



TO: GENERAL COMMITTEE

SUBJECT: ADOPTION OF UPDATED SUBDIVISION AGREEMENT

PREPARED BY AND KEY CONTACT: Z. WALPOLE, SOLICITOR EXT.4511

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES 

GENERAL MANAGER APPROVAL: E. ARCHER, CMA, GENERAL MANAGER OF CORPORATE SERVICES 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: CARLA LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the revised Precedent Residential Subdivision Agreement attached as Appendix A to Staff Report LGL023-12 be adopted effective January 1, 2013.
2. That minor amendments to the Precedent Residential Subdivision Agreement may be made subject to the approval of the Directors of Planning Services and of Legal Services.

PURPOSE & BACKGROUND

3. The purpose of this staff report is to present an updated standard form of Subdivision Agreement to Council for approval and adoption.
4. The standard form Subdivision Agreement was last updated in June 2003. Staff reviewed the current form of agreement. They determined that an updated agreement would be desirable so as to: (i) reflect current legislation, terminology, and the new organizational structure of the City; (ii) incorporate a number of housekeeping changes; and (iii) provide for a more "user friendly" form of document.
5. Staff considers it desirable to have an acceptable form of Subdivision Agreement approved in contemplation of the development of the annexed lands.

ANALYSIS

6. The proposed Subdivision Agreement was prepared by staff from the Legal Services Department with input from Engineering, Planning Services, Building, Roads & Parks, and Water & Waste Water. Effort was made to ensure that current Council policies, provincial legislation and current procedures are incorporated into the proposed Subdivision Agreement.
7. The Barrie Land Developer's Association were consulted as part of the review process. The general comments were that the format change was an improvement, the consultation process was appreciated and the invested time and expertise in preparing the proposed document were appreciated. A number of recommendations received from the Barrie Land Developer's Association were implemented.
8. The proposed Subdivision Agreement offers the following enhancements:

- a) A revised format that is easy to use. The bulk of the contents are contained in easily accessed Schedules;
 - b) A comprehensive definitions section;
 - c) Removal of Barrie Hydro and ACDC as potential parties to the agreement (given corporate reorganization since 2003);
 - d) All financial and security obligations of the developer set out in one schedule;
 - e) Clarification of the developers' responsibilities including extension of the guaranteed maintenance period from 1 to 2 years;
 - f) Updated statutory requirements. In particular, an increased focus on developer responsibility and indemnities with respect to environmental issues;
 - g) Inclusion of optional standard form clauses that can be used, if applicable in the circumstances.
9. Any future minor amendments to the form of Subdivision Agreement would be handled administratively following approval by the Director of Planning Services and Director of Legal Services

ENVIRONMENTAL MATTERS

10. The following environmental matters have been considered in the development of the recommendation:
- a) The developers' obligations with respect to environmental damages and indemnities have been significantly strengthened in the new Subdivision Agreement. The changes are consistent with the requirements of the *Environmental Protection Act*.

ALTERNATIVES

11. There is one alternatives available for consideration by General Committee:

Alternative #1 General Committee could maintain the existing form of Subdivision Agreement.

This alternative is not recommended as the existing form of Subdivision Agreement is almost 10 years old and does not reflect newer legislation, policies and procedures.

FINANCIAL

12. There are no financial implications for the Corporation resulting from the proposed recommendation.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

13. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2010-2014 City Council Strategic Plan.

APPENDIX "A"

STANDARD FORM SUBDIVISION AGREEMENT

**THE CORPORATION OF THE CITY OF BARRIE
RESIDENTIAL SUBDIVISION AGREEMENT
THIS AGREEMENT MADE IN TRIPLICATE ON THIS**

(DATE)

BETWEEN:

THE CORPORATION OF THE CITY OF BARRIE

the "Municipality"

AND

(OWNER)

the "Owner"

WHEREAS:

- A. The Owner is the registered owner of lands (the "Lands") described in Schedule "B";
- B. The Owner has applied to the Municipality for approval of the Plan of Subdivision relating to the Lands and for the purpose of registering the Plan;
- C. The Municipality has given approval to the subdivision on the condition that the Owner enter into this Agreement and perform such requirements, construct and install such services, and provide such financial undertakings and transfers of lands to the Municipality and others as may be required;
- D. The parties also desire to enter into additional agreements to give effect to approval requirements of the Municipality which may extend beyond the requirements of a subdivision agreement and have agreed to include such requirements in this Agreement;
- E. Subsection 51(26) of the *Planning Act*, permits the registration of this Agreement against the lands to which it applies and provides that the Municipality may enforce the terms and conditions of this Agreement against the Owner and any subsequent owners of the Lands;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION OF THE Municipality's approval of the Plan of Subdivision, the covenants expressed and other good and valuable consideration, the parties covenant and agree one with the other as follows:

PART I
BASIS OF AGREEMENT

1. Subject Lands

This Agreement applies to the Owner's Lands, which lands are described in Schedule "B". The registered ownership of the Owner's Lands is confirmed by the Owner's solicitors in the Certificate attached as Schedule "B".

2. Scope of Agreement

This Agreement shall define the obligations and duties of the Owner with respect to the subdivision of the Lands and, without limiting the generality of the foregoing, shall include the installation, construction, repair and maintenance of certain Works stipulated in this Agreement, and payments required to be made to the Municipality and to such other persons or entities, and such other matters as may be more specifically set out, and shall define the responsibilities of the Owner related to the Acceptance and Assumption of the Plan of Subdivision or any parts thereof.

3. Schedules

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

- | | | |
|------------|-------------------|---|
| 3.1 | SCHEDULE A | THE DEFINITIONS: being a schedule of definitions for the purposes of administration of this Agreement. |
| 3.2 | SCHEDULE B | THE LANDS AND OWNERSHIP THEREOF: being a description of the lands affected by this Agreement and a solicitor's certificate of ownership. |
| 3.3 | SCHEDULE C | THE APPROVED PLANS, DRAWINGS AND REPORTS: 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. |
| 3.4 | SCHEDULE D | THE WORKS TO BE CONSTRUCTED: being a schedule listing the Works to be constructed and maintained by the Owner pursuant to the terms of this Agreement. |
| 3.5 | SCHEDULE E | DISBURSEMENTS, TAXES AND LEVIES PAYABLE BY THE OWNER: being a schedule of certain financial obligations of the Owner. |
| 3.6 | SCHEDULE F | REQUIRED FORM AND AMOUNT OF SECURITIES, FEES AND DEPOSITS: 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. |
| 3.7 | SCHEDULE G | ADMINISTRATION OF SECURITIES: being a schedule for governing the release/reduction of Letters of Credit, or other securities, by the Municipality to the Owner. |
| 3.8 | SCHEDULE H | OWNER'S COST OBLIGATIONS: being a schedule governing the Owner's cost obligations and financial conditions with regard to its performance and maintenance of works and |

obligations under this Agreement.

- 3.9 SCHEDULE I** **OWNER'S INDEMNIFICATION OF THE MUNICIPALITY:** being a schedule governing the Owner's agreement to indemnify and save harmless the Municipality from all forms of claims and liabilities.
- 3.10 SCHEDULE J** **CONDITIONS FOR THE ISSUANCE OF BUILDING PERMITS AND OCCUPANCY AND USE:** being a schedule which sets out the requirements of the Municipality which the Owner must meet for issuance of building permits and for occupancy and use of the development approved by this Agreement.
- 3.11 SCHEDULE K** **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.
- 3.12 SCHEDULE L** **SPECIAL CONDITIONS OF APPROVAL:** being a schedule which outlines requirements in relation to specific works and special terms and conditions to which the Owner agrees in executing this Agreement and will carry out or comply with to the Municipality's satisfaction.
- 3.13 SCHEDULE M** **WORK SCHEDULE:** being a schedule which outlines requirements in relation to the timing of construction of Works and any associated terms and conditions to which the Owner agrees in executing this Agreement and will carry out or comply with to the Municipality's satisfaction.
- 3.14 SCHEDULE N** **CONDITIONS AND REQUIREMENTS FOR ACCEPTANCE AND ASSUMPTION OF WORKS:** being a schedule which outlines requirements in relation to conditions and requirements for Acceptance of Works to which the Owner agrees in executing this Agreement and will carry out or comply with to the Municipality's satisfaction.
- 3.15 SCHEDULE O** **INSURANCE REQUIREMENTS:** being a schedule of the Insurance requirements with which the Owner must comply with to the Municipality's satisfaction.
- 3.16 SCHEDULE P** **LANDS TO BE CONVEYED BY THE OWNER:** being a list of lands to be conveyed, dedicated or transferred to the Municipality.
- 3.17 SCHEDULE Q** **RESTRICTIVE COVENANTS:** being a schedule which outlines the restrictive covenants to which the Owner agrees in executing this Agreement and which will run with the lands.
- 3.18 SCHEDULE R** **NOTICES AND WARNING CLAUSES:** being a schedule which outlines the notices and warning clauses of which the Owner agrees to advise future purchasers as set out and required by this Agreement.
- 3.19 SCHEDULE S** **DEVELOPMENT CHARGES AND SERVICE CONNECTION FEES:** being a list of the applicable development charges and

conditions as well as local service connection fees and charges.

- 3.20 SCHEDULE T** **ONTARIO LAND SURVEYOR'S CERTIFICATE:** being a certificate from an Ontario Land Surveyor verifying the conformity of all lots and blocks in the Plan including areas and frontages of all lots and blocks within the Plan.
- 3.21 SCHEDULE U** **REASONABLE EFFORTS:** being a schedule which outlines the Municipality's agreement with the Owner to undertake reasonable cost recovery efforts to compensate the Owner for Works undertaken which may have an ancillary benefit to the Municipality or other land owners as determined by the Municipality, in its sole and unfettered discretion.
- 3.22 SCHEDULE V** **CONDITIONS OF DRAFT APPROVAL:** being a schedule which outlines the conditions of draft approval and any amendments approved by the Municipality or the Ontario Municipal Board.
- 3.23 SCHEDULE W** **ENGINEERING CONDITIONS:** being a schedule which outlines the conditions of design, construction, installation of all Works as approved by the Municipality and as set out and required by this Agreement.
- 3.24 SCHEDULE X** **QUALITY AND QUANTITY PERFORMANCE MONITORING:** being a schedule which outlines the Quality Performance Monitoring and Sediment Removal and Quantity Performance Monitoring and any associated terms and conditions to which the Owner agrees in executing this Agreement and will carry out or comply with to the Municipality's satisfaction.

The schedules listed above and which are attached to this Agreement, are incorporated into this Agreement by reference and are deemed to be an integral part hereof.

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PART II

APPROVED WORKS

4. Construction of Works

Following execution of this Agreement, the Owner shall construct, install or otherwise provide the Works required by this Agreement, including those identified in Schedules "C" and "D", on all Highways and on all lots, blocks and other lands laid out in or related to the Plan and on Highways and lands adjacent or related to the Lands. The Works may include internal and external Works.

5. Approved Plans

The Owner agrees to construct the Works as shown on a set of plans and drawings, as listed in Schedule "C", inclusive, and any subsequent drawings as specified or authorized by the Municipality. The preparation of the drawings and construction will be completed in accordance with the Municipality's design criteria, design standards, specifications, and procedures.

The Owner's Engineer is to provide the Municipality with drawings and a list of the numbers, lengths, sizes, materials, specifications etc. of all municipal infrastructure, including, but not limited to, storm and sanitary sewers, watermains, roads, sidewalks and any other underground or aboveground appurtenances for approval of the prepared drawings by the Municipality.

The Owner's Landscape Architect is to provide the Municipality with drawings and specifications of all municipal infrastructures, including, but not limited to, tree preservation plans, fencing plans, boulevard streetscapes, reverse lot frontage plans, stormwater pond planting, restoration plans, landscape plans and any other Landscape related elements for approval of the prepared drawings by the Municipality.

All design drawings shall be scaled in accordance with the Municipality's specifications.

6. Approved Works

The Owner acknowledges that the Municipality's review and approval of the submitted plans and drawings is on the basis of a proposal for the construction of a residential subdivision.

The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the plans or drawings approved for construction by the Municipality without its prior written approval which approval may be reasonably withheld.

Upon draft approval and execution of this Agreement, and at the sole discretion of the Municipality, Works within the Plan may be installed prior to the registration of the Agreement provided appropriate financial securities including fees, insurance and a letter of indemnity are posted with and to the satisfaction of the Municipality.

No construction shall take place contrary to such plans and drawings, without the prior approval of the Municipality, except such changes as may be required by the Municipality in order that said plans and drawings shall comply with all relevant provisions of the building code or zoning by-law or other by-law or laws of the Municipality, and all regulations or laws of any other governmental body. Where an alteration to the Works is proposed, a written submission to the Municipality must be made and such change must be approved in writing by the Municipality. Such approval may incorporate additional conditions or requirements. The request and approval shall be appended to this Agreement and shall form part of the

Agreement, upon approval by the Municipality, without the necessity of a further amendment to the Agreement.

The Municipality, in its sole and unfettered discretion, may alter required Works or specifications at any time prior to the construction or installation of the Works in accordance with updates to its design criteria, design standards, specifications and procedures or in response to site conditions and any difficulties or problems encountered during construction of the development. Any such variation shall be provided to the Owner's Engineer or Landscape Architect in writing and shall be appended to an executed copy of this Agreement in the Municipal offices, without necessitating an amendment to the registered Agreement. Such changes shall be required to be incorporated in the as-built drawings to be prepared by the Owner's Engineers or Landscape Architect pursuant to the requirements of this Agreement.

7. Municipal Works Vest in the Municipality

The Owner agrees that all Municipal Works, notwithstanding the earlier conveyance of lands or interests in lands related to the Works or Park Works, shall vest in the Municipality following construction and Assumption by the Municipality by by-law. The Owner shall have no claims or rights other than those accruing to it as an Owner of land abutting Highways upon which services have been installed.

8. Conformity with Agreement and Other Approvals

The Owner agrees that no work shall be undertaken or performed on the Lands except in accordance with the terms and conditions of this Agreement, the Plan of Subdivision, the Approved Plan 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.

The Owner shall, prior to commencing any work on the Lands with respect to the proposed development, obtain all necessary permits and approvals from the Municipality and from all Federal and Provincial departments and Ministries, utilities and other agencies and shall provide the Municipality with a copy of the permits and approvals other than those issued by the Municipality.

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PART III

GENERAL TERMS AND CONDITIONS

9. Registration of Plan

The Owner agrees that the Municipality shall register the Plan as soon as possible upon Final Approval by the Municipality.

10. Registration of Agreement

The parties hereby covenant and agree that this Agreement will be registered by the Municipality upon title to the Lands. The Owner further 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.

The Owner agrees that it is bound to this Agreement upon executing this Agreement regardless of when or if it is registered.

This Agreement shall be binding on the Owner and all future Owners and shall run with the Lands.

The parties authorize and direct the Municipality to electronically register this Agreement on their behalf on title to the subject Lands and to complete and sign a Notice under Section 71 of the *Land Titles Act*, R.S.O. 1990, cL.5, as may be amended from time to time, on their behalf to effect registration.

The Municipality is not obliged to release the Agreement in whole or in part from title at any time.

11. Inhibiting Order

The Owner agrees to present an application for an order inhibiting any dealings with the Lands to the applicable Land Registrar immediately following the registration of the Plan of Subdivision. The Owner covenants to do nothing that will affect the registered title of the Lands until the Inhibiting Order is entered against title to the Lands. The Owner acknowledges that the Municipality shall not be obligated to register any documents in compliance with the Inhibiting Order, or to apply to have the Inhibiting Order removed from title, until the Owner has supplied all documents in compliance with this Agreement in registerable form to the Municipality and all other documents required to provide discharges, releases and postponements with respect to any charges, mortgages or encumbrances with respect to the Lands have been registered against title to the Lands.

12. First Priority, Postponement and Subordination

This Agreement shall be registered as first priority against title to the Lands by the Owner and shall take priority over any vendor take-back mortgages or subsequent mortgages and registrations or any other encumbrances as may be deemed necessary by the Municipality to give first priority to this Agreement.

