 3.4 called the "Act").
- (b) The service of any written notice of lien on the Town, or registration of any claim for lien or certificate of action arising pursuant to the Act, or the commencement of any action against the Developer or the Town by any person purporting to be a subcontractor or material or equipment supplier will, at the Town's option, constitute a default under the terms of this Agreement.
- (c) The Developer must vacate any claims for lien or certificates of action arising from the development on the Lands or Town Lands or with respect to the Works, at its own expense, forthwith upon being advised in writing of the existence of such by the Town. The Developer shall defend any proceeding arising therefrom against the Town. The Developer will be deemed in default of this Agreement if it fails to do so.
- (d) 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.
- (e) In the event of default under this section, the Town may draw upon any Securities posted, for such purposes as may be determined by the Town that may be necessary to protect the Town's

interests. The Town will have no obligation to hold back or pay into court any sum of money in regard to dealings with land not owned by the Town. Without limiting the generality of the foregoing, the purposes referred to in this Section may include, but are not limited to, taking legal advice and defending any proceedings arising from the service of any written notices of lien or the registration of any claims for lien or certificates of action, vacating the registration of any claims for lien or certificates of action filed in respect of the lien of any person, making payment into court of Security pursuant to any orders vacating the registration of liens or obtaining orders dismissing lien actions against the Town after a lien is vacated from lands owned by the Town.

- (f) The Developer acknowledges that the Town shall not be required to reduce or release any Security until the Town is satisfied that all of the provisions of this section have been complied with.

3.5 Preliminary Acceptance of the Works

- (a) As a condition precedent to the Town issuing a Certificate of Preliminary Acceptance the Developer shall:
 - I. in respect of the Basic Services, 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;
 - II. sweep roadway pavement, including sidewalks, within the Plan free of building debris and earth deposits, and clean and remove such material from the site;
 - III. rectify and repair all known defects and deficiencies in the Works unless otherwise agreed in writing with the Town;
 - IV. submit to the Town:
 - a. all certificates of the substantial performance of all contracts and subcontracts as required by the Construction Act for the Works, together with the proof of publication thereof, 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);
 - b. all required data, plans, and plots, per this Agreement and the Engineering Standards, including digital versions of the same;
 - c. 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 Approved Plans;
 - d. a certificate from the Consultants stating that all the Works have been installed and are functioning in strict accordance with the Engineering Standards, the Approved Plans and the requirements of this Agreement;
 - e. a certificate from the Consultants stating that all traffic control devices, street and parking signs and fire route signs within the Lands have been installed in accordance with the Engineering Standards and the Approved 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 Lands;
 - f. a certificate from the Consultants summarizing the certification of the grading of all the Lots, blocks and units within the Lands completed to date; and,
 - g. Record Drawings of the Public Works and As-Built Drawings of the Private Works.
 - h. if required by the Town, pay the additional Works Fee required by Subsection 8.2(b);
 - i. provide a statutory declaration regarding the maintenance and energy costs for illumination within the Plan;
 - j. proof of rectification of all street and traffic signs and traffic control devices within the Plan;
- (b) The Developer agrees that they shall not be entitled to any reduction in Security until the Consultant has provided the Town with a certificate 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).

3.6 Certificates of Preliminary Acceptance

- (a) The Town covenants and agrees that a Certificate of Preliminary Acceptance be issued by the Town upon fulfillment of the following conditions:
 - i. the Town has inspected the Works and the Developer has rectified and repaired all defects and deficiencies in the Works found by this inspection, unless otherwise agreed in writing with the Town; and
 - ii. the Developer has complied with all of the requirements of this Agreement. The Certificate of Preliminary Acceptance shall be issued by the Town for the Basic Services, including the Pre-Servicing Works, and any other Works described therein;
- (b) The Certificate of Preliminary Acceptance shall show the cost of the Works as identified by the Consultants, to the satisfaction of the Town.

3.7 Maintenance and Repair of the Works

- (a) Although the Town is responsible for the operation of the Water Distribution Works, the Developer shall maintain and keep in a proper state of repair and operation, to the satisfaction of the Town, all of the Works without limitations (including the maintenance and repair of the Water Distribution Works installed by the Developer), to Acceptable Standards from the commencement of construction and for the duration of the Maintenance Period until Assumption.
- (b) The Developer's responsibility shall also include the operation, maintenance, and repair of the:
 - (i) stormwater control and management Works within the Lands, the removal of silt material and the periodic cleaning of the storm sewer system, facilities and the storm flow outlets within the Lands;
 - (ii) Stormwater management and control Works outside the Lands, the removal of silt material and cleaning of the Stormwater management and control Works, including sewers and storm flow outlets, if work within the Lands has resulted in required maintenance or repair of said Stormwater management and control Works outside the Lands, or if such maintenance and repair is necessary for the proper management of stormwater and drainage on, or originating from, the Lands;
 - (iii) Sanitary sewer Works, the removal of debris from the sanitary collection system; and
 - (iv) Highways, removal of debris and maintain all Highways for vehicular traffic to the requirements of all Applicable Laws for Highways and shall maintain all sidewalks on all Highways for pedestrian traffic during all phases of construction until Final Acceptance.
- (c) The Developer's responsibility shall also include the maintenance of the trees, sod and landscaping, and silt and erosion Works.
- (d) The Developer agrees that in the event of any failure of the Works within the Lands, or in the event any work within the Lands harms or impacts property or land outside the Lands, the Developer is responsible for, and will maintain or repair said property or land outside the Lands.
- (e) The Maintenance Period for the Works shall commence upon issuance of a Certificate of Preliminary Acceptance for the Works described therein.

