

THIS SUBDIVISION AGREEMENT made this 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**, under the laws of the Province of Ontario having its registered office in the County of Brant (hereinafter referred to as the "**Subdivider**")

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**  
(hereinafter referred to as the "**County**")

OF THE SECOND PART

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(Not part of the Agreement)

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THIS SUBDIVISION AGREEMENT made this 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**, under the laws of the Province of Ontario having its registered office in the County of Brant (hereinafter referred to as the "**Subdivider**")

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**  
(hereinafter referred to as the "**County**")

OF THE SECOND PART

**WHEREAS:**

- a) The **Subdivider** is, or will be at the time of registration of this Agreement, the owner of the land described in Schedule "A", (hereinafter referred to as the "**Land**");
- b) The **Subdivider** wishes to subdivide the **Land** by means of a registered plan of subdivision, care of the **County** and has obtained draft plan approval for a plan of subdivision under County of Brant File Number PS4/17 as approved by the County.
- c) The authority to give final approval for registration now lies with the **County** and the **County**, as a condition of final approval of the proposed plan of subdivision has required that this Agreement be entered into.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that, in consideration of the mutual covenants herein contained and in consideration of the final approval for registration of the plan of subdivision covering the **Land** in the form of the plan (hereinafter referred to as the "**Plan**") prepared by MacDonald Tamblyn Lord Surveying and dated May 10, 2019 a true copy of which is attached hereto as Schedule "B" to this Agreement, the **Subdivider** hereby covenants and agrees with the **County** as follows:

**REGISTRATION OF SUBDIVISION AGREEMENT**

1. The **Subdivider** consents to and will register this Agreement against the title to the **Land** in the Land Registry Office for the Land Titles Division of Brant (No. 2) immediately after the registration of the **Plan** to the intent and purpose that this Agreement and all of the **Subdivider's** covenants herein shall run with the **Land**; and the **Subdivider** shall forthwith advise the **County** of the particulars of registration and provide to the **County** a duplicate registered original copy of this Agreement as registered.

**SUBDIVIDER'S TITLE**

2. The **Subdivider** represents and warrants to the **County** that, at the date of this Agreement and at the date of the registration of this Agreement upon title, the **Subdivider** is and will be the owner in fee simple of the **Land** free of all liens and encumbrances, save and except for those items described on Schedule "C", attached hereto. Forthwith after registration of this Agreement upon title to the **Land** the **Subdivider** shall cause to be delivered to the **County** an opinion by a solicitor authorized to practice in Ontario substantially in the form of Schedule "D" attached hereto. The said opinion shall be addressed to the **County** in consideration of a fee of \$1.00 payable to the Solicitor rendering the same.

**OTHERS WITH TITLE INTEREST**

3. The **Subdivider** represents and warrants to the **County** that, at the date of this Agreement and at the time of the registration of this Agreement upon the title to the **Land**, all persons having any interest in the **Land** as owner, mortgagee, tenant, easement holder or other encumbrancer are as described in Schedule "C" attached to this Agreement and that each of those persons listed in Schedule "C" have executed authorizations postponing their respective interests in the **Land** to this Agreement

sufficient to permit registration of a Notice of Postponement of Interest against the Land forthwith after registration of Notice of this Agreement. Forthwith after registration of this Agreement upon title to the **Land** the **Subdivider** shall cause to be delivered to the **County** an opinion by a Solicitor, authorized to practice in Ontario substantially in the form of Schedule "D" attached hereto. The said solicitor's opinion shall be delivered to the **County** immediately after the registration of this Agreement upon the title to the **Land** and it shall be addressed to the **County** in consideration of a fee of \$1.00 payable to the Solicitor rendering the same.

## CONVEYANCES

4. The following conveyances are required:
  - 4.1 The conveyance of real property to the **County** as required by paragraph 29 (dedications) and the granting of easements as required by paragraph 24 shall be made to the **County** and the registration of restrictive covenants as required by paragraph 58 forthwith after the registration of the **Plan** free and clear of all liens and encumbrances. Forthwith after registration of the conveyances required by paragraphs 28 and 29 and the registered restrictive covenants required by paragraph 58 the **Subdivider** shall cause to be delivered to the **County** a copy of the registered Transfers and/or Easements and registered restrictive covenants together with an opinion by a Solicitor, authorized to practice in Ontario substantially in the form of Schedule "D" attached hereto. The said solicitor's opinion shall be delivered to the **County** immediately after the registration of the said Transfers and/or Easements and registered restrictive covenants and it shall be addressed to the County in consideration of a fee of \$1.00 payable to the Solicitor rendering the same.
  - 4.2 The Owner shall provide to the **County** or other appropriate authority, as the **County** may designate, all easements and dedications of land as required for utilities, servicing and/or drainage purposes in connection with the development of the plan, all at no cost and free from all encumbrances.

## REGISTRATION OF PLAN

5. As soon as practicable after the **County's** approval of the **Plan**, but not later than thirty (30) days thereafter, the **Subdivider** shall cause the **Plan** to be registered in the Land Registry Office for the Land Titles Division of Brant (No. 2) and shall forthwith thereafter advise the **County** of the particulars of registration thereof and provide to the **County** a duplicate registered original copy of the **Plan** as registered.

## ENGINEERS

6. The **Subdivider** shall employ competent Consulting Engineers licensed with the Professional Engineers Ontario:
  - 6.1 To design the **Works**, as hereinafter defined,
  - 6.2 To prepare a tender for the construction of the Works,
  - 6.3 To assist the Subdivider in obtaining all necessary approvals in connection therewith,
  - 6.4 To provide full-time staff on site to observe construction of the **Works**, including inspection and testing of materials by a qualified geotechnical engineer,
  - 6.5 To prepare and maintain appropriate records in connection with the construction of the **Works**,
  - 6.6 To provide the certifications of a licensed Professional Engineer as specifically required under the terms of this Agreement;
  - 6.7 To prepare and furnish "As Constructed" drawings of those services which are subject to the First Interim Completion Certificate as provided in

paragraph 40 within two (2) months of issuance of the First Interim Certificate, and

- 6.8 To prepare and furnish "As Constructed" drawings of the **Works** and in digitized format in a form acceptable to the **County**, prior to the issuance of the Third Interim Certificate and prior to the issuance by the **County Engineer** of the Authorization to Proceed With Construction contemplated by paragraph 15.

Such Engineers shall provide to the **County** evidence of Professional Liability Insurance in accordance with paragraph 35 endorsed for the **Works** required by this Agreement to the satisfaction of the **County**. Such Engineers shall also file with the **County** an undertaking, in substantially the form attached to this Agreement as Schedule "E", with respect to the work being done, which undertaking shall include a requirement that such Engineers advise the **County Engineer** forthwith if such Engineers' instructions become different than as reflected in the undertaking. For the purposes of this Agreement, the **County Engineer** shall be the engineer appointed, from time to time, by the **County** for the purposes of the fulfillment of this Agreement.

### **SUBMISSION FOR APPROVAL**

7. The **Subdivider** shall submit for the approval of the **County Engineer**, detailed engineering plans, lot grading plans, specifications for, contracts in respect of and an estimate of the scheduling and of the cost of the works specified in Schedule "F" hereto (herein referred to as the "**Works**"), with the **Subdivider's** Engineer's professional stamp (if applicable) and signature and date affixed thereto.

### **GENERAL GRADING PLAN**

8. The **Subdivider** shall submit for the approval of the **County Engineer** the plans, specifications, contracts, schedules and cost estimates, as aforementioned with the General Grading Plan showing:

- 8.1 The original, pre-development elevations of the **Land**, existing elevations of the **Land** and proposed final post-development elevations of the **Land**, which elevations shall be determined by reference to a geodetic bench mark,
- 8.2 The final grades of all roads on and in the vicinity of the **Plan** as shown on the General Grading, Servicing and Roadworks Plans attached hereto as Schedule "G",
- 8.3 The location of driveways from roads on and in the vicinity of the **Plan** to each lot as shown on the **Plan**, and
- 8.4 A calculated bench mark elevation at the approximate proposed house location to show the level to which the ground is to be graded.
- 8.5 Calculated elevations at all proposed lot corners and such additional elevations as are necessary to show the general intent of final grading;
- 8.6 The details of all infiltration galleries including location, sizing, material and installation method.

### **LANDSCAPE PLAN**

9. The **Subdivider** shall engage the services of a qualified Landscape Architect to develop and implement a landscape plan as shown on the Works – Schedule "F" and General Grading, Servicing and Roadworks Plans – Schedule "G". The landscape plan shall provide a planting list and cross section detail of the species to be planted inside the right of way, along the municipal road. Tree species and their location to be approved by the County as shown on the Works – Schedule "F" and General Grading, Servicing and Roadworks Plans – Schedule "G" or as approved by the County should alternatives be deemed appropriate on a case by case basis.

## **ACCEPTANCE BY COUNTY ENGINEER**

10. Such plans, specifications, contracts, scheduling and cost estimates, the Landscape Plan and the General Grading Plan shall be considered, amended if necessary, and accepted as amended by the **County Engineer**; provided however, such approval shall not relieve the **Subdivider** of responsibility for any errors or omissions in such plans, specifications, contracts, scheduling and cost estimates, the landscaping plan or the General Grading Plan.

## **ADDITIONAL APPROVAL BY MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS**

11. In addition to the acceptance of the **County Engineer** as required by paragraph 10, all such plans, specifications, contracts, schedules and cost estimates, including and particularly those detailing the handling of stormwater from the **Land**, erosion and sediment control during construction, and the General Grading Plan shall be considered, amended if necessary and approved where required, as amended, by the Ministry of the Environment, Conservation and Parks (hereinafter referred to as the "**MECP**").

## **ADDITIONAL APPROVAL BY CONSERVATION AUTHORITY**

12. In addition to the acceptance of the **County Engineer** as required by paragraph 10, the General Grading Plan, drainage plans, storm water management plans and sediment and erosion control measures to be used during construction shall be considered, amended if necessary, and approved, as amended, by the Grand River Conservation Authority (hereinafter referred to as the "**Conservation Authority**").

## **ADDITIONAL APPROVAL FROM THE MINISTRY OF CITIZENSHIP, CULTURE AND RECREATION**

13. The **Subdivider** shall carry out an archaeological assessment of the **Land** 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 **Land** prior to the Ministry of Citizenship, Culture and Recreation confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

## **SIGN OF PLAN**

14. The **Subdivider** shall erect at the initiation of commencement of the construction of the **Works**, or within seven (7) days after registration of the **Plan**, and shall thereafter maintain until the time which eighty four (84%) percent of the lots in Phase 2 of the **Plan** (i.e. 115 of the 136 residential lots) as shown on the **Plan** have had constructed thereon dwellings which are available for residential occupancy, a sign showing the **Plan** to which sign the following provisions shall apply:

14.1 The sign shall identify the subdivision development as the Scenic Ridge Subdivision, Phase 2.

14.2 The sign shall set out that the subdivision has been approved by the County of Brant, under County of Brant File Number PS4/17, that it includes 92 single residential lots and 7 townhouse blocks and 1 walkway block on a site with an area of approximately 4.61 hectares and that information may be obtained about the development from the **Subdivider** by calling the **Subdivider's** telephone number.

14.3 The sign shall show the following:

14.3.1. The lotting patterns and the lot numbers as shown on the **Plan**,

14.3.2. The street names in and around the **Land**,

14.3.3. The location, description and purpose of all blocks as shown in the **Plan**,

14.3.4. The land uses within 120 metres of the **Land**, including open spaces and vacant lands,

- 14.3.5. The location and nature of stormwater management facilities, including the location and dimensions of associated easements,
  - 14.3.6. The location and description of any fencing required by the municipality,
  - 14.3.7. The location of sidewalks, trails and walkways,
  - 14.3.8. The location of parks, school blocks and other public spaces, both active or passive, on or in the vicinity of the Land,
  - 14.3.9. A contact name and phone number for the **Subdivider** or his agent
- 14.4 The sign must be erected within seven (7) days after registration of the Plan.
- 14.5 Subject to variations that may be approved in advance by the **County Engineer**, the sign shall be erected and maintained to the following specifications:
- 14.5.3 Size: a minimum of 1.2 metres by 2.4 metres and a maximum as may be authorized by the **County Engineer** with a minimum ground clearance of 1.0 metre.
  - 14.5.3 Materials: 19.05 mm exterior grade plywood panel; vertical structure members to be 101.6 mm spruce, pine, fir, or suitable alternative, such as metal, installed to a depth of 1.21 metres below grade; 50.8 mm by 50.8 mm horizontal spruce, pine, fir stringers to be located behind the top, bottom and centre of the sign panel.
  - 14.5.3 Paint: Sign panels and all structural members shall be painted on all sides and edges with two coats of exterior type matte finish alkyd paint over a suitable primer.
  - 14.5.3 Lettering: Professionally lettered or silk screened using upper case Helvetica Medium typeface or similar. Print size may vary, but must be readable from the curb.
  - 14.5.3 A minimum of one sign(s) shall be located at a prominent location on the lands approved by the County of Brant so as to be seen by prospective purchasers of new homes and local residents.
- 14.6 The Subdivider shall remove the sign within 48 hours after 84% of the residential lots (i.e. 115 of the 136 residential lots) on the **Plan** have been occupied.

