

**By-law Number 22-04**

**The Corporation of the Township of Clearview**

**Being a By-law to authorize entering into a Site Plan Agreement between M AND H LONGVIEW HOLDINGS INC. and The Corporation of the Township of Clearview for 2 Greengage Road, New Lowell**

(Site Plan Agreement – 2 Greengage Road, New Lowell)

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**Whereas** M AND H LONGVIEW HOLDINGS INC. has applied to the Corporation of the Township of Clearview for site plan approval for 2 Greengage Road, New Lowell;

**And Whereas** the Township has a Site Plan Control By-law, being By-law 07-17 which controls development within the Township in accordance with the Official Plan and the Planning Act R.S.O., 1990, c.P.13;

**And Whereas** pursuant to Section 41 of the Planning Act R.S.O., 1990, c.P.13 as amended, the municipality is authorized to enter into such agreements for site plan control;

**Now Therefore** Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. That Schedule "A" – Site Plan Agreement between M AND H LONGVIEW HOLDINGS INC. and The Corporation of the Township of Clearview attached hereto, forms part of this By-law.
2. That the Mayor and Clerk are hereby authorized to sign the Site Plan Agreement on behalf of the Corporation.
3. This By-law shall come into force and take effect on the date of its passing.

**By-law Number 22-04 read a first, second and third time and finally passed this 17<sup>th</sup> day of January 2022.**

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Doug Measures, Mayor

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Sasha HelmKay, Clerk

**CORPORATION OF THE TOWNSHIP OF  
CLEARVIEW**

**CONSOLIDATED DEVELOPMENT  
AND SITE PLAN AGREEMENT**

THIS AGREEMENT made in quadruplicate on this

day of                   , 2022

BETWEEN:

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

(hereinafter referred to as the "Municipality")

- And -

**M AND H LONGVIEW HOLDINGS INC.**

(hereinafter referred to as the "Owner")

**WHEREAS** by an application dated December 9, 2020, the Owner applied to the Municipality for site plan approval in respect of its development of the land described in Schedule "A" to this Agreement;

**AND WHEREAS** the Municipality provided approval of the Owner's application subject to the Owner entering into an agreement as permitted by subs. 41(7) of the *Planning Act*, R.S.O. 1990, c.P.13;

**AND WHEREAS** subs. 41(10) of the *Planning Act* permits the registration of this Agreement against the land to which it applies in order to secure the provision of works, facilities or matters referred to in subs. 41(7) and (8) of the *Planning Act*, and the development in accordance with the approved plans, drawings and reports listed in Schedule "B" to this Agreement;

**AND WHEREAS** the parties also desire to enter into additional Agreements to give effect to approval requirements of the Municipality which extend beyond the requirements of Site Plan Control and have therefore agreed to include such requirements in this Agreement as a consolidated Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

**CONSOLIDATED DEVELOPMENT  
AND SITE PLAN AGREEMENT**

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## PART I

### GENERAL

#### 1. Lands Affected By This Agreement

The land affected by this Agreement is as follows:

2 Greengage Road, Clearview and as more particularly described in Schedule "A" (the "Land").

#### 2. Schedules

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

- |                     |   |
|---------------------|---|
| <b>SCHEDULE "A"</b> | <b>THE LAND AND OWNERSHIP THEREOF:</b> being a description of the Land affected by this Agreement.  |
| <b>SCHEDULE "B"</b> | <b>THE APPROVED PLANS, DRAWINGS AND REPORTS:</b> being a schedule listing copies of the approved plans, drawings and reports referred to in Part II of this Agreement and filed at the offices of the Municipality.   |
| <b>SCHEDULE "C"</b> | <b>THE WORKS TO BE MAINTAINED:</b> being a schedule listing the works to be maintained by the Owner for the life of this Agreement.   |
| <b>SCHEDULE "D"</b> | <b>THE FINANCIAL OBLIGATIONS PAYABLE ON EXECUTION OF AGREEMENT:</b> being a schedule of the financial obligations of the Owner payable upon execution of this Agreement or as otherwise provided.   |
| <b>SCHEDULE "E"</b> | <b>THE REQUIRED SECURITIES:</b> being a schedule of the amount and form of securities to be filed with the Municipality by the Owner prior to execution of this Agreement.  |
| <b>SCHEDULE "F"</b> | <b>THE ADMINISTRATION OF SECURITIES:</b> being a schedule for governing the release/reduction of Letters of Credit, or other securities, by the Municipality to the Owner.  |
| <b>SCHEDULE "G"</b> | <b>THE OWNER'S COST OBLIGATIONS:</b> being a schedule governing the Owner's cost obligations and financial conditions with regard to its performance of the obligations set out this Agreement including the maintenance of works.                                    |
| <b>SCHEDULE "H"</b> | <b>THE OWNER'S INDEMNIFICATION OF THE MUNICIPALITY:</b> being a schedule governing the Owner's agreement to indemnify and save harmless the Municipality from all forms of claims and liabilities.  |
| <b>SCHEDULE "I"</b> | <b>THE CONDITIONS FOR A BUILDING PERMIT AND FOR OCCUPANCY AND USE:</b> being a schedule which sets out the requirements of the Municipality which the Owner must meet for the issuance of a building permit and for occupancy and use of the buildings and facilities |

being developed on the Land pursuant to the terms of this Agreement.

**SCHEDULE “J”**                    **THE GENERAL CONDITIONS OF APPROVAL:** being a schedule which outlines the general conditions to which the Owner agrees in executing this Agreement, and will carry out or comply with to the Municipality’s satisfaction.

**SCHEDULE “K”**                    **DEVELOPMENT CHARGES:** being a list of the applicable development charges and conditions pertaining thereto.

The schedules listed above and in the Table of Contents to this Agreement and which are attached to this Agreement are incorporated into this Agreement by reference and are deemed to be an integral part hereof.

### **3.      Prior Development Agreement**

The Owner acknowledges that the Land is subject to a site plan agreement that was registered on the title of the Land on February 8, 2002 as Instrument No. LT540938 and remains in force in respect of the Land. The Owner continues to be bound by the terms of that agreement except to the extent that it is amended or modified by the terms of this Agreement.

## PART II

### APPROVED PLANS

#### **1. Approved Plans and Drawings**

The Municipality, upon execution of this Agreement, will approve the plans, drawings and reports listed in Schedule "B" attached hereto (the "Approved Plans") and which form part of this Agreement for the development of the Land.

The Owner covenants and agrees to construct, operate and maintain all buildings, structures, works, services and facilities required under this Agreement in accordance with the Approved Plans as listed in Schedule "B" to this Agreement.

#### **2. Approved Buildings and/or Structures**

The subject lands presently support an existing 1,793.5 m<sup>2</sup> industrial building. The Owner acknowledges that the Municipality's review and approval of the Approved Plans is on the basis of a proposal for the construction of an approximately 437 m<sup>2</sup> addition to the existing industrial building located on the Land as well as the construction of a new accessory office building on the Land encompassing a total area of approximately 426.5 m<sup>2</sup>. The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the Approved Plans and no construction shall take place contrary to the Approved Plans, without the prior written approval of the Municipality, except such changes as may be required by the Municipality in order that the Approved Plans comply with all relevant provisions of the building or zoning or other by-law or laws of the Municipality, and all regulations or laws of any other governmental body.

#### **3. Conformity with Agreement**

The Owner covenants and agrees that no work shall be undertaken or performed on the Land except in accordance with the terms and conditions of this Agreement (including the schedules attached herewith), the Approved Plans and, all other plans and specifications submitted to and accepted by the Municipality and by such other agencies or approval authorities as may be applicable.



## PART III

### TERMS AND CONDITIONS

#### 1. Registration of Agreement

The parties hereby covenant and agree that this Agreement, and any schedules attached hereto, may be registered upon title to the Land. The Owner further covenants and agrees to pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement, including but not limited to, any amendment thereto, notwithstanding that such registration may have been solely at the instance of the Municipality.

#### 2. First Priority

This Agreement shall be registered as first priority against title to the Land and shall take priority over any vendor take-back mortgages or subsequent mortgages and registrations or any other encumbrances against title to the Land.

No work shall be performed on the Land nor any use made of the Land with respect to the proposed development except in conformity with all provisions of this Agreement and appended schedules which form part of this Agreement.

The Owner shall, prior to commencing any work on the Land with respect to the proposed development, obtain all necessary permits and approvals from the Municipality and from all Ministries and agencies, including, but not limited to the Nottawasaga Valley Conservation Authority.

#### 3. Building Permits

The Owner acknowledges that compliance with the Ontario Building Code and the regulations thereunder is mandatory.

The Owner covenants and agrees that neither it nor any person claiming title through or from it, or under its authority, shall be entitled to the issuance of one of more building permits to construct any buildings or structures contemplated under this Agreement until this Agreement has been fully executed and registered on title to the Land and the conditions and requirements for a Building Permit have been met to the Municipality's satisfaction.

#### 4. Consolidated Agreement

The Owner acknowledges that this Agreement is a consolidated Agreement incorporating all of the Municipality's requirements which may or may not extend beyond the normal requirements under site plan control. It is further agreed that these requirements are incorporated into this Site Plan Agreement as a consolidated Agreement in accordance with the Municipality's powers and rights under both the *Municipal Act, S.O. 2001, c.25*, and *Planning Act, R.S.O. 1990, c.P.13*, both as may be amended from time to time.