3.8 Final Acceptance of the Works

- (a) As a condition precedent to the Town issuing a Certificate of Final Acceptance, the Developer shall:
 - I. clean all sewers, manholes, and catch basins within the Lands 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;

- II. sweep, clean and remove any debris and earth deposits from all roadway pavement within the Lands;
- III. 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;
- IV. provide statutory declaration confirming that all costs required to be paid by the Developer by this Agreement have been paid;
- V. rectify and repair grading problems associated with any Lot or within the Lands;
- VI. clean out, including the removal of all silt material and rectify and repair damages to the Storm Water Management Works within the Lands; and clean out and remove all silt material from Storm Water Management Works outside the Lands if in the opinion of a professional engineer retained by the Town said cleaning is required as a result of activities or construction within the Lands;
- VII. rectify and repair damage to any retaining walls on or within the Lands;
- VIII. pay all outstanding invoices that the Town may have issued concerning emergency repairs and other matters arising out of this Agreement;
- IX. make all plant material replacements pursuant to the conditions of the warranty period and the requirements of this Agreement;
- X. submit to the Town:
 - a. a certificate by a registered OLS stating that the surveyor has located or replaced all standard iron bars as shown on the registered plan. The OLS will also provide the Town with an electronic file for the registered Plan in the Town then current standard;
 - b. 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;
 - c. a certificate from an OLS verifying the establishment of horizontal control monuments and vertical benchmarks within the Lands, as required by the Town;
 - d. all required digital data, hard copy plots, and report information as specified by the Town;
 - e. 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, Acceptable Standards, the Approved Plans, and the requirements of this Agreement
 - f. the certificates required to be provided by Section 2.25;
 - g. a composite utility plan of As Built Drawings 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 and As Built Drawings all in accordance with the Engineering Standards for the review and approval of the Town;
 - h. Record Drawings of all Public Works; and
 - i. a written request for the return of the unused balance of any refundable deposits paid to the Town by the Developer, including any further requests for Security reductions.

3.9 Conditions for Final Acceptance of the Works

- (a) The Developer covenants and agrees that the Town shall only grant Final Acceptance of the Works upon fulfillment of the following conditions to the satisfaction of the Town:
 - I. Any applicable Maintenance Period as described in a Certificate of Preliminary Acceptance, has expired, including the Top Course Maintenance Period;

- II. 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;
 - III. the Developer has paid all fees owing under this Agreement;
 - IV. the Developer has complied with all of the requirements of this Agreement to the satisfaction of the Town;
 - V. the Town has issued the Certificate of Final Acceptance.
- (b) The Town may issue a Certificate of Final Acceptance for all of the Works for the whole or for any part of the Plan. 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 of Schedule "G".

3.10 Assumption By-law

- (a) After issuing a Certificate of Final Acceptance for the Public Works, the Town's Manager of Development Engineering, 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.
- (b) When all of the requirements of this section have been fulfilled, the Town may 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.

3.11 Release of Security at Assumption

- (a) Upon Assumption, the Developer shall be entitled to the return of the unused balance of any refundable deposits and Securities paid and held by the Town.

PART IV

SPECIAL PROVISIONS

4.1 Special Provisions

- (a) The Developer covenants and agrees 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

- (a) The Developer for itself and its successors and assigns including the Lot Owners agree 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:
- I. the Plan has been registered;
 - II. this Agreement has been registered against the title to the Lands;
 - III. the Town has issued a Certificate of Preliminary Acceptance for the Basic Services for that part of the Plan which includes the Lot described in the application for building permit;
 - IV. 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;
 - V. the Treasurer has confirmed that all development charges, taxes, levies, fees and other payments required under this Agreement for the Lot for which the building permit is applied for have been paid in full or secured by sufficient Security;
 - VI. 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;
 - VII. on Lots or blocks on which easements have been imposed or for Lots immediately adjacent to such easements, the required Works have been installed within the limits of the easements granted to the Town;
 - VIII. the Lot 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;
 - IX. the Lot Grading Plan for the Lot for which the building permit application is made has been provided to and accepted by the CBO; and
 - X. all other requirements of the Building Code Act and the Town Building By-law have been satisfied;
- (b) For certainty, the CBO, in addition to all other remedies it may have, may refuse to issue building permits until such Works are completely installed in accordance with the requirements of this Agreement. The Developer agrees that it shall not be entitled to the issuance of building permits for any Lots in the Plan until this Agreement has been executed and duly registered on title. The Developer agrees and consents to the registration of this Agreement being considered "applicable law" for the purposes of building permit issuance pursuant to subsection 8(2) of the Building Code Act.

5.2 Occupancy of Buildings

- (a) 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:
- I. the underground electrical distribution system, the street lighting system, the telephone system and gas services, where applicable, have been installed and energized;
 - II. the permanent traffic and street signs have been installed and approved by the Town; and
 - III. 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.

5.3 Lots for Future Development

- (a) The Developer agrees that no building permits will be issued for the Lots described in Schedule "I" as Lots for Future Development save and until these Lots 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.