## **AUTHORIZATION TO PROCEED WITH CONSTRUCTION**

15. No construction or installation of the **Works** shall commence:
- 15.1 Until after the written approval of the **County Engineer**, and the written approval of the **MECP**, and of the **Conservation Authority** have been given with respect of all of the **Works** as contemplated by paragraphs 10, 11 and 12, respectively;
  - 15.2 Until after the written approval of the Ministry of Citizenship, Culture and Recreation has been given with respect to the completion of an archaeological assessment as required by paragraph 13;
  - 15.3 Until after the sign required by paragraph 14 has been erected to the satisfaction of the **County Engineer**;
  - 15.4 Until a policy of insurance as required in accordance with paragraph 31, 32, 33, 34, 35, 36, 37, 38 and 39 has been given to the **County Engineer**;
  - 15.5 Until the Letter of Credit as required in accordance with paragraph 30 of this Agreement has been furnished to the **County Engineer**;



- 15.6 Until all conveyances, easements and dedications as contemplated by paragraph 24 (easements), paragraph 28 (parkland) and paragraph 29 (dedications) have been granted to the **County** and all easements in respect of all **Works** as contemplated by paragraph 25 (utilities) have been granted to the appropriate public body or agency having jurisdiction and the restrictive covenants contemplated by paragraph 58 have been registered;
- 15.7 Until the legal opinions together with copies of the documents and plan(s) contemplated by paragraphs 1, 2, 3, 4 and 6 have been provided to the **County** to the satisfaction of the **County Solicitor**;
- 15.8 Until the **Subdivider** has paid the funds required by this Agreement to the **County**, the payment of taxes and other outstanding amounts as required by paragraph 70, and the deposit on account of the **County's** costs associated with the **Subdivider's** development of the **Land** as described in paragraphs 68, 71 and 72;
- 15.9 Until the **Subdivider** has complied with the **County's** requirements for initial grading of the Land, with such variations as the **County** may permit and on such terms and conditions as the **County** may see fit, in accordance with the General Grading Plan submitted and approved, as aforesaid, plus or minus 300 millimetres (1 foot) for the General Grading Plan plus or minus 150 millimetres (6 inches) for the park grading plan;
- 15.10 In addition to Clause 15.9, there is a need for the Subdivider to comply with the County's and/or GRCA's requirements for sediment controls to be suitably installed and in place prior to the commencement of works.

but, once, all such matters have been attended to, the **County Engineer** shall, issue a letter of "Authorization to Proceed With Construction" whereupon the **Subdivider** shall cause to be constructed and installed the **Works** on a continuous basis and as quickly as possible and shall complete the **Works**

- (a) to the stage of the issuance by the **County Engineer** of the First Interim Certificate, as contemplated by paragraph 40, within eighteen (18) months of receipt of such Authorization to Proceed With Construction and
- (b) to the stage of the issuance by the **County Engineer** of the Second Interim Certificate, as contemplated by paragraph 43, within thirty-six (36) months of receipt of such Authorization to Commence.

The **Subdivider** may at any time and from time to time seek an extension or extensions of the periods referred to in this paragraph in respect of all or any part or parts of the **Works** and the **County Council** may grant any such request on such terms and conditions as to the **County Council** may see fit to impose.

## **FILL MANAGEMENT**

16. The **Subdivider** acknowledges and agrees that they shall not import or export fill (including topsoil) onto the **Lands** or alter the grade of the **Lands** unless written approval is obtained from the **County** in the form of an approved Site Alteration Permit, Pre-Service Agreement or this Agreement. The **Subdivider** further acknowledges that any and all site alteration or fill (including topsoil) imported onto or exported from the **Lands** will be in accordance with the Fill Management Plan approved by the **County Engineer**.

## **SUPERVISION OF CONSTRUCTION**

17. The construction and installation of the **Works** shall be carried out under the general supervision and direction of the **County Engineer**; notwithstanding that the **Subdivider's** Engineer shall provide full time staff on site to observe construction of the Works. Provided, however, that such general supervision by the **County Engineer** shall not relieve the **Subdivider** of responsibilities for any errors or omissions or from the

**Subdivider's** obligation to construct, install and maintain the **Works** in a good workmanlike and complete manner and in accordance with this Agreement.

## **STANDARD OF WORK AND VARIATIONS**

18. The **Works** shall be constructed and installed strictly in accordance with the approved plans and specifications, in accordance with good engineering practice and to the satisfaction of the **County Engineer**, together with such variations from the approved plans and specifications as may be required by conditions which may be disclosed as the construction and installation of the **Works** progresses and the **Subdivider** shall construct and install the **Works** strictly in accordance with the plans and specifications as so varied and approved by the **County Engineer**.

## **GENERAL MAINTENANCE**

19. Until final acceptance and assumption of the **Works** by a by-law of the **County**, as contemplated by paragraph 56 of said Subdivision Agreement, the **Subdivider** shall maintain or cause to be maintained all of the **Land** in a dust-free, neat and tidy condition and shall carry out or cause to be carried out all weed cutting, debris removal and maintenance of all of the **Land** and shall maintain or cause to be maintained all roads and pedestrian walks within the **Land** free from dust, mud, snow, debris, building materials, any obstructions or waste; all of which shall be done to the satisfaction of the **County Engineer**. The obligations of this paragraph shall be deemed to be part of the **Works** and shall be enforceable as such, for the purposes of this Agreement.

## **MAINTENANCE OF DRAINS**

20. During the installation and construction of the **Works** and until final acceptance and assumption of the **Works** by a by-law of the **County**, as contemplated by paragraph 56 of said Subdivision Agreement, the **Subdivider** shall maintain in working operation and repair all drains in use on the **Land**, whether they be open ditches or buried pipe and whether or not they are part of a municipal drain; and, after the completion of the installation and construction of the **Works**, such drains shall be left in a good, proper and workmanlike repair, save to the extent of any relocation of such drains as part of the **Works**. The obligations of this paragraph shall be deemed to be part of the **Works** and shall be enforceable as such, for the purposes of this Agreement.

## **HAUL ROADS**

21. Until final acceptance and assumption of the **Works** by a by-law of the **County**, as contemplated by paragraph 56 of said Subdivision Agreement, the **Subdivider** shall, for the purpose of minimizing or eliminating danger of damage or inconvenience, direct all or certain construction vehicles or equipment associated with the construction of the **Works** along such streets as are specified by **County Engineer** or, when directed by the **County Engineer**, along such temporary construction roads as are to be constructed and maintained by the **Subdivider**. Until final acceptance and assumption of the **Works** by a by-law of the **County**, as contemplated by paragraph 56 of said Subdivision Agreement, the **Subdivider** shall also repair and maintain in a dust and mud free condition, as the **County Engineer** may direct, **County** roads used by construction vehicles or equipment associated with the construction of the **Works** or in connection with the construction of dwellings on the **Land**, whether or not the dwelling construction is being undertaken by the **Subdivider** or by others. In the event that any such construction vehicles and equipment use **County** streets or other access ways not specified by the **County Engineer** under this paragraph, in addition to any other remedy which the **County** may have against the **Subdivider** for breach of this Agreement, the **County Engineer** may;

21.1 Order the **Subdivider** to rectify any damage done as a result of any such the contravention of this paragraph, and

21.2 Prohibit access to the **Land** by any offending vehicle or equipment otherwise than on such conditions as the **County Engineer** may impose, including payment to the **County** of the **County Engineer's** estimate of the cost of rectifying any damage or potential damage which may have been done by the offending vehicle or equipment which cost of rectification may

include costs of investigation to determine the identity of those contravening this paragraph.

The obligations of this paragraph shall be deemed to be part of the **Works** and shall be enforceable as such, for the purposes of this Agreement.

## WARNING CLAUSES

22. The **Subdivider** shall include the following warning clauses in the purchase and sale agreements for the Lots:

*“Purchasers/tenants are advised that*

- a) That no alteration of the drainage plan for the property or surrounding properties is permitted without the express written approval of the County;*
- b) That no buildings or structures, including but not limited to any dwelling, accessory structure, fence, swimming pool, shall be erected on or over any easement required due to this Development; and*
- c) That the purchaser on occasion may be subject to noise, odour and dust of agricultural origin due to the proximity of an existing agricultural operation.*

## NOISE WARNING CLAUSES

23. The **Subdivider** shall include the following warning clauses in the purchase and sale agreements for the Lots:

*“Purchasers/tenants are advised that*

- a) That purchasers/tenants be advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment Conservation and Parks.*
- b) That the purchasers/tenants be advised that the dwelling unit has been fitted with a forced air heating system and the ducting etc., which was sized to accommodate central air conditioning that will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the criteria of the Municipality and the Ministry of the Environment Conservation and Parks.*
- c) That the purchasers/tenants are advised that there is noise attenuation located on the property. No alteration of the acoustical shield for the property or surrounding properties, and/or building or buildings, is permitted without the express written approval of the **County**. Furthermore, the maintenance and replacement of any acoustical shielding shall be at the sole cost and responsibility of the landowner.”*

## EASEMENTS

24. The **Subdivider** shall, at no cost to the **County**, provide all easements necessary in connection with the construction and installation of the **Works**. Such easement or easements shall be subject to the approval of the **County Engineer** as to location and width. Construction and installation of any **Works** on or in connection with such easement or easements shall not commence until the easement or easements have been acquired by the **County** and legal opinions contemplated by paragraph 4 have been provided to the **County**.

## UTILITIES

25. The **Subdivider** shall arrange to have, Energy Plus Inc., Hydro One, Bell Canada, Union Gas, the locally authorized TV cable operator and such other persons as the **County** may designate, design and install, at no cost to the **County**, all necessary electrical, telephone, fuel, communication and other utilities or service distribution systems, which systems are to be installed underground where possible and in such

locations as the **County Engineer** shall designate in accordance with standard servicing procedure. The **Subdivider** shall provide and grant by Deed or Transfer, for nominal consideration, to Energy Plus Inc., Bell Canada, Union Gas, the locally authorized TV cable operator and to such other persons mentioned above, such easements as may be reasonably necessary for such utilities or distribution systems or as may be required by the **County Engineer** for such purposes. The **Subdivider** shall obtain and submit to the County confirmation in writing from such suppliers that their requirements have been satisfied. The **Subdivider** acknowledges and agrees that the **Subdivider's** obligations hereunder to construct, install, maintain and repair the **Works** includes the replacement or repair of any of the **Works** which are damaged or altered in connection with the installation of any such utilities or distribution systems.

## UTILITIES CO-ORDINATION

26. The **Subdivider** shall co-operate with Bell Canada, Energy Plus Inc., Hydro One, Union Gas, the local TV cable operator and such other utility companies as the **County** may designate, so that all **Works** shall be coordinated as much as possible with the installation of any other utilities that may be installed in or on the **Land**. The **Subdivider** agrees to pay the cost of relocating and repairing any existing services where such relocation or repair is made necessary by reason of **Works** and, in this connection, the **Subdivider** shall adjust all road grades, the grade of any affected water service boxes, valves, hydrants and valve chambers as may be required by the **County Engineer** until the **County** has assumed the **Works** by a by-law, as contemplated by paragraph 56 of said Subdivision Agreement.

## DEVELOPMENT CHARGES

27. The **Subdivider** shall pay to the **County** development charges in connection with the subdivision of the **Land** in accordance with the **County's** Development Charges By-law applicable to the **Land** and in force from time to time as and when applications for building permits are made for the buildings and structures on the lots and blocks shown on the **Plan**; and the parties agree that, notwithstanding any provision to the contrary in the **County's** Development Charges By-law, no development charge with respect to water supply services, storm sewer services, transportation services and electrical and energy services, and sanitary waste disposal will be payable at the time of the execution and delivery of this Agreement.

## PARKLAND

28. The **Subdivider** shall, at its expense, install a chain-link fence along the rear of Lots 75 to 80 (inclusive) to the satisfaction of the County. The **Subdivider** shall, at its expense, install a chain-link fence on both sides of the Block 100 (Walkway) and install signage and construct a paved pathway, all to the satisfaction of the County.

28.1 The **Subdivider** shall include the following warning clauses in the purchase and sale agreements for the lots and blocks abutting the Block 67, 2M-1948 which shall identify the existence of an active municipal park. The warning clause shall inform the owners of the said residences of the following and to the effect that:

- a) *"That by purchasing this residence, you the owner understand and agree that your prospective real estate is located next to an active municipal park, complete with playing fields, maintenance equipment, players/spectators, etc., and by purchasing this real estate, you willingly acknowledge and accept any/all potential conflicts.*
- b) *That the purchasers/tenants be advised that no access gate shall be permitted from the rear of the lots onto the Park Block".*

## DEDICATIONS

29. The **Subdivider** shall, at its expense, and immediately after the registration of the **Plan**, convey to the **County** in fee simple, free and clear of all liens and encumbrances,

29.1 Block 100 (Walkway);

## 29.2 Blocks 101 to 114 inclusive (0.3 Reserves)

as shown on the **Plan**; and the **Subdivider** hereby demises, releases and forever discharges the **County** from any and all claims for compensation for or the return of such land for any reason.

### IRREVOCABLE LETTERS OF CREDIT

30. Forthwith upon the **County Engineer's** approval of the plans, specifications, contracts, schedules and cost estimates plans, and the General Grading Plan and before the **County Engineer** issues the letter of Authorization to Proceed With Construction contemplated in paragraph 15, the **Subdivider** shall lodge with the **County Engineer** two (2) Irrevocable Commercial Letters of Credit, from a chartered bank in substantially the form set out in Schedule "H" hereto, or such other security satisfactory to the **County** guaranteeing payment of at least an amount which is equal to 85% of the estimated cost of the internal **Works** as approved, as aforesaid, which Letter of Credit shall be for the purpose of securing the faithful performance of all of the obligations of the **Subdivider** under this Agreement. Such Letter of Credit shall not at any time be less than Ten (10%) Percent of the value of the **Works** or TWENTY-FIVE THOUSAND, (\$25,000.00) DOLLARS, whichever is greater. All such security shall be in a form and nature that is to the satisfaction of the **County Engineer**; and all such security shall be for the purpose of securing faithful performance of all of the obligations of the **Subdivider** under this Agreement.

### INSURANCE

#### 31. Insurance

Prior to the registration of the **Plan** and the execution of this Agreement, the **Subdivider** shall purchase and maintain insurance against all damages or claims for damage with a financially sound and reputable insurance company satisfactory to the **County** and continue to maintain such insurance until an Assumption By-law has been passed by the **County**. The **Subdivider** shall provide a Certificate of Insurance to the **County** evidencing the insurance coverage required prior to the registration of the **Plan** and the execution of this Agreement and prior to the commencement of any of the **Works** and hereafter annually on the insurance renewal date.

The **Subdivider's** insurance shall be primary.

The insurance premium for the required insurance must be prepaid for a period of not less than one (1) year. The insurance policy must provide that it is not cancellable unless prior notice by mail has been received by the **County** from the insurer not less than thirty (30) days prior to the cancellation date.

All parties must agree to immediately notify the other parties of any occurrence, incident, or event which may reasonably be expected to expose any of the parties to liability of any kind in relation to the development of the Subdivision.