13. Assignment or Transfer of Mortgagee

If a mortgagee assigning or transferring a mortgage on the lands, the assignment or transfer shall be subject to the terms hereof in the same manner as if the assignee or transferee has executed this Agreement.

14. Servicing Allocation

The water and sewer capacity approvals are not guaranteed until the securities and deposits required by this Agreement are received in full. Where development of the subdivision is to be phased, such securities and deposits may also be phased. The water and sewer capacity approvals shall also be phased and servicing for subsequent phases cannot be guaranteed and may not be available. The Municipality shall not be required to provide such services and development of subsequent phases may be delayed until services are available. The Owner may, however, enter into agreement(s) with the Municipality to provide the required Works to provide for the allocation of water and sewer services and release of subsequent phases.

15. 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 of subdivision approval. It is further agreed that these requirements are incorporated into this Agreement as a consolidated Agreement in accordance with the Municipality's powers and rights under both the *Municipal Act*, and the *Planning Act*.

16. Changes

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

17. Development to Proceed Expeditiously

This Agreement requires that development commence within one (1) year 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 Owner shall not be entitled to a refund or credit of any fees, levies, development or other charges paid by the Owner or for any credits for services or works in lieu of payment of any development charges made pursuant to this Agreement.

If the Municipal Works, buildings 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, at any time after three (3) years of the date of execution of this Agreement, declare this Agreement to be in default. Any securities held at the time of default of this Agreement by the Municipality shall be returned to the Owner less the Municipality's expenses for rendering the Lands 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 using the securities to recover associated costs, together with overhead, legal or other expenses. Where securities are insufficient to recover costs for such Works, the Municipality may take any measures to recover its costs pursuant to applicable clauses of this Agreement and/or so permitted by law. The Owner shall not be entitled to a refund or credit of any fees, levies, development or other charges paid by the Owner or for any credits for services or works in lieu of payment of any development charges made pursuant to this Agreement.

18. 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.

19. Default

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

- a) is not diligently completing the Works within the specified time;
- b) is improperly carrying out the Works required by this Agreement;
- c) has neglected or abandoned the Works before completion;
- d) has unreasonably delayed the installation of Works so that the conditions of this Agreement are violated, or executed carelessly, or in bad faith;
- e) has neglected or refused to renew or again install the Works as may have been rejected by the Municipality as defective or unsuitable; or,
- f) in the opinion of the Municipality, has defaulted in performing the terms of this Agreement,

then, the Municipality shall notify the Owner in writing of such default. If the default is not remedied within seven (7) 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 reasonable opinion are required for the completion of the Works, all at the expense of the Owner. 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 in accordance with the then current Fees By-law. The Municipality shall be entitled to realize on its security without further notice to the Owner in order to provide funds for payment of any Works undertaken by the Municipality, provided that if the Municipality realizes on its security, it shall not be obligated to complete the Works but may elect to hold such sums as cash reserves pending the completion of the Works by the Owner.

20. Notice

- a) If 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:

Owner:

(Insert Owner's name and complete address and facsimile number)

Engineering and/or Landscape Architect and/or Planning Consultant(s):

(Insert consultant's name and complete address and facsimile number)

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:

City of Barrie
 Box 400
 70 Collier Street
 Barrie, ON L4M 4T5
 Attention: City Clerk

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.

21. Governing Law

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

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

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.

22. Entry by Municipality

Notwithstanding any additional authority in law, the Municipality, by its officers, servants, agents and contracts, for the life of this Agreement are entitled to enter on the Lands 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 Lands for the purposes of determining compliance with this Agreement.

23. 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 Agreements 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 use all of the applicable provisions of the *Municipal Act*.

24. No Challenge to Agreement

The Owner agrees not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the parties' right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it,

notwithstanding any provision of the *Planning Act* interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that 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.

25. Successors & Assigns

It is hereby agreed by and between the parties that this Agreement shall be enforceable by and against the parties, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Owners contained shall run with the Lands.

26. 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) Where this Agreement obligates the Owner to do anything, such obligation is deemed to include the words "at the expense of the Owner" including the payment of any applicable taxes (including HST) and "to the Municipality's reasonable satisfaction in its sole and unfettered discretion", unless specifically stated otherwise.
- d) References to any statute or any provision thereof includes such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute and any reference which may be incomplete or out-dated shall be taken to mean the complete or current version of the applicable statute.
- e) All obligations 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 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 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 applicability requires clarification, the Municipality shall make the determination of applicability in its sole and

unfettered discretion.

- i) Where interpretation requires further clarification or is disputed, the Municipality shall make the interpretation in its sole and unfettered discretion.

27. 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 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.

28. No Fettering of Discretion

Notwithstanding any other provisions of this Agreement, the Parties 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.

29. 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 for development;
- b) approved of the subdivision;
- c) have executed this consolidated Agreement; or,
- d) have issued any building permit with respect to the Lands.

30. Counterparts

The parties acknowledge and agree that this Agreement and any schedules may be executed in counterparts, which, taken together, shall constitute one and the same instrument. Facsimile copies of counterparts of this Agreement shall be deemed to be originals and shall be binding upon the parties executing same in the same manner as if each party had executed the original.

31. Entire Agreement

This Agreement and the schedules and any other documents referred to in this Agreement and on file at the Municipality's office constitute the entire agreement between the parties.

PART IV

Execution

IN WITNESS WHEREOF the parties 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 _____ (DATE)

) **OWNER –**

) **Per:**

) _____

) **Per:**

) _____

)

)

)

) **I/We have full authority to the bind the**

) **Corporation**

)

)

) **THE CORPORATION OF THE CITY OF BARRIE**

)

) **Per:**

) _____

) **Mayor, J.R. Lehman**

)

) **Per:**

) _____

) **City Clerk, D.A. McAlpine**

)

SCHEDULE "A"

DEFINITIONS

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

Definitions

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

- a) "Acceptance" means the date upon which the Municipality considers Works to be substantially completed, either collectively or in part, as the case may be, pending the completion of all requirements noted in this Agreement;
- b) "Additional Works" means the works described in Schedule "D" as additional works;
- c) "Agreement" means this Agreement including all schedules attached hereto;
- d) "Approved Plans" means all of the plans, drawings, sketches, elevations, details, as-builts renderings and associated design sheets submitted to and approved by the Municipality for development of the Lands including the plans listed at Schedule C;
- e) "Assumption" means the date when Works, collectively or in part, as the case may be, under this Agreement have been completed, and the "Guaranteed Maintenance Period" has been initiated;
- f) "Council" means the Council of The Corporation of The City of Barrie;
- g) "Development Charges" means the fees charged with respect to development projects in accordance with a Council by-law passed pursuant to the *Development Charges Act, 1997*;
- h) "Drainage Plan" means a stormwater management and drainage plan prepared by an Engineer to address stormwater management and drainage requirements set out in this Agreement for the proposed development;
- i) "Drainage Works" means all stormwater management facilities and infrastructure including, without limitation, grading, all drainage swales, ditches and ponds internal and external to the Lands to be constructed by the Owner pursuant to this Agreement, including the extension, improvement, enlargement or upgrading of existing facilities all in accordance with the Drainage Plan;
- j) "Easement" means a registered right of use by the Municipality over the Lands of the Owner;
- k) "Engineer" means a Professional Engineer duly qualified, licensed and in good standing with the Professional Engineers Association of Ontario and who holds a Certificate of Authorization for municipal engineering applications;

- l) "Fees" means the costs related to administering and enforcing the conditions of this Agreement, as set out in this Agreement and in accordance with the then current Fees By-law as adopted by the Municipality;
- m) "Final Approval" means approval for the final Plan under the *Planning Act*;
- n) "Guaranteed Maintenance Period" means the two (2) year guarantee period following Assumption of the Works, either collectively or in part;
- o) "Highway" means a common and public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle, any part of which is intended or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- p) "Inhibiting Order" means an Order of the Registrar of Land Titles, pursuant to s. 23 of the *Land Titles Act*, R.S.O., 1990, prohibiting any dealing with the Lands on the Plan;
- q) "Lands" means those Lands described in Schedule "B" to this Agreement and includes all easement rights and obligations granted in connection therewith;
- r) "Landscape Architect" means a Professional Landscape Architect duly qualified and a member in good standing of the Ontario Association of Landscape Architects;
- s) "Landscaping" means all landscaping and design features shown on the Approved Plans and includes all planting required as illustrated thereon including the replanting and replacement of trees, shrubs and vegetation as determined in accordance with the Landscape Plans and the Tree Preservation Plan;
- t) "Letter of Credit" means an irrevocable financial document issued from a Canadian Chartered Bank, with an automatic renewal clause, which authorizes the Municipality to withdraw funds from the Owner's bank;
- u) "*Municipal Act*" means the *Municipal Act*, 2001, S.O. 2001, c25;
- v) "Municipal Works" includes all of the above and below grounds works described in Schedule D as municipal works plus Landscaping and Park Works or Park Services;
- w) "Municipality" means The Corporation of The City of Barrie;
- x) "Owner" means the registered owner of the Lands against which this Agreement has been registered from time to time and the terms of this Agreement shall be binding only on the registered owner of the Lands for the purposes of enforcement of the terms of this Agreement as at the date of such enforcement unless specifically stated otherwise herein;
- y) "Park Works" or "Park Services" means those lands, services, facilities and amenities, including park furniture, related to public parks and public recreational lands;
- z) "Phasing" means the division of the Lands in this plan by the Owner, into phases of Works, as shown on a schedule prepared by the Owner and approved by the Municipality dividing the Lands into two or more numbered segments in the order in which the Works are to proceed by the

Owner and the terms "Phase", "Phases" and "Phased" shall have corresponding meanings with necessary modifications;

- aa) "Plan" or "Plan of Subdivision" or "Subdivision" means the registered M plan as approved by the Municipality and/or the Ontario Municipal Board;
- bb) "Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or any successor statute;
- cc) "Professional Consultant" means an Architect, Engineer, Landscape Architect and/or Landscape Design Consultant who are licensed to practice in Ontario in their appropriate discipline and are acceptable to the Municipality, acting reasonably;
- dd) "Security" means all forms of security including cash, Letters of Credit, performance bonds and insurance to be provided by the Owner pursuant to the requirements of this Agreement and includes any other security provided under related agreements and approvals entered into or given with respect to the proposed development;
- ee) "Site Alteration Permit" means a permit obtained from the Municipality in accordance with the then current by-law as approved by Council;
- ff) "Specifications" means the Municipality's design criteria, design standards, specifications and procedures as it may establish and amend from time to time;
- gg) "Tree Preservation Plan" means the plan approved by the Municipality for preservation of trees on the Lands or within the vicinity of the proposed development on the Lands in accordance with the requirements of the Municipality's tree preservation by-law.
- hh) "Works" means all services and works to be constructed by the Owner pursuant to this Agreement or as are necessary to provide adequate services to the development on the Lands, including the extension, improvement, enlargement or upgrading of existing works or services. Works includes Municipal Works, Drainage Works, Landscaping, Park Works and Additional Works.

SCHEDULE "B"

THE LANDS AND OWNERSHIP THEREOF

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

Legal Description of the Lands

SOLICITOR'S CERTIFICATE OF OWNERSHIP

I, [*Name of Solicitor*]

a Solicitor of Ontario, do hereby certify that [*Name of Owner(s)*]

is/are the sole Owner(s) in fee simple of all land described in Schedule "B" to the Agreement referred to.

I further certify that there are no mortgages or other encumbrances upon the said lands or any part thereof save and except the following:

[*list of encumbrances*]

I further certify that [*Name of Owner(s)*]

is/are the sole Owner(s) in fee simple of all land to be conveyed to the Municipality pursuant to the said Agreement. All easements, licenses or rights-of-way to be conveyed to the Municipality will be so conveyed with the consent of all mortgagees or other encumbrances.

This certificate is given by me to the Municipality for the purpose of having the said Municipality act in reliance on it in entering into this Agreement.

DATED at _____ this _____

TO: THE CORPORATION OF THE CITY OF BARRIE

(NAME)

Solicitor for the Owner(s)

SCHEDULE "C"

THE APPROVED PLANS, DRAWINGS AND REPORTS

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

It is understood and agreed that the Owner shall develop the Lands according to the following plans and drawings:

Civil Engineering plans by Consulting Engineers

<u>DWG. No.</u>	<u>REV.</u>	<u>Description</u>	<u>Date</u>
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Landscape plans by [REDACTED].

<u>DWG. No.</u>	<u>REV.</u>	<u>Description</u>	<u>Date</u>
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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.

It is understood and agreed that the Owner shall develop, operate and manage the Lands according to the following reports:

Where there is a conflict between the requirements of and/or the provisions of this Agreement and the reports listed above, the requirements of this 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 "D"**THE WORKS TO BE CONSTRUCTED**

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

D.1 Municipal Works to be Constructed

In accordance with the provisions of this Agreement, the Owner has covenanted and agreed to construct, install or otherwise provide the following municipal services, works, facilities and amenities as Works, as shown in Schedule "C" to this Agreement:

Below Ground Works:

- a) storm sewers;
- b) sanitary sewers;
- c) watermains;
- d) stormwater management works;
- e) valves;
- f) backflow devices;
- g) water distribution works;
- h) utilities; and,

all related appurtenances.

Above Ground Works

- a) highways, including sidewalks;
- b) highway reconstruction;
- c) intersection improvements including traffic poles, signal heads, controllers and associated appurtenances;
- d) street signage;
- e) driveway entrance on public lands;
- f) landscaping on public lands;
- g) utilities;

- h) hydrants;
 - i) backflow devices; and,
- all related appurtenances.

All such Works may include internal as well as external Works.

D.2 Additional Works Required to be Constructed or Installed

In accordance with the provisions of this Agreement, the Owner has covenanted and agreed to construct, install, plant or otherwise provide the additional works including the following as shown in Schedule "C" to this Agreement:

- a) lot and block grading and drainage including surface, roof leader and sump drainage;
- b) lot and block revegetation including sodding and tree planting;
- c) utilities;
- d) berms, retaining walls and fencing; and,

all related appurtenances.

All such Works may include internal as well as external Works.

D.3 Park Works to be Constructed or Installed

In accordance with the provisions of this Agreement, the Owner has covenanted and agreed to construct, install, plant or otherwise provide the municipal park services, works, facilities and amenities and furniture, including the following as Park Works as shown in Schedule "C" to this Agreement:

- a) park grading (rough and final), grassed;
- b) drainage Works;
- c) fencing;
- d) topsoil as approved by the Municipality; and,

all related appurtenances.

All such Works may include internal as well as external Works.

SCHEDULE "E"

DISBURSEMENTS, TAXES AND LEVIES PAYABLE BY THE OWNER

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

E.1 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 of this Agreement upon notification of the amount and nature of such costs by the Municipality and the Owner acknowledges that such costs constitute a debt owing to the Municipality and are recoverable in the same manner as taxes as permitted in accordance with the provisions of the *Municipal Act, 2001*, as it may be amended from time to time.

E.2 Designated Charges

The Owner agrees to pay, upon execution of this Agreement all designated charges and imposed rates assessed and levied upon the Lands.

E.3 Disbursements

The Owner shall pay to the Municipality 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 review and preparation of this Agreement; the cost of registration of this Agreement against title to the Lands; the costs of registration of all documentation related to conveyance and dedications of Lands and easements under this Agreement and all documents; and, all agents' fees related to such registrations.

E.4 Lawful Levies and Rates

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

E.5 Local Improvement and Frontage Charges

The Owner shall compute and pay all local improvement frontage charges for existing local improvements assessed against the Lands, which become non-assessable when the Plan is registered.

The Owner shall compute and pay the Municipality's share of any local improvements presently servicing the Lands and assessed against it.

E.6 Tax Arrears

The Owner shall pay any arrears of taxes outstanding against the Lands immediately upon execution of this Agreement by the Owner.

E.7 Tax Levies

The Owner shall be solely liable to pay all taxes levied, or to be levied, on the Lands in accordance with the Collector's rolls until such time as the Lands have been assessed and entered on the assessment roll according to the registered Plan after which taxes are to be paid by the Owner of each assessed lot or block.