5.4 Model Homes

- (a) Building permits may be issued for model homes prior to Final Approval in accordance with the *Building Code Act* provided that the Developer and any builder(s) comply with the Town's Model Home Policy and in-effect Zoning By-law. Where there is a conflict, the Zoning By-law shall prevail. 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, and that the Developer and that the builder enter into a Model Home 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, block or unit at all times during construction and occupancy of such model homes as may be determined in the of the Town.

5.5 Damage Deposit

- (a) NOT USED

PART VI**FIRE****6.1 Compliance with Fire Code**

- (a) 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 the 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.
- (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

- (a) 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**

- (a) The Developer shall comply with the requirements of the Town's Site Plan Control Area By-law, as amended.
- (b) If required, the Developer shall enter into a Site Plan Agreement with the Town prior to issuance of above-grade building permits.

7.2 Street Names

- (a) The Developer covenants and agrees that the streets on each Plan, including private roads, shall bear names approved by the Town.

7.3 Building and 911 Numbers

- (a) The Developer covenants and agrees that all building numbers and 911 numbers within the Lands 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, block or unit.

7.4 Part Lot Control

NOT USED

PART VIII

FINANCIAL ARRANGEMENTS

8.1 Fees and Charges

- (a) The Developer shall pay to the Town, prior to the execution of this Agreement by the Town, the payments, fees, charges and rates as set out in Part 1 of Schedule "H".

8.2 Works Fee

- (a) The Developer shall pay to the Town, prior to the execution of this Agreement by the Town, a non-refundable fee in accordance with the requirements of the Town's Fees and Charges By-law, as amended 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, 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) The Developer agrees to reimburse the Town for all legal expenses incurred for the preparation, registration, administration and enforcement of this Agreement. The Developer shall deposit, prior to execution of this Agreement by the Town, the amount set out in Schedule "H" which will be applied towards these costs. As accounts are received for said costs, they will be applied to monies on deposit. If accounts exceed the monies on deposit, the Developer shall remit additional monies to reimburse the Town within thirty (30) days of invoice by the Town.
- (b) The Developer shall further pay to the Town, upon execution of this Agreement a refundable deposit in accordance with the Town's Fees and Charges By-law related to planning fees in the amount set out in Schedule "H".

8.4 Taxes, Levies, Fees, Charges and Rates

- (a) The Developer shall pay in full, prior to the execution of this Agreement by the Town, all taxes, fees, charges and rates now imposed, assessed and levied upon the Lands, including but not limited to levies under the Ontario Water Resources Act, Public Utilities Act, Drainage Act, and Municipal Act, 2001.

8.5 Local Services and Local Connection Charges

- (a) 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:
 - I. local services installed or provided at the expense of the Developer related to or within the Lands as a condition of approval under s. 51 of the Planning Act;
 - II. connections to water and sewer facilities installed at the expense of the Developer; or
 - III. services denoted on Approved 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.

8.6 Development Charges

- (a) 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 Plan. 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".

8.7 Development Charge Credits

- (a) 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 Lands and the Developer hereby waives all such claims for credits except for the credits that may be specifically set out in Schedule "H". Any such credits so specified herein, and the calculation thereof shall be deemed to be conclusive and binding on the Developer.

8.8 Default of Payment

- (a) 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.

8.9 Interest on Payment Demands

- (a) 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 & INDEMNITY

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 Assumption 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 insured.

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

- (a) 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

- (a) 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 becomes aware that the insurance has lapsed or is about to lapse without renewal or replacement, the Town may, on prior 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.
- (b) The Developer agrees that, in the event the insurance is cancelled or not renewed, or upon the receipt of Notice from the Town as outlined in Section 9.3 (a), the Developer shall immediately cease all work, Works, construction or activity on the Lands (except for such work as may be required to make the Lands safe) until such time as new or replacement insurance is obtained to the satisfaction of the Town.

9.4 Indemnity

- (a) The Developer hereby agrees to indemnify and save completely harmless the Town, its agents, employees or servants, from and against all claims, demands, losses, damages, debts, actions, causes of action, suits, proceedings or costs whatsoever, at law or in equity, suffered or incurred by the Town whether directly or indirectly, as a result of, or related to
 - I. this Agreement;
 - II. the Lands;
 - III. the Plan;
 - IV. any Default;
 - V. the review, approval, or inspection of the Works or construction;
 - VI. the design, installation, or operation of any of the Works;
 - VII. the maintenance and repair or lack of maintenance and repair of any Works;
 - VIII. the use of the Works by any person;
 - IX. any defect in workmanship or material in the Works;

Without limiting the generality of the foregoing, such indemnification shall extend to the following:

- I. All fees, costs, disbursements or expenses (including administration, engineering consulting, and legal fees/costs) incurred by the Town in connection with this Agreement;
- II. any costs and damages suffered by third parties as a result of the negligence of the Developer or the Default of the Developer or the contravention of any Applicable Laws, notwithstanding the fact that such third parties have not claimed or are not entitled to claim against the Town for such damages or costs;

PART X**CONVEYANCE OF LANDS AND EASEMENTS TO TOWN****10.1 Parkland Dedication and Parkland Payment**

- (a) The Developer shall, prior to execution of this Agreement by the Town, pay to the Town the Parkland Payment as set out in Schedule "H". The amount of this payment is final and not subject to adjustment.