#### 5. Development Changes

The Owner acknowledges and agrees that there shall be no changes to this Agreement or the Schedules attached hereto unless and until such changes have been approved in writing by the Municipality.

#### 6. Development to Proceed Expeditiously

This Agreement requires that development commence within one (1) year and be completed within three (3) years of the date of this Agreement unless otherwise changed hereunder.

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 Municipality may, at its sole option and on thirty (30) days notice to the Owner, declare this Agreement null and void and of no further force or effect. The refund of any fees, levies or other charges paid by the Owner pursuant to this Agreement shall be in the sole discretion of the Municipality.

In the event that the works, building and other structures are not completed within three (3) years from the date of the signing of this Agreement, the Municipality may, at its option, declare this Agreement to be in default. Any securities held at the time of default of this Agreement by the Municipality shall be returned forthwith to the Owner less the Municipality's expenses for rendering the Land safe and presentable, together with its overhead expenses, or, at the Municipality's discretion, the Municipality may fully complete the works required by this Agreement utilizing the securities to recover associated costs, together with overhead, legal or other expenses.

In returning any deposits or securities, under no circumstances will interest be paid on any refund.

## **7. Extension of Time**

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Municipality, 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.

## **8. Default**

If, in the opinion of the Municipality, the Owner:

- a) has improperly carried out the works required by this Agreement; or,
- b) has neglected or abandoned the works before completion; or,
- c) has unreasonably delayed the installation of works so that the conditions of this Agreement are violated, or executed carelessly, or in bad faith; or,
- d) has neglected or refused to renew or again install the works as may have been rejected by the Municipality as defective or unsuitable; or,
- e) in the opinion of the Municipality, has defaulted in performing the terms of this Agreement,

then, the Municipality shall notify the Owner, and its surety, in writing of such default. If the default is not remedied within fourteen (14) calendar days of such notification, then the Municipality has the authority to immediately purchase services, materials, tools and machinery, and to employ workers, as in its opinion are required for the completion of the works, all at the expense of the Owner, its surety, or both. The cost of the work shall be calculated by the Municipality whose decision shall be final. The cost of the work shall include a management fee not exceeding twenty percent (20%) of all purchasing, labour, material and machine time and other charges incurred to complete the work

## **9. Notice**

- (a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

Michael Krans (President)  
2 Greengage Road  
New Lowell, ON  
L0M 1N0

(705)424-2222 / [mike.krans@timberworks.com](mailto:mike.krans@timberworks.com)

or such other address of which the Owner has notified the Municipality, in writing, and any such notice mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

- (b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

Director of Planning and Development  
Township of Clearview Township Box 200, 217 Gideon St.  
Stayner, Ontario, L0M 1S0  
705-428-0288

or such other address of which the Municipality has notified the Owner, in writing, and any such notice mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

## **10. Applicable Law and Other Applicable Law**

Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any other governmental body which may have jurisdiction over the Land.

In constructing, installing or providing the Works, the Owner shall comply with all statutes, laws, by-laws, regulations, ordinances, orders and requirements of governmental or other public authorities having jurisdiction at any time from-time to time in force. Without limiting the foregoing, the Owner agrees to comply with, and cause to be complied with, the provisions of the Occupational Health and Safety Act, the Environmental Protection Act and the Ontario Water Resources Act and any regulations, policies and guidelines relating thereto, including all obligations of the constructor and employer under the Occupational Health and Safety Act and regulations as applicable, and any obligation to obtain any approval or permit required under the Environmental Protection Act or the Ontario Water Resources Act or any regulations, policies and guidelines relating thereto. The Owner further agrees to handle and dispose of all materials in accordance with the foregoing legislation.

This Agreement constitutes "other applicable law" and any breach constitutes non-compliance with "other applicable law", within the meaning of the *Building Code Act*, S.O. 1992, c. 23, as may be amended from time to time. Any Building Permit issued is conditional upon the Owner's performance of its obligations under this Agreement. The Municipality is entitled to revoke any issued Building Permit upon the Owner's default of any provision of this Agreement, or to issue an order to comply, stop work order or such other notice as may be applicable.

## **11. Entry by Municipality**

For a period of three years following the completion of the work or any phase of the work approved pursuant to execution of this Agreement, and notwithstanding any additional authority in law, the Municipality, by its officers, servants, agents and contractors, for the life of this Agreement are entitled to enter on the Land or any part thereof as well as any buildings or structures erected thereon to inspect the construction, operation and maintenance of the works, services and facilities on the Land for the purposes of determining compliance with this Agreement.

## **12. Postponement and Subordination**

The Owner covenants and agrees, at its own expense, to obtain and register such documentation from any mortgagees or encumbrances as may be deemed necessary by the Municipality to postpone and subordinate their interest in the Land to the interest of the Municipality to the extent that this Agreement 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 encumbrances their interest in the Land.

## **13. Compliance**

Any action taken by the Municipality or on its behalf, pursuant to this Agreement shall be in addition to and without prejudice to any security or other guarantee given on behalf of the Owner for the performance of its covenants and Agreements herein and upon default on the part of the Owner hereunder, the Municipality shall, in addition to any other remedy available to it, be at liberty to utilize all of the applicable the provisions of the *Municipal Act*, as may be amended from time to time.

## **14. Co-operation and No Challenge Agreement**

The Owner consents to the registration of this Agreement by the Municipality upon the title of the subject Land at the expense of the Owner and agrees to execute such further and other documents, consents or applications as required for the purpose of securing registration and giving effect to the provisions of this Agreement.

The Owner 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 party'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 in s. 41 of the *Planning Act* interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

## **15. Successors and Assigns**

It is 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 Owners herein contained shall run with the Land.

## **16. 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) This Agreement shall be construed with all changes in number and gender as may be required by the context.
- (c) Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words "at the expense of the Owner" unless the context otherwise requires, including the payment of any applicable taxes (including GST).
- (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 Owner and the Municipality 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) This Agreement contains standard clauses and operational clauses which may or may not apply from time to time or in the context of the development and the intent of the agreement. All requirements and clauses of this Agreement shall be interpreted as to the intent of the agreement and the applicability of the requirement or clause in that context. Where interpretation requires clarification, the Municipality shall make the determination of applicability in its sole and unfettered discretion.

#### **17. "Work" Defined**

In this Agreement the term "Works" means any public works both internal and external to the Land and also includes, utilities, and landscaping as well as any other work or any facility, service, duty, or obligation of the Owner to be undertaken pursuant to this Agreement.

#### **18. Waiver**

The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality 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 Municipality shall specifically retain its rights at law to enforce this Agreement.

#### **19. Governing Law**

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

#### **20. No Fettering of Discretion**

Notwithstanding 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 municipal council which authorized the execution of this Agreement or any of its successor councils in the exercise of any of council's discretionary powers, duties or authorities. The Owner 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.

#### **21. Assumption by Owner of Obligations**

The Owner's assumption of the obligations imposed by this Agreement is one of the considerations without which the Municipality would not:

- a) have zoned the property; or,
- b) recommended the approval of the Site Plan; or,
- c) have executed this consolidated Agreement; or,
- d) have issued any Building Permit with respect to the Land.

## **22. Administration of Agreement**

Unless otherwise specifically indicated, this Agreement shall be administered and enforced by the Director of Planning and Development of the Municipality. The Director may assign all or some of these duties to other employees and or agents of the Municipality.

## **23. Counterparts and Electronic Signatures**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and taken together shall constitute one and the same agreement. Counterparts may be executed in either original or by electronic means, including, without limitation, by facsimile transmission, e-signature and by electronic delivery in portable document format (".pdf") or tagged image file format (".tif") and the parties shall adopt any signatures received by electronic means as original signatures of the parties.

## **24. Registration of Agreement**

The parties hereby covenant and agree that this Agreement and any schedules attached hereto may be registered upon title to the Land. The Owner further covenants and agrees to pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement, including but not limited to, any amendment thereto notwithstanding that such registration may have been solely at the instance of the Municipality.

## **25. Electronic Registrations**

The Owner consents to the registration of this Agreement by the Municipality upon title to the Land at the expense of the Owner and agrees to execute such further and other documents, consents or applications as may be required for the purpose of securing registration and giving effect to the provisions of this Agreement.

The parties hereto authorize and direct the Municipality's lawyer to electronically register this Agreement on their behalf on title to the subject Land and to complete and sign Notice Under Section 71 of *the Land Titles Act*, R.S.O. 1990, c.L.5, on their behalf to effect registration.

**PART IV**

**EXECUTION**

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement having affixed their respective seals under the hands of their proper officers duly authorized in that behalf.

**SIGNED, SEALED AND DELIVERED**

This     day of             ,2022.

)                   **M AND H LONGVIEW HOLDINGS INC.**  
 )  
 )                   **Per:** \_\_\_\_\_  
 )                   **Michael Krans, President**  
 )                   **I have full authority to the bind the**  
 )                   **Corporation**  
 )  
 )  
 )                   **THE CORPORATION TOWNSHIP OF**  
 )                   **CLEARVIEW:**  
 )  
 )                   **Per:** \_\_\_\_\_  
 )                   **Doug Measures - Mayor**  
 )  
 )                   **Per:** \_\_\_\_\_  
 )                   **Sasha Helmkey - Clerk**  
 )                   **We have authority to bind the Corporation.**

**SCHEDULE 'A'**

**LAND AFFECTED BY THIS AGREEMENT**

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

LEGAL DESCRIPTION OF LAND

**PIN 58211-0163 LTPT LT 10 CON 4 SUNNIDALE PT 2, 51R14465; CLEARVIEW**

**PIN 58211-0164 LT  
PT LT 10 CON 4 SUNNIDALE PT 1 51R8270; CLEARVIEW**



## SCHEDULE 'B'

### THE APPROVED PLAND, DRAWINGS AND REPORTS

**NOTE:** It is understood and agreed that this Schedule, which describes the approved plans, drawings and reports referred to and filed at the offices of the Municipality, forms part of the Site Plan Agreement to which it is appended.