The issuance of such insurance policy or policies shall not be construed as relieving the **Subdivider** from responsibility for any other or larger claims in excess of such policy or policies, if any, for which the **Subdivider** may be held responsible. Such insurance policy or policies shall be in a form acceptable to the **County** and, without limiting the generality of the foregoing, shall provide the following.

#### 32. Commercial General Liability Insurance

Commercial General Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than \$5,000,000.00 per occurrence, an aggregate limit of not less than \$10,000,000.00 within any policy year, with respect to completed operations and a deductible of not more than \$100,000.00. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy including SEF 94 and SEF 96 with minimum limits of \$2,000,000.00 per occurrence. This policy shall name "**The Corporation of the**

**County of Brant**” as an additional insured and shall include but not be limited to coverage as follows:

- (a) Cross-liability and severability of interest
- (b) Blanket Contractual
- (c) Products and Completed Operations
- (d) Premises and Operations Liability
- (e) Personal Injury Liability
- (f) Contingent Employers Liability
- (g) Owners and Contractors Protective
- (h) Broad Form Property Damage
- (i) The policy shall include 30 days’ notice of cancellation.

33. Explosion, Collapse or Underground Endorsement

Where the description of the project, supply or work involves the use of explosives for blasting or vibration from pile driving or caisson work or underpinning; The removal or weakening of support of such property, building or land, whether such support be natural or otherwise, Explosion, Collapse or Underground (XCU) coverage’s must be added by endorsement. This policy shall name “**The Corporation of the County of Brant**” as an additional insured.

34. Automobile Liability Insurance

Automobile Liability insurance covering third party property damage and bodily injury, including accident benefits as may be required by applicable laws arising out of any licensed vehicle owned or leased by the **Subdivider** in connection with this agreement with an inclusive limit of liability of two million dollars (\$2,000,000.00).

35. Professional Liability Insurance

Should the work involve professional design, the **Subdivider** shall ensure that any Professionals hired shall carry Professional Liability Insurance in the amount not less than \$2,000,000.00 providing coverage for acts, errors and omissions arising from their professional services performed under this Agreement. The policy SIR/deductible shall not exceed \$100,000 per claim and if the policy has an aggregate limit, the amount of the annual aggregate shall be in an amount of not less than \$4,000,000.00. The policy shall be underwritten by an insurer licensed to conduct business in the Province of Ontario and acceptable to the **County**. The policy shall be renewed for 3 years after Agreement termination. A certificate of insurance evidencing renewal is to be provided each and every year. If the policy is to be cancelled or not renewed for any reason, 30 days notice of said cancellation or non-renewal must be provided to the **County**. The **County** has the right to request that an Extended Reporting Endorsement be purchased by the **Subdivider’s** Professional at its sole expense.

36. Environmental Liability

Environmental Liability Insurance with a minimum limit of \$5,000,000.00 per occurrence, to cover injury to or physical damage to tangible property including loss of use of tangible property, or the prevention, control, repair, cleanup or restoration of environmental impairment of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual release. The policy shall include bodily injury, including sickness, disease, shock, mental anguish, and mental injury. The policy is to be renewed for 3 years after project completion and a Certificate

of Insurance evidencing renewal shall be filed with the **County**. If the policy is to be cancelled or non-renewed for any reason, 30 days notice of said cancellation or non-renewal must be provided to the **County**. The **County** has the right to request that an Extended Reporting Endorsement be purchased by the **Subdivider** at the **Subdivider's** sole expense.

37. Primary Coverage

The **Subdivider's** insurance shall be primary coverage and not additional to and shall not seek contribution from any other insurance policies available to the **County**.

38. Certificate of Insurance

The **Subdivider** shall provide a Certificate of Insurance evidencing coverage in force at least 10 days prior to commencement of any of the **Works** pursuant to this Agreement and annually thereafter for the entire duration of the agreement.

39. Indemnification

The **Subdivider** shall defend, indemnify and save harmless THE CORPORATION OF THE COUNTY OF BRANT, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or wilful misconduct of the **Subdivider**, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Agreement. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the **Subdivider** in accordance with this Agreement, and shall survive this Agreement.

## FIRST INTERIM COMPLETION CERTIFICATE

40. Upon completion of all aspects of those services mentioned in Schedule "F" which are to be installed or constructed underground as well as the road subbase, road base, curb and gutter and the application of a base course of asphalt upon all roads, the installation of street signs and traffic control measures in accordance with Schedule "F" attached to this Agreement and otherwise in form and substance satisfactory to the **County**, the **Subdivider** or the **Subdivider's** Engineer shall apply to the **County** for the issuance of a First Interim Completion Certificate and apply for a further partial release of security. The First Interim Completion Certificate shall include a certification in substantially the form set out in Schedule "I" and shall be accompanied by:

40.1 A progress certificate issued by the **Subdivider** or the **Subdivider's** Engineer as to the value of that part of the **Works** that have been installed, constructed and erected to the date of the certificate and as to the value of the uncompleted part of the **Works**;

40.2 A Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** to the date of the progress certificate referred to in clause 40.1 have been paid and that there are no outstanding claims relating thereto; and

40.3 Red-line-as-built drawings must be submitted to the **County** prior to any partial release of security.

40.4 Individual Lot Servicing Connection Records.

40.5 Provide material testing results for works described in Section 32 (water commissioning, pressure and continuity testing and road – granular

compaction, asphalt material testing, etc.) CCTV videos to be provided for storm and sanitary mainlines and associated air and mandrell testing.

Upon the **County Engineer** satisfactorily confirming completion of the underground services and road base, as aforesaid, and the value of the uncompleted part of the **Works**, the **County Engineer** shall issue a First Interim Completion Certificate with respect to the **Works** and the **County** shall release to the **Subdivider** such amount of the security given hereunder as, in the **County Engineer's** opinion, is necessary, to secure the completion of the remaining part of the **Works** and the proper maintenance and repair of the **Works**.

The amount of the Letter of Credit shall not be reduced to less than TWENTY-FIVE THOUSAND (\$25,000.<sup>00</sup>) DOLLARS or TEN (10) percent of the value of the **Works**, whichever is greater, until the **County** has finally accepted the **Works** by a by-law, as contemplated by paragraph 56 of said Subdivision Agreement.

#### **PARTIAL RELEASE OF SECURITY**

41. At any time after the **County Engineer** has issued the First Interim Completion Certificate, as contemplated by paragraph 40, and, if at that time the **Subdivider** is not in default under this Agreement, the amount of the Letter of Credit may be reduced from time to time to an amount which, in the opinion of the **County Engineer**, is adequate to secure the faithful performance of the remaining obligations of the **Subdivider** hereunder; provided that no reduction in the Letter of Credit shall be made until there is first filed with and approved by the **County Engineer**;

41.1 A progress certificate issued by the **Subdivider** or the **Subdivider's** Engineer as to the value of that part of the **Works** that have been installed, constructed and erected to the date of the certificate and as to the value of the uncompleted part of the **Works**, and

41.2 A Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** to the date of the progress certificate referred to in clause 41.1 have been paid and that there are no outstanding claims relating thereto; and

41.3 Red-line-as-built drawings must be submitted to the **County** prior to any partial release of security.

The amount of the Letter of Credit shall not be reduced to less than TWENTY-FIVE THOUSAND (\$25,000.<sup>00</sup>) DOLLARS or TEN (10) percent of the value of the **Works**, whichever is greater, until the **County** has finally accepted the **Works** by a by-law, as contemplated by paragraph 56 of this Agreement.

#### **SNOW REMOVAL**

42. After the issuance by the **County Engineer** of the First Interim Certificate, the **County** may but is under no obligation to remove, at the **Subdivider's** expense, snow from the roads, but the doing of such work by the **County** shall not amount to a waiver of its rights to require completion, maintenance or repair of the roads as required by this Agreement nor shall the **County** be deemed to have accepted or assumed such roads.

#### **SECOND INTERIM COMPLETION CERTIFICATE**

43. Upon the completion of all aspects of the **Works** except the final course of asphalt on the streets within the **Plan**, the **Subdivider** may apply to the **County** for the issuance of a Second Interim Completion Certificate and apply for a further partial release of security. The Second Interim Completion Certificate shall include a certification in substantially the form set out in Schedule "I" and shall be accompanied by:

43.1 A progress certificate issued by the **Subdivider** or the **Subdivider's** Engineer as to the value of that part of the **Works** that have been installed, constructed and erected to the date of the certificate and as to the value of the uncompleted part of the **Works**;



- 43.2 A Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** to the date of the progress certificate referred to in clause 43.1 have been paid and that there are no outstanding claims relating thereto;
- 43.3 Red-line-as-built drawings must be submitted to the **County** prior to any partial release of security; and
- 43.4 An application for a Second Interim Completion Certificate cannot be submitted until the First Completion Certificate Works have been accepted.
- 43.5 Provide material testing associated with the works described in Section 35.

Upon the **County Engineer's** satisfactorily confirming completion of the **Works**, other than the final course of asphalt on the streets, the **County Engineer** shall issue a Second Interim Completion Certificate of the **Works** and the **County** shall release to the **Subdivider** such of the security given hereunder as, in the **County Engineer's** opinion, is no longer required, retaining such part thereof as is necessary, in the opinion of the **County Engineer**, to secure completion of the remaining part of the **Works** and the proper maintenance and repair of the **Works** for the **Warranty Period** hereinafter mentioned.

The amount of the Letter of Credit shall not be reduced to less than TWENTY-FIVE THOUSAND (\$25,000.<sup>00</sup>) DOLLARS or TEN (10) percent of the value of the **Works**, whichever is greater, until the **County** has finally accepted the **Works** by a by-law, as contemplated by paragraph 56 of this Agreement.

### **THIRD INTERIM COMPLETION CERTIFICATE**

44. Once dwellings have been constructed on a minimum of 100% of the residential lots, or as approved by the **County Engineer**, as shown on the **Plan**, and such dwellings have been occupied other than the permits issued for Model Homes, then, upon completion of the balance of all remaining aspects of the **Works**, the **Subdivider** may apply to the **County** for the issuance of a Third Interim Completion Certificate and apply for a further partial release of security. The Third Interim Completion Certificate shall include a certification in substantially the form set out in Schedule "I" and shall be accompanied by:

- 44.1 A progress certificate issued by the **Subdivider** or the **Subdivider's** Engineer as to the value of that part of the **Works** that have been installed, constructed and erected to the date of the certificate and as to the value of the uncompleted part of the **Works**;
- 44.2 A Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** to the date of the progress certificate referred to in clause 44.1 have been paid and that there are no outstanding claims relating thereto; and
- 44.3 Red-line-as-built drawings must be submitted to the **County** prior to any partial release of security.

Upon the **County Engineer's** satisfactorily confirming completion of all aspects of the **Works**, the **County Engineer** shall issue a Third Interim Completion Certificate of the **Works** and the **County** shall release to the **Subdivider** such of the security given hereunder as, in the **County Engineer's** opinion, is no longer required, retaining such part thereof as is necessary, in the opinion of the **County Engineer**, to secure the proper maintenance and repair of the **Works** for the **Warranty Period** hereinafter mentioned.

The amount of the Letter of Credit shall not be reduced to less than TWENTY-FIVE THOUSAND (\$25,000.<sup>00</sup>) DOLLARS or TEN (10) percent of the value of the **Works**, whichever is greater, until the **County** has finally accepted the **Works** by a by-law, as contemplated by paragraph 56 of this Agreement.

## WARRANTY PERIOD

45. The **Subdivider** shall be responsible for the installation and maintenance of services as follows:

- 45.1 **First Interim Completion Certificate:** The **Subdivider** shall maintain and repair the **Works** for the First Interim Completion Certificate a period of a minimum of two (2) years commencing on the date of the issuance by the **County Engineer** of the First Interim Completion Certificate, continuing until the **County** shall have accepted the First Interim Completion Certificate, by by-law, as provided in paragraph 56 (hereinafter and hereinbefore referred to as the "**Warranty Period**"); and the **Subdivider** shall repair any and all defects in the **Works** which shall become apparent within the **Warranty Period**.
- 45.2 **Second Interim Completion Certificate:** The **Subdivider** shall maintain and repair the **Works** for the Second Interim Completion Certificate a period of a minimum of two (2) years commencing on the date of the issuance by the **County Engineer** of the Second Interim Completion Certificate, continuing until the **County** shall have accepted the Second Interim Completion Certificate, by by-law, as provided in paragraph 56 (hereinafter and hereinbefore referred to as the "**Warranty Period**"); and the **Subdivider** shall repair any and all defects in the **Works** which shall become apparent within the **Warranty Period**.
- 45.3 **Third Interim Completion Certificate:** The final lift of asphalt shall not be placed until the underground services have been assumed by by-law, 100% of the residential units have been built and occupied other than the permits issued for Model Homes and the **County Engineer** has authorized the placement of surface asphalt. The **Subdivider** shall maintain and repair the **Works** for the Third Interim Completion Certificate a period of a minimum of two (2) years commencing on the date of the issuance by the **County Engineer** of the Third Interim Completion Certificate, continuing until the **County** shall have accepted the Third Interim Completion Certificate, by by-law, as provided in paragraph 56 (hereinafter and hereinbefore referred to as the "**Warranty Period**"); and the **Subdivider** shall repair any and all defects in the **Works** which shall become apparent within the **Warranty Period**. Thereafter the **Subdivider** may apply under paragraphs 56 and 57 for the final assumption of all **Works**.

## USE BY COUNTY

46. The **Subdivider** agrees that:

- 46.1 The **County** or any other authorized person may use the **Works** for the purpose for which they are designed, notwithstanding that such **Works** may not have been provisionally or finally accepted by the **County**;
- 46.2 Such use shall not be deemed an acceptance of the **Works** by the **County**; and
- 46.3 Such use shall not in any way relieve the **Subdivider** of the obligation to construct, install, maintain and repair the **Works** so used.

## CONSTRUCTION LIEN

47. The **Subdivider** shall pay promptly those employed in the construction, installation, maintenance and repair of the **Works**, but shall hold back such sums as are required to be held back by the *Construction Lien Act*. The **Subdivider** shall indemnify the **County** against any claims, actions or demands for construction liens or otherwise in connection with the **Works**; and, on the demand by the **County**. The **Subdivider** shall forthwith discharge any such lien or any certificate of action which may be registered against the **Works** or the **Land**.