The Owner shall be solely liable to request in writing for a tax write off on a yearly basis for those lands to be dedicated to the Municipality upon the expiry of the Guaranteed Maintenance Period.

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SCHEDULE "F"

REQUIRED FORM AND AMOUNT OF SECURITIES, FEES AND DEPOSITS

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

F.1 Securities and Deposits

Upon execution of this Agreement, the Owner will deposit with 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 obligations identified in this Agreement, securities and deposits, in accordance with the amounts outlined in this Schedule to this Agreement, in the following form:

- a) cash, or certified cheque from a Canadian Chartered Bank, 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 the following automatic renewal clause:

"This Irrevocable Letter of Credit shall be deemed to be automatically extended, without amendment, for one (1) year from the present or any future expiration date hereof, unless thirty (30) days prior to any such date we shall notify you in writing by Registered Mail that we elect not to consider this Irrevocable Standby Letter of Credit renewed for any such additional period. Upon receipt by you of such notice, you may draw hereunder by means of your demand accompanied by your written certification that the amounts drawn will be retained and used by you to meet obligations incurred or to be incurred by you in connection with the said Agreement, further, that you will release any amounts not required by you directly to the applicant."

- c) The Municipality shall be free to draw upon the Letter(s) 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 and deposits at a level required by the Municipality.

F.2 Alternative Methods of Providing Securities and Deposits

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

F.3 Emergency Works Deposit

Upon execution of this Agreement, the Owner shall deposit with the Municipality cash in the amount outlined below to be used at the discretion of the Municipality for such items as the control of debris and dust, emergency works, hazard tree removal or any other item affecting adjacent public or municipal Lands pertaining to the development of the Lands. The Owner shall maintain the deposit in the full amount until such time as the Guaranteed Maintenance period has expired, at which time the Municipality shall refund any remaining deposit to the Owner with no interest.

F.4 Costs Estimate as a Basis for Limits of Securities and Deposits

The cost estimate for the Works is set out in this Schedule which provides the basis for the amounts of the securities and deposits.

Such estimates shall be updated by the Owner and approved by the Municipality at the demand of the Municipality. Where the revised estimate of the cost of the Works is greater than the security or deposit provided upon execution of the Agreement, or where additional Works are required by the Municipality, additional securities and deposits shall be submitted by the Owner to the Municipality. Such securities and deposits shall be administered and governed by this Agreement in the same manner as the originally provided securities and deposits

F.5 Municipal Right to Use Securities and Deposits to Complete Works

The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on the securities and deposits 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, if the Municipality determines that any reduction in the securities or deposits 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 securities or deposits until such time as such Work is satisfactorily completed or the Municipality has sufficient security or deposits to ensure that such Work will be completed.

F.6 Provisions for Liability of the Municipality

If the Municipality incurs any expenses involving construction lien actions or any other actions respecting construction or maintenance of Works, such expenses shall be paid by the Owner on demand of the Municipality and the Municipality may use securities and deposits to make such payments.

F.7 Right to Use Security and Deposits for Indemnification of Municipality

The Municipality has the right to withhold and/or use any portion of any security and deposits 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.

F.8 Securities for Phasing Plan

Securities for subsequent Phases will be required prior to construction in those phases and prior to the release of an Inhibiting Order on that portion of the Plan. The securities will be outlined in a cost estimate and once approved by the Municipality shall be filed with this executed Agreement in the offices of the Municipality without necessity of amending the registered Agreement. Those securities shall be administered and governed in accordance with this Agreement.

F.9 Transfer of Lands and Securities and Deposits

The Owner acknowledges that upon the transfer of ownership of the Lands, the Municipality will not return any securities or deposits required under this Agreement until the new Owner files with the Municipality a substitute Letter or Credit or such other security or deposit in the required amounts.

F.10 Use of Security and Deposits by Municipality for Any Matter

Any letter of credit or security or deposit 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 and deposits received by the Municipality may be used as security or deposit for any item or any other 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, operations, legal, planning, enforcement or other costs incurred by the Municipality which are the payment responsibility of the Owner under the terms of this Agreement.

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F.11 Amount of Securities and Deposits to be filed with the Municipality:

Refundable Deposits	
Legal Fee Retainer	\$5,000.00
Final lot grading, drainage, driveway apron, administration fee, lot deposit	\$1500 / lot up to a \$20,000.00 maximum
Emergency Works Deposit (Housekeeping Deposit)	\$10,000.00
Street Lights	\$
Site Alteration Deposit	\$
Non-Refundable Deposits	
Legal Administration Fee	
Engineering Fee, Engineering Department	\$ Plus HST
Engineering Fee, Water Works	\$ Plus HST
Engineering Fee, Operations Department	\$ Plus HST
Parks Planning & Development	\$ Plus HST
Horizontal Control Monuments	\$ Plus HST
High Pressure Blasting and Painting of Fire Hydrants	\$ Plus HST
Transit Shelters	\$ Plus HST
Stop Signs, Street Signs and Pavement Markings	\$ Plus HST
Community Safety Zone Signs	\$ Plus HST
Pedestrian Signal	\$ Plus HST
Cash-in-lieu of Parkland	\$
Taxes for current year to be paid in full (Assessment Roll Number(s))	\$
Site Alteration Fee	\$
Letters of Credit	
Engineering Department (inc. HST)	
Parks Planning & Development (inc. HST)	
Insurance Certificate	
Must include additional endorsement that the Municipality is named as an additional insured	\$5,000,000.00

SCHEDULE "G"

ADMINISTRATION OF SECURITIES AND DEPOSITS

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

G.1 Reduction of Securities Upon Request of Owner

During installation of Works, the Municipality may reduce the amount of security, if so requested by the Owner, and as elements of the Works are installed to the Municipality's satisfaction and as the Works are paid for.

The remaining security shall never be less than one hundred per cent (100%) of the original contract price of remaining Works or obligations, adjusted at current market cost at the date the security is reduced plus the five percent (5%) Guaranteed Maintenance and holdback.

The municipality will allow reductions of ninety-five (95%) of the securities with a five percent (5%) Guaranteed Maintenance holdback to be retained until the completion of the Guaranteed Maintenance Period.

Reductions in securities may occur on one or more occasions as follows:

- a) On Acceptance of below ground Works;
- b) On Acceptance of additional Works;
- c) On Assumption of Highways;
- d) On Acceptance of Parks Services;

G.2 Reduction of Deposits Upon Request of Owner

Deposits may also be returned to the Owner upon written request (application) in accordance with the following schedule:

- a) Final lot grading and drainage – eighty percent on completion of these Works as certified by the Owner's Engineer and approved by the Municipality, and the final twenty percent two (2) years after completion and certification by the Owner's Engineer that the Works are in good condition and any repairs or replacements have been made. Where extensive repairs or replacements are required, the Municipality may delay the release for a further period in its sole discretion;
- b) Emergency works – upon final release of security holdback.

Any security or deposit for which the Owner has not made application for a final release within a period of four (4) years from being eligible for release shall be forfeited and become the property of the Municipality.

G.3 Documentation to Reduce and Release Security

Prior to the reduction of any security held by the Municipality for the Works, the Owner must have met the conditions for Acceptance or Assumption, as applicable, of the Works and shall supply the Municipality with the following documentation:

- a) letter of application for reduction;
- b) the Owner's Engineer and Landscape Architect's (as applicable) certificate confirming that the Works have been completed and listing any remaining deficiencies and the estimated cost of remedying those deficiencies, such certificate shall meet the specifications of the Municipality and shall indicate that all Works are in place and are properly functioning; that all Works are structurally sound and constructed to the approved specifications; and include an inventory of all structures and materials including numbers, lengths, sizes and quantities of materials; and the final construction costs of the Works;
- c) workplace safety certificate/worker's compensation clearance;
- d) a statutory declaration as to Works completed and accounts paid in full for Works for which a reduction is being requested;
- e) a certificate by a registered Ontario Land Surveyor (OLS) that the surveyor has confirmed the areas and frontages on all lots and blocks and has located or replaced all standard iron bars as shown on the Plan, and has located or properly re-established all block corners, the beginnings and ends of all curves including corner roundings and all points of change in the direction of Highways (to be provided for final release of securities only);
- f) a certificate verifying the establishment of horizontal control monuments and vertical benchmarks on the Lands (to be provided for final release of securities only); and,
- g) as built drawings certified by the Owner's Engineer as a printed set of drawings and in a digital format specified by the Municipality at the time of submission.

Prior to the reduction 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. The Municipality shall conduct an inspection of the Works prior to any release and review the Owner's Engineer's and Landscape Architect's certification regarding the completion, deficiencies and estimated cost of remedying those deficiencies prior to any release of securities. Such inspection and confirmation shall be at the cost of the Owner.

G.4 Documentation to Release Deposits

Prior to the final release of any deposit held by the Municipality for the final lot grading, drainage and driveway apron, the Owner shall supply the Municipality with the following documentation:

- a) a letter of application for release;

- b) an Engineer's and/or Landscape Architect's certificate which shall meet the specifications of the Municipality and shall confirm that the works have been inspected and that the final lot grading, sodding and driveway apron remain in good and satisfactory condition following the two (2) year period after Acceptance; and,
- c) confirmation that any dead, hazardous and diseased trees have been replaced.

Prior to the release of deposits, 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 release deposits until it is so satisfied. The Municipality shall conduct an inspection of the Works prior to any release and review the Engineer's and Landscape Architect's certification regarding the completion, deficiencies and estimated cost of remedying those deficiencies prior to any release of deposits. Such inspection and confirmation shall be at the cost of the Owner and such costs shall be paid in addition to the administration fee collected at the time of the payment of the deposit. All such costs must be paid in full prior to the release of the deposit.

The Owner agrees that no request for reduction or release of the final lot grading, drainage or driveway apron deposit shall be made and no such request shall be processed by the Municipality without municipal acceptance of the Engineer's and/or Landscape Architect's (as applicable) certificate for the lots on which a reduction or release is requested.

G.5 Municipality Shall Retain Securities Until Guaranteed Maintenance Period has Passed

The Municipality shall retain a ten percent (10%) holdback until the Guaranteed Maintenance Period of two (2) years has passed satisfactorily from the date of completion and Assumption of the Works, after which time any remaining security shall be returned to the Owner, upon application by the Owner, once all deficiencies have been resolved and all costs paid to the satisfaction of the Municipality.

Where extensive deficiencies have occurred and repairs or replacements are required, the Municipality may extend the Guaranteed Maintenance Period for a further period in its sole discretion.

G.6 Release of Guaranteed Maintenance Period Holdback Securities

Prior to the release of any Guaranteed Maintenance Period security held by the Municipality for the Works set out in this Agreement, the Owner must supply the Municipality with the following documentation:

- a) a letter of application for release;
- b) an Owner's Engineer's and Landscape Architect's (as applicable) certificate confirming that all Works have been completed, that there are no deficiencies in the Works, and that all Works have been successfully completed during the Guaranteed Maintenance Period (such certificate shall meet the specifications of the Municipality and shall indicate that all Works are in place and are properly functioning); that all Works are structurally sound and constructed to the approved specifications; and a final inventory of all structures and materials including numbers, lengths, sizes and quantities of materials; and the final construction costs of the Work;

- c) proof of expiration of forty-five (45) day construction lien period and satisfactory evidence of no construction liens filed;
- d) workplace safety certificate/worker's compensation clearance;
- e) a statutory declaration as to Works completed and accounts paid in full for Works for which a release is being requested; and,
- f) a composite utility plan.

Prior to the 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. The Municipality shall conduct an inspection of the Works prior to any release and review the Owner's Engineer's and Landscape Architect's certification regarding the completion, deficiencies and estimated cost of remedying those deficiencies prior to any release of securities. Such inspection and confirmation shall be at the cost of the Owner.

SCHEDULE "H"

OWNER'S COST OBLIGATIONS

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

H.1 External Works

The Owner agrees to provide, construct, install or pay for external Works as shown in Schedule "D" to this Agreement.

The Owner acknowledges that notwithstanding that the above-noted Works may be external to the Lands, it derives a direct benefit from the provision, construction and installation of such Works and that the development proposed hereunder could not be accommodated without the existence of such Works.

The Owner agrees to provide, construct and install the above-noted Works to the standards and specifications required by the Municipality.

The Owner agrees that external works shall be considered as Works pursuant to this Agreement and all of the clauses, requirements, and obligations of this Agreement shall apply to the external works in the same or a like manner as internal works.

The Owner acknowledges that any action taken by the Municipality or by its employees, agents or contractors relating to the removal of snow and ice, or sanding, or cleaning of any roads, or permitting the connection of additional Works to any of the external works, services or facilities required to be constructed or installed post occupancy and during the Guaranteed Maintenance Period is being done without prejudice to the Municipality's right to enforce the Guaranteed Maintenance Period provisions of this Agreement.

H.2 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 and obligations "at the expense of the Owner" unless specifically stated otherwise.

The Owner shall be solely responsible for the cost of the Works as estimated in 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. If 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 on demand.

H.3 Owner Shall Pay Costs

The Municipality shall not be responsible for any of the costs of providing Works to the Lands. All such costs shall be borne by the Owner. The Owner shall deal directly with the hydro authority and all other utility providers or suppliers. The Owner shall obtain all approvals and permits and pay all fees and

charges directly to the utility providers or suppliers.

The Owner shall pay the full costs for enforcement of this Agreement in accordance with this Agreement and the Municipality's then current fees by-law.

H.4 Payment of Interest of Payment Demands

All expenses for which demand for payment has been made by the Municipality shall bear an interest rate of 1.5% monthly, commencing thirty (30) days after demand for payment is made.

H.5 Reasonable Efforts

The Municipality agrees, that where it, in its sole and unfettered discretion, determines that certain Works undertaken by the Owner are "front-ending" Works, or Works which may have some ancillary benefit to the Municipality or other land owners, it may enter into a best efforts undertaking with the Owner for the recovery of such applicable costs within a specified period of time. Such agreement and obligations are set out in full in Schedule "U" to this Agreement which forms part of this Agreement.

H.6 Where the Owner is in Default of Payment of Costs

Where the Owner is in default of payment of any such costs and no deposits or 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 and failure to do so shall constitute 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* apply.

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SCHEDULE "I"

OWNER'S INDEMNIFICATION OF THE MUNICIPALITY

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

I.1 Owner to Indemnify Municipality from All Claims and Costs

The Owner agrees 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 Lien Act*, as may be amended from time to time;
- b) any construction being performed by the Owner, its agents, employees and contractors 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 Works;
- c) loss, damage, accident or injury of any kind whatsoever which may arise either directly or indirectly by reason of the Municipality approving the subdivision and Works or entering into this Agreement;
- d) loss, damage, accident or injury of 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;
- e) loss, damage, accident or injury of 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;
- f) loss, damage, accident or injury of any kind whatsoever which may arise either directly or indirectly by reason of the design, installation, construction or operation of any of the Works required under this Agreement, or by reason of the maintenance or lack of maintenance of such 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 Works by the Municipality; and,
- g) all actions or claims relating to soil conditions and surface water and groundwater conditions on the Lands.

I.2 Impairment to Surface or Groundwater Quality 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 subdivision, 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 and such obligations shall remain the Owner's obligations.

1.3 Municipality Does Not Warrant Condition of Soils

The Owner acknowledges and agrees that any municipal approvals, including zoning and subdivision 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.

1.4 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 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 costs and expenses 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 compensation if it establishes, to the Municipality's satisfaction, that it took all reasonable steps to prevent the deleterious impact or spill of the pollutant or if it establishes, to the Municipality's satisfaction, that the deleterious impact or 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, or any combination thereof.

However, this does not relieve the Owner from the responsibility to repair or reinstall the Works required by this Agreement and this does not relieve the Owner from liability 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, if 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, if 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 deleterious impact or spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the deleterious impact or spill of the pollutant that are affected or that may reasonably be expected to be affected by the deleterious impact or 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 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.

