

Schedule 1
The Corporation of the Municipality of East Ferris

Condominium Agreement

Pursuant to The Township of East Ferris-law No. _____

This Agreement made this _____ day of _____, 2023

BETWEEN:

Jeffrey James Staples

Hereinafter called the "Owner" of the First Part.

And

845826 Ontario Inc

Hereinafter called the "Mortgagee" of the Second Part.

And

The Corporation of the Municipality of East Ferris

Hereinafter called the "Township" of the Third Part.

Whereas the lands affected by this Agreement are shown on Schedule "A" and extending to **0.6075** hectares, more or less.

And Whereas the Owner warrants they are the owner of the above-described lands and that an application has been made to the Township Council of the Township (herein called the "Council") for the approval of a plan of Condominium, hereinafter referred to as the "Plan" of said lands, for the purpose of registering the same.

And Whereas the Owner and Mortgagee represent that the Mortgagee is the only mortgagee of the said lands.

And Whereas it is required that the Owner construct and install certain public services hereinafter referred to, to serve such plan of Condominium and to undertake such financial arrangements with the Township for the installation and construction of the said Services before requiring the final approval of the said Plan by the Council.

And Whereas the word "Owner" where used in this Agreement, in addition to its accepted meaning, shall mean and include an individual, an association, a partnership, or an incorporated company or corporation and whenever the singular is used herein, it shall be construed as including the plural.

Now Therefore, This Agreement Witnesseth That, in consideration of the Township consenting to the registration of the proposed plan of Condominium and the payment of the Agreement fee in the amount of \$250.00 and the covenants hereinafter expressed, the Parties hereto covenant and agree one with the other as follows:

1. Article: Interpretation

1.1. Definitions

This section sets out in lettered paragraphs, definitions to be applied to capitalized terms used in this Agreement and all of its schedules, exhibits and/or appendices. When a defined term appears in the text of this Agreement without having its first letter capitalized, the specific definition set out in this section shall not apply. The word or phrase shall then be deemed to have its regularly accepted meaning.

- (a) "Agreement" means this agreement, as executed. Where this agreement is amended in the future, the term refers to this agreement, as amended.

"Above Ground Services" means the construction of any service not specifically included in the Below Ground Services, but required under this Agreement. Without limitation, "Above Ground Services" includes asphalt pavement binder and surface courses on roads, the construction of curbs and gutters, sidewalks, the

sodding of boulevards, walkways, cul-de-sacs, the adjustment of all Below Ground Services to fit the Above Ground Services construction (if necessary), the cleaning of sewers, any other necessary repair work to the Below Ground Services and driveway repair. Without limitation, "Above Ground Services" may also include any other service which may be required by the Agreement such as culverts, fencing and drainage improvements.

- (b) "Township" means The Corporation of the Municipality of East Ferris and, where the context so implies, its employees, officers, servants agents and its Council members.
- (c) "Township Engineer" means the Professional Engineer employed by the Township or his agent.
- (d) "Current" means date at time of.
- (e) "Easement" means a right-of-way over the Owners Land granted to the Township for its sole use to accommodate the installation and maintenance of above ground Services.
- (f) "Final Acceptance Certificate" means a certificate issued by the Township Engineer acknowledging the Township's final acceptance of the Works as specified in this Agreement. Such certificate will not be issued until the Owner's consulting engineer has provided to the Township as built Plans.
- (g) "Homeowner" means any person who purchases any Land with the intention that it will be occupied as a residence.
- (h) "Land" means all or any portion of the land included in the Plan as set out further in Section "A" to this Agreement.
- (i) "Landscaping" means the planting or preservation of any tree, shrub, grass or plant, or the construction of any fence, decorative wall or planter, which may be required in connection with the development of the Plan. Without limitation, "Landscaping" shall include parkland fencing, public lands restoration, tree preservation, berm construction, reverse unit landscape strip development, (if such a strip is required to be conveyed to the Township), and special boulevard planting and fencing. "Landscaping" shall not include the construction of walkways and associated fencing under Stage I Services or street tree planting and sodding under Stage II Services.
- (j) "Legal Description" - The land as described in Schedule A of this Agreement:
- (k) "Plan" means an engineering plan prepared by a Professional Engineer

showing the proposed design of the Condominium, above ground Services.