The Owner shall develop, operate and manage the Land according to the following plans and drawings:

#### Site Plan

- Site Plan (C1), prepared by Timmerman Timberworks Inc. (dated November 18, 2021)

#### Engineering Plan(s)

- General Servicing Plan (GS-1), prepared by Tatham Engineering (dated & stamped January 10, 2022)
- Lot Grading Plan (LG-1), prepared by Tatham Engineering (dated & stamped January 10, 2022)
- Siltation Control Plan (SC-1), prepared by Tatham Engineering (dated & stamped January 10, 2022)
- Details and Notes Plan (DE-1), prepared by Tatham Engineering (dated & stamped January 10, 2022)

#### Elevations

- Elevation Plans, prepared by Timmerman Timberworks (dated & signed January 11, 2022)

*Where there is a conflict between the requirements of and/or the provisions of this Agreement and the drawings listed above, the requirements of the Agreement shall take precedence. Where any further clarification is required, the Municipality shall, in its sole and unfettered discretion, make a decision concerning the applicable requirements and/or provision and its decision shall be binding on the parties in accordance with all other relevant terms and conditions of this Agreement.*

The Owner shall develop, operate and manage the Land according to the following reports:

- Functional Servicing Report, prepared by Tatham Engineering (dated October 4, 2021)
- Functional Servicing Report Addendum(s), prepared by Tatham Engineering (dated November 24, 2021 & January 7, 2022)
- Operation & Maintenance Manual, prepared by Tatham Engineering (dated October 4, 2021)
- Test Pit Investigation Letter (Founding Level Verification), prepared by Soil Engineers Ltd. (dated September 7, 2021)
- Test Pit Investigation Letter (Founding Level Verification), prepared by Soil Engineers Ltd. (dated November 23, 2021)

*Where there is a conflict between the requirements of and/or the provisions of this Agreement and the reports listed above, the requirements of the Agreement shall*

*take precedence. Where any further clarification is required, the Municipality shall, in its sole and unfettered discretion, make a decision concerning the applicable requirements and/or provision and its decision shall be binding on the parties in accordance with all other relevant terms and conditions of this Agreement.*

## **SCHEDULE 'C'**

### **THE WORKS TO BE MAINTAINED**

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **C.1 Works to be Maintained**

The following facilities or works are to be maintained by the Owner for the life of the development as applicable and in accordance with the drawings and reports outlined in Schedule "B" to this Agreement.

- a) Facilities to provide access to and from the development such as access ramps and curbs and traffic direction signs.
- b) Outdoor lighting facilities.
- c) Parking and loading facilities including demarcation of parking spaces.
- d) Walkways and walkway ramps.
- e) Walls, fences, hedges, trees, shrubs, public art or other groundcover or facilities for Landscaping of the Land.
- f) Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
- g) Any storm water management works, easements conveyed to the Municipality, watercourses, ditches, land drainage works, sanitary sewage facilities, water works and other public utilities.
- h) Removal of snow and ice from access ramps and driveways, parking and loading areas, and walkways.
- i) Removal of refuse and debris from access ramps and driveways, parking and loading areas, walkways, Landscaped areas and other open or public space.
- j) Landscaping and environmental works.

The Owner covenants and agrees that once all works, services and facilities required to be provided, constructed or installed by it which are internal to the Land under the terms of this Agreement have been completed to the satisfaction of the Municipality, and in accordance with all Municipality specifications and in a good and workmanlike manner, it shall maintain such works, services and facilities in the approved condition until this Agreement is amended or otherwise released from title. In the event that any of the internal works, services or facilities are not being maintained to the satisfaction of the Municipality, or if the Owner is otherwise in default of this Agreement, the Municipality may, on written notice to the Owner, require the Owner to comply with the terms of this Agreement.

#### **C.2 Maintenance Default**

In the event that the Owner shall be in default of this provision, the Owner hereby constitutes the Municipality as the Owner's agent for maintenance of the Works which may include the removal of Works. The Municipality shall not be obliged to maintain any Works. On deciding to undertake such works, at its own discretion, the Municipality shall provide thirty (30) calendar days notice to the Owner of maintenance of any such Works in breach of this provision, unless the Municipality determines, at its own discretion that such maintenance is of an urgent or emergency nature, in which case no notice shall be required or given.

#### **C.3 Owner to Indemnify Municipality**

The Owner shall indemnify the Municipality with respect to the removal or maintenance of the Works.

#### **C.4 Administration Fee**

In addition to the full cost of maintaining the Work, the Municipality shall be entitled to charge an administration fee, such fee not to exceed twenty (20) per cent of the costs of maintenance. The Owner shall pay such costs and administration fee forthwith after being invoiced by the Municipality, failing which the Municipality may recover such costs pursuant to the Owner's cost obligation provisions of this Agreement.

#### **C.5 Maintenance of Drainage Plan**

The Owner will maintain the drainage plan, including maintaining grades, catch basins and other facilities for the disposal of storm and surface water, and will not interfere with the drainage plan.

#### **C.6 Erosion and Sediment Control**

The Owner shall also ensure that all required sediment and erosion controls are in place and properly maintained so as to prevent erosion damage to the site or surrounding land, damage to the environment, and the export of sediment from the site.

The appropriate erosion and sediment control measures are to be installed prior to construction and site disturbance and are to be maintained until all disturbed areas are stabilized. The measures are to be maintained and disturbed areas stabilized so as to ensure that sediments do not enter any watercourse, wetland, lake, pond or sensitive area. If the erosion and sediment control measures are inadequate, the deficiencies are to be immediately addressed and rectified. It is the Owner's responsibility to implement, monitor and maintain all such works.

All material stockpiled for a period of 30 days or longer must be stabilized or re-vegetated to prevent erosion.

## SCHEDULE 'D'

### THE FINANCIAL OBLIGATIONS PAYABLE ON EXECUTION OF AGREEMENT

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **D.1 Administration Fee and Deposit**

Prior to signing the Agreement, the Owner shall pay a non-refundable administration fee and a refundable deposit for such reasonable costs as may be involved to the Municipality in having its Solicitor, Engineer and Staff, perform any work in connection with this Agreement, including the review of the site plan and the preparation, drafting, execution and registration of this Agreement and subsequent administration and enforcement of this Agreement. For the purposes of this Agreement, the administrative fee and refundable deposit shall be established by Council and is specified in the site plan application and/or the Municipality's fee by-law. The Owner shall replenish the refundable deposit, to its full amount, when the expenses and costs are submitted by the Municipality.

#### **D.2 Disbursements**

The Owners shall pay to the Municipality forthwith upon demand such disbursements as may be or are incurred by the Municipality in connection with the administration of this Agreement, including, without limiting the generality of the foregoing: the cost of having its consulting engineers review plans and drawings on behalf of the municipality; the cost of having its consulting engineers carry out inspections of the Works and reviewing of requests to reduce securities, accept Works and assume Works; the cost of registration of this Agreement against title to the Land; the costs of registration of all documentation related to conveyance and dedications of lands and easements under this Agreement and all documents; and, all agents' fees related to such registrations.

#### **D.3 Administration Costs**

The Owner on entering into this Agreement agrees that costs of subsequent administration and enforcement of this Agreement shall be recoverable by the Municipality as a cost to the Owner. The Owner hereby agrees to pay the Municipality for such reasonable costs related to administration and enforcement upon notification of the amount and nature of such costs by the Municipality's Treasurer and the Owner acknowledges that such costs will be deemed to be taxes to which the provisions of the *Municipal Act*, as may be amended from time to time, apply

#### **D.4 Tax Arrears**

The Owner covenants and agrees to pay any arrears of taxes outstanding against the Land prior to the execution of this Agreement by the Municipality

#### **D.5 Tax Levies**

The Owner also undertakes and agrees that it shall be solely liable to pay all taxes levied, or to be levied, on the Land in accordance with the assessment and collector's rolls until such time as the Land have been assessed and entered on the collector's roll according to the registered Plan of Subdivision.

#### **D.6 Designated Charges and Impost Rates**

The Owner covenants and agrees to pay, upon execution of this Agreement, all designated charges and imposed rates now assessed and levied upon the Land, including but not limited to levies under the *Local Improvement Act, Ontario Water*

*Resources Act, Public Utilities Act, Drainage Act, and Municipal Act*, each as may be amended from time to time.

#### **D.7 Lawful Levies and Rates**

Notwithstanding the works to be constructed and installed, the services to be performed and the payments to be made pursuant to this Agreement by the Owner, the Land shall remain liable in common with all other assessable property in the Municipality to all lawful rates and levies of the Municipality.