10.2 Transfer of Lands and Easements

- (a) The Developer shall, at its own expense upon registration of the Plan, transfer or cause to be transferred to the Town and the other persons named in Part 2 of Schedule "I", at no cost or charge and free and clear of all encumbrances, the lands and easements described in Parts 2 and 3 of Schedule "I" for purposes other than Parkland Dedication. 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

- (a) 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

- (a) 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

- (a) 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**

- (a) 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

- (a) 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

- (a) The Developer shall provide notice to the first purchaser of any Lots in the Plan, upon transfer of the Lots 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

- (a) 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 email 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 email to:

Town of The Blue Mountains
32 Mill Street,
Box 310, Thornbury, ON, N0H 2P0
Attention: Planning and Development Services Department
Email: directorplanningdevelopment@thebluemountains.ca

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 personally, on the date of delivery;
 - II. if mailed, on the fifth (5th) day after mailing thereof; or
 - III. if emailed, on the date of email if within business hours of that day, or otherwise the next business day, subject to evidence of failure of delivery.

12.3 Nullification of this Agreement

- (a) If the proposed development governed by this Agreement is not commenced within one (1) year from the date of the execution of this Agreement, the Town may, at its sole option and on twenty (20) Business Days' Notice to the Developer, declare this Agreement null and void and of no further force or effect. The Developer shall not be entitled to a refund or credit of any fees, levies, development or other charges paid by the Developer or for any credits for Works constructed or provided by the Developer in lieu of payment of any development charges otherwise payable pursuant to this Agreement. In the event that this Agreement is declared null and void, the Town shall be under no obligation to release the inhibiting order and may refuse to do so until a new agreement is registered to the satisfaction of the Town and all applicable securities, deposits, fees and charges are paid to the Town.
- (b) 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

- (a) 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 their 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

- (a) 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

- (a) 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 the applicable provisions of the Municipal Act.

12.7 Waiver

- (a) 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.

12.8 Release of Existing Development Agreement

- (a) The Town agrees to prepare and register a release of the development agreement registered on title to the Lands as Instrument No. R201183 in favor of The Corporation of the Town of Thornbury (now The Corporation of the Town of the Blue Mountains) immediately following registration of this Agreement.

12.9 Extension of Time

- (a) 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

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

12.11 Successors and Assigns

- (a) 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 and that the Agreement and all the covenants by the Developer herein contained shall run with the Lands.

12.12 No Fettering of Discretion

- (a) 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.

12.13 Counterparts

- (a) The Parties agree that this Agreement may be executed in any number of counterparts (including counterparts by email or facsimile) and all such counterparts taken together shall be deemed to constitute one and the same instrument.

12.14 Electronic Signatures

- (a) The Parties consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act 2000*, SO 2000, c17 as amended from time to time with respect to this Agreement.

PART XIII

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 Approved Plans;

"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.

"SCHEDULE L" being the Site Coordination Plan

"SCHEDULE M" being the Draft R-Plan

"SCHEDULE N" being the Draft M-Plan

"SCHEDULE O" being the Communications Plan

"SCHEDULE P" being the Homeowners Guide.

SIGNATURE PAGE TO FOLLOW.

REMAINDER OF PAGE INTENTIONALLY BLANK.

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.

L. & W. PROPERTIES LIMITED

[Redacted Signature]

c/s

Name: *Walter Zigan*
Title: *Company VP*

I/we have authority to bind the corporation.

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

[Redacted Signature]

Mayor – Andrea Matrosovs

[Redacted Signature]

Clerk – Corrina Giles

SCHEDULE "A"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

DESCRIPTION OF THE LANDS

PIN: 37314-0246 (LT)

Part Lot 89, Plan 529, Part 1, Plan 16R-11769; Town of the Blue Mountains

Also referred to by the municipal address: 139 Brophy's Lane in the Town of The Blue Mountains (the
"Lands")

ADDRESS OF THE DEVELOPER FOR SERVICE

L. &W. Properties LTD.

246 Riverside Dr. Toronto, ON. M6S4A9.

SCHEDULE "B"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

1. DESCRIPTION OF THE DRAFT PLAN

The Approval Authority by order of the Ontario Municipal Board dated June 22, 2012, as amended, has given approval to Draft Plan of Subdivision/Condominium 42CDM-2008-10(A) & 42T-2008-10(B) (collectively, the "Draft Plan").

2. DRAFT PLAN CONDITIONS

The Conditions are as set out in the Minutes of Settlement as part of the decision of the Ontario Municipal Board dated June 22, 2012, as amended, for the Draft Plan (as amended) are on file with the Town Clerks office and may be viewed during normal office hours.

The Conditions are incorporated into and form part of this Agreement and shall have the same force and effect as if the information shown on them were individually contained in the body of this Agreement.

SCHEDULE "C"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

PHASING REQUIREMENTS

Note: Lot and Block Numbers are in accordance with the Draft Plan as approved by the County of Grey.

Part 1 - GENERAL PHASING REQUIREMENTS

The development shall proceed in one phase.

Part 2 – FUTURE PHASES

Nil.

SCHEDULE "D"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

WORKS & APPROVED PLANS

WORKS

In accordance with the provisions of this Agreement, the Developer has covenanted and agreed to construct, install or otherwise provide all of the following Works, including, though not limited to all of the works, utilities, infrastructure, grading and drainage, services, facilities, landscaping, fencing, culverts, driveways, roads, sidewalks, curbs, gutters, matters and things shown on the Approved Plans or referred to in this Agreement:

- 1) storm sewers;
- 2) sanitary sewers;
- 3) watermains;
- 4) utilities;
- 5) public streets and highways, including sidewalks;
- 6) public highway reconstruction;
- 7) street signage;
- 8) rough grading, drainage and stormwater management works;
- 9) streetlighting and illumination devices;
- 10) pads for mail boxes;
- 11) walkways;
- 12) driveway entrances;
- 13) fencing, if applicable;
- 14) tree planting and landscaping on public lands and individual lots;

and all appurtenances related thereto.