- (l) "Professional Engineer" means a person who holds a certificate of authorization as required by the *Professional Engineers Act*, R.S.O. 1990, c. P. 28, as may be amended.
- (m) "Services" means all the work to be completed by the Sub-divider as set out in this Agreement and as further re-classified under the definitions of both Above Ground Services.
- (n) "Sub-divider" means anyone obtaining title to the Land or any portion of the Land from it, either directly or indirectly. Without limitation, "Sub-divider" includes any mortgagee in possession of all or part of the Land, any contractor retained by the Sub-divider to build Services (or any subcontractor employed under that contractor), or any other developer or subcontractor or builder who obtains title to all or part of the Land, as the context requires. "Sub-divider" shall not extend to or include a Homeowner or anyone obtaining title through or from a Homeowner.
- (o) "Condominium" means a unit scheme to facilitate the division of a parcel of Land, such scheme to be approved by the Municipality under the authorities of the *Planning Act*, R.S.O. 1990 c. P. 13, as amended.

1.2. General Provisions

- (a) Legislation - Unless otherwise indicated, all references to Provincial legislation in this Agreement shall refer to the Revised Statutes of Ontario, 1990, as amended from time to time, including successor legislation. Similarly, all references to Township Bylaws in this Agreement shall refer to those By-laws, as amended from time to time, including successor By-laws.
- (b) Gender, Plurals - All words in this Agreement shall be deemed to include any number or gender as the context requires.
- (c) Proper Law/Headings - This Agreement shall be construed according to the laws of the Province of Ontario. Article, section and/or paragraph headings are for reference purposes only and shall not in any way modify or limit the statements contained in any article, section or paragraph.
- (d) Schedules - The following are the schedules which are attached to and form an integral part of this Agreement:

- A – Property Description
- A1 – Easements for Drainage
- A2 – Easements for Hydro
- A3 – Easements for Bell Canada and other Telecommunication Companies
- A4 – Parks and Other Lands for Municipal Purposes
- B – Plans
- C – Summary of Estimated Costs
- D – Below Ground Services and Signs, Direct Township Charges
- E- Special Provisions

2. **Construction of Township Public Services**

2.1. Consulting Engineers

- (1) The Owner shall retain a duly qualified Professional Engineer as the consulting engineer of the Owner to carry out all the necessary engineering and to supervise, inspect and certify the work required to be done for the development and construction of the project. The consulting engineer shall have a valid Certificate of Authorization from the Professional Engineers of Ontario.
- (2) Such consulting engineer, or any successor thereto, shall continue to be retained until the work required to be done for the development and construction of the project is completed and formally accepted by the Township. The consulting engineer shall be available for information and queries from the Township Engineer during the construction phase of the works and for any changes in design which field conditions may require.
- (3) The Owner may change from one consulting engineer to another at any time or times during the development and construction of the project, so long as the Owner has a qualified consulting engineer retained at all times and promptly notifies the Township of any such change.
- (4) The Township shall provide inspection Services of the works in order to maintain quality control. As built survey information will also be provided by the Township to the consulting engineer for him to provide "as built" Plans to the Township at the Owners expense.
- (5) The Owner shall also provide, at his expense, a qualified full time resident supervisor acceptable to the Township Engineer (capable of supervision, inspection and survey layout) on this project to provide continuous service during all phases of construction of the Services and roadways. Without limitation, this supervisor's duties shall include:

- i. Arranging for or providing line and grade for the contractors (and re-staking where necessary);
- ii. Carrying out inspections of construction to ensure that the work is done in specific accordance with the contract documents;
- iii. Arranging for or carrying out all necessary field testing of materials and equipment installed, according to the Township's requirements (including without limitation soil sampling, concrete pipe testing, grain size analysis of pipe bedding materials, compaction in trenches, compaction of sub-grade and sub-base, testing of granular materials in accordance with the Township's procedures, compaction of granular, asphalt mix design, quality control testing of asphalt delivered to the site, concrete mix information, quality control testing at the site and quality control of top soil);
- iv. Investigating, reporting and advising on unusual circumstances which may arise during construction;
- v. Carrying out additional inspections as requested, including inspections at the conclusion of construction contracts and at the end of the maintenance period as part of the acceptance program of the Township.
- vi. Liaising with the Owners surveyors to obtain field information during and upon completion of construction necessary for the modification of engineering drawings to show the work "as-built";
- vii. Making himself available at all times, on reasonable notice, to receive information of and respond promptly to emergency requirements arising out of the construction of Services;
- viii. Provide the Township Engineer with a monthly inspection report during construction;
- ix. Notifying the Township as required to request inspection prior to proceeding to construct further works which would preclude effective inspection of works previously completed;
- x. Acting as the Sub-divider's representative in all matters pertaining to the construction;
- xi. Providing co-ordination and scheduling to comply with the timing provisions of this Agreement and the requirements of the Township Engineer for all the works specified in this Agreement; and

- xii. Providing to the Township, on behalf of the Sub-divider, the location of all Service connections at the time of provisional acceptance.
- ~~(6) The Owner shall provide a soils investigation report prepared by a qualified soils engineer, detailing the nature of the soils and their applicability to sewer and storm water management requirements and recommending an appropriate structural design of the road system in the Plan to the satisfaction of the Township Engineer.~~
- ~~(7) The Owner shall provide (as deemed necessary by the Township Engineer), a hydro geological report and/or a stormwater management report prepared by a certified Professional Engineer detailing the nature of groundwater and soil structure and recommendations as to the accommodation of such in the overall engineering of the Condominium works.~~
- (8) The Owner acknowledges that the review of engineering drawings by the Township is for the sole purpose of ascertaining conformity with established standards and criteria and does not imply that the Township is approving the detailed design, responsibility for which shall remain with the Owner and his consulting engineer.
- (9) In the event that the Owner does not commence the construction of the Services within two (2) years from the date of the approval of the engineering drawings and specifications, those engineering drawings and specifications shall be resubmitted to the Township for approval again prior to commencement of construction.

2.2. Construction/Installation of Township Works and Services

- (1) The Owner shall obtain all required approvals and shall construct or install to provincial standards and shall provide to the Township, complete in every detail, the following Township Works and Services (the "Works") as shown on Plans submitted by the Owner's consulting engineer to the Township and reviewed by the Township Engineer for accordance with the Township's specifications for such Works:
 - ~~(a) Township roads within the Plan complete with all signs and other appurtenances;~~
 - ~~(b) Removal and replacement of any temporary circle located immediately adjacent to the plan on a Township road to be extended into the Plan;~~
 - ~~(c) Street storm sewers or ditches on roads referred to in (a) and~~

~~(b), complete with curbs, gutters, catchbasins and manholes;~~

~~(d) Street lighting on Township roads within the Plan, on Township roads adjacent to the plan but not separated from the Plan by a reserve or reserves and on Township roads to be extended into the Plan where the Owner is required to remove and replace a temporary turning circle;~~

The following items may also be required:

- (e) Storm water drainage and management system serving the lands in the plan and lands outside the plan but draining through the Plan, complete with detention or retention facilities, quality and sediment control devices and outlets;
- (f) Storm water management facilities serving the Plan such as, but not limited to, treatment ponds, infiltration galleries and settlement devices;
- (g) Boulevards on Township roads within the Plan, on Township roads adjacent to the Plan but not separated from the Plan by a reserve or reserves and on Township roads to be extended into the Plan where the Owner is required to remove and replace a temporary turning circle;
- (h) Street tree planting on Township roads within the Plan, on Township roads adjacent to the Plan but not separated from the Plan by a reserve or reserves and on Township roads to be extended into the Plan where the Owner is required to remove and replace a temporary turning circle;
- ~~(i) Walkways on walkway blocks and park entrances, complete with walkway fencing, lighting, drainage and surfacing;~~
- ~~(j) Other fencing, including, fencing adjacent to commercial sites, school sites, parks, open space, storm water management facilities and roads adjacent to the Plan and separated from the Plan by a reserve or reserves;~~
- ~~(k) Noise attenuation measures including structures such as fencing or berms as approved by the Township Engineer as set out in Schedule "E";~~
- ~~(l) Natural Heritage/Archeology study requirements as set out in Schedule "E"; and~~

~~(m) — Environmental remediation measures as set out in Schedule “E”.~~

- (2) Where the Township has agreed to contribute funding towards infrastructure over-sizing costs, the Owner agrees not to employ any contractor for construction of the Services unless and until it has received the prior written approval of the Township. The Owner shall, before signing any contract for the construction of the Services, submit to the Township a complete set of the contract documents and specifications prior to tendering for review and approval by the Township. In the event the contract requires the construction of any Service for which the Township has a financial contribution, the contract documents will not be executed by work commenced until the approval of the bid, which the Sub-divider proposes to accept has been given by the Township. The Owner acknowledges that should he fail to abide by requirements of this Section, the Township, at its sole discretion, may be relieved of its obligation to make any financial contribution
- (3) If at any time prior to acceptance of the Work, the Township Engineer is of a reasonable opinion additional Works are reasonably necessary to provide adequately any of the public Services required by the project, the Owner shall construct, install or perform such additional Work at the request of the Township Engineer at the owner's cost, so long as such additional Work does not substantially change the previously approved design or the previously approved construction standards.
- (4) All Works shall be constructed and installed in accordance with the Township's specifications and in a good and workmanlike manner under the supervision of the Owner's consulting engineer and under the observation of the Owner's inspectors, in the case of street lighting, Hydro One's inspectors.
- (5) The Owner shall be responsible for the sewer flushing of all mains constructed as part of this Agreement and at no cost to the Township.

2.3. General Regulations Respecting Servicing

- (1) The Owner shall not dump nor permit to be dumped any fill or debris on, nor remove or permit to be removed any fill from, any public lands, other than in the actual construction of roads in the project without the written consent of the authority responsible for such lands.
- (2) The Township Engineer may have qualitative or quantitative tests made of any materials which have been or are proposed to be used in the construction or installation of any Services required by this Agreement and the cost of such tests shall be paid by the Owner within 30 days of invoices being rendered.

- (3) The Owner shall pay, within 30 days of invoices being rendered, the costs of:
 - (a) Relocating any existing municipal Services or utilities required to be relocated by the construction or installation of the Work, Services, or utilities in the project; and
 - ~~(b) Moving any works, Services or utilities installed in driveways or so close thereto, in the opinion of the Township Engineer, as to interfere with the use of the driveway.~~
- (4) The Owner shall provide and erect temporary signs of such nature and at such locations as designated by the Township Engineer or his agent.
- ~~(5) In the case where there has been a previous industrial or commercial land use of the property or a portion of the property, the Owner agrees to complete a Phase I Site Assessment pursuant to the ""Guideline for Use at Contaminated Sites in Ontario" originally dated June 1996 and later revised.~~

2.4. Completion

The Owner shall complete all Works applicable to this Agreement within a time limit specified by Council up to a maximum of three years and failure to comply with the requirement will cause loss and forfeiture of all monies deposited with the Township for the purpose of securing completion of the Services required by this Agreement.