## SCHEDULE 'E'

### THE REQUIRED FORM AND AMOUNT OF SECURITIES AND DEPOSITS

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **E.1 Securities to be deposited**

Prior to execution of this Agreement the Owner will deposit with the Treasurer of the Municipality to cover the faithful performance of the obligations of the Owner arising under this Agreement, including but not limited to the construction of the works and services identified in this Agreement (the "said Work"), the following securities, in accordance with the amounts outlined in this Schedule to this Agreement:

- a) Cash in the amount of seventy-five percent (75%) of the estimated cost, or final contract price, whichever is greater, of the said work as approved by the Municipality's Director of Planning and Development, or:
- b) An irrevocable Letter of Credit in favour of the Municipality, in a form approved by the Municipality, from a Canadian Chartered Bank, issued in accordance with the requirements of this Agreement, with an automatic renewal clause, in the amount of seventy-five percent (75%) of the estimated cost of the said work or final contract price, whichever is greater, as approved by the Municipality's Director of Planning and Development. The Letter of Credit shall be for a minimum guaranteed period of one (1) year or such time as the Municipality decides and shall be renewed automatically, as necessary, thirty (30) days prior to expiration unless the Municipality is notified sixty (60) days prior to expiry that the bank does not intend to renew the Letters of Credit, in which case the Municipality shall be free to draw upon the Letters of Credit and take any action which may be authorized by this Agreement, or in law, with respect to a default under this Agreement with regard to maintaining securities at a level required by the Municipality.

#### **E.2 Provisions for Liability of the Municipality**

The security shall include provisions for the liability of the Municipality:

- i) for holdback(s) pursuant to the *Construction Act*, R.S.O.1990, c.C.30, as amended; and,
- ii) for the estimated costs of all the Owner's obligations under this Agreement.

#### **E.3 Alternative Methods for Providing Security**

The Municipality reserves the right to accept or reject any alternative methods of providing securities

#### **E.4 Cost Estimates as a Basis for Limits of Securities**

The cost estimate for the works is set out in this Schedule of this Agreement and is the basis for the limits of the securities.

#### **E.5 Transfer of Land and Securities**

The Owner acknowledges that upon the transfer of ownership of the Land, the Municipality will not return any letter of credit required under this Agreement until the new owner files with the Municipality a substitute letter of credit or such other security as may be permitted in the required amounts.

#### **E.6 Use of Security by Municipality for Any Matter**

Any letter of Credit or security filed with the Municipality is based upon the estimated cost of completing the various matters prescribed by this Agreement. However, all Letters of Credit and Security received by the Municipality may be used as security for any item or any other a matter which under the terms of this Agreement is the responsibility or obligation of the Owner, including without limiting the generality of the foregoing, payment of engineering, legal, planning or other costs incurred by the Municipality which are the payment responsibility of the Owner under the terms of this Agreement.

#### **E.7 Right to Use Security for Indemnification of Municipality**

The Municipality has the right to withhold and/or use any portion of any security provided to indemnify the Municipality for any legal fees it incurs to defend its interest against any suit or claim of any nature arising out of or connected with carrying out of the Owner's obligations, or entering into of this Agreement.

#### **E.8 Municipal Right to Use Securities for Owner's Failure to Comply**

The Owner hereby acknowledges and agrees that should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, and the Owner fails to comply, within thirty (30) days written notice, with a direction to carry out such work or matter, the Municipality may draw on the letter of credit to the extent necessary and enter onto the Land and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.

#### **E.9 Municipal Rights to Use Securities to Complete Works**

The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on and use the proceeds from the letter of credit to complete any Work or matter required to be done by the Owner pursuant to this Agreement. The Owner further acknowledges and agrees that, notwithstanding anything to the contrary in this Agreement, in the event that the Municipality determines that any reduction in the letter of credit will create a shortfall with respect to securing the completion of any Work or matter remaining to be carried out by the Owner pursuant to this Agreement, the Municipality will not be obligated to reduce the letter of credit until such time as such Work is satisfactorily completed or the Municipality has sufficient security to ensure that such work will be completed.

#### **E.10 Amount of Securities to be Filed**

<b><u>SECURITY TO BE FILED</u></b>	<b><u>AMOUNT</u></b>
Total Securities (75% of Construction Works Value)	<b>\$173,449.00</b>

(\*Refer to Security Estimate Table below for further details)



**Timmerman Timberworks Site Development - 120159****New Lowell****Securities Estimate**

<b>Item No.</b>	<b>Description</b>	<b>Units</b>	<b>Estimated Quantity</b>	<b>Estimated Unit Price</b>	<b>Estimated Cost</b>
<b>Section 1 SANITARY</b>					
1.1	100 mm dia. gravity sewer	m	46	\$ 150	\$ 6,900
1.2	18,000L Septic Tank c/w Pump Chamber	LS			\$ 25,000
1.3	38 mm dia. forcemain	m	73	\$ 100	\$ 7,300
1.4	Leaching bed	LS			\$ 18,000
Subtotal Sanitary					\$ 57,200
<b>Section 2 WATER SERVICE</b>					
2.1	25 mm dia. service	m	98	\$ 140	\$ 13,720
Subtotal Water Service					\$ 13,720
<b>Section 3 STORMWATER MANAGEMENT</b>					
3.1	Rip-Rap Overflow spillway	m <sup>2</sup>	42	\$ 50	\$ 2,100
Subtotal Stormwater Management					\$ 2,100
<b>Section 4 SITEWORKS</b>					
4.1	300 mm granular B	m <sup>2</sup>	2700	\$ 12	\$ 32,400
4.2	450 mm granular B	m <sup>2</sup>	300	\$ 18	\$ 5,400
4.3	150 mm granular A	m <sup>2</sup>	3000	\$ 10	\$ 30,000
4.4	75 mm HL-4	m <sup>2</sup>	3000	\$ 20	\$ 60,000
4.5	Pre-Cast Parking Blocks	ea	49	\$ 150	\$ 7,350
4.6	Line Painting	LS			\$ 1,000
Subtotal Siteworks					\$ 136,150
<b>Section 5 LANDSCAPING</b>					
5.1	Hydroseed, swale and ditches	LS			\$ 3,600
5.2	Sod	LS			\$ 2,250
5.3	Small shrubs	LS			\$ 2,160
5.4	Large bush	LS			\$ 2,185
5.5	Tree	LS			\$ 1,350
5.6	Mulch - Building Perimeter	LS			\$ 300
5.7	Sign	LS			\$ 2,750
5.8	Chain link fence	LS			\$ 7,500
Subtotal Landscaping					\$ 22,095
<b>Total Construction Works</b>					<b>\$ 231,265</b>
<b>Total Securities (75% of Construction Works)</b>					<b>\$ 173,449</b>

## **SCHEDULE 'F'**

### **THE ADMINISTRATION OF SECURITIES**

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **F.1 Reduction of Security Upon Request of Owner**

During installation of the Work, the Director of Planning and Development shall recommend that the Municipality reduce the amount of security if the conditions set out in F.3 have been fulfilled and in such case, the Treasurer shall cause the security to be so reduced. The remaining security shall never be less than one hundred per cent (100%) of the original contract price of remaining Work or obligations, adjusted at current market cost at the date the security is reduced, together with twenty (20%) of the original contract price adjusted to current market cost. The Municipality will not reduce the security more than three (3) times.

#### **F.2 Municipality Shall Retain Securities Until Warranty Period Has Passed**

The Municipality shall retain twenty percent (20%) of the original contract price for a period of twenty-four (24) months following the completion and assumption of the Work, after which time all remaining security shall be immediately returned to the Owner, upon written request by the Owner, once all deficiencies have been resolved and all costs paid to the satisfaction of the Municipality, acting reasonably.

#### **F.3 Documentation to Reduce Security**

Prior to the reduction or release of any security held by the Municipality for the works, facilities and matters set out in this Agreement, the Owner must supply the Municipality with the following documentation:

- (a) letter of application for reduction/release;
- (b) an Engineer's certificate confirming that he/she has inspected the Work and certifies that the Work in respect of which the reduction is sought is complete, and that there are no outstanding deficiencies;
- (c) a statutory declaration from the Owner as to the completion of the Work and confirming that all accounts have been paid in full for Work in respect of which the reduction is sought.
- (d) as-constructed drawings (for the final release of securities);
- (e) satisfactory evidence of no construction liens filed;
- (f) workplace safety certificate;
- (g) statutory declaration as to accounts;
- (h) surveyor's certificate showing that the development complies with zoning provisions (for the final release of securities); and
- (i) a composite utility plan.

Prior to the reduction or release of securities the Municipality must be satisfied, in its sole and unfettered discretion, that the Works have been completed and are operating to its satisfaction, and notwithstanding anything to the contrary in this Agreement, the Municipality shall in no way be obligated to reduce or release securities until it is so satisfied.

## SCHEDULE 'G'

### THE OWNER'S COST OBLIGATIONS

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **G.1 Owner Responsible for Cost of Performance**

The Owner acknowledges and agrees that the Owner shall be responsible for the cost of performance of all of the Owner's obligations hereunder unless specifically relieved from such responsibility by this Agreement. Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include works "at the expense of the Owner" unless specifically stated otherwise.

The Owners shall be solely responsible for the cost of the Works as estimated this Agreement. The Municipality shall not be required to pay any portion of the capital cost related to the Works unless otherwise expressly provided in this Agreement or as expressly required by statute. In the event that the Municipality incurs any expenses involving construction lien actions or any other actions respecting the construction of the Works, such expenses shall be paid by the Owner forthwith on demand.