## RIGHT OF INSPECTION

48. The **County Engineer**, and his duly authorized representatives, shall have the right at any time and from time to time to enter upon the **Land** and other land upon which any of the **Works** are or are to be constructed or installed, and to make or call for such tests and inspections as to the **County Engineer** may seem desirable, and to make and to call for and obtain any document, contract, plan, specification, record or other writing or thing which, in the **County Engineer's** opinion, may be desirable to obtain in order to facilitate such inspection and supervision, and, if the **County Engineer** shall deem it necessary, to engage technical consultants to assist him in the performance of any inspection or supervision which technical consultants, if engaged, shall be paid by the **Subdivider**.

## ORDERS

49. If the **County Engineer** is not satisfied that the installation, construction, maintenance or repair of the **Works** is being done in accordance with the approved plans and specifications or in accordance with good engineering practice, the **County Engineer** may stop the work for any length of time until he is so satisfied; and, if the **County Engineer** deems that the work is not proceeding in a proper manner, he may stop the work and require that another contractor be placed on the job to complete such work and all costs incurred by the **County** in so doing shall be paid by the **Subdivider**, forthwith upon demand by the **County**.

## REMEDIES

50. In addition to any other remedy which the **County** may have against the **Subdivider** for breach of this Agreement, the **County**, at its option, may adopt and pursue any one or more or all of the following remedies:

50.1 Enter and re-enter the **Land** and complete any part of all of the **Works** in respect of which there has been default, including the repair, reconstruction and replacement of faulty work and materials, and may recover the cost of so doing from the **Subdivider**;

50.2 Make any payment which ought to have been made by the **Subdivider** and recover the amount thereof from the **Subdivider**;

50.3 Do any other thing required of the **Subdivider** by this Agreement and recover the cost of so doing from the **Subdivider**;

provided that the **County** shall give the **Subdivider** at least five (5) business days prior notice, except in cases of the **Works** not functioning or not functioning properly, so that in the opinion of the **County Engineer** action is immediately necessary to prevent damage or hardship to persons or property, in which case no prior notice need be given; or in the case of a default under paragraphs 19, 20, 21 and 58 of this Agreement where the **County** shall give the **Subdivider** at least twenty-four (24) hours prior notice; and it is understood and agreed by the parties that the entry upon the **Land** by the **County** or the doing of anything by the **County** as authorized by this paragraph shall be as agent for the **Subdivider** and shall not be deemed an acceptance of the **Works** by the **County** and shall not in any way relieve the **Subdivider** of the obligations of this Agreement; and the **Subdivider** covenants and agrees that neither it nor any of its agents, servants, officers or contractors shall interfere in any way with anything done or authorized to be done pursuant to this paragraph by the **County**.

## COURT ACTION

51. In addition to any other remedy which the **County** may have against the **Subdivider** for breach of this Agreement, the **County** may bring action to restrain or to compel specific performance of all or any part of this Agreement and for damages.

## BUILDING PERMIT REMEDY

52. In addition to any other remedy which the **County** may have against the **Subdivider** for breach of this Agreement, the **County** may refuse or may withdraw any building permit or permits that have been granted to the **Subdivider** or to any other

person, providing such other person has not commenced construction, and may refuse to issue any further building permits until the **Subdivider's** default has been rectified.

### **REALIZING UPON SECURITY**

53. In addition to any other remedy which the **County** may have against the **Subdivider** for breach of this Agreement, after first giving five (5) days' notice to the **Subdivider**, the **County** may, at any time and from time to time, realize upon and enforce any security available to it and use the funds derived therefrom to pay the cost of doing any work or thing in respect of which the **Subdivider** is in default, or to recover such costs if the **County** has done such work or thing prior to realizing upon and enforcing the security. Similarly, the **County** may recover any money which it has paid and which the **Subdivider** ought to have paid or any money which is otherwise due to the **County** from the **Subdivider** under the terms of this Agreement. If the funds derived from the security exceed the amount due to the **County**, the excess shall be refunded to the **Subdivider** upon final acceptance and assumption of the **Works** by a by-law as contemplated by paragraph 56 of said Subdivision Agreement; but, if there is a deficiency, the same shall be recoverable from the **Subdivider** forthwith upon demand. In addition to any other amounts payable to the **County** under the terms of this Agreement, whenever the **County** may recover amounts from the **Subdivider** in connection with the enforcement of the **County's** rights under this Agreement the **County** shall also be entitled to recover from the **Subdivider** an administration fee at the same rate as the rate charged, at such time, by the **County Engineer** to the **County** for administrative services.

### **CALL ON LETTER OF CREDIT**

54. In the event that notice is received by the **County** that the Letter of Credit required pursuant to paragraph 30 will not be renewed or will be revoked or will otherwise expire or terminate, the **County** may, at any time and from time to time, demand that all or any part of the funds available under such Letter of Credit be paid to the **County** and, when so paid, the same shall be placed in a separate interest bearing account in the name of the **County** which account, together with any interest thereon, shall stand as additional security for the performance of the **Subdivider's** obligations under this Agreement and the provisions of this Agreement regarding the release of the Letter of Credit security shall apply *mutatis mutandis* to the release of funds out of the said separate account to the **Subdivider**.

### **REPLACEMENT OF LETTER OF CREDIT**

55. Where any payment is demanded or made under the Letter of Credit, the **Subdivider** shall forthwith cause a new Letter of Credit to be issued to reinstate the amount secured by such Letter of Credit in the same amount as was available under the Letter of Credit prior to the demand or making of the payment thereunder.

### **ASSUMPTION OF WORKS**

56. Upon completion of the installation, construction, maintenance and repair of the **Works**, including all maintenance and repair required during the **Warranty Period**, the **Subdivider** shall:

56.1 For the assumption of works in the First Interim Completion Certificate:

56.1.1 Submit to the **County Engineer** for a First Interim Final Completion Certificate certifying that all **Works** hereby required to be performed have been fully and completely installed, constructed, maintained and repaired, in accordance with the approved plans and specifications and in accordance with this Agreement;

56.1.2 Furnish to the **County Engineer** a certificate of completion issued by a Professional Engineer employed pursuant to paragraph 6 in substantially the form set out in Schedule "I";

56.1.3 Furnish to the **County Engineer** a Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation,

construction, maintenance and repair of the **Works** have been paid and that there are no outstanding claims relating thereto;

56.2. For the assumption of works in the Second Interim Completion Certificate:

56.2.1 Submit to the **County Engineer** for a Second Interim Final Completion Certificate certifying that all **Works** hereby required to be performed have been fully and completely installed, constructed, maintained and repaired, in accordance with the approved plans and specifications and in accordance with this Agreement;

56.2.2 Furnish to the **County Engineer** a certificate of completion issued by a Professional Engineer employed pursuant to paragraph 6 in substantially the form set out in Schedule "I";

56.2.3 Furnish to the **County Engineer** a Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** have been paid and that there are no outstanding claims relating thereto

56.3. For the assumption of works in the Third Interim Completion Certificate:

56.3.1 Submit to the **County Engineer** for a Subdivision Final Completion Certificate certifying that all **Works** hereby required to be performed have been fully and completely installed, constructed, maintained and repaired, in accordance with the approved plans and specifications and in accordance with this Agreement;

56.3.2 Furnish to the **County Engineer** a certificate of completion issued by a Professional Engineer employed pursuant to paragraph 6 in substantially the form set out in Schedule "I";

56.3.3 Furnish to the **County Engineer** a Statutory Declaration of a duly authorized senior officer of the **Subdivider** declaring that all accounts that are payable in connection with the installation, construction, maintenance and repair of the **Works** have been paid and that there are no outstanding claims relating thereto;

56.3.4 Furnish to the **County Engineer** a certified statement of a licensed Ontario Land Surveyor that such Ontario Land Surveyor has found or replaced all standard iron bars as shown on the **Plan** at a date not earlier than thirty (30) days before the submission to the **County** for the Final Completion Certificate;

56.3.5 Furnish to the **County Engineer** a Certificate from a licensed Professional Engineer employed pursuant to paragraph 6, certifying that, on a date not earlier than thirty (30) days before the submission to the **County Engineer** for the Final Completion Certificate that:

56.3.5.1. Such Professional Engineer took such elevations on the **Land** as were necessary to determine whether the elevations and grades were on that date in accordance with the General Grading Plan, within 8 centimetres (3 inches), and that, on that date, the **Land** had been graded so that the slope was uniform between adjacent elevations; and

56.3.5.2. All stormwater management systems in place have been constructed in general conformity with the approved plans and specifications or as documented and approved by engineer/geologist/hydrogeologist;

56.3.6 Furnish to the **County Engineer** a digital copy and three (3) hard copy sets of drawings showing the **Works** "as built"; and

56.3.7 Furnish to the **County Engineer** a computer data file to incorporate the development's parcel fabric into the Ontario Base Mapping, which data file shall be provided to the **County Engineer** in the following format:

An AutoCAD file compatible with the latest official version of the software, in DWG or DXF format acceptable to the **County**. The file should only contain linework of the boundary, street, lots and blocks, easements, as well as lot numbers, street names, civic addresses, watermain and appurtenances, sanitary sewers and appurtenances and all stormwater management systems and appurtenances. The file must be delivered on a standard compact disk (CD). The file delivered to the **County** shall be in metric units and relate to the NAD 83 coordinates, UTM grid, Zone 17 and contain only UTM coordinates such that the file can be directly overlaid on the mapping with no scaling or further adjustment. To this end, the **Subdivider** shall supply the field notes and raw data showing the ties to control.

## FINAL COMPLETION CERTIFICATE

57. Within ninety (90) days after the submission for the First Interim Final Completion Certificate, Second Interim Final Completion Certificate and Subdivision Final Completion Certificate, together with all else required as contemplated by paragraph 56, the **County Engineer** shall, either:

- 57.1. Confirm the First Interim Final Completion Certificate, Second Interim Final Completion Certificate or Subdivision Final Completion Certificate and issue a Certificate of Final Acceptance for the appropriate certificate, or
- 57.2. Issue to the **Subdivider** a statement of deficiencies in the grading, including any stormwater management systems, whether or not the **Subdivider** is then the owner of the **Land** in respect of which there is a deficiency, and of the deficiencies in the construction, installation, maintenance, or repairs of the **Works** and, upon the **Subdivider** rectifying all of such deficiencies to the complete satisfaction of the **County Engineer**, the **County Engineer** shall issue a Certificate of Final Acceptance for the appropriate certificate;

whereupon the **County** shall, within sixty (60) days enact a by-law assuming ownership of the **Works** thereby terminating the **Warranty Period**; and such security as is then retained by the **County** shall be released to the **Subdivider**.

## LOT GRADES AND STORMWATER MANAGEMENT SYSTEMS

58. The **Subdivider** shall, at all times, maintain or cause to be maintained the elevations and grades and any stormwater management systems, on all lots and blocks as shown on the **Plan** in accordance with the General Grading Plan which has been approved in accordance with this Agreement; and as well, the **Subdivider** shall include in all Agreements of Purchase and Sale a requirement that any purchaser from it covenant likewise in favour of the **Subdivider** and the **County** in a form which is enforceable by the **County** against such purchaser and any and all subsequent owners and occupiers of the lot or block. The **Subdivider** shall, forthwith after registration of the Plan, register a restrictive covenant against all lots and blocks as shown on the Plan which shall prohibit any subsequent owner from altering the elevations and grades and infiltration galleries from that set out in the General Grading Plan.

## DEVELOPMENT CONTROL

59. As a condition of the development or redevelopment of any lot within the **Plan**; the provision, maintenance and use of the following facilities and matters are required and regulated as follows:

- 59.1. The owner of each lot shall provide and maintain a paved parking area on the lot and a paved driveway from the travelled portion of the street from which access to the lot is permitted to such parking area on the lot;

- 59.2. The owner of each lot shall connect the dwelling to the sanitary sewer private drain connection (P.D.C.) located at the property line in accordance with the **County's** specification for sewer installations.
- 59.3. Pending construction of a dwelling, the owner of each lot shall ensure that the sanitary sewer P.D.C. provided to service the lot remains capped and water tight until the dwelling has been constructed to the stage of being fully enclosed;
- 59.4. The owner of each lot shall install a foundation drainage system and sump pump in conformance with the Ontario Building Code;
- 59.5. No owner of a lot shall directly connect any foundation drainage system to the municipal sanitary sewer system;
- 59.6. No owner of a lot shall directly connect roof drains, including roof leaders and/or down spouts, to the municipal storm sewer system, and/or the municipal sanitary sewer system;
- 59.7. The owner of each lot shall ensure that roof drains, including roof leaders and/or down spouts, discharge to a ground level concrete splash pad on the outside of the dwelling and that surface water drainage patterns associated with splash pads receiving roof drainage are such that the water flows away from all buildings to avoid ponding or seepage into the foundation collector systems.
- 59.8. The owner of each lot as may be designated by the **Subdivider's Engineer** shall provide and maintain all stormwater management systems in accordance with the requirements established by the **Subdivider's Engineer**.
- 59.9. The owner of each lot shall provide and maintain on the lot all walls, fences, hedges or other suitable ground cover to provide adequate landscaping of the lot.
- 59.10. The owner of each lot shall maintain that portion of the street from which access to the lot is available between the lot line and the travelled portion of the street and keep in good order and repair those landscape elements specified in paragraph 18 of the **Works** as described in Schedule "F" which are located on that lot;
- 59.11. The owner of each lot shall affix their assigned municipal number to the main dwelling on the lot, a minimum of 12 centimetres (5 inches) in height and clearly visible from the road, all in accordance with the **County's** municipal addressing policies;
- 59.12. The owner shall maintain or cause to have maintained all weeds on each lot in accordance with Sections 3, 16 and 23 of the *Weed Control Act*.
- 59.13. The owner of each lot shall prepare and submit for review and approval to the **County Chief Building Official**, or his designate, at the time of building permit application, a detailed site plan prepared by a Professional Engineer showing the location and dimensions of all buildings and structures to be erected upon the lot;
- 59.14. The owner of each lot shall submit for review and approval to the **County, Chief Building Official**, or his designate, with the site plan referred to in clause 59.13, a General Grading Plan issued by a Professional Engineer employed pursuant to paragraph 8, certifying that the proposed grading and appurtenant drainage works comply with sound engineering design and that the proposed grading, incorporating such stormwater management systems, as may be required by the **Subdivider's Engineer**, is in general conformity with the General Grading Plan which has been accepted in accordance with this Agreement;

59.15. The owner of each lot shall provide to the **County Chief Building Official**, or his designate, a certificate from a licensed Ontario Land Surveyor and a license professional engineer within thirty (30) days after the completion of the building foundations on the lot, and prior to Building Division approved inspection of said foundations prior to backfill, certifying the exact location of all structures and the exact top of foundation elevation of all structures then on the lot and that the same are in conformity with the drainage and grading plan and site plan referred to in clauses 59.13 and 59.14;

59.16. The owner of the lot shall provide to the **County Chief Building Official**, or his designate, a Final Grading Certificate, including a copy of an "as built lot specific grading plan" prepared by a licensed Professional Engineer employed pursuant to paragraph 8 that includes a certification that the lot grades and the location of any stormwater management systems, then on the lot are in conformity with the **County** approved General Grading plan and with the site plan, if any, referred to in clause 59.13 and clause 59.14, respectively, by October 31<sup>st</sup> of such year where the development of the lot is completed by June 30th, or if the development or re-development of the lot is completed after June 30th in any year then by June 30 of the following year. Such certification bearing the signature, date and stamp of the said Professional Engineer shall include the details of size, location, materials and installation of the stormwater management systems to substantiate the statement of compliance.