The following Works are the **Public Works**:

- 1) The water distribution system and all appurtenances thereto.
- 2) The External Works as described herein this Schedule "D"

The following Works are the **Private Works**:

- 1) The common elements road;
- 2) Sidewalks, paths, trails;
- 3) Streetlights and signs;
- 4) Water system where located within the limits of a Lot;
- 5) The stormwater management Works;
- 6) The sanitary system and all appurtenances thereto;
- 7) All Works other than the Public Works;

EXTERNAL WORKS

- a. The Developer acknowledges and agrees that it is required, at its cost and expense, to undertake the installation of approximately 312m of 75mm dia. Low-pressure Sanitary System and appurtenances along Brophy's Lane to the existing 200mm dia. gravity sanitary sewer. This work shall include road restoration. All such work shall be as set out in the Engineering Standards and as detailed on the Approved Plans, to the satisfaction of the Town (in this Schedule, such work is referred to as "External Works").
- b. The Developer covenants and agrees that it derives a direct benefit from the provision, construction and installation of the External Works and that the development proposed pursuant to this Agreement could not be accommodated without the existence of the External Works.

- c. Notwithstanding anything in this Agreement to the contrary, the Developer covenants and agrees that the Town is not required to issue Preliminary or Final Acceptance of the Works or issue the Certificates applicable thereto, grant Assumption, release Security, lift the holding zone provision which is attached to the Lands (if any), issue building permits for homes/units on the Lands, or issue or approve any site plan control application or other agreement related to the Lands until such time as the External Works are complete, or the Town is satisfied they will be completed.
- d. The Parties agree that the External Works shall be considered "Works" for the purposes of this Agreement.

APPROVED PLANS

The following plans/drawings, studies, reports, designs, plans, drawings, and specifications for the installation of the Works, prepared by **Aplin & Martin Consultants Ltd.** for Project **No. 20-7031** which are marked "Accepted for Construction" by the Town dated November 24, 2023, and Landscape plans prepared by **Alexander Budrevics & Associates Limited Landscape Architects** which are marked "Accepted for Construction" by the Town dated February 4, 2025 are the Approved Plans:

20-7031-C01 COVER SHEET
 20-7031-C02 SITE GRADING PLAN
 20-7031-C03 GRADING CROSS-SECTIONS
 20-7031-C04 SITE SERVICING PLAN N
 20-7031-C05 SITE SERVICING PLAN S
 20-7031-C06 STORM DRAINAGE AREA PLAN - PRE
 20-7031-C07 STORM DRAINAGE AREA PLAN - POST
 20-7031-C08 SANITARY DRAINAGE AREA PLAN
 20-7031-C09 EROSION & SEDIMENT CONTROL PLAN
 20-7031-C10 EROSION & SEDIMENT CONTROL DETAILS
 20-7031-C11 PLAN & PROFILE BROPHYS LANE (0+000 - 0+180)
 20-7031-C12 PLAN & PROFILE BROPHYS LANE (0+180 - 0+360)
 20-7031-C13 PLAN & PROFILE LAWRENCE STREET (0+000-0+300)
 20-7031-C14 STANDARD NOTES
 20-7031-C15 STANDARD DETAILS
 20-7031-C16 STANDARD DETAILS
 20-7031-C17 RETAINING WALL DETAILS
 20-7031-C18 COMPOSITE UTILITY PLAN
 20-7031-C19 COMPOSITE UTILITY PLAN
 20-7031-C20 COORDINATION PLAN
 20-7031-C21 TOWN CONSTRUCTION NOTES
 3389-MP- OVERALL LANDSCAPE PLAN
 3389-L-1-SWM POND LANDSCAPE PLAN
 3389-L-2-BUFFER LANDSCAPE PLAN
 3389-D-1-SWM + BUFFER PLANTING DETAILS

All of the Approved Plans have been delivered to the Consultants and are on file with the Town Clerks Office and may be viewed during normal office hours.

SCHEDULE "E"

This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains

ESTIMATED COST OF THE WORKS AND SECURITY REQUIRED

PART 1 – ESTIMATED COST OF THE WORKS

- 1 Roads
- 2 Curb & Gutters, and Sidewalks
- 3 Storm Sewers and Drainage
- 4 Sanitary Sewers & Forcemain
- 5 Water Distribution System
- 6 Siltation and Erosion Control
- 7 Street lighting
- 8 Landscaping
- 9 Streetscaping and Fencing
- 10 Earthworks

TOTAL ESTIMATED COST OF WORKS

PART 2 – COST OF WORKS COMPLETED

- 1 Public Roads
- 2 Curb & Gutters, and Sidewalks
- 3 Storm Sewers and Drainage
- 4 Sanitary Sewers
- 5 Water Distribution System
- 6 Siltation and Erosion Control
- 7 Street lighting
- 8 Landscaping
- 9 Streetscaping and Fencing
- 10 Earthworks

TOTAL COST OF WORKS COMPLETED

PART 3 – ESTIMATED COST OF UNCOMPLETED WORKS

- 1 Public Roads
- 2 Curb & Gutters, and Sidewalks
- 3 Storm Sewers and Drainage
- 4 Sanitary Sewers
- 5 Water Distribution System
- 6 Siltation and Erosion Control
- 7 Street lighting
- 8 Landscaping
- 9 Streetscaping and Fencing
- 10 Earthworks