#### **G.2 Where the Owner is in Default of Payment of Costs**

Where the Owner is in default of payment of any such costs and no securities provided in relation to this Agreement are available or are insufficient to cover such costs, the Owner shall pay to the Municipality any additional funds, the amount of which shall be in the Municipality's sole discretion, within ten (10) calendar days or this shall become a default under this Agreement and the Owner agrees that any such costs will be deemed to be taxes to which the provisions of the *Municipal Act*, as may be amended from time to time, apply.

#### **G.3 The Owner Shall Pay Costs of Enforcement**

The Owner shall also pay the full costs for enforcement of this Agreement which be submitted to the Owner for reimbursement within thirty (30) days. In the event that the Owner does not pay the accounts within thirty (30) days, it is hereby understood that the Owner shall be in default of this Agreement and the Owner agrees that the Municipality may, without further notice, invoke default provisions as set out in this Agreement. As a default of this Agreement any such costs will be deemed to be taxes to which the provisions of the *Municipal Act*, as may be amended from time to time, apply.

#### **G.4 Payment of Interest on Payment Demands**

All expenses for which demand for payment has been made by the Municipality shall bear an interest rate of twelve percent (12%) per annum, calculated monthly, commencing thirty (30) days after demand for payment is made.

#### **G.5 Owner to Pay Costs of all Services**

The Municipality shall not be responsible for any of the costs of providing services to the Land. All such costs shall be borne by the Owner. The Owner shall deal directly with the hydro authority and all other utility commissions and companies. The Owner shall obtain all approvals and permits and pay all fees and charges directly to the utility company.

## SCHEDULE 'H'

### THE OWNER'S INDEMNIFICATION OF THE MUNICIPALITY

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **H.1 Owner to Indemnify Municipality from All Claims and Costs**

The Owner and Mortgagee on behalf of themselves, their successors or assigns agree to indemnify and save harmless the Municipality 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) any claim(s) pursuant to the *Construction Act*, as may be amended from time to time in relation to any construction being performed by the Owner, its agents and assigns pursuant to the provisions of this Agreement, and, on demand by the Municipality, the Owner will take such steps as may be necessary to immediately discharge all liens registered upon the services;
- (b) loss, damage, accident or injury or any kind whatsoever which may arise either directly or indirectly by reason of the Municipality approving the Site Plan(s) and works or entering into this Agreement, provided the subject matter of such action, suits, claims or demands was not caused intentionally or through gross negligence on the part of the Municipality, its servants or agents or subcontractors;
- (c) loss, damage, accident or injury or any kind whatsoever which may arise either directly or indirectly by reason of any work or service performed by the Municipality, its servants or sub-contractors in order to complete the work or services required to be completed under this Agreement, provided the subject matter of such action, suits, claims or demands was not caused intentionally or through gross negligence on the part of the Municipality, its servants or agents or subcontractors;
- (d) loss, damage, accident or injury or any kind whatsoever which may arise either directly or indirectly by reason of drainage from or the effects of drainage from, or onto, any Lands adjoining the Lands as a result of: the development of the Lands; and/or, implementation of the drainage plan or stormwater management plan; and/or the construction of any works, facilities or structures on the Lands and/or the use of the Lands;
- (e) by reason of the design, installation, construction or operation of any of the Public Works required under this Agreement, or by reason of the maintenance or lack of maintenance of such Public Works by the Owner pursuant to the terms of this Agreement or by reason of any defect in workmanship or material, until the Assumption of the Public Works by the Municipality; and,
- (f) all actions or claims relating to soil conditions and surface water and groundwater conditions on the subject Lands.

#### **H.2 Impairment to Surface or Groundwater or the Environment**

Where the Municipality has a reasonable concern, in its sole discretion, which indicates a potential impairment to surface or groundwater quality or the environment associated with the development and operation of this facility, the Municipality shall have the right under this Agreement to request the Owner to provide any relevant existing information in its possession, including that of any agents/consultants or assignees, to determine whether the development is responsible for an impairment in water quality or environment. This requirement and any associated conditions however do not impart on the Municipality any

responsibility for reporting of any impairment or impact nor any obligation to corrective measures. Those obligations shall be the Owner's.

### **H.3 Provisions of Further Information by Owner**

If requested by the Municipality in writing, the Owner shall provide the Municipality with any such relevant information in its possession which may include an environmental site assessment, hydrogeological study, well survey, water quality study, storage tank testing results or such other study as may have been prepared to investigate contamination of surface or groundwater as a result of the development of or use of the Lands. This requirement and any associated conditions however do not impart on the Municipality any responsibility for reporting of any impairment or impact nor any obligation to corrective measures. Those obligations shall be the Owner's.

### **H.4 Owner to Take Action in Event of a Deleterious Impact**

In the event of a spill of a pollutant that is at law the Owner's responsibility, the Owner agrees that it shall be responsible for doing everything practicable to prevent, eliminate and ameliorate any material adverse effect, or to do everything reasonable in the circumstances restore the natural environment. This may include, but not necessarily be limited to, the design, installation, and approvals for restorative or mitigative work, and such work shall be considered "Work" for the purpose of this Agreement and shall be subject to all associated applicable requirements or restrictions of this Agreement. Municipal Right to Compensation from Owner.

The Owner also agrees that the Municipality shall have the right to compensation from the Owner:

- (a) for loss or damage of works incurred as a direct result of:
  - (i) the spill of a pollutant that causes or is likely to cause an adverse effect,
  - (ii) the exercise of any authority under this Agreement, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Agreement;
- (b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Agreement or as ordered by the Ministry of Environment, or other responsible Provincial or Federal authority.

The Owner is not liable for works or compensation if they establish, to the Municipality's satisfaction, that they took all reasonable steps to prevent the spill of the pollutant or if they establish, to the Municipality's satisfaction, that the spill of the pollutant was wholly caused by,

- (a) an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country;
- (b) a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (c) an act or omission with intent to cause harm by a person other than the Owner,
- (d) or any combination thereof.

However, this does not relieve the Owner from liability for works, or compensation to the Municipality for loss or damage that is a direct result of neglect or default of the Owner in carrying out a duty imposed or an order or direction made under this Agreement; or from liability, in the event of an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country, for cost and expense incurred or, in the event of a natural phenomenon of an exceptional, inevitable and irresistible character, for all reasonable cost and expense incurred:

- (a) to do everything practicable to prevent, eliminate and ameliorate the adverse effect, or
- (b) to do everything practicable to restore the natural environment or both.

For the purposes of this Agreement:

- (a) "restore the natural environment", when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and "restoration of the natural environment", when used with reference to a spill of a pollutant, has a corresponding meaning.
- (b) "spill", when used with reference to a pollutant, means a discharge,
  - (i) into the natural environment,
  - (ii) from or out of a structure, vehicle or other container, and
  - (iii) that is abnormal in quality or quantity in light of all the circumstances of the discharge.
- (c) "deleterious impact" or "adverse effect" means one or more of,
  - (i) impairment of the quality of the natural environment for any use that can be made of it,
  - (ii) injury or damage to property or to plant or animal life,
  - (iii) harm or material discomfort to any person,
  - (iv) an adverse effect on the health of any person,
  - (v) impairment of the safety of any person,
  - (vi) rendering any property or plant or animal life unfit for human use,
  - (vii) loss of enjoyment of normal use of property, and
  - (viii) interference with the normal conduct of business.

#### **H.5 Municipality Does Not Warrant Condition of Soils**

The Owner acknowledge and agrees that any Municipal approvals, including, but without restricting the generality of the foregoing, zoning and site plan approvals, do not verify or confirm the adequacy of soil conditions and the Owner accepts full responsibility for soil conditions, including soil and/or groundwater and surface water contamination.

## SCHEDULE 'I'

### THE CONDITIONS FOR ISSUANCE OF A BUILDING PERMIT AND FOR OCCUPANCY AND USE

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **I.1 No Occupancy of Building Permit Until Conditions Met**

No Building Permit and no occupancy shall be granted by the Municipal Building Department, and the Owner agrees that no occupancy shall occur, until all of the requirements as outlined within this Agreement have been met.

#### **I.2 Building Permit Issuance**

The Owner covenants and agrees not to apply for building permits until:

- (a) the Site Plan has received approval;
- (b) this Agreement has been executed by the Owner and filed with the Municipality;
- (c) the Municipality has confirmed that water, roads, sewage facilities and utilities are available to its satisfaction;
- (d) the Municipality has confirmed that an adequate water supply for firefighting operations and satisfactory access for firefighting equipment is available to service the Land;
- (e) the Municipality has confirmed that all development charges, taxes, levies, fees and other payments required under this Agreement have been paid in full or secured by sufficient security;
- (f) the Municipality has confirmed that all necessary conveyance of land, easements and reserves have been received free and clear of all encumbrances and have been registered against title; and
- (g) the Municipality has certified that, on lots or blocks on which easements have been imposed or for lots and blocks immediately adjacent to such easements, required municipal services have been installed within the limits of the easements granted to the Municipality.
- (h) A grading plan has been incorporated into the site approved by the Municipality.
- (i) Prior to construction beyond the top of foundation a certificate from the Owner's Engineer is to be provided to the Municipality certifying that the elevation of the top of the foundation is in conformity with the overall lot grading plan and the requirement that all foundations be constructed so as to be completely located a minimum of 0.3m above the seasonal high groundwater level and that the foundation has been located in compliance with zoning setbacks and yards.