59.17. The owner of each lot shall install and maintain a Pressure Reducing Valve internally on the water service.

## MAINTENANCE OF LOTS

60. The facilities and works required by paragraph 59 shall be provided and maintained by the owner of each lot from time to time at such owner's sole risk and expense and to the satisfaction of the **County**; and, in default thereof, in addition to any other remedies which may be available to the **County**, the provisions of Section 427 of the *Municipal Act, 2001* shall apply for the purpose of securing rectification of the default.

## SITE PLAN AGREEMENTS

61. The owner of each lot to be developed or redeveloped may be required by the **County** to enter into one or more agreements with the **County** dealing with the provisions and maintenance of the facilities and **Works** referred to in clauses 59.1 to 59.17, inclusive, which agreement or agreements shall be in a form binding upon such owner and all subsequent owners and shall be capable of being registered on title.

## BUILDING PERMITS

62. Aside from a maximum of five (5) premature applications for building permits for model homes, the **Subdivider** shall not apply for, nor shall anyone claiming title from it, or under it or their authority, apply for a building permit to construct a dwelling or any building or structure on any lot or block shown on the **Plan** and no building permit for the development or redevelopment of any lot or block as shown on the **Plan** shall be issued until:

62.1. The **County Engineer** has issued the First Interim Completion Certificate as contemplated by paragraph 40; and

62.2. The site plan referred to in clause 59.13, if required, and the lot grading plan referred to in clause 59.14 have been approved by the **County**; and

62.3. The works described as "Powerline Road West Reconstruction" in Schedule "G" of the registered Scenic Ridge Subdivision Phase 1 Agreement have been completed to the satisfaction of the **County**; and

62.4. The agreement or agreements referred to in paragraph 61 have been entered into not only by the registered owner of the lot in respect of which



the building permit is sought but also by the applicant for the building permit if the applicant is not the owner and the agreement or agreements have been delivered to the **County** and registered on title; and

- 62.5. The holding symbol “h” has been removed from the current zoning only after the subdivision agreement and plan has been signed and registered and compliance with paragraph 63.2 of this agreement and paragraph 10 of Schedule “F” of this agreement.

### **PREMATURE APPLICATIONS FOR BUILDING PERMITS**

63. Notwithstanding the foregoing restriction respecting the application for building permits and the issuance thereof contained in paragraph 62, the **Subdivider**, or anyone claiming title from it, may apply for building permits before the issuance of the First Interim Completion Certificate as follows:

- 63.1. Where the **Subdivider** has constructed and installed the roadways with granular base and has completed matters required by paragraphs 4, 5 and 6 of Schedule “F” of this Agreement, all in accordance with the current **County** specifications, then the **Subdivider** may apply for up to five (5) premature building permits.

No such premature building permit shall be issued until after the **County Engineer** has issued the Authorization to Proceed With Construction as contemplated in paragraph 15; and any such premature building permit will only be issued before the issuance of the First Interim Completion Certificate,

- 63.2. If the holding “h” symbol on the zoning by-law has been removed
- 63.3. if the applicant for the building permit is the registered owner of the lot for which the permit is sought, or if the registered owner of such lot joins with the applicant for such building permit in the undertaking referred in clause 63.4 and
- 63.4. if the applicant for the building permit, together with the registered owner of the lot if the registered owner is not the applicant, undertakes, in writing, that no sanitary sewer, storm sewer or water service connections shall be made and that occupancy of any dwelling unit to be constructed pursuant to the building permit shall not be given until the First Interim Completion Certificate is issued by the **County Engineer**;

and, in connection with the undertaking referred to in clause 63.4, the applicant for a premature building permit shall deposit with the **County** the sum of TEN THOUSAND (\$10,000.00) DOLLARS for each such application for a building permit to secure the undertaking referred to in clause 63.4. In default of such undertaking, in addition to any and all other remedies which may be available to the County, the County may remove any sanitary sewer, storm sewer or water service connections made and the deposit shall be forfeited as the parties genuine estimate of the **County’s** costs associated with discovering any breach of such undertaking and with taking measures to rectify the situation.) If there is no breach of the undertaking then the TEN THOUSAND (\$10,000.00) DOLLARS deposit shall be returned to the applicant for the building permit after the issuance of the First Interim Completion Certificate contemplated by paragraph 40.

### **LIMITED WATER AND SEWAGE CAPACITY**

64. Despite the provisions of paragraphs 62 and 63, the **Subdivider** shall not apply for, nor shall anyone claiming title from it, or under it or their authority, apply for a building permit to construct a dwelling or any building or structure on any lot or block shown on the **Plan** and no building permit for the development or redevelopment of any lot or block as shown on the **Plan** shall be issued unless there is reserved for such development or redevelopment a sufficient supply and conveyance of potable water and sufficient capacity for conveying and treating sewage therefore as determined in accordance with the following provisions:

- 64.1 The **Subdivider** acknowledges that the **Land** is located within an area from which is received for treatment through the Paris Water and Wastewater Treatment Facilities and that such Facilities have limited capacity.
- 64.2 The **Subdivider** acknowledges that the **County** is entitled to limit the period of time during which capacity in the Paris Water and Wastewater Treatment Facilities will be reserved for allocation to lots and blocks as shown on the **Plan** and that it is rational for the **County** to re-allocate such capacity, if it is not used for such lots and block within four (4) years, as verified by the **County Engineer**, in order that the capacity may be used in other areas the owners of which are willing and able to proceed with development.
- 64.3 The **Subdivider** acknowledges that the **County** is only required to supply a water or sewage public utility if there is a sufficient supply and conveyance of potable water and sufficient capacity for conveying and treating sewage, and not otherwise; and that building permits for the development of any of the lots and blocks as shown on the **Plan** will not be available unless there is a sufficient supply and conveyance of potable water for the development and sufficient capacity for conveying and treating the sewage reasonably to be anticipated from such development.
- 64.4 The development of the **Plan** may be staged but, if it is, the staging and the servicing of each of the stages shall be to the satisfaction of the **County**; and, the development of a stage of the **Plan** may proceed when the **County** is satisfied that all services are in place for that stage.
- 64.5 The **County** is authorized to enter upon the lands covered by this agreement to the extent deemed appropriate by the **County** to explore and examine the property for possible sources of domestic water supplies.

#### **MAINTENANCE OF ROADS**

65. If a building permit is issued before the First Interim Completion Certificate is issued by the **County Engineer**, the **Subdivider** shall provide and maintain a base course of asphalt on the roadways in a well-graded dust and mud free condition fit for normal traffic at all times and will provide and maintain street signs and traffic and speed limit signs of a design and in locations specified by the **County Engineer** which signs shall become the property of the **County** upon final assumption of the **Works** by a By-law as contemplated by paragraph 56 of said Subdivision Agreement. The obligations of this paragraph shall be deemed to be part of the **Works**, and shall be enforceable as such, for the purposes of this Agreement.

#### **COVENANTS OF PURCHASERS**

66. The **Subdivider** shall not accept any offer to purchase any lot within the **Plan** unless the **Subdivider** has given to such offeror, prior to the making of such offer, written advice about paragraphs 59 and 62 and its provisions prescribing conditions of development or redevelopment and restricting the application for and issuance of building permits; and as well the **Subdivider** shall require the purchaser to covenant likewise in favour of the **Subdivider** and the **County** in a form which is capable of registration on title and in a form which is enforceable by the **County** against such purchaser and any and all subsequent owners and occupiers of the said lot.

#### **STREETS**

67. The **Subdivider** agrees to dedicate to the **County** the road allowances included in the **Plan** as public highways, and to name such road allowances such street names to the satisfaction of the **County**, and the **Subdivider** agrees to accept the designation by the **County** of municipal civic addressing numbers for the lots on the **Plan**.

#### **MUNICIPAL DRAINAGE**

68. If applicable, the **Subdivider** shall pay to the **County** all costs assessed by the **County Engineer's Report** for the following:

- 68.1. Apportionment of the assessments previously assessed against the parcel of **Land** to be subdivided in accordance with Section 65 of the *Drainage Act*.
- 68.2. Improvement of any municipal drain under Section 78 of the *Drainage Act* for the purposes of providing a proper sufficient outlet for storm water to be disposed from the **Land** as contemplated by the **Works**.
- 68.3. Improvements and works required outside of the plan of subdivision as required.

## **SCHOOL BOARD**

69. No blocks or lots are required be offered to a School Board having jurisdiction for use as a school site in accordance with Section 25.1 of the *Planning Act*.

## **OUTSTANDING TAXES AND OTHER AMOUNTS DUE TO THE COUNTY**

70. Concurrently with the **Subdivider's** execution of this Agreement,

- 70.1. The **Subdivider** shall pay to the **County** any amount of the outstanding municipal taxes on the **Land**; and;
- 70.2. The **Subdivider** shall pay the **County** any amount of the outstanding engineering costs for the preparation of a municipal drainage report in connection with the **Land**.

## **TAXES**

71. The **Subdivider** shall pay all taxes levied on the **Land** in accordance with the assessment thereof until the **Land** have been assessed according to the **Plan**, after which, the **Subdivider** shall pay the taxes levied on any and all lots of which the **Subdivider** is the owner. If there are any existing local improvements or other rates or charges in respect of the **Land**, including any that relate to the construction, maintenance and repair of municipal drains, the **Subdivider** shall commute and prepay the same within ten (10) days after the execution and delivery of this Agreement by the **County**.

## **COUNTY COSTS**

72. Should the **County's** costs exceed the Engineering Administration Fee provided prior to the registration of the Subdivision Agreement, the **Subdivider** is responsible to reimburse the **County** for actual costs. The **Subdivider** shall reimburse the **County** for such actual costs from time to time as and when requested by the **County**.

## **CONFLICT OF REQUIREMENTS**

73. Where there is any conflict between the requirements of the **County** and those of any regulatory body, those of the regulatory body shall prevail unless the requirements of the **County** are more demanding, in which case the **County's** requirements shall prevail; and, in the event of any dispute as to which are more demanding, the **County Engineer's** decision shall be final and binding as between the **Subdivider** and the **County**.

## **EXPENSE OF OWNER**

74. Every provision of this Agreement by which the **Subdivider** is obliged in any way shall be deemed to include the words "at the expense of the **Subdivider**" unless the context specifically requires otherwise.

## **INTEREST AND LIEN OF LAND**

75. In the event that there are monies due from the **Subdivider** to the **County** which have not been paid within thirty (30) days after receipt by the **Subdivider** of a demand therefore by the **County**, interest shall be payable on the amount due at the rate of one and one quarter (1 ¼ %) per cent per month, compounded monthly, (equivalent effective annual rate of 16.08%) determined and calculated from the date of receipt of the demand and the amount due together with interest thereon shall constitute a lien upon the **Land**. Any amounts owed may be added to the taxes of the land and collected as same or deducted from the Letter of Credit.

## **ESTOPPEL**

76. The **Subdivider** shall not call into question, directly or indirectly, in any proceedings whatsoever, in law or in equity, or before any administrative tribunal, the right of the **County** to enter into this Agreement or to enforce each and every covenant and condition herein contained and this Agreement shall be pleaded as an estoppel against the **Subdivider** in such proceeding.

## **BY-LAWS BINDING**

77. Notwithstanding any provisions of this Agreement, the **Subdivider** and all persons taking title to the **Land** from it shall be subject to all of the by-laws of the **County**.

## **TIME**

78. Time shall be of the essence hereof in all respects but the **County** may by notice to the **Subdivider** waive any default of the **Subdivider** on such terms and conditions as the **County** may determine, provided that the right of the **County** to require strict performance by the **Subdivider** of any and all obligations imposed by the **Subdivider** hereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

## **NOTICE**

79. Any notice, request, order, demand, certificate or any other communication required or permitted to be given under this Agreement shall be in writing and, unless some other method of giving the same is accepted by the person to whom it is given, shall be given by regular first-class mail or by being delivered to the person to whom it is to be given at the appropriate address set out below:

For the **Subdivider**: Andrew Mulder  
LIV DEVELOPMENTS LTD.  
1005 Skyview Road Suite 301  
Burlington, Ontario L7P 5B1

For the **County**: The Corporation of the County of Brant,  
Development Services Department,  
66 Grand River Street North  
Paris, Ontario  
N3L2M2  
Attn: County Engineer  
c/o Manager of Development Engineering Review

or such other address as may be furnished by such person, and shall be deemed effective, four (4) business days after the date of mailing thereof unless postal employees at the point of mailing or at the point of delivery are on strike at any time during the four (4) business days following the time of mailing, in which event it shall be effective when delivered to the addressee.

## **ASSIGNMENT**

80. The **Subdivider** shall not assign this Agreement without the prior written consent of the **County** which consent is not to be unreasonably withheld by the **County** provided that any such assignee executes an agreement assuming the obligations of the **Subdivider** under this Agreement in a form satisfactory to the **County's Solicitor**.