3. **Plans and Specifications**

- 3.1. The Owner shall submit ten (10) copies of the Condominium agreement to the Township. When approved and signed by the Township, distribution will be as follows:

Department / Agencies	Number of Copies
Corporate Services (Director of Financial Services & Township Clerk)	2
Community Services (Manager of Planning Services)	1
Engineering & Environmental Services (Development Engineer & Supervisor Construction Services)	2
Owner	1
Consulting Engineer	1
Hydro One	1

Department / Agencies	Number of Copies
Bell Telephone Company	1
North Bay-Mattawa Conservation Authority	1

- 3.2. All plans and specifications shall be prepared in accordance with the requirements of the Township Engineer. All construction plans are to be included in Schedule "B" and "C". Upon completion of the installation of the Services the Owner's consulting engineer shall incorporate any job changes, locate all service boxes, and complete the as constructed drawings in electronic format to the satisfaction of the Township Engineer. When the co-ordinate systems become available and practical for the East Ferris area all plans, survey information and as constructed drawings are to be provided in a co-ordinate format based in the Township GIS requirements.
- 3.3. The Township shall not be required to execute this Agreement or the final plan of Condominium until delivery to the Township Clerk of all transfers, easements, letters of credit or cash deposits or reports and plans required under this Agreement.
- 3.4. The Owner shall provide an electronic version of this Agreement and a CAD version of all plans referred to herein in a format defined by the Township's Manager of Information Systems and the Township Engineer

4. Internal/External Road Maintenance and Repair/Snow Plowing

- (1) Throughout the term of this Agreement, the Owner shall,
- (a) Maintain all Township roads within the project in a mud and dust free condition and free of obstructions, regardless of the source or cause of any mud, dust or obstruction;
 - (b) Maintain all Township roads outside the project, including boulevards, in a mud and dust free condition and free of obstructions, where the source or cause of the mud, dust or obstruction is an operation or operations related in any way to the development of the project;
 - (c) Repair all Township roads outside the project, including boulevards, where damage has occurred as a result of an operation or operations related in any way to the development of the project;
 - ~~(d) Plow snow from and salt all Township roads within the project that are not subject to the Township's winter control program; and~~

- ~~(e) — The Township shall include in its winter maintenance program any roads on which a house has been lawfully completed and occupied, but the Owner shall remain responsible for any reconstruction or repair of the road surface.~~
- ~~(2) — The Owner, within 24 hours of verbal notification by the Township to it or its representatives, shall undertake such works as are necessary to clean, clear, repair, plow or salt any Township road requiring such work in the opinion of the Township Engineer or his designate.~~
- ~~(3) — The Owner agrees that should a particular stage or phase of the Condominium terminate with a temporary cul-de-sac and should future connecting stages of the Condominium not be commenced prior to the installation of the top lift of asphalt, the Owner shall pave this cul-de-sac to the satisfaction of the Township Engineer.~~

5. House Numbers

- 5.1. House numbers for use within the plan of Condominium shall be shown, by the Owner, on the Plans included herewith as Schedule "B" and in accordance with the current Township By-law.

6. Storm Water Management

- 6.1. All drainage works shall conform to Current Township standards and Current Stormwater Management Policy(ies). These policies are based on the most recent area specific sub-watershed plans and the 2003 Ministry of Environment (MOE) guidelines as amended from time to time.
- 6.2. The Owner shall grant to the Township Easements across the Lands herein described, or adjoining lands to provide for any drainage work that may be required by the storm water management plan to furnish an outlet for storm water or natural watercourses across the said property. The Owner shall be responsible for all costs including the registration fees for any grants or transfers. The said Easements shall be described in Schedule "A1" hereto, as specified by the Township Engineer and indicated on the Plan Schedule "A". The Owner further agrees that any existing tile drainage system shall be indicated on the plans Schedule "B" and "C" hereto.
- 6.3. Grading Control Plan/Unit Drainage and Sodding
 - (1) The Owner shall submit to the Township, for the approval of the Township Engineer, a Condominium Grading Control Plan prepared by the Owner's consulting engineer, establishing the proposed grading of the Lands in the project to provide for the proper drainage thereof and the drainage of all adjacent lands which drain through the Lands in the

project. All elevations shall be geodetic according to CGVD28 datum.