Lot grading incorporated in the site plans shall contain all information required by the Municipality, including the requirements specified in the Municipality's engineering standards, and shall at a minimum illustrate the following:

- (a) The location and dimensions of the proposed buildings and accessory structures and any structures on adjacent lots;

- (b) The location, size and elevation of the sewage services/sub-surface sewage disposal system on each lot and all pertinent design criteria;
- (c) The location of water services/wells on the lot and adjacent lots;
- (d) The seasonal high groundwater elevation;
- (e) The extent of the disturbed area; existing and proposed grades; and the elevations of the building footings, top of the foundation wall, and the minimum opening;
- (f) The location of any slopes or hazard areas on the lot;
- (g) The direction of surface drainage, swales and other related features and break points for surface drainage; and,
- (h) Zoning setback requirements and compliance with those requirements.
- (i) No occupancy shall be granted by the Municipality's Building Department, and the Owner agrees that no occupancy shall occur, until all of the requirements for occupancy as outlined within this Agreement have been met.

### **I.3 Conditions for Occupancy and Use**

Prior to using and/or occupying the Land and/or buildings and/or structures the Owner agrees to:

- (a) supply the Municipality, in a form agreed to by the Director of Planning and Development, "as-built" drawings for the development showing the location of all buildings, services, parking facilities and all underground and/or overhead utilities including, but not limited to hydro, sanitary sewers and services/private sewage systems, watermain services/wells, telephone, cable television, gas, and any culverts; and
- (b) supply satisfactory evidence of compliance with the Ministry of the Environment approval for sanitary service works and/or any other services or works and, without limiting the foregoing, this shall include sanitary sewers or works, storm sewers or works, water supply works, and drainage works associated with the development of the Land.

### **I.4 Municipal Inspection**

Upon completion of the project, and prior to occupancy of any new buildings or structures and/or prior to any new uses being undertaken, the Owner will contact the Municipality to arrange for a municipal inspection of the property to ascertain if the requirements of the Agreement have been adhered to, and no occupancy or use shall occur until an inspection satisfactory to the Municipality has been completed and the Municipality has provided the Owner with a certificate indicating that the inspection has taken place and that the Municipality has authorized occupancy.

### **I.5 No Occupancy Until Requirements Met**

The Owner covenants and agrees not to permit occupancy of any building or part thereof for which building permits have been issued until all works required under this Agreement are completed in accordance with the requirements of the Ontario Building Code, the applicable zoning by-law and any other municipal by-laws, and that the internal water distribution and sanitary sewer collection have been tested and approved and are operating in accordance with the conditions established by the Municipality.

### **I.6 Municipality Entitled to Obtain Court Order**

In the event that a building or unit is occupied otherwise than in accordance with the provisions of this Agreement, the Owner covenants and agrees that the Municipality shall be entitled to obtain an order from a court of competent jurisdiction prohibiting



the occupancy of any building or unit until such time as the terms of this Agreement have been fully complied with, and the Owner shall be estopped from opposing such application on the part of the Municipality.

#### **I.7 Owner to Ensure Requirements Met and Provide Sufficient Time for Municipal Review**

The Owner shall ensure that all requirements are met in advance of using and/or occupying the Land and/or buildings and acknowledges that the Municipality is under no obligation to accept or authorize occupancy, until it has had a reasonable time, as the Municipality may determine acting reasonably, to review the information and process the request for occupancy.

#### **I.8 Inclement Weather and Lot Grading and Landscaping**

If, due to inclement weather, the Owner is unable to complete the requirements related to lot grading, environmental works, and landscaping prior to using and/or occupying the Land and/or buildings, the Owner shall submit to the Municipality written confirmation that they will be completed in accordance with a date established by the Municipality, and, in the meantime, no accessory structures, landscaping or fences shall be installed until the final lot grading has been completed by the Owner and accepted by the Municipality. In such cases securities associated with the outstanding works shall be returned only when the requirements for these works have been satisfied to the Municipality's sole and unfettered discretion. The Municipality is however, under no obligation to set or accept an alternate date and may insist on the completion of the applicable requirements prior to authorizing occupancy and use of the Land.

## SCHEDULE 'J'

### THE GENERAL CONDITIONS OF APPROVAL

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **J.1 Construction Act**

The Owner covenants and agrees that it will hold back in its payments to any contractor who may construct services, facilities or works, such amounts as may be required under the provisions of the *Construction Act*.

#### **J.2 Garbage Containment**

To design, prior to construction, a waste management system for the collection, storage and disposal of waste and recyclable materials, to implement such system and to maintain same and to provide internal recycling and garbage areas sufficient to contain the required number of containers and/or materials. Any bulk garbage containment areas on the Land shall be constructed of materials consistent with the main building, or otherwise approved by the Municipality in accordance with Schedule 'B' of this Agreement, and be able to accommodate recyclable materials to the satisfaction of the Municipality. Recyclable materials include, but are not limited to, container metals and glass, 2L soft drink bottles, newsprint, fine paper, wooden skids, corrugated cardboard, and any other materials not mentioned but capable of being recycled.

Without limiting the generality of the foregoing, no garbage receptacles, other than small (less than 1.0 cubic metres in volume) waste and recycling receptacles, which are properly emptied and maintained to the Municipality's satisfaction, are to be located on the Land beyond such garbage containment areas.

In the event that the Owner shall be in default of this provision, the Owner hereby constitutes the Municipality as the Owner's agent for removal of such receptacles. The Municipality, however, shall not be obliged to provide prior notice to the Owner of removal of any such receptacle located on the Land in breach of this provision. The Owner shall indemnify the Municipality with respect to the removal of such receptacles. The Municipality shall be entitled to charge an administration fee with respect to such removal, such fee to be determined by the Municipality's Director of Public works acting reasonably.

The Owner agrees not to permit any refuse, junk, debris or other material to be deposited on any land, school land, or park-land in the area, and that any such refuse, junk, debris, or other material will be removed from the land at the expense of the Owner. If the Owner fails to remove the aforesaid material within a period of forty-eight (48) hours from the time of delivery of written notice to the Owner, the Municipality may enter on the land and remove the said material and the Owner will be charged for all expenses incurred by the Municipality and the Owner further agrees that the Municipality may make such charge against the security filed with the Municipality.

#### **J.3 Access Facilities**

The Owner agrees:

- (a) Not to foul the highways leading to the Land and to provide on all construction accesses leading to the Land, an interim granular surface to prevent mud or dust from fouling the road;
- (b) Not to permit any approach ramps and driveways across the untravelled portion of any road allowance owned by the Municipality unless such approach ramps are paved to the Municipality's specifications;

- (c) To install curbing to the Municipality's specifications along the approach ramps between the property line and the street, and at all locations shown on the approved plans and drawings; and
- (d) To provide fire access route and associated signs.

#### **J.4 Parking Facilities**

The Owner agrees to construct and surface parking facilities, including parking spaces, loading spaces and all access ramps and aisles as shown on the site plan(s) and agree to keep such parking areas including any loading and access areas, free and clear of debris, snow and ice, and adequately drained.

No parking or loading shall be permitted on any part of the Land unless all areas for which parking and loading are permitted are shown on the site plan and appropriately surfaced and maintained. All accessible parking spaces shall be so identified with appropriate signage to the satisfaction of the Municipality.

All aisles, ramps, parking and loading areas shall be constructed and maintained to the Municipality's satisfaction. All such areas shall be maintained so as to prevent the raising of dust and shall be kept in a good state of repair to the Municipality's satisfaction.

#### **J.5 Walkways**

The Owner agrees to construct and maintain an unobstructed pedestrian walkway as shown on the approved site plan available for public use. The walkway shall be maintained so as to be free of ice and snow as well as any debris or hazards to the Municipality's satisfaction.

#### **J.6 Lighting**

The Owner agrees to supply and install lighting facilities, if any, on the Land in accordance with the Site Plans, so as to suitably and adequately illuminate same and so as not to interfere with any development on, or use of, adjacent or abutting land or public highways.

Such lighting shall adequately illuminate public parking and walkways so as to provide a safe environment.

#### **J.7 Landscaping and Environmental Works**

The Owner shall install, and maintain in perpetuity in good and healthy condition, all Landscape and environmental works, shown on and described in the reports and drawings listed in Schedule "B" attached hereto, in a condition satisfactory to the Municipality, including the replacement of any unhealthy vegetation so as to meet the approval of the Municipality.

The Owner shall replant any existing vegetation identified for preservation in reports and drawings listed in Schedule "B" which has been removed or damaged. The composition of such replanting will be of a size, quantity and species-mix to the satisfaction of the Municipality.

In the event that the Owner shall be in default of these provisions, the Owner hereby constitutes the Municipality as the Owner's agent for maintenance of Landscaping and environmental works at the Owner's cost.

The Municipality shall not be obliged to maintain Landscaping or environmental works. On deciding to undertake such works, at its own discretion, the Municipality shall provide fifteen (15) calendar days notice to the Owner of maintenance of any such works in breach of this provision. The Owner shall indemnify the Municipality

with respect to the removal or maintenance of the Landscaping and environmental works. In addition to the full cost of maintenance works, including replacement of Landscaping and environmental material, the Municipality shall be entitled to charge an administration fee with respect to such maintenance, such fee to be determined by the Municipality's Director of Planning and Development acting reasonably. The Owner shall pay such costs and administration fee forthwith after being invoiced by the Municipality.