## **SEVERABILITY**

81. If any provision of this Agreement shall be found or declared by a Court of competent jurisdiction to be invalid, unenforceable or *ultra vires* the **County**; then, such provision shall conclusively be deemed to be severable and the remainder of this Agreement, *mutatis mutandis*, shall be and remain in full force and effect.



### **List of Schedules**

Schedule "A" - The Land

Schedule "B" - The Plan of Subdivision

Schedule "C" - Permitted Encumbrances

Schedule "D" - Solicitor's Opinion

Schedule "E" - Undertaking by Subdivider's Engineers

Schedule "F" - The Works

Schedule "G" - General Grading Plan

Schedule "H" - Irrevocable Commercial Letter of Credit

Schedule "I" - Certificate of Completion of Works

Schedule "J" - Warning Clauses and Notices to Potential Purchasers

**SCHEDULE "A"**

to the

**SUBDIVISION AGREEMENT**  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**THE LANDS**

Lots 1 to 92 inclusive and Blocks 93 to 114 inclusive on 2M-.....,  
County of Brant.

**SCHEDULE "B"**

to the

SUBDIVISION AGREEMENT  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**THE PLAN OF SUBDIVISION**

Plan of Subdivision registered as 2M-\_\_\_\_\_



**SCHEDULE "C"**

to the

**SUBDIVISION AGREEMENT**  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**PERMITTED ENCUMBRANCES**

Charge registered as BC313400 in favour of Lawrence Ray Codlin on March 29, 2017.

Charge registered as BC351704 in favour of Versabank on January 7, 2019.

Court Order BC358303 registered on May 17, 2019 from the Ontario Superior Court of Justice.

Transmission of Charge registered as BC363824 in favour of Kenneth Ray Codlin on August 20, 2019.

**SCHEDULE "D"**

to the

SUBDIVISION AGREEMENT  
dated: 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

OF THE SECOND PART

**SOLICITOR'S OPINION**

TO: **THE CORPORATION OF THE COUNTY OF BRANT**

RE: **Scenic Ridge Subdivision** (Geographic Township of Brantford and geographic Town of Paris) hereinafter the "**Land**"

AND RE: Subdivision Agreement between **LIV DEVELOPMENTS LTD.** and **THE CORPORATION OF THE COUNTY OF BRANT** pertaining to the Land (the "**Subdivision Agreement**")

For the sum of one (\$1.00) and other good and valuable consideration I certify that I am a solicitor authorized to practice in Ontario and provide my solicitor's opinion as follows:

**LIV DEVELOPMENTS LTD.**, is the owner in fee simple of the Land free and clear of all liens and encumbrances save and except for:

Charge registered as BC313400 in favour of Lawrence Ray Codlin on March 29, 2017.

Charge registered as BC351704 in favour of Versabank on January 7, 2019.

Court Order BC358303 registered on May 17, 2019 from the Ontario Superior Court of Justice

Transmission of Charge registered as BC363824 in favour of Kenneth Ray Codlin on August 20, 2019.

The Subdivision agreement was registered on the \_\_\_\_ day of \_\_\_\_ as Instrument No. \_\_\_\_\_. All persons having any interest in the Land as mortgagee, tenant, easement holder or other encumbrancer have postponed their respective interests in the Land to the Subdivision Agreement and notice of such postponements has been registered as follows:

[List the registered Notice of Postponement which should correspond with the interests set out in Subdivision Agreement Schedule "C", Part 2]

The Plan of Subdivision contemplated by the Subdivision Agreement was registered on the Land on the \_\_\_\_ day of \_\_\_\_ as Plan 2M-\_\_\_\_\_

A good and valid Transfer of [insert land required to be transferred to the County of Brant for security lots and/or parkland purposes] has been registered on the \_\_\_\_\_ day of \_\_\_\_\_ as Instrument No. \_\_\_\_\_ and The Corporation of the County of Brant is the owner in fee simple, free and clear of all liens and encumbrances save and

except those permitted encumbrances set out in Schedule "C", Part 1 of the Subdivision Agreement. All other persons having any interest in the Land as mortgagee, tenant, easement holder or other encumbrancer have discharged their respective interests in the Land as it pertains to the transferred parcel(s) and the discharge(s) has/have been registered as follows:

[List the registered Discharges which should correspond with the interests set out in Subdivision Agreement Schedule "C", as they may pertain to the transferred parcel(s)]

A good and valid Transfer of Easement pertaining to [insert land to required to transferred to the County of Brant (or other party as may be applicable) for Easement purposes] has been registered on the \_\_\_\_\_ day of \_\_\_\_\_ as Instrument No. \_\_\_\_\_. and The Corporation of the County of Brant [or other party/utility as may be applicable] is the easement holder free and clear of all liens and encumbrances save and except those permitted encumbrances set out in Schedule "C", Part 1 of the Subdivision Agreement. All other persons having any interest in the Land as mortgagee, tenant, easement holder or other encumbrancer have postponed their respective interests in the Land as it pertains to the easement parcel(s) and notice(s) of such postponement has/have been registered as follows:

[List the registered Notice(s) of Postponement which should correspond with the interests set out in Subdivision Agreement Schedule "C"]

A restrictive covenant prohibiting any owner from changing the elevations or the grades from the General Grading Plan was registered on the \_\_\_\_\_ day of \_\_\_\_\_ as Instrument No. \_\_\_\_\_.

Please find enclosed copies of the following:

[List the copies of registered subdivision agreement, registered Plan of Subdivision, postponements, easements, transfers, restrictive covenant and discharges which are referred to in this opinion.]

Dated the-----day of-----, 2019

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Lawyer

**SCHEDULE "E"**

to the

SUBDIVISION AGREEMENT  
dated: 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

OF THE SECOND PART

**UNDERTAKING BY SUBDIVIDER'S ENGINEERS**

TO: The Corporation of the County of Brant

FROM: MTE Consultants Inc.  
1016 Sutton Drive, Unit A, Burlington, Ontario L7L 6B8  
Consulting Engineers to LIV Communities Ltd.

Re: Subdivision Agreement between **LIV Developments Ltd.**, and The Corporation of the County of Brant and dated November 26<sup>th</sup>, 2019 (hereinafter referred to as the "**Subdivision Agreement**").

The undersigned hereby represents and warrants that the undersigned is a member in good standing of the Association of Professional Engineers of Ontario and that the undersigned has been retained by **LIV Developments Ltd.**, in connection with the **Subdivision Agreement** and all works required thereby. As required by the **Subdivision Agreement** the undersigned hereby undertakes to The Corporation of the County of Brant and to its above mentioned consulting engineers as follows:

To design the works as described in the **Subdivision Agreement** and the Schedules thereto,

To prepare a tender for the construction of the **Works**,

To assist **LIV Developments Ltd.**, in obtaining all necessary approvals for the **Works** in cooperation with the County of Brant,

To provide full-time staff on site to observe construction of the works, including inspection and testing of materials by a qualified geotechnical engineer,

To prepare and maintain appropriate records in connection with the construction of the **Works**,

To prepare and furnish "As Constructed" drawings of those services which are subject to the First Interim Completion Certificate as provided in paragraph 40 of the **Subdivision Agreement** at the issuance of the First Interim Certificate, and

To prepare and furnish "As Constructed" drawings of the **Works** within the sooner of two (2) months from the issuance of the Third Interim Certificate and twelve (12) months of the issuance by the **County Engineer** of the Authorization to Proceed With Construction letter contemplated by paragraph 15 of the **Subdivision Agreement** .

The undersigned agrees that the undersigned will immediately advise The Corporation of the County of Brant and its above mentioned consulting engineers should there be any alteration in the undersigned's above described retainer and instructions from the **Subdivider**.

DATED this-----day of-----, 2019

MTE CONSULTANTS INC.

Per: \_\_\_\_\_

Name: Ward Wilson, P.Eng.

Title: Vice President

I have the authority to bind the  
corporation

## SCHEDULE "F"

to the

SUBDIVISION AGREEMENT  
dated: 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

OF THE SECOND PART

### THE WORKS

#### COUNTY REQUIREMENT FOR ROAD AND SERVICES

1. All roads and services herein shall be designed and constructed so as to comply with applicable law, to be consistent with the County Development and Engineering Standards and in accordance with the current guidelines, codes, regulations and standards prescribed by the **County Engineer**.

#### GENERAL GRADING PLAN

2. The General Grading Plan attached as Schedule "G" to the Subdivision Agreement to which this is Schedule "F", together with the general specifications in this Schedule "F" shall in no way be construed as limiting or in any restricting the discretion given to the **County Engineer** to approve or amend the final materials submitted by the **Subdivider** for such purposes nor as limiting or restricting the discretion given the **MECP** or the **Conservation Authority** with respect to the approvals required of them in connection with the **Works** to be constructed, installed, maintained and repaired by the **Subdivider** in accordance herewith.

#### UNDERGROUND SERVICES

3. For the purpose of this Agreement the term underground services shall mean all road subbase, road base and base course of asphalt under paragraph 4 of this Schedule "F", all sanitary sewers and appurtenances under paragraph 13 of this Schedule "F", all watermain and appurtenances to be constructed under paragraph 15 of this Schedule "F", all storm sewers and appurtenances under paragraph 21 of this Schedule "F", and all stormwater management systems and appurtenances under paragraph 22 of this Schedule "F".

#### ROADWAYS

4. The **Subdivider** shall construct and install roadways with granular base and asphalt concrete pavement and concrete curb and gutter in accordance with the current **County** specifications. **County** standards are to serve as a minimum; road designs as prepared and certified by the **Subdivider's** Geotechnical Engineer which exceed these standards shall be acceptable to the **County**.

5. All roads, road widenings and daylighting triangles shall be constructed to the satisfaction of the **County** and conveyed to the **County**, free and clear of all encumbrances at the expense of the **Subdivider**.

6. The **Subdivider** will design and construct, at its expense, the following road features to the satisfaction of the **County** and the following conditions apply in that connection:

- (a) The design of all road modifications (intersections, accesses, new lanes, etc.) including geometrics, intersection spacing, grades, daylight triangles and reserves shall be to the satisfaction of the **County**.

## **STREET LIGHTING**

7. The **Subdivider** shall construct and install street lights as proposed on the servicing standards and specifically as required by the **County Engineer**.

## **STREET SIGNS**

8. The **County** will install at the expense of the **Subdivider**, all street signs and markings at every intersection and shall have double name plates as well as traffic and speed limit signs of a design, type and method of installation in accordance with specifications of the **County** and otherwise as specified by the **County Engineer**.

## **SIDEWALKS**

9. Notwithstanding the **County** minimum standards with regard to sidewalk requirements, the **Subdivider** shall construct and install a sidewalk on both sides of all streets as shown on the **Plan**, all to the satisfaction of the **County Engineer**.

## **TOPSOIL**

10. The **Subdivider** agrees to stockpile on site, in a safe manner, the topsoil removed from all areas excavated and graded. The topsoil from the stripped areas shall be used to cover areas to be seeded or sodded to a minimum depth of 15.24 cm (6") and shall not be removed from the site until such time as all seeding or sodding has been completed. Any excess of topsoil may be removed but only after the **Subdivider** has received the approval by the **County**. All building lots are to be topsoiled and sodded unless otherwise approved by the **County**. Common areas, are also to be sodded unless with the **County's** written consent topsoil and seeding is permitted.

11. The **Subdivider** shall ensure that no stockpiles of fill or any overland drainage patterns are altered on the east and north sides of the lands owned by the **Subdivider** within 30 metres of the **Subdivider's** ownership limits. The height of any stockpiles of fill shall not exceed 4 metres in height. Any stockpile with greater than a 2 to 1 slope shall be fenced and the areas posted as being dangerous to children.

## **LOT GRADING**

12. The **Subdivider** shall establish, maintain or cause to be maintained, whether or not the **Subdivider** is then the owner of the **Land**, the elevations and grades on all lots and blocks as shown on the **Plan** in accordance with the General Grading Plan which has been approved in accordance with the said Subdivision Agreement at all times until the **Works** have been assumed by a By-law of the **County** as contemplated by paragraph 56 of said Subdivision Agreement.

## **SANITARY SEWERS**

13. The **Subdivider** shall undertake the **Works** necessary, in the opinion of the **County Engineer**, to provide a sanitary sewer system as provided in the plans and specifications approved by the **County Engineer** and the **MECP**.

## **WATER DISTRIBUTION MODEL**

14. The **Subdivider** shall direct the **County** to update the water distribution model demonstrating the impact of this proposal on the municipal water supply system and clearly demonstrating that there is adequate water supply and fire flow, once available, to accommodate the development and any developments that may be serviced through this development at their sole expense.

## **WATERMAINS**

15. The **Subdivider** shall construct and install watermains and appurtenances, including valves and valve chambers, and also private service connections from such watermains to each lot line as proposed on the General Servicing Plan and specifically as required by the **County Engineer** and the **MECP**.

## **FIRE HYDRANTS**

16. The **Subdivider** shall construct and install fire hydrants as proposed on the General Servicing Plan and specifically as required by the **County Engineer** in accordance with the **County's** standards.

## **GRADING**

17. All lots shown on the **Plan** shall be graded to permit surface water to run off from all areas of the lots and from adjoining properties so as to reach either the road gutters, municipal drains, ditches or natural water courses all in accordance with the plans to be submitted by the **Subdivider** and approved by the **County** and the **MECP**.

## **LANDSCAPING**

18. The **Subdivider** shall undertake the following landscaping on the **Land**:

- (a) The **Subdivider** shall provide topsoil to a depth of 0.15 metres (6 inches), and then shall sod the portion of the road allowance lying between the lot line of a lot and the curb.
- (b) The **Subdivider** shall provide topsoil to a depth of 0.15 metres (6 inches), and then shall sod all yards of each lot within the first year after completion and occupancy of a dwelling on such lot, except in those areas of the lot which are paved parking or driveway areas.
- (c) The **Subdivider** shall plant a deciduous tree as per the accepted Street Tree Planting Plan.
- (d) The **Subdivider** shall construct the portion of the driveway from the curb to the lot line or sidewalk of each lot to the specifications of the **County Engineer**.
- (e) The **Subdivider** shall plant the greater of at least one tree in front of each lot or every 12 metres as shown on the **Plan** and at least two trees along the flankage of each corner lot or every 12 metres as shown on the **Plan** generally as proposed on the Street Tree Planting Plan and specifically as required by the **County Engineer**.
- (f) The trees to be planted as required by clause (c) and (e) shall have a minimum trunk diameter of 5 centimetres (2.0 inches) at one metre (3.2 feet) above the final finished grade of the lot where the tree is located.
- (g) All trees shall be of a species native to the **County**, mixed appropriately to avoid disease and be salt tolerant all as may be required by the **County Engineer**.
- (h) The trees to be planted as required by clause (c) and (e) shall be of such species and shall be planted in such locations as the **County Engineer** may approve.
- (i) The trees to be planted as required by clause(c) and (e) shall be maintained and replaced by the **Subdivider** such that, before assumption of the **Works** by a By-law as contemplated by paragraph 56 of said Subdivision Agreement, such trees shall all be alive and devoid of disease.