TOTAL COST OF WORKS UNCOMPLETED

PART 4 – SECURITY REQUIRED FOR THE WORKS

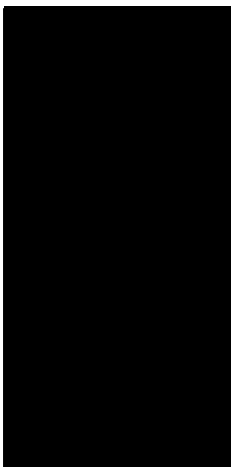
- 1 Twenty-five percent (25%) of the cost of completed curbs, gutters, sidewalks
- 2 Twenty-five percent (25%) of the cost of completed landscaping
- 3 Ten percent (10%) of the cost of all other completed works
- 4 One Hundred and five percent (105%) of the cost of uncompleted works
- 5 Six percent (6%)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

TOTAL SECURITY REQUIRED

LESS SECURITY HELD (on Pre-Servicing)

BALANCE OF SECURITY REQUIRED*

*Due upon execution of this Agreement by Developer.



SCHEDULE "F"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

COMPLETION SCHEDULE**WORK SCHEDULE**

The Works shall be constructed, installed or otherwise provided in general conformance with the work schedule set out in this Schedule. If the Work is not performed in accordance with the schedule for each portion of the Works to be constructed, installed or otherwise provided, the Developer shall be considered to have failed to proceed with reasonable speed, provided however that if any portion of the Work is delayed by an unavoidable delay, and such delay is reasonable, in the opinion of the Town, the completion date shall be extended by the period of such delay.

Commencement of Construction – work or construction on the Lands shall commence within one (1) year of execution of this Agreement.

Basic Services: to be completed within one (1) year from the date of registration of the Plan and prior to any building permits being issued.

All other Works - to be completed within three (3) years from the date of registration of the Plan.

Specific Completion Requirements

That Top Course Asphalt shall be completed in accordance with Section 2.30 of this Agreement.

SCHEDULE "G"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

SPECIAL PROVISIONS

PART 1 - WORKS PROVISIONS

The Developer acknowledges that the registration of the Plan is required to obtain allocation of existing servicing capacity for the Plan/Lands.

1. Landscape Works

- a. The Developer:
 - i. shall plant trees and landscaping in accordance with the Approved Plans.
 - ii. shall lay topsoil to a minimum depth of 100 millimeters, unless otherwise shown on the Approved 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;
 - iii. despite anything contained in this Agreement, agrees 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.
 - iv. 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;
 - v. that a tree or landscaping will not be accepted until an uninterrupted period of growth of at least two (2) years.
 - vi. 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
 - vii. agrees, if required by the Town, to pay to the Town an amount equal to the cost of planting any of the trees and landscaping shown on the Approved Plans in lieu of the Developer planting these trees and landscaping.
 - viii. Shall complete a landscape analysis, landscape plan and tree preservation plan to the satisfaction of the Town, Grey Sauble Conservation Authority, and Niagara Escarpment Commission.

2. Sediment Control

- a. The Developer shall be responsible to monitor sediment in the storm sewer, outlets and/or structures downstream of any site servicing construction to ensure that they are maintained regularly and cleaned out as required to ensure proper function and as required by the Town.

3. Water and Sanitary Sewer Capacity

- a. The Developer acknowledges the Draft Plan approval does not constitute a commitment by the Town to provide servicing access to the Town's water or wastewater treatment plants or allocation of associated built capacity. Prior to execution of this Agreement, sufficient water and sanitary sewer capacity shall be confirmed as available and allocated by the Town.

4. Stormwater

- a. The Developer covenants and agrees that it is solely responsible for making any necessary arrangements for the conveyance of stormwater off of the Lands, as well as any costs associated therewith.
- b. The stormwater management facility/Works to be constructed pursuant to this development/Agreement shall be naturalized so as to provide an enhanced wildlife function, to the satisfaction of the Town.

5. Environmental

- a. The Developer agrees that Blocks 17 and 21 as shown on the Draft Plan consist of a provincially significant wetland and/or wetland buffer area and no development or site alteration shall occur

within the areas so designated that may adversely impact the wetland and/or buffer areas except as authorized by the Town.

- b. The Developer shall provide a five (5) metre wide planting enhancement within the ten (10) metre wetland buffer area, to the satisfaction of the Town and Grey Sauble Conservation Authority.
- c. The Developer shall provide a five (5) metre planting enhancement within the easterly five (5) metres of Lots 6 & 7 on the Draft Plan to the satisfaction of the Town and Grey Sauble Conservation Authority.
- d. The Developer disseminate to all future Lot owners the brochure entitled *Living Near Provincially Significant Wetlands – A Brophy’s Lane Homeowners Guide*. The Developer shall also make this brochure available to the Condominium Corporation in digital and printed format for distribution to all subsequent Lot owners.
- e. The Developer shall abide by the document entitled *Tree Preservation Plan – TPP1*, prepared by Canopy Consulting for file 20021 and dated September 15, 2023. The Developer agrees to preserve all trees noted on the Tree Preservation Plan as to be preserved, not to remove any trees except those identified as to be removed, and install signage as identified on the Tree Preservation Plan.