### **J.8 Signs**

The Owner shall provide details, to the satisfaction of the Municipality's Director of Planning and Development of any proposed sign with respect to height, area of sign face and illumination, and all existing third party signs and/or portable signs shall be removed from the Land, and no third party signs and/or portable signs shall be allowed upon the Land except in conformity with the Municipality's Sign By-law in force at the time of the proposed placement of such sign. In the absence of a Sign By-law, signs shall only be permitted in accordance with drawings approved in accordance with this Agreement or a Municipally approved amendment thereto.

### **J.9 Owner to Retain Professional Engineers**

The Owner covenants and agrees to retain a Professional Engineer (hereinafter referred to as the "Engineer") who holds a Certificate of Authorization for municipal engineering applications from the Association of Professional Engineers of Ontario to prepare the design of grading, site and external servicing plans, municipal service connection designs, and storm water management reports which are to be submitted to the Municipality.

The Owner's Engineer will be required to inspect and certify to the Municipality that all internal and external services, grading, and storm water management requirements have been constructed in accordance with the approved Engineering Drawings and reports, prior to the reduction of the Letter of Credit held for engineering-related works. The certificate, or certificates, shall be in a format acceptable to the Municipality.

The Owner's engineer(s) shall file with the Municipality's Director of Planning and Development, a Schedule of works and Timetable, in writing, for the installation, extension and improvement of services by the Owner. The Schedule of works shall include design and construction supervision of the installation, extension and improvement of the services.

The Owner shall retain the services of the engineer(s) until the installation, extension and improvement of services is complete and a Declaration of Completion has been submitted and prior to the Owner giving notice of the completion of the building pursuant to the *Building Code Act*, as may be amended from time to time.

The retained engineer shall provide, during all hours of construction, competent on-site supervision of all works required to be done on all public and private lands and building construction to be undertaken on the Land.

### **J.10 Damages**

The Owner shall, prior to the completion of the project or when required by the Municipality, whichever is earlier, repair any damages caused to an existing road, road allowance or existing structure or plant located on the road allowance as a result of the development, and shall pay for any costs involved in re-location of existing services such as ditches, etc., which may be necessary by reason of this development. Such works shall be considered to be site works or services for the purposes of this Agreement and shall be subject to all associated applicable requirements or restrictions of this Agreement.

The Owner further covenants and agrees:

- a) that all lands owned by the Municipality outside the limits of the site plan that may be used by the Owner or parties employed by the Owner or others during the construction of the Work as well as all buildings and structures within the site plan shall be kept in a good and usable condition during the construction period and, if damaged by the Owner or parties employed by the Owner in construction of the said Work, buildings and structures, will be repaired or restored immediately;
- b) not to foul the public roads, outside the limits of the site plan, leading to the Land, and further agrees to provide the necessary persons and equipment to be available on reasonable notice at all times to keep such roads clean and that all trucks making deliveries to or taking materials from the site plan shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish, or debris on the abutting highways and streets;
- c) that, if in the opinion of the Municipality, the aforementioned requirements are not complied with, the Municipality will do the work as required and the Owner shall forthwith upon demand pay to the Municipality the full cost thereof and that the Municipality may draw on any security filed pursuant to this Agreement if the Owner fails to make the payment demanded by the Municipality;
- d) not to allow and to restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on any lands within the site plan, including land to be dedicated for municipal purposes, vacant public land and private land;
- e) to clear debris and garbage on any land within the site plan if so requested in writing by the Municipality and that the Municipality shall have the authority to remove such debris and garbage at the cost of the Owner if the Owner fails to do so within forty-eight (48) hours of being advised to do so.

#### **J.11 Road Occupancy Permit and Entrance Approvals**

The Owner shall obtain a Road Occupancy Permit, or alternate Municipal approval, for any works undertaken on Municipal road allowance(s). The Owner shall provide a cash deposit in an amount satisfactory to the Director of Public Works, to guarantee the performance of the Owner's obligations pursuant to the Road Occupancy Permit and to indemnify the Municipality for any costs incurred as a result of works undertaken on the road allowance(s). The deposit is a pre-estimate only and the Municipality shall be completely indemnified by the Owner for any costs or damages incurred by the Municipality as a result of any works undertaken on the Municipality's road allowance(s).

The Owner acknowledges and agrees that it shall be responsible for obtaining an Entrance Approvals for each entrance from the Municipality, and that it shall be required to carry out any and all works specified in the Entrance Approvals for the Development of the site and that such entrance improvements shall include drainage alterations so as to direct drainage away from the traveled portion of the entrance and the road/highway. Such Approvals will automatically form part of this Agreement by reference to the requirement for the Approvals, but shall not be appended to this Agreement for registration purposes. In the event that the Owner fails to comply with any terms and conditions of the Approvals, or fails to make modifications or changes required by the Approvals, the Municipality shall have the right to enter onto said land to conduct all works necessary to comply with the terms and conditions of the Approvals, or to effect modifications and changes up to and including the date of the submission of the Declaration of Completion as certified by the consulting engineer. All securities held under this Agreement shall also stand to secure the works for entrances. The Owner further acknowledges

and agrees that for the purposes noted above, the Municipality shall be entitled to realize upon any securities filed by the Owner with the Municipality, under the terms of the Agreement to be applied towards costs incurred by the Municipality in conducting any required works on said Land or road allowance.

#### **J.12 Haul Route and Traffic Control**

The Owner acknowledges and agrees that the Municipality shall have the right to designate and limit access to the Land from public highways adjacent thereto.

All access roads must be maintained by the Owner in good repair acceptable to the Municipality during the time of construction, including dust control and the removal of any mud or debris tracked from the Lands. Dust control and street cleaning shall be utilized as necessary to maintain public roads in a clean and debris-free appearance, in a hazard-free condition, and in accordance with any requirement by the Director of Public works.

The Owner shall not cause any road which provides access to properties not within the boundary of the Land to become unsafe or impassable (as determined by the Municipality in its sole discretion) during the time of construction and shall be responsible for any claims arising from the failure to do so including the cost of legal fees, awards or payments arising therefrom.

No roadway outside the limits of the Land may be blocked or closed without the written consent of the Municipality. For the purposes of obtaining consent, the Owner shall make a request in writing indicating the date, time and duration of the closure or blocking a minimum of fourteen (14) days in advance of the time it wishes to block or close the road. The Municipality reserves the right to limit or prohibit the use of any existing access road by the Owner.

During construction, where required due to construction or related activity on a public road, traffic control shall be provided in accordance with all provincial and municipal requirements, and, at a minimum, the following shall be required: trained flagpersons to be available for any works on the municipal rights of way; flagpersons to be available for any frequent traffic to or from the site; three (3) flagpersons for any vehicles backing out of or into the site; "construction ahead" signs to be placed on all roads approaching the construction site; and no construction equipment to be parked on adjacent roads.

Following construction, the Owner shall ensure that no vehicles delivering products or services to the business, back out of the site onto the public road allowance.

#### **J.13 Boulevard Reinstatement**

Forthwith after development of the Land, and prior to giving a Declaration of Completion, the Owner shall, at its expense, reinstate all boulevard areas to the satisfaction of the Municipality's Director of Public works. If the Owner is precluded by inclement weather from reinstatement, it shall provide the Municipality security in the form of cash, or a letter of credit in an amount approved by the Municipality's Director of Public works, and drawn on a Chartered Bank and shall complete reinstatement within six (6) months of the date of occupancy approval, failing which the Municipality shall be entitled to draw on the security and complete reinstatement on the Owner's behalf.

#### **J.14 Fire Compliance Measures**

The plans and drawings referred to in this Agreement and all works and services constructed on the Land shall follow and be in accordance with all fire regulations of the Municipality and other jurisdictions, and the Owner shall incorporate into the development on the Land such proper works and facilities as may be required by the Municipality's Building and Fire Officials having jurisdiction in respect of the

construction and operation of the development of the Land. In particular the following shall be undertaken by the Owner:

- a) the fire access routes, as shown on the site plans, shall be kept clear at all times;
- b) the fire access routes shall not be obstructed by waste or other materials during construction;
- c) during construction, the Owner shall ensure that combustible waste materials do not accumulate on the Land in such quantities so as to constitute a fire hazard;
- d) no open burning shall be undertaken unless a Burning permit has been issued by the Municipality at the request of the Owner;
- e) the Owner shall ensure that emergency phone numbers for the fire department re posted on the site during construction and that an adequate supply of portable extinguishers are kept on suite at all times during construction (the type and location of all extinguishers shall be confirmed with the Fire chief of the Municipality prior to the commencement of combustible construction); and,
- f) any temporary heating with propane undertaken by the Owner shall be in accordance with the installation code for propane burning appliances and equipment.
- g) locate such number of fire hydrants and size of water mains as approved by the Municipality's Fire Chief or his designate and to satisfy any other requirements of the Fire Department at the Owner's expense.

The Owner shall implement 911 numbering to the satisfaction of the Municipality.

#### **J.15 Project Manager**

The project manager shall be the primary contact representing the Owner for construction of this project and shall be responsible for ensuring compliance with all construction and project management related requirements of this Agreement including, but not limiting the forgoing, ensuring that all works are constructed as required by this Agreement, arranging for all inspection and certification of works by the Owner's engineers and the Municipality, preparation and submission of the Declaration of Completion, and site safety.