The **Subdivider** shall remain responsible for the maintenance, replacement and repair, to the satisfaction of the **County Engineer**, of all of the landscaping work referred to in this paragraph 18 until the **Works** described in this Schedule "F" have been assumed by a By-law as contemplated by paragraph 56 of the said Subdivision Agreement.

## **NOISE ATTENUATION**

19. That the **Developer** shall have a qualified engineer investigate the need for acoustical shielding along Powerline Road and Rest Acres Road and the recommendations contained in the Noise Study be implemented through this



Development Agreement. Should shielding be necessary, it shall be built to the satisfaction of the **County**, at the expense of the **Developer**. Any noise attenuation will be located on the lands being developed and not on municipal road allowances, and will be maintained by the **Developer** and subsequent owners. Each offer or purchase of all or any part of the **Lands** shall contain a caution to the purchaser that no alteration of the acoustical shield for the property or surrounding properties, and/or building or buildings, is permitted without the express written approval of the **County**. Also, maintenance and replacement of any acoustical shielding shall be at the sole cost and responsibility of the landowner.

## **WATER SPRINGS**

20. If at any course of time during the installation, construction and maintenance of the **Works**, surface or subsurface water springs are discovered within the **Land**, they are to be protected to the satisfaction of the **Conservation Authority** and the **Ministry of Natural Resources**.

## **STORM SEWERS**

21. The **Subdivider** shall install storm sewers sufficient to drain the **Land** properly and to drain abutting real property as required by the **County** and the following provisions shall apply:

- (a) Stormwater drainage shall be managed in a satisfactory manner acceptable to and approved by the **MECP**, the **Conservation Authority** and the **County**.
- (b) The **Subdivider** shall construct and install storm sewers and appurtenances, catch basins and leads sufficient to drain the **Land** and abutting lands generally as proposed on the Lot Grading Control Plan and as specifically required by the **County Engineer**; and the **Subdivider** shall also provide connections for any future storm sewers as may be required by the **County Engineer**.
- (c) For the purpose of any drainage work that, in the opinion of the **County Engineer** is or may be required to furnish a sufficient outlet for storm water or to protect any natural watercourse, the **Subdivider** shall provide the **County** with all easements across the **Land** as provided in the Subdivision Agreement.

## **STORMWATER MANAGEMENT PLAN**

22. The plans, specifications, contracts, scheduling and cost estimates and the General Grading Plan to be submitted by the **Subdivider** for approval of the **County Engineer**, of the **MECP**, and of the **Conservation Authority**, as required by paragraph 10, paragraph 11, paragraph 12, of the said Subdivision Agreement to which this Schedule is attached as Schedule "F", shall include a Stormwater Management Plan that must address and include the following matters and things:

- (a) The **Subdivider** shall complete the **Works** in accordance with the approved Stormwater Management Plans, reports and permits to the satisfaction of the **County Engineer**.
- (b) The Stormwater Management Plan must incorporate necessary measures to enhance the quality of stormwater discharges and to control erosion and sedimentation during and after construction. A tree planting program shall be included as a means of enhancing the infiltration capacity and the overall environmental quality of the site.
- (c) The Stormwater Management Plan may incorporate the use of stormwater management systems as designed by a licensed Professional Engineer.
- (d) The Stormwater Management Plan shall include a review of the supporting documentation for Certificate of Approval (Sewage) No. 4675-ASWPQ7 (hereinafter referred to as the "**1997 Ontario Water Resources Act**).

**Certificate**") issued under the authority of the *Ontario Water Resources Act* in the name of **Losani Homes (Paris) Ltd.**

- (e) Such review shall ensure that the stormwater management plan is consistent with the design requirements (hereinafter referred to as the "**SWM Pond**") which is located on the **SWM Land** situated on 277 Pottruff Road is addressed by the **1997 Ontario Water Resources Act Certificate** and, if it is not, then the Stormwater Management Plan shall provide for the processing of amendments to or the re-issuance of the **1997 Ontario Water Resources Act Certificate** so that the **SWM Pond** is dealt with in such Certificate.
- (f) Such review shall include consideration of the adequacy and appropriateness of such supporting documentation supporting as it pertains to the development of the Land and other lands in the vicinity that are intended by the County to be serviced by the Existing SWM Pond.
- (g) The Stormwater Management Plan shall include a monitoring programme that requires submission of a log indicating how any and all stormwater management facilities involved with the Stormwater Management Plan are maintained, operated and monitored.
- (h) The Stormwater Management Plan shall include measures to control erosion and sedimentation during and after construction of the Works required by the Subdivision Agreement.
- (i) The Stormwater Management Plan shall provide for:
  - (i) A full-time site supervisor to be designated with respect to the Stormwater Management Plan whose primary function is to ensure that the recommendations of the approved Stormwater Management Plan are implemented;
  - (ii) A work activity log to be maintained by such full-time site supervisor to record the dates and descriptions of work activities and site inspections;
  - (iii) Inspections to be undertaken on a regular basis during construction and after significant storm events until rehabilitation is complete; and
  - (iv) An operations and maintenance manual and plan to be prepared as to how any recommended stormwater management facilities are to be maintained and operated and monitored.
- (j) The Stormwater Management Plan must include a requirement that the site supervisor referred to in clause 22(i) must report immediately to the **MECP** and the County in the event of a failure of management systems which result in off-site impacts.
- (k) The Stormwater Management Plan shall include provisions for the amendment or re-issuance of the 1997 Ontario Water Resources Act Certificate so that it is in the name of the County.
- (l) The landscaping of the Existing SWM Pond is not considered to be underground services, but remaining aspects of the pond are considered to be underground services for the purposes of this agreement.

#### **IMPLEMENTATION OF THE APPROVED STORMWATER MANAGEMENT PLAN**

23. After the Stormwater Management Plan required by paragraph 22 of Schedule "F" of this Agreement has been approved by the **County Engineer**, the **MECP**, and the **Conservation Authority**, the **Subdivider** shall complete the work contemplated by the approved Stormwater Management Plan and shall do so to the satisfaction of the **County Engineer**, the **MECP**, and the **Conservation Authority**.

## POSTAL BOXES

24. The **Subdivider** shall install or cause Canada Post to install postal boxes in a location which is satisfactory to Canada Post and the **County Engineer**:

- (a) To include in all offers of purchase and sale to the initial occupants, a statement which advises the prospective purchaser:
- (b) That home/business mail delivery will be from a designated community mail box;
- (c) That the **Subdivider** will be responsible for officially notifying the purchasers of the exact community mail box locations prior to the closing of any home sales

24.1 The **Subdivider** further agrees to:

- (i) Work with Canada Post and the **County** to determine and provide temporary suitable community mail box locations which may be utilized by Canada Post until the curbs and sidewalks are in place in the remainder of the subdivision
- (ii) Determine the location of all centralized mail receiving facilities in cooperation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps and plans. Maps are also to be prominently displayed in the sale office showing specific community mailbox site locations.

All permanent community mailbox sites shall be subject to the approval of both Canada Post and the **County**.

## WELL INTERRUPTION

25. The **Subdivider** shall be responsible for any well interruption that may occur as a result, either directly or indirectly, in connection with the construction of the **Works**. The **Subdivider** acknowledges and agrees that it shall be responsible for any Claims related to any impact on neighbouring wells arising out of the construction of any municipal works related to the development of the Lands. The **Subdivider** shall assume all costs and expenses relating to the resolution of any such Claims. In order to clarify the intent and extent of the indemnity and **Subdivider** responsibility for well interruption Claims, the following definitions shall apply:

“Claim” shall mean any written claim, action, suit, or cause of action, of an **Subdivider** or occupant in possession of a Neighbouring Well, which claim is made to either the **Subdivider** or to the County, their employees, agents or contractors, within the Claim Period;

“Claimant” shall be any person, company, or organization making a Claim;

“Claim Period” shall be one (1) year after the date that the construction of the municipal works related to the development of the Lands has obtained its first interim completion certificate;

“Neighbouring Well” shall be defined:

- (i) under a site plan as an existing private water well located either within 250 metres of the municipal works related to the development of the Lands, or within the Projected Zone of Influence, whichever is greater;

and

- (ii) under a plan of subdivision as an existing private water well located either within 500 metres of the municipal works related to the development of the Lands, or within the Projected Zone of Influence, whichever is greater;

“Preconstruction Survey” shall be the survey conducted by the **Subdivider** of the location and type of water supplies, including the quality of water and the static water level of the Neighbouring Well(s) or of representative monitoring wells, as approved by the County; and

“Projected Zone of Influence” shall be the projected zone of influence as defined in the hydrogeological study prepared in connection with the development of the Lands.

In order to ensure the indemnification of the County, and to ensure that the **Subdivider** and not the County assumes any responsibility for any Claim arising out of the construction of the **Works** related to the development of the Lands, the parties agree as follows:

(a) The **Subdivider** has conducted the Preconstruction Survey, to which the County has full access, including the final report and all background material relating thereto. The **Subdivider** hereby acknowledges and agrees that the results of the Preconstruction Survey shall constitute the status of the existing water supplies, including the quality of water and the static water level of the Neighbouring Well(s), and/or representative monitoring wells prior to the construction of the **Works** related to the development of the Lands;

(b) During the construction of the **Works** related to the development of the Lands or within the Claim Period, should the County, or the **Subdivider**, or any of their employees, agents or contractors, receive a notice of a Claim or potential Claim against the County or the **Subdivider**, their employees, agents or contractors, the party receiving the notice shall forthwith notify in writing the other party with the Claimant’s contact information, and the nature of the Claim;

(c) Notwithstanding any other provision set out in this Agreement, on receiving a Claim or on receiving notice from the County of a Claim, the **Subdivider**, if the Claimant requests water, shall within two (2) days, make arrangements to have water brought into the Claimant’s lands by any means necessary at the **Subdivider**’s sole expense until such time as the Claim has been resolved. Should the **Subdivider** fail to do so, the County shall make arrangements to have the Claimant supplied with water until the Claim has been resolved and shall draw on the security posted hereunder to cover all costs, expenses, fees, charges, including County overhead and administrative costs related thereto. However, the foregoing covenants respecting temporary water supply shall not apply to any Claim made by a Claimant relating to residences or lands identified on the Preconstruction Survey as presently having water supplied solely by off-site supply;

(d) Upon receiving notice of the Claim, as hereinbefore described, the **Subdivider** shall forthwith investigate the Claim by determining whether the quantity or quality of the water in the well has been significantly impaired since the Preconstruction Survey. If it is determined that a Claim is the result of causes clearly unrelated to the development of the Lands (e.g. frozen water or pump malfunction), then the Claim shall be considered resolved. Otherwise, if the quantity or quality of the water in the well does not return to its original condition within five (5) days after receipt of notice of the Claim, the **Subdivider** shall, at its sole cost, engage the services of a qualified hydrogeologist to evaluate the well that is the subject of the Claim, and produce a report within thirty (30) days, unless the County agrees to an extension of this timeframe due to unusual circumstances, as determined by the County in its sole discretion. The hydrogeologist shall determine whether there has been an impact and, if so, shall then evaluate the cause. If the hydrogeologist is unable to demonstrate that the **Subdivider** is not responsible for any impact, they shall then recommend acceptable solutions for a permanent water supply. A copy of the hydrogeologist’s report shall be provided by the **Subdivider** to the County for review upon receipt. In the event the Claimant does not permit access to the well by the **Subdivider** and/or the hydrogeologist for the purposes set out above, such lack of permission to be evidenced to the satisfaction of the County,

then a Claim shall no longer be considered to exist for the purpose of these clauses;

(e) The **Subdivider** shall, within ten (10) days from the date of receipt of the hydrogeologist's report, advise the County in writing of the Subdivider's intention to:

- (i) provide a permanent water supply; or
- (ii) otherwise settle the Claim to the Claimant's satisfaction; or
- (iii) dispute the Claim.

(f) Unless prohibited by the County, should the **Subdivider** decide to connect the Claimant to the County municipal water supply, the **Subdivider** shall forthwith arrange for the design, tender and construction of the water services required to connect the Claimant's buildings to the County water supply in a manner satisfactory to or as required by the County. The **Subdivider** shall obtain all necessary approvals and consents relating thereto, including all County approvals, consents, and agreements and pay any and all applicable tapping, water meter, inspection, and administration charges and fees then in force in the County. During the time of construction and up until the time that the Claimant's buildings are being actually supplied by the County water supply, the **Subdivider** shall be responsible for continuing to supply the Claimant with temporary water, in accordance with Subsection (c).

(g) Should the **Subdivider** otherwise resolve or settle the Claim, the **Subdivider** shall provide written proof of such settlement, and of the fulfilment of the terms of the settlement, to the satisfaction of the County's Legal and Enforcement Services and Corporate Counsel, and until such time as the terms of settlement are fulfilled, the Subdivider shall be solely responsible for maintaining the Claimant's temporary water supply in accordance with Subsection (c).

(h) Should the **Subdivider** decide to dispute the Claim, the **Subdivider** will take any and all necessary action to resolve the dispute by means of an order, judgment, arbitration decision or settlement, or otherwise as soon as possible. The **Subdivider** acknowledges and agrees not to call on the County or involve the County in any way in the dispute, and in accordance with this indemnity will pay any and all legal costs incurred by the County should the County be involved and/or made party to the dispute. Until such time as the dispute is resolved by means of an order, judgment, arbitration decision, settlement, or otherwise, and proof of such resolution has been provided to the satisfaction of the County's Legal and Enforcement Services and Corporate Counsel, the **Subdivider** shall be solely responsible for maintaining the Claimant's temporary water supply, in accordance with Subsection (c).