PART 2- PLANNING PROVISIONS

Conditions

- (a) The Developer agrees to be bound by all of the Conditions as if each of them were individually included in the body of this Agreement.
- (b) The Developer shall obtain all necessary permits from the Grey Sauble Conservation Authority, and pay any necessary fees.

PART 3- FINANCIAL PROVISIONS

- 1. The Developer, upon or before it’s execution of this Agreement, shall pay to the Town \$271,167.50 as cash-in-lieu of road upgrades to Brophy’s Lane, including road reconstruction, curbs, gutters, sidewalks and streetlights.
- 2. The Developer, upon or before it’s execution of this Agreement, shall pay to the Town cash-in-lieu of shoreline dedication in the amount of \$65,000.00.
- 3. The Developer, upon or before it’s execution of this Agreement, shall pay to the Town cash-in-lieu of recreational lands/facilities in the amount of \$26,000.00.

PART 4 - COUNTY PROVISIONS

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

PART 5 – CONDOMINIUM PROVISIONS

The Parties agree that the Lands shall be developed as a common elements condominium plan and in accordance with the requirements of the Condominium Act. In the event that the Developer wishes to change the condominium plan to another type of condominium plan such change shall be at the sole cost of the Developer and shall be in accordance with the requirements of all Applicable Laws, including the Condominium Act, governing this change and if determined by the Town may require an amendment to this Agreement in a form satisfactory to the Town.

Prior to the Town’s approval for the registration of the condominium plan in accordance with the Condominium Act, the Owner shall submit to, and obtain the approval of the Town of the form and content of the condominium declaration and description. The declaration shall include, among other things, the following provisions:

- a) Provision that alteration of the surface elevation of the common element roads to be located on the Lands shall not be permitted;

- b) Provision that alteration or removal of any streetlights or other exterior lighting on the Lands shall not be permitted;
- c) Provision that the common element roads shall be signed in accordance with the Town's Fire Route By-law, as amended from time to time;
- d) Statement that the Town has no obligation or responsibility whatsoever with respect to the common elements and that all costs and expenses associated with the construction, establishment, maintenance, repair and upkeep of the said common elements including roads, private sewer servicing, storm water management Works are the responsibility of the condominium corporation, except with respect to the Watermain.
- e) Provision permitting the Town to access the condominium lands for the purposes of conducting the following:
 - i. Access to all water meters for the purposes of reading the meters for billing purposes.
 - ii. Access for the purpose of collecting waste from each Unit in accordance with the Town's Waste Management By-law as may be amended from time to time, unless private waste collection is provided.
- f) Provision that no buildings, structures, patios or other personal amenity items or uses are permitted to be located within the limit of the Hazard Lands shown on the Town's Zoning By-law abutting the rear yard of any Unit.

Subject to the requirements of the *Condominium Act*, the Condominium declaration and description may be registered in advance of Final Acceptance of the Works and before completion of any Maintenance Period; however, the Developer covenants and agrees that, notwithstanding condominium registration or turnover of Works to a condominium corporation, the Developer shall remain responsible for all Private Works until Assumption.

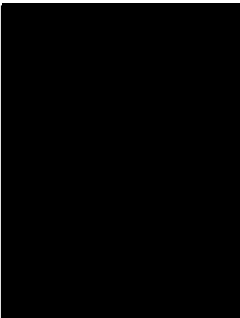
SCHEDULE “H”

This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains

LIST OF FINANCIAL OBLIGATIONS OF THE DEVELOPER

PART 1 – PAYMENTS AND FEES

Parkland Payment:
Works Fee:
Agreement Preparation Fee:
Security:
Cash-in-Lieu (Sched. G, Part 3)



Total Payments and Fees*:

*Payable at time of execution of this Agreement by Developer

PART 2 – DEVELOPMENT CHARGES

For the purposes of this Agreement:

“By-law 2024-29” means the Town’s Development Charges By-law 2024-29 as amended from time to time or any successor or replacement by-law thereto;

- 1. The Parties agree that the provisions of By-law 2024-29 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 Section 3 of Part 2 of this Schedule are required to be paid by the Developer in accordance with Section 16(3) of By-law 2024-29 on the execution of this Agreement by the Developer.
- 3. Development Charges Payable on the execution of this Agreement by the Developer:

Development Charge	DC Amount/Unit	Number of Units	Amount Payable
Roads & Related		16	
Water		16	
Wastewater		16	
Credit	Nil	-	
TOTAL PAYABLE			

- 4. The Developer acknowledges and agrees that development charges for the services categories in By-law 2024-29 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 2024-29 at the time a building permit is issued.
- 5. The Developer acknowledges and agrees that it will be required to pay County of Grey development charges at the time a building permit is issued in accordance with the County of Grey’s applicable development charge by-law.
- 6. The Developer acknowledges and confirms that all charges, payments, Works to be constructed or 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 the Planning Act;
 - b. connections to water and sewer facilities installed at the expense of the Developer; or
 - c. services denoted on Approved 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, S.O. 1997, c.27*, as may be amended from time to time.

SCHEDULE "I"

This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains

LANDS AND EASEMENTS TO BE CONVEYED TO THE TOWN

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

PART 1 PARKLAND DEDICATION

Upon execution of this Agreement by the Developer, the Developer agrees to pay to the Town [REDACTED] as cash-in-lieu of Parkland Dedication.