I.5 Owner to Take Action in Event of a Deleterious Impact

In the event of a spill of a pollutant, the Owner agrees that it shall be responsible for doing everything practicable to prevent, eliminate and ameliorate the adverse effect, or to do everything practicable to restore the natural environment. This may include, but not necessarily be limited to, the design, installation, and approvals for mitigation or restorative works, and such works shall be considered to be Works for the purpose of this Agreement and shall be subject to all associated applicable requirements or

restrictions of this Agreement.

I.6 Provision 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 or may require that the Owner undertake a study 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 or is required to be 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 and such obligations shall remain the Owner's obligations.

I.7 Occupational Health and Safety Workplace Health and Safety

The Owner shall ensure that all contractors installing, maintaining or otherwise working on Municipal lands or services, including services intended, but not yet, to be accepted or assumed by the Municipality, shall comply with the requirements of the *Occupational Health and Safety Act*, R.S.O. 190, c.O.1, and associated regulations; and comply with the requirements of the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c. 16, and associated regulations.

The Owner hereby agrees 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 failure to comply with these requirements.

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SCHEDULE "J"

CONDITIONS FOR ISSUANCE OF BUILDING PERMITS AND OCCUPANCY AND USE

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

J.1 Building Permit Issuance

The Owner agrees not to apply for Building Permits and acknowledges and agrees that no Building Permit shall be issued until:

- a) the Plan has received Final Approval and has been registered and there are no appeals or referrals to the Ontario Municipal Board;
- b) this Agreement has been executed by the Owner, filed with the Municipality and registered on title to the Lands;
- c) the Municipality has confirmed that water, roads (to base asphalt), curb and gutter, water, sanitary, sewage facilities, drainage and stormwater facilities and utilities are available to its satisfaction; that all Works have been accepted; and, that preliminary lot grading has been completed in accordance with the subdivision grading plan and has been certified by the Owner's Engineer and accepted by the Municipality; except that Building Permits may be issued for model homes or temporary sales offices upon terms and conditions as established from time to time by the Municipality in a Model Home or Temporary Sales Office Permit;
- d) the Owner has submitted to the Municipality "as-built" drawings for the subdivision development showing all of the Works and the Municipality has approved the drawings;
- e) the Municipality has confirmed that an adequate water supply for firefighting operations and satisfactory access for firefighting equipment is available to service the Lands and a fire break plan, if deemed necessary by the Municipality, has been approved by the Municipality;
- f) the Municipality has confirmed that all development charges, taxes, levies, fees, deposits (including administration fees) and other payments required under this Agreement have been paid in full or secured by sufficient security;
- g) the Municipality has confirmed that all necessary conveyances of land, easements and reserves have been received free and clear of all encumbrances and have been registered against title to the Lands to which they are to apply;
- h) the Owner's surveyor (OLS) 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;
- i) the Owner has ensured and provided evidence that all dead trees within the limit of the Plan have been removed;

- j) all sediment and erosion control measures and any required environmental mitigation measures are in place;
- k) an individual lot development plan and street landscape plan have been prepared by an Engineer and/or Landscape Architect and submitted by the Owner and such plan shall show that the proposed development for such lot will comply with the intent of the General Lot Grading Plan as approved by the Municipality and that the lot will be graded in accordance with the Municipality's lot grading and drainage control procedures;
- l) the Owner has submitted a groundwater assessment in accordance with the Municipality's requirements which establishes the seasonal high groundwater conditions on the lots and the appropriate measures have been undertaken to the satisfaction of the Municipality;
- m) a sign(s) denoting the addressing for 911 response has been posted in accordance with the requirements of the Municipality;
- n) a sign(s) denoting "Unassumed Roads" have been installed at the entrances to the subdivision in accordance with the requirements of the Municipality;
- o) the traffic and street signs, including temporary signs, have been installed and approved by the Municipality;
- p) satisfactory evidence, where applicable, of compliance with the Ministry of the Environment approval for sanitary service works and/or any other services or works have been supplied 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 Lands;
- q) the Municipality has confirmed compliance with the Urban Design/Architectural Control Guidelines; and,
- r) the Owner has submitted a complete Building Permit application, in accordance with the Municipality's application guidelines and requirements, and the applicable fees have been paid.

Final lot grading, drainage, driveway and tree planting plans and drawings submitted for Building Permits shall contain all information required by the Municipality, including the requirements specified in the Municipality's engineering standards and Building Permit application guidelines, and shall, at a minimum, include the following:

- a) the location and dimensions of the proposed dwelling and accessory structures and any structures on adjacent lots;
- b) the location, size and elevation of the sewage works or sub-surface sewage disposal system, as applicable, on each lot and all pertinent design criteria;
- c) the location, elevation and size of water works or location of wells and water lines, as applicable, on the lot and adjacent lots;

- d) the location and specifications of all drainage features including swales, soak away pits, roof leaders and sump discharges;
- e) the seasonal high groundwater elevation and proposed elevation of the footings and tile drains as well as the top of foundation;
- f) the extent of the disturbed area; existing and proposed grades; and the elevations of the finished floor and the minimum openings;
- g) the location of any slopes or hazard areas on the lot, and any tree or environmental mitigation features or measures;
- h) the direction of surface drainage, swales and other related features and break points for surface drainage;
- i) the location and specifications of any trees and any other required landscaping features;
- j) the location and specifications of any retaining walls, flood control features or other remedial measures required for development of the lot; and,
- k) zoning setback requirements and compliance with those requirements.

The Owner agrees that, prior to construction; all buildings shall be located and adequately demarcated on the Lands by an Ontario Land Surveyor so as to ensure that the building shall be constructed in compliance with the applicable zoning provisions and requirements.

J.2 Fencing Requirements – Townhouse Blocks

Prior to occupancy, the Owner shall construct a minimum 2.0 m high board fence adjacent to:

- a) the rear yard of any street townhouse block which abuts lands zoned detached or semi-detached residential, or which abuts lands zoned for street townhousing;
- b) the side and rear property lines of any model home lots which abut occupied dwelling units.

J.3 Final Lot Grading, Drainage, Driveway and Tree Planting Plans and Certificates to be Completed by the Engineer and/or Landscape Architect and Confirmed and Approved by the Municipality's Engineer

All final grading, drainage, driveway and tree planting plans are to be completed by an Engineer and Landscape Architect to the requirements and for the approval of the Municipality. Where the completion of building construction and Works requires the certification that the construction, landscaping and Works have been completed in accordance with approved final plans or any revisions approved by the Municipality such certification shall occur by an Engineer and/or Landscape Architect (as applicable) in a manner acceptable to the Municipality.

The Municipality shall conduct an inspection of the Lands prior to any release and review of the Owner's Engineer's and Landscape Architect's certification regarding having met the requirements for release of the deposit. Such inspection and confirmation shall be at the cost of the Owner.

J.4 House Model Styles

The Owner agrees that a variant of model styles will be provided within the Plan with similar models separated from each other. Without limiting the generality of the foregoing, the following criteria shall be observed:

- a) a maximum of two (2) identical elevations of similar style shall be constructed in a row;
- b) the minimum number of model style elevations to be incorporated into each plan shall be as follows:

SIZE OF SUBDIVISIONS	MINIMUM ELEVATIONS
1-10 lots	Two (2)
11-20 lots	Four (4)
21-60 lots	Five (5)
61-80 lots	Six (6)
81-100 lots	Seven (7)
100+ lots	Eight (8)

- c) units on corner lots shall provide specific corner elevations with similar architectural treatment as the front elevation;
- d) units constructed on lots in R4 zones shall be finished with brick veneer on all first storey walls, excluding gable ends;
- e) the Owner may obtain pre-approval of model styles from the Municipality;
- f) compliance with the House Model Styles requirements will be administered at the time of the application for a building permit; and,
- g) the Owner may appeal the rejection of any model homes by the Municipality to an Architectural Review Committee composed of a professional architect appointed by the Municipality, the Owner or a representative of the Owner and the Chief Building Official whose decision will be final, and all costs shall be borne by the Owner.

J.5 Inclement Weather or Other Matters Affecting Completion of Lot Grading, Drainage and Tree Planting

The Owner shall make all reasonable attempts to ensure that final lot grading, sodding, landscaping and driveway surfacing are completed prior to occupancy. The Owner, if anticipating that there is an impediment to completing the requirements related to lot grading and landscaping prior to using and/or occupying the Lands and/or buildings may apply to the Municipality to permit occupancy prior to the completion of such Works. In such application, the Owner shall submit to the Municipality, to the satisfaction of the Municipality, reasons for the request with details as to where exemption is sought and written confirmation that the Works 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 Works have been completed by the Owner and accepted by the Municipality.

In such cases, deposits associated with the outstanding Works shall be returned only when the

requirements for these Works have been completed to the satisfaction of the Municipality. 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 Lands. The applicable deposit shall also not be released until such Works are completed.

No more than one extension shall be provided for any lot and each request for an extension shall be accompanied by a fee payable to the Municipality in accordance with the then current fees by-law.

J.6 Maintenance of Highways and Sidewalks after Occupancy

After the first unit in the Plan has been occupied, the Owner shall:

- a) be responsible for the maintenance of all highways and sidewalks, including the removal of snow, ice and ponding. The Municipality shall, as the agent of the Owner, remove snow from the highway and sidewalks, at the Owner's cost as reasonably calculated by the Municipality, until such time as the highways are assumed by by-law by the Municipality, at which time the Municipality shall be responsible for the maintenance of the highways and sidewalks. Until such time as the highways and sidewalks are assumed by by-law and the Guaranteed Maintenance Period has expired, the Municipality shall not be deemed to have assumed the highways and sidewalks pursuant to Section 31 of the *Municipal Act*;
- b) notify the Municipality to commence garbage pick-up;
- c) control dust from vacant lots and construction sites; and,
- d) except for lots used as part of an approved stormwater detention system or containing approved sediment control measures, the Owner shall maintain all vacant lots in accordance with the then current property standards by-law by keeping the lots free from all tall grass, weeds, debris and litter, and graded in such a way to prevent the ponding of water.

J.7 Municipality Entitled to Obtain Court Order

If a building or unit is occupied otherwise than in accordance with the provisions of this Agreement, the Owner 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 and shall pay all costs of the Municipality with respect to obtaining and enforcing such an order.

J.8 Occupancy of Buildings

The Owner agrees not to permit occupancy of any building or part thereof for which building permits have been issued, with the exception of approved model homes or sales offices for which a separate permit has been established with the Municipality, until all Works required under this Agreement for issuance of a Building Permit and occupation are completed; construction of the building has been completed in accordance with the requirements of the Ontario Building Code; the Owner has demonstrated compliance with the applicable zoning by-law and any other municipal by-laws; and, that the water distribution and sanitary sewer collection services have been tested and approved and are operating in accordance with

the conditions established by the Municipality or suitable private sanitary and water services have been installed and connected where the development is approved on private or partial services.

Notwithstanding or limiting the generality of the foregoing, the Owner agrees not to permit occupancy of any building or part thereof until:

- a) conditions for occupancy under the Building Code have been satisfied;
- b) an Engineer has certified that the grading and drainage of the lot has been completed in accordance with all specifications and requirements of the approved lot grading plan except that final grading, grading and seeding and/or sodding and lot landscaping may be subsequently completed in accordance with this Agreement; and that subdivision drainage and stormwater measures are in place and properly functioning to serve the lot;
- c) the Owner has submitted a certificate from an Ontario Land Surveyor indicating that the building complies with the municipal zoning by-law;
- d) the Owner's Engineer has submitted a certificate, certifying that the elevation of the footings and top of the foundation are in conformity with the overall lot grading plan and the requirement that all foundations be constructed so that the footing and drains are located a minimum of 0.3 m above the seasonal high groundwater level;
- e) the Owner has made arrangements for the installation of a water meter in accordance with the Municipality's requirements, where development is serviced by a municipal water system, and has made arrangement with the Municipality for water billing; and,
- f) the Municipality has received confirmation that the Owner has met all requirements of the responsible authorities for the provision of utilities, and that the building is connected to utilities in accordance with the requirements of those authorities.

Prior to occupancy of any new buildings or structures and/or prior to any new uses being undertaken, the Owner's Engineer shall provide the municipality with an Occupancy Certificate outlining to the satisfaction of the Municipality that the conditions for occupancy have been met.

The Owner agrees that it is responsible for ensuring that all construction complies with the standards and provisions of the Municipality's zoning by-law and the requirements of this Agreement fully indemnifies the Municipality of any obligation, responsibility or liability in regard thereof.

The Owner agrees that it shall take all responsibility for, and fully indemnifies the Municipality, for occupancy occurring prior to the final grading, sodding and landscaping of the lot. The Owner further agrees that the developer of the subdivision and/or the Municipality may enter upon the lot to complete or make any alteration to the required Works to ensure proper grading, drainage and landscaping of the lot and/or subdivision regardless of any transfer of the lot ownership and/or occupancy.

J.9 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 Lands 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.

J.10 Seasonal High Groundwater Level

“seasonal high groundwater level” as used in this Schedule “J” means the elevation of groundwater on the Lands during average highest seasonal condition based on observed groundwater conditions and soil profiles as determined by a qualified soils Engineer or hydrogeologist in accordance with the requirements of the Municipality.

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SCHEDULE "K"

GENERAL CONDITIONS OF APPROVAL

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

K.1 Archaeological Assessment

The Owner shall carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or other soil disturbances shall take place on the subject property prior to the approval authority and the Ministry designated by the Province of Ontario confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

K.2 Communication/Telecommunication Infrastructure

The Owner shall ensure that sufficient wire-line communication/telecommunication infrastructure is currently available within the Approved Plans to provide communication/telecommunication service to the Plan. The Owner shall pay for the connection to and/or extension of the existing required infrastructure or demonstrate to the Municipality that sufficient alternative communication/telecommunication facilities are available with the proposed Plan to enable, at a minimum, services for emergency management services (i.e. 911 Emergency Services).

K.3 Community Information Plans

The Owner agrees that prior to entering into any agreement of purchase and sale relating to any lot or block on the Plan, it shall provide and post display plans in all sales offices and/or provide copies for viewing to every purchaser which clearly indicate the location of the following facilities in relation to the lot or block proposed to be transferred:

- a) park by type, including park concept plans and streetscape plans;
- b) school by type;
- c) walkways;
- d) church sites;
- e) commercial sites by type;
- f) existing or future rail facilities;
- g) existing or future provincial highways;
- h) existing or potential arterial roads;
- i) stormwater management ponds, floodways, blocks and related facilities surrounding land uses;

- j) lot grading standards;
- k) approved locations of postal boxes, utility furniture, fire hydrants or possible locations prior to approval;
- l) a zoning map or schedule displaying current zoning of all lands in and adjacent to the Plan, at the time of draft approval;
- m) a copy of the approved utility plan;
- n) a copy of the approved Tree Preservation Plan and approved landscaping plan;
- o) any other matter required by the *Planning Act*; and,
- p) other facilities as specified by the Municipality.

K.4 Construction Lien Act

The Owner shall comply with all provisions of the *Construction Lien Act*, R.S.O. 1990, c.C.30, and without limiting the generality of the foregoing, shall hold in its possession all statutory holdbacks and any additional funds required to be held by the *Construction Lien Act*. These holdbacks and funds shall not be disbursed except in accordance with the *Construction Lien Act*.

The Owner shall at its expense, within thirty (30) days of receiving written notice from the Municipality to do so, pay, discharge, vacate, and obtain and register a release of all charges, claims, liens, and all preserved or perfected liens, made, brought, or registered under the *Construction Lien Act*, which may affect the Lands or Works, including Highways, road allowances and other lands, and which arise out of performance of this Agreement by the Owner.

The Owner shall indemnify and hold harmless the Municipality from all losses, damages, expense, actions, causes of actions, suits, claims, demands and costs whatsoever which may arise either directly or indirectly by reason of failure, neglect, or refusal by the Owner to comply with the *Construction Lien Act*, or by reason of any action brought against the Municipality under the *Construction Lien Act*, and arising out of the performance of this Agreement by the Owner.