Until such time as any Claim is resolved, it is the intent hereof that the Claimant shall be supplied with a continuous and uninterrupted supply of water in accordance with and subject to the exceptions set out in Subsection (c), but the terms and provisions herein shall not be construed, nor deemed, to be an admission of liability to any third party for the Claim, by either the **Subdivider** or the County.

In order to secure the performance by the **Subdivider** of all of its obligations related to well interruption Claims, the **Subdivider** hereby agrees that any security posted under Schedule "F" of this Agreement may be used by the County to secure the performance of the **Subdivider's** obligations hereunder and without prejudice of the County by the **Subdivider** and without prejudice to the **Subdivider's** assumption of responsibility for any action which might arise and be taken in order to resolve or settle any Claims or potential Claims. Security herein posted in no way reflects any limitation on the responsibility of the **Subdivider** hereunder.

The County shall at any time and from time to time be entitled to draw on any security posted under this Agreement should the **Subdivider** fail to fulfil its obligations hereunder, or fail to fully indemnify the County as described herein on demand by the County.

The **Subdivider** agrees that if he deems himself aggrieved by any decision of the County made pursuant to this Agreement, the following rules will apply:

- (i) the **Subdivider** will carry out whatever directions the County gives pursuant to written notice;
- (ii) the grievance of the **Subdivider** shall be submitted in writing to the County;
- (iii) the County shall review the **Subdivider's** grievance and either affirm, reverse or modify the decision;
- (iv) the County shall provide written reasons for the reviewed decision;
- (v) thereafter the **Subdivider** must appeal within fifteen (15) days of receipt of the County's decision in writing to Council;
- (vi) the Council may consider whatever factors it considers relevant in reaching its decision, and its decision shall be final; and
- (vii) if the **Subdivider** does not appeal to Council, the decision of the County is final.

### **DECOMMISSIONING OF WELLS**

26. Prior to release of the **Plan** for registration, the **Subdivider** shall be responsible for the decommissioning of any boreholes drilled on the **Lands** as part of a hydrogeological investigation, or for any other subsurface investigation and for decommissioning any wells located on the **Lands** in accordance with the requirements of the Ontario Water Resources Act and **MECP** guidelines and for any additional steps as may be required in order to obtain and forward to the **County** a certificate of a licensed Professional Engineer or Certified Well Technologist certifying such decommissioning has been done on the **Lands**.

### **DUST CONTROL**

27. The Subdivider agrees to minimize dust on the site by using appropriate dust control measures as may directed by the County. Such measures may include, but not limited to, the application of water and the revegetation of the pregraded lands so as to maximize soil stability. If requested by the County to do so, the Subdivider may be required to file and implement a soil stabilization plan to the satisfaction of the County within two (2) days of such a request being made.

### **INTERNAL/EXTERNAL WORKS**

28. The Subdivider shall ensure that any sight distance restraints on the County Road Allowance, where Street L intersects with Powerline Road are to be relocated or removed in order that a sight distance consistent with the TAC Manual is available in both directions. All costs of relocating or removing these sight distance constraints will be the sole financial responsibility of the Subdivider.

29. The Subdivider will be required to regrade the frontages of the Lands to ensure that a sight distance consistent with the TAC Manual is provided and to allow for proper road drainage.

30. Relocation of any internal infrastructure, such as, but not limited to, hydro poles, and Bell pedestals, shall be at the expense of the Subdivider.

31. Within the Subdivider's lands, the Subdivider will be required to provide and install underground services (including the burial of existing hydro services or new hydro services required for the development) to the satisfaction of the County. Outside of the Subdivider's lands, the Subdivider will be required to provide and install overhead hydro services for the development to the satisfaction of the County.

32. The Subdivider shall be responsible for the relocation of any streetlights along Powerline Road that are deemed necessary by the County due to the development of the Lands.

33. For the benefit of this development, the Subdivider shall design and construct to County standards the following items:

- (a) All on-site and off-site storm water conveyance and Storm Water Management Facility including a legal outlet for storm water;
- (b) All on-site and off-site sewage conveyance and sewage treatment facilities;  
and
- (c) All on-site and off-site water supply and conveyance system facilities.

34. The Subdivider agrees to pay for and post securities to cover the cost of all maintenance and repairs of such facilities until the expiration of all maintenance periods and until such facilities are accepted and assumed by the County. If necessary, as determined by the County, the County will install, operate, and maintain some or all of such facilities/services at the Subdivider's cost and, if necessary, the Subdivider will enter into a contract and/or an agreement with the County, until such facilities are accepted and assumed by the County.

35. The Subdivider shall be responsible for providing the County with the necessary data, in a format required by the County, to ensure compliance with PSAB 3150.

36. That the **Subdivider** is satisfied that they have been reimbursed for the oversizing of the Storm Water Management facility, Storm Sewers and Sanitary Sewers from the adjacent benefitting lands.

**SCHEDULE "G"**

to the

**SUBDIVISION AGREEMENT**  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**GENERAL GRADING, SERVICING AND ROADWORKS PLAN**

- a) Existing Conditions and Removal Plan, Drawing No. EC1.1, Revision No. 10, Dated July 3, 2019.
- b) Lot Grading Plan No. 1, Drawing No. LG1.1, Revision No. 14, Dated October 31, 2019.
- c) Lot Grading Plan No. 2, Drawing No. LG1.2, Revision No. 13, Dated October 28, 2019.
- d) Phase 1 Temporary Turning Circle Grading Plan, Drawing No. LG1.3, Revision No. 10, Dated July 3, 2019.
- e) General Plan of Services No. 1, Drawing No. GP1.1, Revision No. 15, Dated October 29, 2019.
- f) General Plan of Services No. 2, Drawing No. GP1.2, Revision No. 14, Dated September 16, 2019.
- g) Phase 1 Temporary Service Details, Drawing No. GP1.3, Revision No. 10, Dated July 3, 2019.
- h) General Notes, Drawing No. GP1.4, Revision No. 10, Dated July 3, 2019.
- i) General Notes and Details Plan No. 1, Drawing No. GP1.5, Revision No. 10, Dated July 3, 2019.
- j) General Notes and Details Plan No. 2, Drawing No. GP1.6, Revision No. 10, Dated July 3, 2019.
- k) General Notes and Details Plan Rear Yard CB Leads, Drawing No. GP1.7, Revision No. 11, Dated September 16, 2019.
- l) Storm Drainage Area Plan, Drawing No. ST1.1, Revision No. 10, Dated July 3, 2019.
- m) Sanitary Drainage Area Plan, Drawing No. SA1.1, Revision No. 12, Dated September 16, 2019.
- n) Street B - Sta. -0+0.10 to 0+240, Drawing No. PP1.1, Revision No. 13, Dated September 16, 2019.
- o) Street B - Sta. 0+240 to 0+540, Drawing No. PP1.2, Revision No. 13, Dated September 16, 2019.
- p) Street B - Sta. 0+540 to 0+700, Drawing No. PP1.3, Revision No. 11, Dated July 3, 2019.
- q) Street I - Sta. -0+000 to 0+100, Drawing No. PP2.1, Revision No. 13, Dated September 16, 2019.
- r) Street G - Sta. 0+260 to 0+560, Drawing No. PP3.1, Revision No. 14, Dated September 16, 2019.
- s) Street G - Sta. -0+020 to 0+260, Drawing No. PP3.2, Revision No. 14, Dated September 16, 2019.



- t) Street L - Sta. -0+000 to 0+060, Drawing No. PP4.1, Revision No. 11, Dated July 3, 2019.
- u) Street F - Sta. 0+340 to 0+640, Drawing No. PP5.1, Revision No. 11, Dated July 3, 2019.
- v) Street H - Sta. 0+540 to 0+880, Drawing No. PP6.1, Revision No. 11, Dated July 3, 2019.
- w) Block 68 - Sta. -0+040 to 0+300, Drawing No. PP7.1, Revision No. 11, Dated July 3, 2019.
- x) Erosion and Sediment Control Plan - Pregrading Stage, Drawing No. ES1.1, Revision No. 10, Dated July 3, 2019.
- y) Erosion and Sediment Control Notes and Details, Drawing No. ES1.2, Revision No. 10, Dated July 3, 2019.
- z) Water Distribution Plan, Drawing No. WM1.1, Revision No. 10, Dated July 3, 2019.
- aa) On-Site Parking Plan, Drawing No. PA1.1, Revision No. 10, Dated July 3, 2019.
- bb) On-Site Pavement Marking and Signage Plan, Drawing No. PM1.1, Revision No. 10, Dated July 3, 2019.
- cc) Coordinated Utilities Plan, Drawing No. CU1.1, Revision No. 4, Dated October 3, 2019.
- dd) Coordinated Utilities Plan, Drawing No. CU1.2, Revision No. 4, Dated October 3, 2019.
- ee) Streetscape Plan – Phase 2, Drawings L1 to L4, Dated November 14, 2019.
- ff) Photometric Plan 1, Drawing No. X1, Dated November 5, 2019.
- gg) Photometric Plan 2, Drawing No. X2, Dated November 5, 2019.
- hh) Photometric Plan 3, Drawing No. X3, Dated November 5, 2019.
- ii) Photometric Plan 4, Drawing No. X4, Dated November 5, 2019.
- jj) Wiring Plan 1, Drawing No. X5, Dated November 5, 2019.
- kk) Wiring Plan 2, Drawing No. X6, Dated November 5, 2019.
- ll) Wiring Plan 3, Drawing No. X7, Dated November 5, 2019.
- mm) Wiring Plan 4, Drawing No. X8, Dated November 5, 2019.
- nn) Photometric Details, Drawing No. X9, Dated November 5, 2019.

**SCHEDULE "H"**

to the

**SUBDIVISION AGREEMENT**  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**IRREVOCABLE COMMERCIAL LETTERS OF CREDIT**

Versa Bank, Suite 2002-140 Fullarton Street, London, Ontario – Letter of Credit No. 2019-44 – \$2,479,212.00 (Two Million, Four Hundred Seventy-Nine Thousand, Two Hundred and Twelve Dollars) - Internal **Works** for Phase 2 of the subdivision.

**SCHEDULE "I"**

to the

**SUBDIVISION AGREEMENT**  
dated: 26<sup>th</sup> day of November, 2019

**B E T W E E N:**

**LIV DEVELOPMENTS LTD.**

**OF THE FIRST PART**

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

**OF THE SECOND PART**

**CERTIFICATE OF COMPLETION OF WORKS**

For Good and Valuable Consideration now paid by The Corporation of the County of Brant (hereinafter called the "**County**"), the receipt and sufficiency of which is hereby acknowledged, the undersigned professional engineer hereby certifies that municipal services constructed pursuant to the Subdivision Agreement dated November 26<sup>th</sup>, 2019 and made between **LIV DEVELOPMENTS LTD.** and The Corporation of the County of Brant and registered on the [*insert date of registration*] day of [*insert month and year of registration*] as instrument no. [*insert registration number*] have been:

- (a) observed on a full time basis during construction and installation in accordance with standard engineering practice with inspection and testing of materials by a qualified geotechnical engineer as is prudent and
- (b) installed in general conformity with the plans and specifications approved by the **County Engineer**.

Certified and delivered under my hand and professional seal this-----day of-----, 2019.

<b>SIGNED, SEALED AND DELIVERED</b>	)	
in the presence of	)	
	)	
	)	
	)	
_____	)	_____
Witness	)	Name
	)	Professional Engineer

## SCHEDULE "J"

to the

SUBDIVISION AGREEMENT  
dated: 26<sup>th</sup> day of November, 2019

B E T W E E N:

**LIV DEVELOPMENTS LTD.**

OF THE FIRST PART

- and -

**THE CORPORATION OF THE COUNTY OF BRANT**

OF THE SECOND PART

### WARNING CLAUSES AND NOTICES TO POTENTIAL PURCHASERS

The **Subdivider** shall ensure that this Schedule is attached to all agreements of purchase and sale between the **Subdivider** and purchasers of any Lot/Block on the Plan.

#### 1. Lot Grading

Purchasers/tenants are advised:

- a) That any altering of the elevations and grades and infiltration galleries from that set out in the General Grading Plan shall be prohibited.
- b) That no alteration of the drainage and grading plan for the property or surrounding properties is permitted without the express written approval of the County.

#### 2. Easements

Purchasers/tenants are advised that:

- a) That no buildings or structures, including but not limited to any dwelling, accessory structure, fence, swimming pool, shall be erected on or over any easement required due to this Development.

#### 3. Agricultural Operation

Purchasers/tenants are advised that:

- a) That the purchaser, on occasion, may be subject to noise, odour and dust of agricultural origin due to the proximity of an existing agricultural operation.

#### 4. Noise Clauses

Purchasers/tenants are advised that:

- a) That purchasers/tenants be advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment Conservation and Parks.
- b) That the purchasers/tenants be advised that the dwelling unit has been fitted with a forced air heating system and the ducting etc., which was sized to accommodate central air conditioning that will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the criteria of the Municipality and the Ministry of the Environment Conservation and Parks.
- c) That the purchasers/tenants are advised that there is noise attenuation located on the property. No alteration of the acoustical shield for the property or surrounding properties, and/or building or buildings, is permitted without the express written

approval of the **County**. Furthermore, the maintenance and replacement of any acoustical shielding shall be at the sole cost and responsibility of the landowner.

5. Walkway

Purchasers of the Lots 59 and 60 acknowledge that there is a public walkway adjacent to their lands, where there may be activities that cause disturbances to the occupants of these Lots.

6. Lots with Chain Link Fencing

Purchasers of the Lots 59 and 60 and Lots 75 to 80 (inclusive) acknowledge that the installation of a gate in any chain link fence to access private property shall not be permitted.

7. Lots/Blocks adjacent to Park

Purchasers/tenants are advised:

- a) That by purchasing this residence, you the owner understand and agree that your prospective real estate is located next to an active municipal park, complete with playing fields, maintenance equipment, players/spectators, etc., and by purchasing this real estate, you willingly acknowledge and accept any/all potential conflicts.
- b) That no access gate shall be permitted from the rear of the lots onto the Park Block.