PART 2 OTHER LANDS TO BE CONVEYED**Town**

1. Highways & Highway Widenings: dedicated on the Plan, if applicable
2. Reserves – Blocks 22 and 23
3. Open Space – Blocks 17* and 21 on the Draft Plan
4. Hazard Lands – N/A
5. Walkways/Trails – N/A
6. Lands for Stormwater Management – N/A
7. Institutional Purposes – N/A
8. Other:

*the Parties agree that Block 17 shall not be credited as parkland for the purpose of determining the parkland requirements for the Plan.

County**Other Persons****PART 3 EASEMENTS TO BE CONVEYED****Town**

Easements as shown on the Approved for Construction Drawings, if applicable.

An easement over Parts 20, 25, 27, 29, 31, 32, 34 & 36 on Plan 16R-_____ for the purposes of accessing, maintaining, repairing and replacing underground Public Works, to the satisfaction of the Town.

An easement over Block 20 on Plan 16R-_____ for the purposes of accessing, maintaining, repairing and replacing Public Works, to the satisfaction of the Town.

An easement over Parts 22 and 23 on Plan 16R-_____ for the purposes of accessing, maintaining, repairing and replacing fire hydrants.

Other Persons

An easement for the benefit of the Condominium Corporation over Parts 21, 24, 26, 28, 30, 33 & 35 on Plan 16R-_____ for the purposes of accessing, maintaining, repairing, and replacing the sanitary system. This easement may be created through registration of the Condominium Declaration pursuant to the *Condominium Act*.

An easement for the benefit of the Condominium Corporation over Parts 1-19 on Plan 16R-_____ for the purposes of accessing, maintaining, repairing, and replacing the drainage/ storm water management system. This easement may be created through registration of the Condominium Declaration pursuant to the *Condominium Act*.

An easement over Block 20 to the electric utility corporation.

Otherwise as required for utility services and purposes.

PART 4 LANDS FOR FUTURE DEVELOPMENT

NIL

SCHEDULE "J"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

RESTRICTIVE COVENANTS

In these Restrictive Covenants, the terms CBO, Engineer, Approved Plans, 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 for the Lot. A building permit will not be issued until the Lot Grading Plan has been accepted by the CBO. 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 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 Approved Plans 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 in accordance with the Lot Grading Plan. Underground cisterns to allow capture and reuse of rainwater may be permitted with the prior approval of the Town and in compliance with relevant By-Laws and legislation.

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, block or unit 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 between the Developer 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 in the subdivision:

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

Postal Service

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

Purchasers are advised that group mailboxes will be located on the boulevard within various public highways within the Plan. Purchasers are advised to consult with the Town's Planning and Development Services Department to ascertain the exact location of such mailboxes.

Right of Entry

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

Grading

Purchasers are advised that the Town has reserved the right to amend the provisions and details of the lot grading plans filed with the Subdivision Agreement and that such amendments may result in alterations to features in said plans or the additions of other features, including, but not limited to, retaining walls. Purchasers are advised to consult with the Town's Planning and Development Services Department to ascertain the particulars of any amended grading plans for any individual lot or lots and are cautioned not to rely solely upon the provisions and details contained in the lot grading plans filed with the Subdivision Agreement.

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.

Development Build-out

Purchasers are advised that occupancy of units will likely occur during the continued build-out of the development. Nuisances related to construction, dust, mud, landscaping, and noise can be expected.

Sidewalks

Purchasers are advised that sidewalks may be constructed in front of any and all Lots within the Plan, and such construction may occur after occupancy of a unit on a Lot.

Short Term Accommodation

Purchasers are advised that short-term accommodation uses are not permitted.

Provincially Significant Wetland

Purchasers are advised that their lots are adjacent to or near a Provincially Significant Wetland and associated buffer areas which are environmentally sensitive areas, and shall refer to the Homeowners Guide as referenced in the Subdivision Agreement related to the subject lands.

“SCHEDULE L”

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

Site Coordination Plan

See Approved Plan 20-7031-C20

“SCHEDULE M”

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

Draft R-Plan

Is on file with the Town Clerks Office and may be viewed during regular office hours

"SCHEDULE N"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

Draft M-Plan

Is on file with the Town Clerks Office and may be viewed during regular office hours

"SCHEDULE O"

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

Communications Plan

The following is a list of the items that will be provided to notify the Town and area residents of significant construction activities to the satisfaction of the Town:

- Installation of a Project Notification Sign (1.2 x 2.4 m minimum), of Town template, at each construction access to the subject site. The sign(s) will be visually obvious to the public at least two (2) weeks prior to the start of construction and maintained during the full duration.
- Notification of the construction project to nearby property owners as deemed appropriate in consultation with Development Engineering by hand mail delivery and notifications.
- Two (2) weeks' notice will be given to nearby property owners and the town regarding significant site activities (tree clearing & grubbing, site servicing & grading and road construction) and any off-site works on Town owned land after a Municipal Land Use Permit has been obtained.
- Schedules of all intended site works for the upcoming two (2) weeks and summary of all completed works & inspections to be submitted and logged bi-weekly. A circulation of these inspections shall be made available to contractors and consultants for their record and review.

“SCHEDULE P”

**This schedule forms part of a Subdivision Agreement between the Developer and
The Corporation of the Town of The Blue Mountains**

Homeowners Guide

The brochure entitled *Living Near Provincially Significant Wetlands – A Brophy’s Lane Homeowners Guide* is on file with the Town Clerk’s office and may be viewed during regular business hours.