The Municipality may, at any time after the expiry of the thirty (30) day period of written notice referred to above, authorize the use of all or any part of the performance security or deposits required under this Agreement:

- a) to pay, discharge, vacate, and obtain and register a release of all charges, claims, liens, and all preserved or perfected liens, made, brought, or registered under the *Construction Lien Act*, which may affect any Lands subject to this Agreement, including Highways, road allowances and other lands; and,
- b) to pay the Municipality any amounts owing the Municipality under this Section.

The Owner acknowledges that the Municipality shall not be required to reduce or release any security or deposit until the Municipality is satisfied that all of the provisions of this Section have been complied with.

Where this Agreement requires that proof of no liens filed must be provided the requirement may be fulfilled by provision of a written notice from the Owner's solicitor or Engineer which certifies that:

- a) all contractors for the Works for which a reduction or release is sought have been paid in full;
- b) the applicable lien periods have been completed; and,
- c) no liens have been brought or registered.

Such correspondence shall also explicitly acknowledge that the Municipality shall rely on such certification and that the author fully indemnifies the Municipality of any subsequent claim, actions, or costs arising from such reliance and shall ensure that any subsequent claim or action is discharged to the satisfaction of the Municipality at no cost to the Municipality.

K.5 Right of Way Occupancy Permit and Entrance Approvals

The Owner shall, when installing or carrying out works on existing municipal roads, obtain a Right of Way Occupancy Permit, or alternate Municipal approval. The Owner shall provide a cash deposit in an amount satisfactory to the Municipality to guarantee the performance of the Owner's obligations pursuant to the Right of Way 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, in constructing entrances on any assumed municipal road, it shall be responsible for obtaining an Entrance Approval 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 Highway. Such approvals will automatically form part of this Agreement by reference to the requirements for the approvals, but shall not be appended to this Agreement for registration purposes. If 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 Engineer. All securities and deposits 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 and deposits 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 roads allowance.

K.6 Damage and Debris

The Owner shall, prior to the completion of the Subdivision 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 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 agrees:

- a) that all lands owned by the Municipality outside of the limits of the Plan that may be used by the Owner or employees of the Owner or others during the construction of the Works as well as all buildings and structures within the 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 Works, buildings and structures, will be repaired or restored immediately;
- b) not to foul the public roads, outside the limits of the Plan, leading to the Lands, 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 Plan shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish or debris on the abutting Highways;
- 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 upon demand pay to the Municipality the full cost thereof and that the Municipality may draw on any security or deposit 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 Plan, including lands to be dedicated for municipal purposes, vacant public land and private land;
- e) to clear debris and garbage on any land within the 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; and,
- f) to maintain satisfactory personnel and equipment available to sweep the Highways within the Plan on a monthly basis or as directed by the Municipality, and this operation will continue until the Assumption by the Municipality.

Once any unit is occupied in the Plan, Highways must be cleaned at least once a week, and no Highway shall be occupied by building materials, mounds of soil, debris or construction equipment.

K.7 Emergency Works and Emergency Deposit

At any time prior to the Assumption of the Works by the Municipality, if any of the Works do not function or do not function properly or, in the opinion of the Municipality, require necessary immediate repairs to prevent damage or hardship to any persons or to any property, the Municipality may enter upon the Lands and make whatever repairs may be deemed necessary and the Owner shall pay to the Municipality, immediately upon receipt of a written demand, all expenses (including engineering fees), based upon the cost of the work incurred in making the said repairs. If the Owner fails to make the payment as demanded by the Municipality, the Municipality shall be entitled to draw upon any security filed pursuant to this Agreement. The Municipality agrees to advise the Owner within ten (10) days from the date of entry by the Municipality of the nature and extent of the emergency and repairs which were

necessary. Such undertaking to repair shall not be deemed an Acceptance of the Works by the Municipality or an Assumption by the Municipality of any liability in connection therewith and shall not release the Owner from any of its obligations under this Agreement.

K.8 Existing Services

The Owner agrees to repair any damage to any existing municipal services, works or facilities, whether assumed by the Municipality or otherwise and whether within the Plan or external, caused by the installation, construction or repair of the Works required by this Agreement or otherwise caused by the development of the Lands within the Plan until the Works have been assumed by the Municipality. Without limiting the generality of the foregoing or limiting the liability of the Owner, should there be a breach of this provision; the Owner shall repair the existing municipal services upon being notified by the Municipality to do so. A failure by the Owner to repair or rectify such damage to existing municipal services shall entitle the Municipality to draw upon any security filed pursuant to this Agreement.

K.9 External Drainage Areas

The Owner agrees that if any of the Drainage Works required under this Agreement result in drainage through other lands, if required by the Municipality, all such work shall be carried out by the Owner in accordance with the Municipality's Storm Drainage Guidelines. The design is to be based on the run-off expected from the said Lands when completely developed and must meet the requirements of the Municipality. The drainage work, and acquisition of the lands or required easements, shall be completed by the Owner at its expense and the provisions of this Agreement respecting completion, approval and entry by the Municipality shall apply *mutatis mutandis*.

K.10 Watermains

Where applicable as a result of provision or intended provision of municipal water services, the Owner agrees to:

- a) install a complete system of watermains and appurtenances to service the Lands included in the Plan in accordance with the Municipality's requirements;
- b) adjust the grade of any or all water services boxes, valve chambers, valve boxes and hydrants as may be required by the Municipality;
- c) maintain all watermain services and appurtenances until assumed by the Municipality; and,
- d) not open or close any valve, hydrant or gate in any watermain connected into and served by the Municipality's system of water supply, or alter or interfere with same in any matter.

K.11 Fire Compliance Measures

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

The plans and drawings referred to in this Agreement and all Works constructed on the Lands 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 Lands 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 Lands. In particular the following shall be undertaken by the Owner:

- a) the fire access routes, as shown on the Approved 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 Lands 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 are posted on the site during construction and that an adequate supply of portable extinguishers are kept on site at all times during construction (the type and location of all extinguishers shall be confirmed with the Municipality prior to the commencement of combustible construction);
- f) any temporary heating with propane undertaken by the Owner shall be in accordance with the installation code for propane burning appliances and equipment; and
- g) such number of fire hydrants and size of watermains as approved by the Municipality shall be located on the lands.

Where deemed necessary by the Municipality, the Owner shall submit a fire break plan showing the sequence of construction on individual lots and fire control measures. No construction of buildings or structures may commence until such a plan is approved by the Municipality.

Where building lots are less than 12 metres in width, the Municipality may require two (2) consecutive lots to be designated as fire break lots.

The Owner agrees that notwithstanding that a Building Permit may have been issued for lots designated as firebreak lots, no construction shall proceed until the exterior finish cladding, roofing and windows on the unit abutting each side lot line has been completed, unless otherwise approved by the Municipality.

Where construction of a building or structure proceeds on any lot in contravention of the fire break requirements, the Municipality may take any action necessary to enforce this Agreement and may use the deposits provided by the Owner for the purposes of associated administrative and legal cost recovery.

Where building permits have been issued to permit the construction of model homes or sales offices, access for firefighting and water supply availability shall be maintained at all times during construction and the Owner acknowledges and accepts that the Municipality may have restricted ability to respond to a fire or emergency in the absence of full servicing of the area and the Owner indemnifies the Municipality fully and completely in regard to any claim or liability associated with the occupation and use of the model homes and sales offices.

The Owner may request to amend the designated fire break lots. The approval of any change is at the discretion of the Municipality subject to the required transfer fee.

K.12 Fire Hydrants

- a) The location, number and colour of fire hydrants shall be subject to the approval of the Municipality.
- b) Anti-tampering devices must be installed on all fire hydrants located within the Lands covered by this Agreement. These devices must not be removed until the Acceptance of the Works has occurred or as directed by the Municipality. The maintenance of these devices will be the responsibility of the Owner. If the anti-tampering devices are not maintained by the Owner, the Municipality may draw on any security filed pursuant to this Agreement to complete the necessary work to the satisfaction of the Municipality.

K.13 Grading and Drainage

It is the Owner's responsibility to:

- a) not permit the Lands to drain otherwise than into a properly installed drainage system with proper catchbasins connected to Municipal 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 stormwater 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 Conservation Authority and the Municipality with regard to stormwater management facilities;
- c) to implement, monitor and maintain an on-site stormwater management system designated according to the policies and criteria of the Municipality;
- d) to implement, monitor and maintain 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 Lands to inspect roof drains, inlet control devices and stormwater management facilities;
- e) submit an overall grading control plan for the Subdivision to establish the proposed grading of the Lands to properly drain the Subdivision and all adjacent lands which drain through the Subdivision which plan is to be designed using the Municipality's design criteria, standards, specifications and good engineering practices;
- f) submit individual engineered development plans for each lot to be prepared to provide further grading details and which conform to the grading control plan and acknowledges that no building permits will be issued until such plans have been approved by the Municipality;
- g) grade the Lands in conformity with the elevations and spot levels shown on the individual lot grading plans as approved by the Municipality and accordance with the Municipality's design, criteria, standards, specifications and good engineering practices;
- h) correct or rectify any drainage problems by altering the grade by constructing catchbasins, swales, retaining walls or other structures as may be necessary to correct or rectify such problems, if, in the opinion of the Municipality such problems occur due to improper grading or

due to non-compliance with the approved grading control and individual development plans;

- i) correct or rectify any grading deficiencies to the satisfaction of the Municipality within four (4) weeks, weather permitting, of being notified by the Municipality of deficiencies; and
- j) lay topsoil to minimum depth of 200mm and to place sod on the front, side and rear yards and within the boulevards of each of the lots or part lots or blocks, except for paved or planted areas, prior to the occupancy of any buildings or structures unless granted an extension as provided for this Agreement.

K.14 Haul Route and Traffic Control

The Owner acknowledges and agrees that the Municipality shall have the right to designate and limit access to the Lands from Highways adjacent thereto.

The Owner covenants to gain access to the Lands during the period of construction only by way of the following road(s):

No roadway outside the limits of the Lands 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 of blocking a minimum of five (5) days in advance of 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. "Construction Ahead" signs are to be placed on all roads approaching the construction site; and no construction equipment is to be parked on adjacent roads.

K.15 Highways

The Owner agrees to:

- a) obtain the approval of the Municipality for the granular and stone bases for municipal services on all roads prior to laying the base course of asphalt;
- b) pave the traveled portion of all roads with base and top course asphalt surfaces, with concrete curbs and gutters and catchbasins drained by storm sewers as directed by the Municipality;
- c) be responsible for the clean-up and repair of all Highways upon which obstructions or mud and dust are created or which are damaged by the installation and maintenance of any Works, regardless of the persons responsible for the obstructions, mud, dust or damage and to undertake such works as are necessary to clear and clean the Highways or repair the damage within twenty-four (24) hours of verbal notification, and that, if the Owner fails to comply, the Municipality shall be entitled, but not obligated, to arrange for the necessary work to be undertaken at the Owner's expense and to draw upon any security provided under this

Agreement to the extent necessary to pay such costs in connection therewith; and,

- d) maintain all roads for vehicular traffic and maintain all sidewalks on all roads for pedestrian traffic during all phases of construction until such roads been assumed by the Municipality.

K.16 Inspection by Municipality of All Works

The Owner agrees that the Municipality, its employees, agents and contractors or any other authorized persons may inspect all Works and the construction under any contract thereto, but such inspection shall in no way relieve the Owner from its responsibility to inspect the said construction itself. If the construction of Works is not, in the opinion of the Municipality, being carried out in accordance with the provisions of this Agreement or in the 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. If neither the Owner nor the Owner's Engineer is present at the site of the Works to receive such verbal instructions, the Municipality may instruct the contractor(s) to cease work immediately.

K.17 Relocation of Utilities and other Services in Municipal Right of Way

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.

K.18 Location of Water Service Boxes

Water services boxes for each lot are not to be located in a proposed driveway unless otherwise directed by the Municipality or as shown on the approved composite utility plan. The Owner agrees to relocate any water service box out of any proposed driveway that has not been approved by the Municipality or as shown on the approved composite utility plan.

K.19 Municipality May Repair all Works

In the event that the Owner fails to keep any of the Works in a proper state of repair up to the date of Acceptance or Assumption, as may be applicable, of the Works, the Municipality may upon three (3) days notice to the Owner, enter upon the Lands and make such repairs as are necessary and the Owner shall upon demand pay to the Municipality the cost thereof. If the Owner fails to make the payment as demanded by the Municipality, the Municipality shall be entitled to draw upon any security or deposit filed pursuant to this Agreement.

K.20 Negative Impact on Water Supply and the Environment

If, at any time prior to the Assumption of Works, the Municipality believes that the construction and operation of the development has caused a negative impact to the environment and/or the water supplies

of an individual, or individuals, and that that impact would be considered unacceptable according to the 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 twelve (12) hours 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 immediately cease operations or modify its operations and take any other necessary actions to prevent additional or future impacts.

If a temporary water supply or other mitigative measure is required under the conditions of the Agreement, the temporary water supply or mitigative measure 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 Lands 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 do not create any responsibility for the Municipality for the reporting of any impairment or impact nor any obligation to corrective measures and such obligations shall remain fully and completely the Owner's obligations.

K.21 Outside Storage

The Owner acknowledges and agrees that, unless otherwise provided for and specified as to location and requirements in a plan submitted to and approved by the Municipality, no outdoor storage is permitted on the Lands.

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 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; equipment should be safely and securely stored; and, no storage of hazardous materials, including fuels, is to occur on-site.

The Municipality acknowledges that during construction and development of the Lands, construction materials and solid refuse bins must be stored on the lots on which construction has commenced or a Building Permit issued. All such materials must be stored in a safe, neat and tidy manner and any refuse promptly collected and appropriately disposed of.

The temporary storage of materials and equipment may also occur in a temporary area within the development where the Owner has prepared a plan showing the location and nature of materials to be stored, outlining the conditions and expected time period for storage, any mitigative measures to prevent impacts to adjacent lands, and has received the Municipality's approval for the temporary construction storage plan.

Notwithstanding the above paragraphs, the Municipality may direct that the stored equipment or materials be moved to an alternate location on the Lands, or be removed entirely from the Lands, where, in its opinion, such storage contradicts the intent of this clause of the Agreement, or where such storage

represents an unreasonable aesthetic impairment to adjacent users or has the potential to impair the environment.

Where soils or aggregate materials are to be temporarily stored in stockpiles on the development site, a storage plan shall also be prepared and submitted by the Owner. Such a plan shall show the location and nature of materials, any mitigative measures associated with drainage or to prevent impact to neighbouring properties, and expected time periods for storage and site remediation. No storage shall occur until the Municipality has approved the storage plan.

K.22 Owner to Retain Engineer / Landscape Architect

The Owner agrees to retain an Engineer Architect to prepare the design of grading, site and external servicing plans, municipal service connection designs, and stormwater management reports which are to be submitted to the Municipality. The Engineer or a successor shall be approved by the Municipality and shall carry out all necessary engineering for the development of the Plan in accordance with this Agreement.

The Owner agrees to retain a Landscape Architect to prepare the Tree Preservation Plan, Parks Works, and plans for fencing, boulevard plantings and inspections which are to be submitted to the Municipality. The Landscape Architect or a successor shall be approved by the Municipality and shall carry out all necessary landscape architecture for the development of the Plan in accordance with this Agreement.

The Owner's agreement or contract with its Engineer and Landscape Architect shall include design, general supervision and resident supervision and shall provide that the Municipality may inspect the construction, installation and provision of the Works and shall have the power to stop any work or construction if, in its opinion, based on its sole and unfettered discretion, the work or construction is being performed in a manner that may result in a completed installation or construction that would not be satisfactory to the Municipality. The failure of the Owner to incorporate such clauses in its contract shall in no way limit the Municipality's ability to carry out such action(s). The Owner's Engineer and Landscape Architect will be required to inspect and certify to the Municipality that all Works have been constructed in accordance with the approved Engineering Drawings and other Approved Plans and reports, prior to the reduction of the Letter of Credit held for engineering-related and landscape works. The certificate, or certificates, shall be in a format acceptable to the Municipality.