The designated project manager, appointed by the Owner and entirely under the Owner's obligations, is Donna Stevens of the firm Timmerman Timberworks which may be contacted at:

Donna Stevens  
 2 Greengage Road  
 New Lowell, ON  
 L0M 1N0  
 (705) 424-2222 / [donna.stevens@timmerworks.com](mailto:donna.stevens@timmerworks.com)

The Owner shall have the right to change the project manager from time to time, provided that the Municipality is notified of any such change

#### **J.16 Site Security**

During construction and until occupancy is permitted, all construction areas and potentially hazardous areas of the site shall be secured with safety fencing and/or hoarding so as to prevent all public access and shall be signed accordingly, at all times.

Where works are located adjacent to public roads, sidewalks, trails or other areas to which the public has access, the construction site shall be secured with necessary protection measures, including overhead protection, to ensure that there is no hazard to the public.

Appropriate signage and/or other measures shall be utilized to ensure that equipment entering the site does not interfere with or damage overhead or underground services and the Owner shall be responsible for repairing any damage to such works as well as any liabilities arising from such damages and associated service interruption.

It shall be the Owner's sole responsibility to identify such potentially hazardous areas and install necessary protective works.

#### **J.17 Provision of Utilities**

It is the Owners responsibility to obtain written confirmation from the appropriate entities that all public utility requirements for the Land, including but not limited to telephone, underground without any expense, cost or obligation on the part of the Municipality and that all requisite easements have been or will be provided to such entities.

It is the Owner's responsibility to ensure that telecommunications, cable television, hydro-electric power, gas and postal services, have been satisfactorily arranged, that servicing for same will be provided underground without any expense, cost or obligation on the part of the Municipality and that all requisite easements have been or will be provided to such entities.

#### **J.18 Location of Utilities and Works**

The Owner shall be responsible for verifying the location of all existing and proposed utilities within the right-of-way. The Owner will be required to pay all costs associated with the relocation of utilities as may be required.

The Owner shall make all necessary arrangements and be solely responsible for the costs of removing and relocating any existing municipal or public services requiring relocation in the course of, or in connection with, the construction, installation or provision of the works, services and facilities required under this Agreement.

#### **J.19 Grading and Drainage**

It is the Owner responsibility to:

- (a) Not to permit the Land to drain otherwise than into a properly installed drainage system with proper catchbasins connected to a Municipality storm sewers or ditches and the grades and drainage facilities shall be so established as to provide roof water onto the internal system, to implement and maintain an on-site storm water management system to limit storm run-off from the site to a predevelopment rate of flow;
- (b) To obtain approval from the Ministry of the Environment, the Nottawasaga Valley Conservation Authority and the Municipality with regard to stormwater management facilities;
- (c) To implement and maintain an on-site storm water management system designed according to the policies and criteria of the Municipality.
- (d) To implement and monitor on-site sediment and erosion control measures, during construction of this development, to the satisfaction of the Municipality and to allow the Municipality and its agents, in perpetuity, access to the Land to inspect roof drains, inlet control devices and storm water management facilities.
- (e) To provide regular removal of snow from the site, or to provide sufficient snow storage areas on the Land, and that the parking spaces and landscaping areas will not be used for the stockpiling of snow.



## **J.20 Use of Trailers and Vehicles for Advertising**

The Owner shall ensure that no trailer or other vehicle bearing advertising information or identification related to a business use on the Land, shall be located, kept or maintained in any yard adjacent to a street.

## **J.21 Uses of Roof**

The Owner shall ensure that no signage, satellite dishes, antennae or associated equipment rooms will be permitted on the roof and that all permitted roof-top equipment shall be adequately screened from view.

## **J.22 Compliance with Municipal By-laws**

The Owner shall ensure that the construction, operation, maintenance and use of the development shall comply with all provisions of the Municipality's by-laws as may be amended from time to time.

## **J.23 Outside Storage**

Outside storage shall only occur on the Land in accordance with all applicable zone requirements and general provisions specified within the Township of Clearview Comprehensive Zoning By-law 06-54, as amended.

The Municipality acknowledges that during construction and development of the Lands construction equipment may be temporarily stored on the Lands. However, such equipment must be maintained and in a good state of repair so as to not result in site contamination by leakage or spills; no maintenance of construction equipment is to occur on the site; and, no storage of hazardous materials, including fuels, is to occur on-site

## **J.24 Nottawasaga Valley Conservation Authority Approvals**

Where an approval of the Nottawasaga Valley Conservation Authority is required, the Owner acknowledges and agrees that it shall be responsible for obtaining a Permit(s) from the Nottawasaga Valley Conservation Authority (NVCA), and that it shall be required to carry out any and all works specified in the Permit(s) for the Development of the site and that such improvements may include drainage alterations so as to ensure appropriate control of the quantity and quality of run off from the site. Such Permit, where not conflicting with or contradicting with this Agreement, will automatically form part of this Agreement by reference to the requirement for the Permit, but shall not be appended to this Agreement for registration purposes.

In the event that the Permit conflicts with or is contradictory in any way to this Agreement the Owner shall, prior to undertaking any such works, obtain approval of an amended site plan and enter into any necessary amendment to this Agreement or additional Agreement as may be required.

In the event that the Owner fails to comply with any terms and conditions of the Permit, or fails to make modifications or changes required by the Permit, the Municipality, whether or not requested to do so by the NVCA, shall have the right to enter onto said land to conduct all works necessary to comply with the terms and conditions of the Permit, or to effect modifications and changes up to and including the date of substantial completion as certified by the consulting engineer.

The Owner further acknowledges and agrees that for the purposes noted above, the Municipality shall be entitled to realize upon any securities filed by the Owner with the Municipality, under the terms of the Agreement to be applied towards costs incurred by the Municipality in conducting any required works on said Lands or the road allowance.

## **J.25 Adverse Impact on Water Supplies and the Environment**

If the construction and operation of the development results in any adverse impact to the water supply of other land owners or the Municipality, and that impact would be considered unacceptable according to applicable provincial standards, policies and/or guidelines the Owner shall make available to the impacted individual, or individuals, a supply of water equivalent in quantity and quality, or shall compensate the impacted individual, or individuals, for their reasonable costs in doing so, and the Owner shall modify its operations and take any other necessary actions to prevent future impacts.

If at any time the Municipality believes that the construction and operation of the development has caused an adverse impact to the environment and/or the water supplies of an individual, or individuals, and that that impact would be considered unacceptable according to applicable provincial standards, policies and/or guidelines, the Municipality shall notify the Owner in writing with a copy to the relevant Provincial authority. The Owner, within two days of receipt of such notice shall make available to any impacted individual, or individuals, a temporary supply of water equivalent in quantity and quality, or shall compensate the impacted individual, or individuals, for their reasonable costs in doing so. The Owner shall also immediately carry out an assessment, which may include technical investigations and testing, to determine the cause of the impacts to the water supply or environment and shall prepare a corrective action plan. Both the investigation and the corrective plan shall be prepared at the cost of the Owner and shall be undertaken to the satisfaction of the responsible Provincial authority and the Municipality. If necessary the Owner shall cease operations or modify its operations and take any other necessary actions to prevent future impacts.

If a temporary water supply is required under the conditions of this Agreement, the temporary water supply shall be provided and maintained by the Owner until such time as the Owner has demonstrated to the satisfaction of the responsible Provincial authority and the Municipality, at their sole and unfettered discretion, that either the construction, management, operation or use of the Land has not caused the impact, or, that corrective actions have been taken so as to prevent to restore the water supply and/or environment and to prevent recurrence of the impact.

This requirement and any associated conditions however do not impart on the Municipality any responsibility for reporting of any impairment or impact nor any obligation to corrective measures. Those obligations shall be the Owner's.

## **J.26 Inspection by Municipality of All Work**

The Owner covenants and agrees that the Municipality, its employees, agents and contractors or any other authorized persons may inspect all Work and the construction under any contract, but such inspection shall in no way relieve the Owner from its responsibility to inspect the said construction itself. If the construction of Work is not, in the opinion of the Municipality, being carried out in accordance with the provisions of this Agreement or in accordance with good engineering practices, the Municipality may issue instructions to the Owner and/or to the Owner's Engineer to take such steps as may be deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be written, or may be verbal, in which case the Municipality shall confirm them in writing within ten (10) days. In the event that neither the Owner nor the Owner's Engineer is present at the site of the Work to receive such verbal instructions, the Municipality may instruct the contractor(s) to cease work forthwith.

## **SCHEDULE 'K'**

### **DEVELOPMENT CHARGES AND SERVICE CONNECTION FEES**

**NOTE:** It is understood and agreed that this Schedule forms part of the Site Plan Agreement to which it is appended.

#### **K.1 Development Charges**

The Owner, shall pay, in addition to all other monies required to be paid by the Owner under this Agreement, to the Municipality, any applicable Development Charges in effect at the time of Building Permit Application. The total amount of each Development Charge shall be paid not later than the date of the issuance of each Building Permit.

The Owner further understands and agrees that the Development Charge is subject to review and update by the Municipality and that this fee may be adjusted by the Municipality following each review including automatic inflationary increases. In the event that the Development Charge is adjusted by the Municipality, then the adjusted cost shall apply

#### **K.2 Delayed Payment Wastewater**

The Owner agrees to connect to municipal wastewater services should they become available and to pay all costs related to the installation of these services and all associated development charges for such services in effect at the time of connection.