The Engineer and Landscape Architect, or an approved successor, shall be retained by the Owner until all requirements of this Agreement have been completed to the satisfaction of the Municipality.

The Engineer and Landscape Architect shall provide, during all hours of construction, competent on-site supervision of all Works required to be done pursuant to this Agreement.

K.23 Pavement Markings

The Owner shall pay for the cost of the Municipality installing pavement markings for the Subdivision.

K.24 Retaining Walls

The Owner will be responsible for maintenance of any retaining wall which may be constructed, installed or erected on the Lands prior to the Assumption of the Works.

K.25 Sanitary and Storm Sewers

Where applicable as a result of provisions or intended provision of municipal sanitary or storm sewer services, the Owner agrees to:

- a) install a complete system of sanitary and storm sewers and appurtenances to service the Lands included in the Plan in accordance with the Municipality's requirements;
- b) connect and drain all sanitary and storm sewers and to outlets approved by the Municipality or such other governmental authorities as may be applicable;
- c) maintain all sanitary and storm sewers and appurtenances until assumed by the Municipality. All maintenance records shall be supplied to the Municipality prior to Assumption;
- d) not permit occupancy of any dwelling unit prior to the connection of the foundation drainage to the storm sewer system or an alternative system as approved by the Municipality; and,
- e) not connect the roof drainage system to the storm sewer system;
- f) confirm through field testing, such as smoke test, dye test or other approved alternative, that all pipes are correctly connected.

K.26 Sewer Digital Recording Inspection Program

The Owner agrees to:

- a) undertake and pay for a sewer digital recording inspection program for all new storm and sanitary sewers, not including laterals, constructed as part of the Works for the Plan prior to Acceptance and prior to Assumption. These works shall be undertaken by a qualified provider, to be approved by the Municipality prior to video inspection being undertaken;
- b) provide the Municipality with digital recordings and written reports in a format as specified by the Municipality;
- c) carry out the digital recording inspection:
 - i. after completion of base course asphalt prior to Acceptance of the below ground Works;
 - ii. prior to Assumption of the below ground Works; or,
 - iii. at any other time if required by the Municipality.
- d) remove all silt and debris from the sewers prior to the digital recording inspection taking place and to rectify any sewer deficiencies that may be outlined in the report or as required by the Municipality's digital recording inspection report;
- e) at the Municipality's request, provide documentation based on approved testing methods confirming that all pipes conform to specifications related to maximum limits of deformation and

deflection of materials.

K.27 Sidewalks

The Owner agrees to construct all sidewalks and public walkways and to pave same in accordance with the Municipality's specifications and to the satisfaction of the Municipality.

K.28 Signs

The Owner agrees to:

- a) erect temporary signs to standards of the Municipality at all Highway intersections in the Plan prior to the commencement of construction of any buildings or structure, and to maintain such temporary signs until permanent signs are erected; and,
- b) to erect permanent signs when all grading of Highways have been completed to the satisfaction of the Municipality and to maintain such signs until Assumption by the Municipality.

K.29 Signage for Emergency Purposes

On or before any construction commences on the Lands, the Owner shall post signage on the Lands indicating "For Emergency Assistance (Police, Fire, Ambulance) dial 9-1-1" and including servicing address as the emergency location all to the satisfaction of the Municipality.

K.30 Site Safety and Security

The Owner shall do, cause to be done, or refrain from doing, any act or thing as directed by the Municipality if at any time the Municipality considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of any applicable laws. If the Owner fails to comply with such direction, the Municipality may take action to remedy the situation at the expense of the Owner and in this regard the Municipality also shall be entitled to draw upon any security or deposit filed by the Owner under this Agreement.

During construction and until all site development activity is complete, all construction areas and potentially hazardous areas of the site shall be secured with safety fencing and/or hoarding so as to prevent, restrict or properly protect all public access and the site 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, and signed to ensure that there is no hazard to the public.

Appropriate signage and/or other measures shall be used 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 all potentially hazardous areas and install necessary protective works.

K.31 Stormwater Management

The Owner agrees to:

- a) implement a stormwater management system incorporating the recommendations outlined in a report listed in Schedule "C" to this Agreement and any subsequent addendum or reports are subject to approval of such by the Conservation Authority and the Municipality;
- b) to carry out all works and to obtain all necessary permits required to implement the situation and erosion control measures set out in a report listed in Schedule "C" to this Agreement and any subsequent addendum or reports are subject to approval or such by the Conservation Authority and the Municipality; and,
- c) where required by statute or municipal by-law, apply for and obtain a permit for grading or site alteration works.

K.32 Street and Lot Trees

The Owner agrees to:

- a) install trees within the rights-of-way of all Highways, stormwater facilities and parkland to be dedicated to the Municipality, and/or individual lots or blocks in accordance with the approved Landscape Plan prepared by a Landscape Architect, as shown in Schedule "C" to this Agreement.
- b) submit detailed working drawings to the Municipality for approval prior to construction or installation;
- c) under supervision of a Landscape Architect, plant trees having the minimum caliper required by the Municipality in its approvals of landscaping plans and to guarantee such trees for two (2) years from the date of planting by the Municipality; and,
- d) provide deposits and securities in the amount specified in this Agreement to the Municipality to ensure compliance with the street tree planting requirements for this Agreement, which security or deposit may be drawn upon in its full amount, if in the opinion of the Municipality, the Owner has not strictly complied with the requirements of this Section.

K.33 Tests on All Works

The Owner acknowledges and agrees that the Municipality may conduct, at the expense of the Owner, any tests that it considers necessary to satisfy itself as to the proper construction, installation or provision of the Works.

K.34 Traffic Control Devices

The Owner agrees to:

- a) erect temporary traffic control devices, conforming to the Municipality's specifications, at locations approved on the composite utility plan(s), when the Highways are completed to base course

asphalt and to maintain the same until permanent traffic control devices are constructed;

- b) erect permanent traffic control devices conforming to the Municipality's specifications, at locations approved on the composite utility plan(s), when all grading of Highways have been completed and to maintain such Highways until Acceptance by the Municipality; and,
- c) install automatic signal changers for emergency vehicles to the satisfaction of the Municipality at all locations where traffic control signals are installed as part of this Agreement and to maintain the same as required under this Agreement.

K.35 Turning Circles

The Owner agrees that if construction of the Plan is being phased, or if the Plan abuts future development land, the Owner will provide adequate turning space for vehicles at the applicable phase of the boundaries of the Plan. The turning space will be constructed in accordance with the Municipality's design standards and specifications. The Owner is responsible for all of the costs associated with the creation of and removal of turning circles.

K.36 Use in Accordance with Water By-Law(s)

The Owner acknowledges and agrees that the use of water, watermains, valves, water services and hydrants and all appurtenances shall be subject to the Municipality's water by-law(s). The Owner agrees not to use any existing watermain systems, including hydrants, for the purpose of flushing or testing any watermain required to be constructed and installed under this Agreement without the prior written approval of the Municipality and until a temporary water meter has been installed by the Municipality, at the Owner's expense, to record the amount of water used for flushing or testing. The Owner shall also be responsible for all costs associated with the maintenance of the temporary water meter.

K.37 Utilities

Utility services (including services such as hydro-electric, gas, telephone, cable television, telecommunication, etc.) for the Subdivision shall be installed (as total underground installation) at no cost to the Municipality. The Owner agrees to enter into an agreement or agreements with such applicable utility companies, to provide utilities as required, to satisfy all requirements, including, but not limited to, the maintenance and repair of their facilities and equipment until the Assumption of the Subdivision by the Municipality.

The Owner is responsible for informing the applicable utility providers of its intention to commence any construction on the Lands, prior to registration of the Plan. The Owner agrees to pay to the Municipality the maintenance and energy costs for all illumination within the Plan until and prior to the date of Assumption.

It is the Owner's responsibility to ensure that the restoration of the area disturbed by the installation of utilities is completed in a manner and condition satisfactory to the Municipality in its sole and unfettered discretion.

K.38 Utility Plan

The Owner agrees not to start construction of any Works until the composite utility plan or plans have

been signed by all applicable authorities or unless otherwise approved by the Municipality.

K.39 Vacant Lands

The Owner agrees to:

- a) rough grade, topsoil, seed and maintain all vacant lands within the Plan to the satisfaction of the Municipality;
- b) ensure that no dumping of any material (including snow, grass cuttings, construction debris and landscape waste) is permitted on vacant lots, Park Services, walkways, environmentally designated or adjacent lands; and,
- c) that should these requirements not be completed and the Works not maintained to the satisfaction of the Municipality, the Municipality will do the work as required and draw on any security filed pursuant to this Agreement for all costs so incurred.

K.40 Waste Management

The Owner shall purchase from the Municipality upon application for occupancy permits, a sufficient number of recycling containers to provide each purchaser so that they may participate in the municipal curbside recycling program. Further, the Owner shall ensure that the containers and associated educational materials are deposited in each building or structure on or before transfer of the lot or block.

K.41 Winter Maintenance of Highways

The Owner shall snowplow and sand all Highways in the Plan until Assumption by the Municipality.

Prior to Assumption of any Highway, the Owner may make arrangements to have the Municipality carry out winter maintenance at the expense of the Owner on traveled portions of all such Highways that are connected by asphalt to assumed Highways if manholes and catchbasins are ramped on base courses asphalt and to have the Municipality carry out winter maintenance at the expense of the Owner on sidewalks. The Owner acknowledges and agrees that such winter maintenance shall not constitute Assumption and it specifically absolves and indemnifies the Municipality from any and all loss or liability of every nature and kind whatsoever in connection with such winter maintenance.

Where snowplowing is to be provided by the Municipality, on or before the 15th day of October each year, the Owner shall, at its expense, ensure that the Highways are in a condition satisfactory to the Municipality. This requirement includes the adjustment of all ironworks and the removal or all obstructions within the road allowances to prevent damage to snow removal equipment or personnel, all to the satisfaction of the Municipality.

The Owner shall be responsible for all damages sustained by municipal snow removal equipment and personnel until Final Acceptance of the Highways, except such damage as may be caused by the negligent acts of the Municipality, its servants and agents.

The Owner agrees to pay a fee based on rates established by the Municipality for such work. Nothing shall be construed as being maintenance by the Municipality for the purposes of creating any statutory duty on the Municipality for the maintenance of Highways or with respect to the Assumption of the

Highways, it being understood and agreed that the Municipality's status in this capacity is as a subcontractor or agent of the Owner and not as a municipality.

K.42 Street Names

The Owner agrees that the Highways on the Plan of Subdivision shall bear names as approved by the Municipality.

K.43 Street Numbers

The Owner agrees that the Municipality shall designate the street number for each lot or block.

K.44 Signs

The Owner shall apply to and receive approval from the Municipality for any proposed sales or marketing signs prior to any signs being on the Lands. Signs shall only be permitted in accordance with drawings approved by the Municipality.

All existing third party signs and/or portable signs shall be removed from the Lands, and no third party signs and/or portable signs shall be allowed upon the Lands except in conformity with the Municipality's Sign By-law in force at the time of the proposed placement of such sign.

K.45 Park Signs

The Owner shall prepare and post signs indicating the future park site to the satisfaction of the Municipality. The signs will be erected and maintained along the main frontage of the park block by the Owner.

K.46 Model Homes and Sales Offices

The Municipality may release conditional permits for the construction of one or more model homes within the proposed Plan following registration of this Agreement, subject to the following conditions:

- a) that the Subdivision has been given Final Approval and there are no appeals or referrals to the Ontario Municipal Board;
- b) that there are no conditions precedent to the registration of the plan contained in the draft plan or Final Approval or any other Agreement with the Municipality that have not been satisfied or secured;
- c) that the drawings and plans for the subdivision as set out in Schedule "C" have been approved by the Municipality;
- d) that the Owner enter into a Conditional Permit which deals with matters set out by the Municipality including, but not limited to, assuming all risks for the early start of the construction of buildings;
- e) that the Owner provides a deposit in an amount set out in Schedule "F" to pay for the servicing of or removal of any buildings or structures if the Plan is not registered within six months of the

application for the model home permit;

- f) that the Owner agrees to notify the public that the model home is a sample of the product built by the homebuilder registered with the Tarion Warranty Corporation and include full disclosure as to the state in any Conditional Agreement of Purchase and Sale, that the model home is intended for public display to promote the sale of similar and other house styles on lots within the proposed subdivision and that occupancy shall not be permitted except for display and sales office purposes until all conditions of occupancy set out in this Agreement have been satisfied;
- g) that the Owner and builder agree not to open the model home for public viewing until sanitary sewer, municipal water service and road access or a satisfactory temporary alternative have been installed, inspected and are operational to the satisfaction of the Municipality;
- h) that parking be provided to the satisfaction of the Municipality; and,
- i) that the Owner pay to the Municipality the applicable building permit fee(s), development charges and all other applicable charges in effect at the time of making the application(s) and prior to any construction commencing on site.

K.47 Development of Public Parks

All Park Works shall be designed in accordance with the Municipality's standards and requirements and the construction and installation of same shall be supervised by the approved Landscape Architect at the Owner's expense.

All design drawings for Park Works shall bear the seal and signature of the Engineer or Landscape Architect (as applicable).

K.48 Construction of Park Works

The Owner agrees to:

- a) hire a Landscape Architect to prepare and administer detailed park, open space and stormwater management facilities plans. The design shall conform to the Municipality's standards and specifications for parks, open space and stormwater management facilities. The Park Works shall be designed and constructed to the satisfaction of the Municipality;
- b) submit a Park Works and landscaping schedule for the approval of the Municipality and undertake to commence and complete all works in accordance with the approved schedule;
- c) retain a Landscape Architect for all aspects of contract administration who is responsible for ensuring that the approved park, open space and stormwater management facilities landscaping plans for the Plan of Subdivision are strictly complied with;
- d) submit for the prior review and approval of the Municipality the selection of the landscape contractors as well as addenda, change orders, progress draws, inspection reports or other correspondence relating to the administration of the contract for the construction of the Park Works;

- e) employ dust control measures to protect the adjacent residences while the Park Works are under construction, at no cost to the Municipality;
- f) construct temporary fencing around park sites and in such other locations as may be required by the Municipality during the period of construction of Park Works;
- g) grade and grass all parks, including the installation of all drainage systems to the satisfaction of the Municipality;
- h) install all landscaping to the satisfaction of the Municipality;
- i) construct permanent fencing around all boundaries of all completed public parks as set out in the Municipally approved drawings;
- j) construct and install all Parks Services in strict conformation with the work schedule set out in this Agreement; and,
- k) post approved copies of the approved parks plan in all sales offices for lots being sold in the Subdivision.

K.49 Park Works Vest in the Municipality

The Owner agrees that all Park Works, when constructed and upon Assumption of the Subdivision, shall vest in the Municipality and the Owner shall have no claims or rights.

K.50 Urban Design/Architectural Contract Guidelines

The Owner agrees to implement the approved Urban Design/Architectural Control Guidelines as approved by the Municipality and listed in Schedule "C" to this Agreement.

The Municipality shall retain or engage a professional architect ("Control Architect"), as reasonably approved by the Owner and at the Owner's sole cost and expense, who will be responsible for ensuring that the buildings and structures to be constructed within the Plan are constructed in accordance with the Urban Design/Architectural Control Guidelines.

The Owner shall ensure that prior to the submission of individual building permit applications, the municipal Control Architect has stamped and signed for approval the drawings certifying compliance with the Urban Design/Architectural Contract Guidelines.

The Owner shall obtain the prior written approval of the Municipality for any minor modifications to the proposed buildings and structures from the Urban Design/Architectural Control Guidelines.

K.51 Source Water Protection

If the Lands, or a portion thereof, have been identified as an area where an activity is, or would be, a Significant Drinking Water Threat under the *Clean Water Act, 2006*, S.O. 2006, c.22, the Owner shall comply with the Municipalities enforcement authority under Part IV (Regulation of Drinking Water Threats) of the *Clean Water Act 2006*, S.O. 2006, c.22.

SCHEDULE "L"**SPECIAL CONDITIONS OF APPROVAL**

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

L.1 Phasing [optional]

The Owner agrees to adhere to the Phasing Plan to be prepared and submitted by the Owner to the Municipality for approval in accordance with the requirements set out in this Agreement. The Owner acknowledges that each development phase shall be subject to the approval of the Municipality prior to the issuance of any Building Permit for any phase and the Municipality may, in its sole and unfettered discretion, specify which Works must be completed prior to approving any phase of development and may require the completion of Works beyond any one or more phases or development up to and including the completion of all Works contemplated by this Agreement.

The Phasing Plan to be submitted by the Owner and approved by the Municipality prior to entering into this Agreement shall have addressed to the Municipality's satisfaction the following matters:

- a) sediment and erosion control for each phase;
- b) stockpiling and stripping plans for each phase including sequences, heights of stockpiles, revegetation and scheduling;
- c) drainage and stormwater management works to be completed for each phase including any temporary Works necessitated by phasing;
- d) dust and nuisance control measures;
- e) public safety measures;
- f) any other temporary Works required as a result of phasing or to facilitate phasing;
- g) the provision of phased securities; and,
- h) any other matter it may deem necessary to be addressed to ensure to its satisfaction that phasing of the subdivision can occur in a manner pursuant to this Agreement and will represent an appropriate sequencing of development and servicing of the Lands;

The Phasing Plan to be submitted by the Owner and approved by the Municipality and shall form part of this Agreement as an approved drawing and report in Schedule "C" to this Agreement. Where the Municipality receives a written request to modify the phasing plan and approves such a request, in its sole and unfettered discretion, the modified phasing plan shall be filed with this executed Agreement in the offices of the Municipality without necessity of amending the registered Agreement.

Reference should be made to section F.8 Securities for Phasing Plan for direction on posting the securities for subsequent phases.

L.2 Conservation Authority Approvals [optional]

The Owner agrees that, where required under Regulations 172/06 or successors, prior to any site alteration, a permit for works shall be obtained from the Conservation Authority.

Where such an approval of the Conservation Authority is required, the Owner acknowledges and agrees that it shall be responsible for obtaining the required permit(s) at its costs from the Conservation Authority, and that it shall be required to carry out any and all works specified in the Permit(s) for the development of the Lands and that such improvements may include drainage alterations so as to ensure appropriate control of the quantity and quality of runoff from the Lands. Such permit, where not conflicting with or contradicting with this Agreement, will automatically form part of this Agreement for registered purposes.

If the permit conflicts with or is contradictory in any way to this Agreement, the Owner shall, prior to undertaking any such works, obtain approval for amended drawings and design and enter into any necessary amendment to this Agreement, or additional agreement, subject to approval of the Municipality.

If 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 required to do so by the Conservation Authority, shall have the right to enter onto the Lands and conduct the 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 Acceptance of the affected Works by the Municipality.

The Owner acknowledges and agrees that for the purposes noted above, the Municipality shall be entitled to realize upon any securities and deposits filed by the Owner to be applied against costs incurred by the Municipality, including administrative fees, in accordance with the procedures and references set out for use of securities and deposits as set out in this Agreement. The Municipality may also use any other legal means of cost recovery as set out in this Agreement.

The Owner agrees to ensure that proper erosion and sediment control measures will be in place prior to any site alteration. All major stormwater management facilities (e.g. stormwater management ponds) must be in place prior to the creation of any impervious areas such as roads and buildings.

The Owner agrees to engage at its cost a qualified Engineer to certify that the works required by the Permit(s) were constructed in accordance with the plans, reports and specifications as approved by the Conservation Authority.

SCHEDULE "M"

WORK SCHEDULE

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

M.1 Commencement of Construction

The Owner agrees, prior to the construction of any Works, including the installation of public utilities, to give the Municipality ten (10) days advance written notice of the date upon which construction of any Works is scheduled to commence.

M.2 Contractor for Construction Works

The Owner agrees not to let any contract for the performance of any of the Works unless the contractor has first been approved by the Municipality, which approval shall not be unreasonably withheld. The contract(s) shall provide that the Municipality may inspect the construction of all Works and shall have authority to instruct the contractor(s) to stop work should any construction be undertaken contrary to the provisions of this Agreement or the Municipality's design criteria, standards and specifications.

M.3 Prior to Commencement of Construction

No work shall be commenced on any of Works until the designs for all the Works and soil tests have been approved by the Municipality and the Municipality may stop any Work that is commenced without its approval.

Any Work undertaken by the Owner prior to this Agreement coming into force shall not be approved, Accepted or Assumed by the Municipality as a municipal service until such time as the Owner's Engineer has advised the Municipality, in writing, that such work has been carried out in accordance with the specifications and all requirements for approval, Assumption of Acceptance have been made to the Municipality's satisfaction and the Owner had paid the Municipality all costs in its review and processing of a request to approve, Accept or Assume such Works. The Owner shall provide all the information and expose or reconstruct any Works which the Municipality may, in its sole and absolute discretion, require. The Municipality is under no obligation to approve, Accept or Assume any works undertaken by the Owner prior to this Agreement coming into force or that are unsatisfactory in the Municipality's sole and unfettered discretion, following this Agreement coming into force.

M.4 Work Schedule

The Works shall be constructed, installed or otherwise provided in compliance with the work schedule set out in this Schedule. If the work is not performed in accordance with said work schedule, the Owner shall be considered to have failed to proceed with reasonable speed, provided however that if the work is delayed by an unavoidable delay, and such delay is reasonable the completion date shall be extended by the period of such delay.

[Insert Work Schedule]

SCHEDULE "N"

CONDITIONS AND REQUIREMENTS FOR ACCEPTANCE AND ASSUMPTION OF WORKS

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

N.1 Requirements Prior to Acceptance of Works

In addition to any other specific or general requirements of this Agreement, immediately prior to Acceptance of the Works by the Municipality, the Owner agrees:

- a) to flush all sewers, manholes, and catchbasins free of road materials, building debris, and other foreign matter, to clean such materials from the system, to provide digital recording inspection and to rectify and deficiencies the digital recording inspection may reveal;
- b) to sweep roadway pavement, including sidewalks, free of building debris and earth deposits, and to clean and remove such material from the site;
- c) to rectify and repair all damages, settlements or depressions to the above ground infrastructure including, but not limited, to curbs, water boxes, sidewalks, roadways, etc.; and,
- d) to submit to the Municipality:
 - i. a certificate by a registered Ontario Land Surveyor (OLS) that the surveyor has confirmed the areas and frontages of all lots and blocks in the Plan and has located or replaced all standard iron bars as shown on the Plan, and has located or properly re-established all block corners, the beginnings and ends of all curves including all corner roundings and all points of change in the direction of Highways. The OLS will also provide the Municipality with a reproducible mylar of the registered Plan;
 - ii. a statutory declaration from the Owner that all contractors and subcontractors associated with the construction of Works have been paid;
 - iii. a certificate verifying the establishment of horizontal control monuments and vertical benchmarks in the Plan, as required by the Municipality;
 - iv. all required digital data, hard copy plots, and report information as specified by the Municipality;
 - v. a certificate from the Owner's Engineer stating that all stormwater management facilities as required in the stormwater management report and as shown on the engineering drawings are in place and functioning in accordance with the assumption protocol for stormwater facilities in the Municipality's "Stormwater Management Policies and Design Guidelines";
 - vi. a certificate from the Engineer and/or Landscape Architect (as the case may be) stating that all fencing required by the Municipality has been installed in the proper locations and has been constructed of municipally approved materials, to municipal standards and are

structurally sound;

- vii. a certificate from the Owner's Engineer stating that all traffic control devices have been installed as per the Approved Plans and to the satisfaction of the Municipality and that the Municipality has received an inventory of all traffic control devices within the Plan;
 - viii. a certificate from the Owner's Engineer indicating the final construction costs for Works based on the actual construction contracts;
 - ix. a certificate from the Owner's Engineer, or other consultants as applicable indicating that all other Works have been completed in accordance with the requirements of this Agreement;
 - x. a certificate from the Owner's Engineer summarizing the certificate of the grading and drainage of all the lots in the Plan;
 - xi. a certificate from the Owner's Engineer stating that all Work required for Acceptance have been completed in accordance with the approved plans;
 - xii. a certificate from the Owner's Landscape Architect that all landscaping works required for Acceptance have been completed in accordance with the Approved Plans;
 - xiii. a list of the numbers, lengths, sizes and materials, etc. of all Works, including, but not limited to, storm and sanitary sewers, watermains, roads, sidewalks and any other appurtenances; and
 - xiv. "as-built" drawings showing the final plan and profile locations of the Works on the Plan including a certified copy of the general grading and drainage (sanitary and storm) plan.
- e) to arrange for, at its own cost, or make payment to the Municipality for the maintenance and energy costs for illumination until Assumption of above-ground Works;
 - f) to pay for the cost of installation of pavement markings;
 - g) make payment to the Municipality for all snowplowing until Assumption of above-ground Works; and,
 - h) to repair and rectify all street and traffic signs.

N.2 Assumption By-Laws

When all of the applicable requirements of this Schedule have been fulfilled, the Municipality shall pass an Assumption By-law for the Works (or part thereof). Upon an Assumption By-law being passed, the ownership of the Works (or an individual Work or portion thereof) shall vest in the Municipality and the Owner shall have no claims or rights other than those accruing to it as an owner of land abutting on Highways where the Works were constructed or installed.

N.3 Assumption of Roads

The Owner agrees that Assumption shall not occur before:

- a) two (2) months following the application of the top course of asphalt on all roads to be constructed or improved, and not before seventy-five percent (75%) of all buildings or structures on lots or blocks within the Plan, or any phase thereof, have been substantially constructed, or as otherwise directed by the Municipality;
- b) all landscaping and trees are installed on public lands, as required by the Plan; and,
- c) not occur before all of the public lands fencing and public lands landscaping is complete as required throughout the Lands.

Immediately prior to the Assumption of the Roads by the Municipality, the Owner agrees:

- a) to provide the Municipality with a cash deposit or security satisfactory to the Municipality in the amount as set out in Schedule "F" per vacant lot or block, for use by the Municipality to correct the grading, drainage and revegetation on said vacant lots or blocks if, in the opinion of the Municipality, the completed grading, drainage or revegetation on the said vacant lots or blocks does not comply with the grading control plan, which deposit will be refunded upon satisfactory completion of the grading, drainage and revegetation on the said lots or blocks;
- b) to provide the Municipality with any outstanding payment for the maintenance and energy costs for illumination and all outstanding costs associated with snowplowing;
- c) to clean and remove any debris and earth deposits from all roadway pavement and the Lands;
- d) to install / repair pavement markings;
- e) to repair grading problems associated with any lot or block within the Plan or provide appropriate securities with respect thereto;
- f) to rectify, clean out and repair damages to the stormwater management facilities and to assure the Municipality these facilities are functioning in accordance with the approved stormwater management report and engineering drawings;
- g) to rectify and repair damage to any retaining walls in the Plan;
- h) to pay all outstanding work orders that the Municipality may have concerning emergency repairs;
- i) to make all plant material replacements pursuant to the conditions of the guarantee period;
- j) to require a registered O.L.S to certify that all control S.I.B's (Square Iron Bars), all easement I.B's (Iron Bars) and all Municipality dedicated land I.B's; and
- k) to replace, rectify and repair any damage or fault in the Works required by this Agreement and not yet assumed by the Municipality.

N.4 Maintenance and Repair of Works

The Owner shall maintain and keep in a proper state of repair and operation all of the Municipal Works constructed, planted, installed or provided by the Owner until completion of the Guaranteed Maintenance Period. The Guaranteed Maintenance Period shall be a minimum of two (2) years following Assumption or Acceptance, as the case may be.

N.5 Performance, Maintenance and Other Guarantees

The Owner agrees to provide to the Municipality, at the times outlined in this Agreement, performance and maintenance guarantees in a form of securities with holdback provisions satisfactory to the Municipality.

The Owner shall at all times during the Guaranteed Maintenance Period maintain securities as may be satisfactory to the Municipality as a guarantee for the performance and maintenance of the Works and the Municipality may require additional securities to be provided for this purpose, acting reasonably, where securities have to be drawn up or to account for increased costs.

N.6 Reduction of Securities After the Guaranteed Maintenance Period

After the date of Assumption or Acceptance of the Works by the Municipality, the Owner acknowledges that any security filed with respect to the Works under this Agreement may be reduced to a minimum of ten per cent (10%) of the cost of the Works and that there shall be no further reduction for a period of two (2) years.

SCHEDULE "O"

INSURANCE REQUIREMENTS

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

O.1 General Liability Insurance Policy

Prior to commencing any work with respect to the Plan, the Owner shall take out and keep in force comprehensive general liability insurance from an insurer licensed in the province of Ontario, against claims for personal injury, death or property damage resulting from any accident or occurrence. The Owner shall deliver with this Agreement (if not previously delivered) a copy of the policy of liability insurance or a certificate of insurance setting out the essential terms and conditions of insurance, the form and content of which shall be satisfactory to the Municipality and naming the Municipality as an additional insured. Such policy shall be kept in full force and effect until all of the services required under this Agreement have been assumed by the Municipality and the Guaranteed Maintenance period has expired and shall comply with the following provisions:

- a) the minimum limit shall be Five Million Dollars (\$5,000,000.00), all inclusive, for property damage and personal liability;
- b) it shall contain a clause to exclude blasting;
- c) the premium must be paid initially for a period of one (1) year and the policy shall be automatically renewed for further one (1) year periods until all services required under this Agreement are installed and the Guaranteed Maintenance period has expired;
- d) the policy shall provide for cross-liability and severability of interest protecting the Municipality against claims by the Owner as if it were separately insured and providing that the Municipality shall be insured notwithstanding any breach of any condition in the policy by any other insured; and,
- e) the policy shall provide that the insurer shall not cancel or refuse to renew it without first giving the Municipality at least sixty (60) days prior written notice.

O.2 Municipality May Obtain Insurance

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

O.3 No Relief

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

[Intentionally Left Blank]

SCHEDULE "P"

LANDS TO BE CONVEYED BY THE OWNER

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

P.1 Conveyance

On or before execution of this Agreement, the Owner shall convey or arrange to have conveyed to the Municipality, without charge, the lands, easements and other interests in land described in this Schedule and such other interests in land as may reasonably be required by the Municipality to ensure the proper servicing and functional operation of the subdivision development to the date of Acceptance/Assumption.

P.2 Additional Lands and Conveyance

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

P.3 Environmental Clearance

The Owner shall provide an environmental clearance certified by a Professional Consultant to the Municipality that all lands to be conveyed to the Municipality pursuant to this agreement are environmentally suitable for their proposed use in accordance with any applicable guidelines from the Ministry of Environment.

P.4 Registration of Easements and Lands

All conveyance of such lands, easements and other interests in land shall be in a registerable form acceptable to the Municipality. The Owner hereby gives authority to the Municipality to complete any requisite details in the documents referred to in this part. The Owner shall have delivered to the Municipality all Transfers/Deeds, Discharges and Easements or other documents required by this Agreement, as well as certification from the Owner's Solicitor that the Transfer/Deeds and Easements shall provide the Municipality with good title, free and clear from all encumbrances.

P.5 Parkland Dedication

The Owner agrees to convey the following lands to the Municipality concurrent with the registration of the Plan at no cost or charge and free and clear of all encumbrances for park or other recreational purposes

a) [Insert block(s) numbers]

The aforementioned lands shall be conveyed in a physical condition that is satisfactory to the Municipality.

The Owner and the Municipality agree and acknowledge that there are no further parkland dedication

requirements with respect to the Plan pursuant to the Planning Act. The Owner and the Municipality further acknowledge that any over-dedication of lands for park purposes or cash-in-lieu or combination thereof with respect to the Plan shall represent a voluntary contribution by the Owner for which no credit shall be provided.

LANDS AND EASEMENTS TO BE CONVEYED TO THE MUNICIPALITY

[1. List]

LANDS AND EASEMENTS TO BE CONVEYED TO [SPECIFY ENTITY]

[1 List]

SCHEDULE "Q"

RESTRICTIVE COVENANTS

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

Q.1 Restrictive Covenants

The Owner agrees that, notwithstanding the requirement to the register this Agreement against title to the Lands, the following paragraphs which form part of this Agreement will be appropriately registered against the title to the Lands within the Plan as restrictive covenants running with the Lands, it being the intention of these paragraphs that the said following covenants shall run with the Lands, and the Owner shall take all measures at the cost of the Owner to ensure that the covenants are so registered to the satisfaction of the Municipality concurrently with registration of this Agreement.

Q.2 Catchbasins and Drainage

No Owner shall remove, alter, interfere with, or fail to maintain any catchbasin located on a lot for drainage purposes. No Owner shall alter grading of the lot in any way so as to adversely affect the drainage pattern of the surrounding lots.

Where the Owner alters drainage, no Owner shall attempt to block or interfere with the Municipality's right to enter the property to correct the grading and to assign the costs of such work, including an administrative fee, to the Owner.

Q.3 Curb Cuts

No Owner of any lot shall construct, widen, remove or alter any curb cut within the road allowance of a municipal road or create or construct any driveway entrance, or cause any such work to be done except with the approval of the Municipality. In addition, no Owner shall obstruct or encumber any Highway in the Municipality. Obstructions and encumbrances shall include, but not be limited to, the construction, placement or maintenance of posts, fences, trees, hedges, landscaping, irrigation systems and wooden or concrete driveway curbs. All obstruction or encumbrances shall be removed by the Owner upon receipt of notification from the Municipality. If the request for removal is not complied within the specified time, the Municipality may cause the same to be removed, and the Owner shall be liable to the Municipality for all costs incurred in the removal of the obstruction. The Municipality may recover all expenses on the Collector's rolls in the same manner as municipal taxes.

Q.4 Drainage

No Owner of any lot shall alter or interfere with the grading and drainage levels and patterns as approved by the Municipality with respect to the said lots and, without limiting the generality of the foregoing, no Owner of any part of any lot shall alter, fill, fence, stop up or allow to become clogged or fall into a state of disrepair, any rear or side yard drainage depression or swale, catchbasin or other drainage channel, facility or installation, as such alteration or other action as stated above may cause a failure of the drainage system in the area. Notwithstanding this prohibition, the Owner of any lot agrees to indemnify and save the Municipality completely harmless from all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly, by reason of such alteration or other action as

stated above.

No Owner shall be entitled to connect roof leaders to the foundation drain collector or to the weeping tile. Roof leaders shall be required to discharge onto the lots, with the use of concrete splash pads such that the side lot swales will drain the runoff to the road or rear lots, or in accordance with the drainage facilities shown in the Municipality approval final lot grading plan for the lot.

Drainage cannot be designed in such a way that flooding, ponding or the build-up of ice on a sidewalk or adjacent road surface occurs.

Q.5 Excavation

No Owner of any lot shall excavate the lands except for excavation for the purpose of construction in accordance with the drawings approved by the Municipality. No soil, sand, gravel or other similar material shall be removed from the lands except with the prior permission of the Municipality.

Q.6 Obstruction of Highways

No Owner shall place or permit to be placed any fence, tree, shrub, hedge, landscape berm, signboard or other object within a Highway or within the lands laid out in the Plan for a Highway, whether or not such lands actually contain a paved portion of a Highway. Without limiting the generality of the foregoing, no driveway curb or pillar may be placed within a Highway or within the lands laid out in the Plan for a Highway, whether or not such lands actually contain a paved portion of a Highway and no driveway placed within such lands shall be constructed or altered so as to interfere with the operation of any municipal services, such as snow and garbage removal equipment.

Q.7 Signs

No Owner of any lot shall place any signs, billboards, notices or other advertising matter of any kind except in accordance with the Municipality's sign by-law in effect at the time on any part of the lands or upon any building or on any fence, tree or other structure on the lands.

Q.8 General

The burden of this covenant shall run with the Lands and the benefit of this covenant may be annexed to and run with each and every part of the Lands. The Transferee of the Lands or any part thereof for itself, its successors and assigns, agrees with the Transferor, its successors and assigns that he Transferee and the Transferee's successors in title from time to time of all or part or parts of the Lands will observe and comply with the stipulations, restriction and provisions set out in that nothing shall be erected or fixed, placed, or done upon the Lands or any part thereof in breach or violation of or contrary to the fair meaning of the said stipulations, restrictions and provisions set forth.

Q.9 General Restrictive Covenants

The burden of this covenant shall run with the said Lands and the benefit of this covenant may be annexed to and run with each and every part of the Lands. The Transferee of the Lands or any part thereof for itself, its successors and assigns, agrees with the Transferor, its successors and assigns that he Transferee and the Transferee's successors in title from time to time of all or part or parts of the Lands will observe and comply with the stipulations, restrictions and provisions set out in that nothing

shall be erected or fixed, placed, or done upon the Lands or any part thereof in breach or violation of or contrary to the fair meaning of the said stipulations, restrictions and provisions set forth.

a) Partial Invalidity

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

SCHEDULE "R"

NOTICES AND WARNING CLAUSES

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

R.1 Development Charges Notice

The Owner agrees to provide notice to the first purchaser of any lots or blocks in the Plan of Subdivision, upon transfer of the lots or blocks, of all development charges related to the Plan, including development charges already paid by the Owner or development charges that may be payable in the future.

R.2 Notices and Warning Clauses and Agreements of Purchase and Sales

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

R.3 Subdivision Agreement

Purchaser(s) is/are advised that an Agreement between the Owner, and The Corporation of The City of Barrie has been registered against the title to the Lands, and that this agreement affects the title to the Lands and may restrict the ability of the purchase(s) to develop or further develop Land(s).

R.4 Boulevard Garden Policy

Purchasers are advised that they shall be responsible for ensuring that the municipal boulevard remains in full compliance with the City of Barrie's Boulevard Garden Policy. Any infractions or works undertaken by the Purchasers which do not conform to the Boulevard Garden Policy shall be removed and/or corrected to the satisfaction of the Municipality, upon receipt of written notice written ten (10) business days. All costs shall be the responsibility of the Purchaser.

R.5 Catchbasins

Purchasers are advised that a catchbasin and associated leads are installed in the lot and that it will be the responsibility of the Owner of the lot to maintain in a good state of repair the catchbasins and leads and to maintain them in a functioning capacity and free and clear of all obstructions. Purchasers acknowledge that the catchbasin is designed to accept drainage from the lot and adjacent lots and that the grading is not to be altered in any way so as to adversely affect the drainage pattern of the surrounding lots. Where the Purchaser alters drainage, the Municipality shall have the right to enter the property to correct the grading and the costs of such work, including an administrative fee, shall be billed to the Purchaser and may, if not paid, be recovered in a like manner as taxes.

R.6 Fire Hydrants

Purchasers acknowledge that a fire hydrant may be located or relocated at any time in front of any lot/block on the Plan to the satisfaction of the Municipality.

Purchasers acknowledge that no driveway shall be located within 1.5 m of a fire hydrant and that no objects, including vegetation shall be placed or planted within a 1.5 m corridor between a fire hydrant and the curb, nor a 1.5 m radius beside or behind a fire hydrant.

R.7 Grading and Landscaping

Purchasers are advised that no fences, trees and other landscaping features may be installed on the lot, other than those approved by the Municipality, until a final lot grading certificate has been received by and approved by the Municipality in accordance with the requirements of the Agreement.

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

R.8 Lot Grading and Driveway Apron Deposits from Residents by Owners / Developers / Residents

Purchasers and/or tenants are advised that proper grading of all lots in conformity with subdivision grading plans is a requirement of the Subdivision. The Municipality has taken a Letter of Credit from the Owner to ensure that all municipal services including, but not limited to, lot grading and driveway aprons, are constructed to the satisfaction of the Municipality. Direct cash deposits from purchasers to the Municipality for lot grading purposes are not a requirement of the Subdivision. Accordingly, the Municipality cannot return deposits to the purchaser or require the builder / developer to return the deposit.

R.9 Noise

Purchasers are advised that as a result of the development of this subdivision adjacent to, but not limited to, existing roads, railway lands and active community park facilities that noise levels may cause disturbances or loss of privacy which may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from the noise of such services and facilities.

R.10 Noise – Air Conditioning Units

Purchasers are advised that despite the inclusion of noise control features within the development areas and within the individual building units, noise levels may cause disturbances or loss of privacy which may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from the noise of such services and facilities.

R.11 Obstructions on Highways

Purchasers are advised that they are not permitted to place any fence, tree, shrub, hedge, landscape berm, signboard or other object within a Highway or within the lands laid out in the Plan for a Highway, whether or not such lands actually contain a paved portion of a Highway. Without limiting the generality of the foregoing, purchasers are advised that no driveway curb or pillar may be placed within a Highway

or within the lands laid out in the Plan for a Highway, whether or not such lands actually contain a paved portion of a Highway and no driveway placed within such lands shall be constructed or altered so as to interfere with the operation of any municipal services, such as snow and garbage removal equipment.

R.12 Park Development

Purchasers are advised that as a result of the development of the community park facilities that active lighted facilities may cause a disturbance or loss of privacy and may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from such services and facilities.

Owners are also advised that the Municipality may declare such parkland as surplus to its requirements and may dispose of such parkland and allow development of the lands.

R.13 Postal Service

Purchasers are advised that door-to-door postal service will not be available within this Plan. Owners are advised that a community super mail box or group mail box will be located within or nearby the Lands as determined by Canada Post.

R.14 Right of Entry

Purchasers are advised that various provisions of the Agreement provide that the Municipality shall be entitled to enter onto the lands within the Plan in order to carry out various inspections, repairs and maintenance activities at any time and without advance notice.

R.15 School Boards

Pupils from this development attending educational facilities operated by the Simcoe County District School Board and/or the Simcoe Muskoka Catholic District School Board may be transported to/accommodated in temporary facilities out of the neighborhood school's area.

Purchasers are advised that the public schools on designed sites in the community are not guaranteed. Attendance at schools in the area yet to be constructed is also not guaranteed. Pupils may be accommodated in temporary facilities and/or directed to schools outside of the area.

Purchasers are advised that school buses will not enter cul de sacs and that pick up points will not be located within the subdivision until major construction activity has been completed.

R.16 Airport (Optional)

Purchasers are advised that this plan is in close proximity of an airport and will not object to the day to day operations of the facility or any future expansion of the airport or its operations. Purchasers are advised that noise levels may cause disturbances or loss of privacy which may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from the noise of such services and facilities.

R.17 Fencing (Optional)

Purchasers are advised that a chain link fence is located along the side/rear lot line of Lots *** and that the fencing shall not be altered or removed. Owners are advised that it will be the duty and obligation of the owner of the lot to maintain in a good state of repair that portion of the fencing that is situated along the side/rear lot line.

Purchasers are advised that a privacy fence is located on *** and that the fencing shall not be altered or removed. Owners are advised that it will be the duty and obligation of the owner of the lot to maintain in a good state of repair that portion of the privacy fence that is located on the lot.

R.18 Future Roads (Optional)

Purchasers are advised that Blocks *** will be extended and are being transferred to the Municipality for future Highway purposes. It is the intention of the Municipality that a Highway be constructed on said Blocks if required for development occurring adjacent to the Plan.

R.19 Landfill Operations (Optional)

Purchasers are advised that this plan is in close proximity to the City of Barrie Landfill site and will not object to the day to day operations of the facility or any future expansion of the landfill or its operations. Purchasers are advised that odors and noise levels may cause disturbances or loss of privacy which may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from the noise of such services and facilities.

R.20 Public Walkways (Optional)

Purchasers are advised that Blocks which are designated for use as a public walkway and intended to provide pedestrian and non-vehicular traffic access may cause disturbances or loss of privacy and may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from such services and facilities.

R.21 Railway Lines (Optional)

Purchasers are advised that this plan is in close proximity of a railway line and/or station and will not object to the day to day operations of the facility or any future expansion of the rail service or its operations. Purchasers are advised that noise levels may cause disturbances or loss of privacy which may affect the living environment of the residents. The Municipality shall not be held responsible for any complaints or claims arising from the noise of such services and facilities.

R.22 Storm Water Management Facility (Optional)

Purchasers are advised that certain lots abut or face an open space detention / retention facility which will be subject to periodic flooding during and following rain events. The storm facility will be naturalized with the planting of native trees, shrubs, grasses and will not receive a high level of maintenance by the Municipality.

SCHEDULE "S"

DEVELOPMENT CHARGES AND SERVICE CONNECTION FEES

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

S.1 Development Charge Credits

The Owner hereby releases and forever discharges the Municipality from any and all claims for credits against development charges payable hereunder or payable at the issuance of a building permit or permits for construction within the Plan and the Owner hereby waives all such claims for credits except for the credits that may be specified in this Agreement. Any such credits so specified and the calculation thereof shall be deemed to be conclusive and binding on the Owner.

S.2 Development Charges and Connection Fees to be Paid

The Owner, as a capital contribution towards other Municipal services, will pay, in addition to all other monies required to be paid by the Owner under this Agreement, to the Municipality and any other applicable agency having a Development Charge, the Development Charges and connection fees in effect at the time of Building Permit issuance. The total amount of each Development Charge and connection fee 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 other agencies and this fee may also be adjusted by the Municipality or other agencies following each review including automatic inflationary increases. If the Development Charge is adjusted by the Municipality, then the adjusted cost shall apply.

S.3 Local Services and Local Connection Charges

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

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

and are not charges related to development within the meaning of the *Development Charges Act, 1997, S.O. 1997, c.27*.

SCHEDULE "T"**ONTARIO LAND SURVEYOR'S CERTIFICATE**

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

Bearings are UTM Grid Bearings and are referred to the central Meridian in zone 17 (81 degrees west) and are based on NAD 83 (original) and are derived from observations on MNR Control monuments.

[INSERT SURVEYORS CERTIFICATE SIGNED AND SEALED CERTIFYING THAT THE PLAN CONFORMS WITH THE ZONING BY-LAW IN EFFECT AS OF THE DATE OF CERTIFICATE AND INCLUDING THE LOT AREA FRONTAGE CERTIFICATE AS SIGNED BY THE OLS.]

SCHEDULE "U"**REASONABLE EFFORTS [OPTIONAL]**

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

If requested in writing by the Owner to do so, the Municipality shall use its reasonable best efforts to ensure that any person benefiting from the carrying out of the Owner's obligations under the Agreement will pay their fair share of the cost of providing such benefit (including any interest accrued) to the Municipality as soon as possible, but not later than the date that such benefiting person executes a development agreement with the Municipality, and remit any moneys so collected, less the Municipality's reasonable costs for collecting same, to the Owner. The Municipality shall comply with the provisions of this section only if it can legally do so and does not warrant that any payment can be lawfully made to the Owner. The Municipality shall not be liable for any damage should, through oversight, negligence or any other reason, it fail to collect or remit such payment. The Municipality shall not be required to institute any judicial or administrative proceedings to impose the conditions referred to in this paragraph nor be required to defend any judicial or administrative proceedings that are brought against it by any benefiting person arising out of the imposition of this paragraph unless the Owner has entered into a further agreement with the Municipality in a form satisfactory to the Municipality dealing with the institution of or defense of such proceeding. Such agreement, among other things, shall require the Owner to pay to the Municipality an amount to be determined by the Municipality as security for all costs and damages which the Municipality may incur in the institution or defense of such proceedings. This reasonable best efforts obligation shall terminate ten (10) years from the date to execution of this agreement unless extended at the request of the Owner and confirmed in writing by the Municipality.

The Owner shall provide the Municipality with such data and invoices as are reasonably required to enable the Municipality to verify all items comprising the benefiting person's fair share which are not within the Municipality's direct knowledge.

[Intentionally Left Blank]

SCHEDULE "V"**CONDITIONS OF DRAFT APPROVAL**

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

SCHEDULE "W"**ENGINEERING CONDITIONS**

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

SCHEDULE "X"**QUALITY AND QUANTITY PERFORMANCE MONITORING**

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