- (2) The Condominium Grading Control Plan shall be prepared in accordance with the Township's current unit drainage specifications and shall not provide for the drainage of surface run-off water onto Township-owned parkland, open space, walkways or other private lands not part of the Condominium unless provision is made for the installation by the Owner, at no cost to the Township, of suitable swales and catch basins to manage surface run-off water adequately, in the opinion of the Township Engineer.
- (3) The Owner shall grade all the Lands in the project in accordance with the approved Condominium Grading Control Plan, ensuring that sufficient topsoil remains as cover on all areas of the project intended for sodding, hydro seeding, or other planting.
- (4) If the Township determines that,
 - (a) grading has not been done in accordance with the Condominium Grading Control Plan.
 - (b) Grading has been done in accordance with the Condominium grading Controls Plan but drainage problems remain, or
 - (c) Sufficient topsoil has not been left in the appropriate areas,

the Owner shall re-grade the project, or part thereof affected, adding a sufficient amount of topsoil if necessary, or construct catch basins, swales or other structures as may be necessary to correct such problems, as directed by the Township Engineer, at the cost of the Owner.

6.4. Erosion Control During Construction

The Owner covenants and agrees to implement an Erosion Control Plan forming part of Schedule "B" of this Agreement and to maintain the control measures as specified in the Erosion Control Plan during the construction of Services and development of the Plan. The Owner further agrees that any costs incurred by the Township in cleaning, clearing, repairing or reconstructing the sedimentation and erosion control facilities, or existing Services within or outside the Plan as a result of storm water runoff and siltation will be the responsibility of the Sub-divider and will be drawn from the letter of credit deposited with the Township under Section 12 of this Agreement.

7. Utility Installations

- 7.1. Hydro Electric Installations - All Hydro Services shall be above ground where achievable and shall be approved by the Township Engineer.

- (1) The Owner agrees to provide Easements across the Lands described in Schedule "A2" hereto and indicated on Schedule "A" for the purpose of Hydro Electric installations. The Easements for the aforesaid Lands duly executed by the Owner shall be deposited with the Township Clerk before the final approval of the said Plan by the Township with the registered plan number left blank in the legal description, such Plan number to be entered by the Land Registrar when the said Plan is registered.
- (2) Execution of this Agreement by the Township shall confer approval to Hydro One to install their plant in the locations shown in Schedule "C" hereto.
- (3) The Owner shall require approval of hydro design and plant by the local default hydro distribution company and, as directed, by the Ontario Energy Board.
- (4) Execution of this Agreement by the Township shall confer the Township's consent to the Hydro One or local distribution company, to install and locate plant as shown in Schedule "C" hereto.

7.2. Telephone/Telecommunications Installations

- (1) The Owner agrees to provide Easements across the Lands described in Schedule "A3" hereto and indicated on Schedule "A" for the purposes of telecommunications installation.
- (2) The Owner agrees to allow telecommunications companies to survey and register Easements as shown on Schedule "A3" hereto.
- (3) Execution of this Agreement by the Township shall confer the Township's consent telecommunications companies to install and locate plant as shown in Schedule "C" hereto.

7.3. Canada Post Facilities

Canada Post Facilities shall be shown clearly on all engineering drawings and also shall be shown in the field by means of a sign indicating the location of the Canada post facility.

8. Lands for Municipal Purposes

- 8.1. That the Owner shall grant in fee simply unto the Township, the Land or Easements set forth in Schedule "A1", Schedule "A2" and Schedule "A6" hereto and shown on Schedule "A" for municipal purposes other than roads as indicated on the attached plan of Condominium. The Owner shall be responsible for all costs including the registration fees for such grants and transfers.

8.2. The deeds for the said Lands, and the Easements described in Schedules "A1", "A2" and "A6" hereto, duly executed, are to be deposited with the Township Clerk by the Owner before the final approval of the said plan of Condominium by the Township, with the registered plan number left blank in the legal description, such plan numbers to be entered by the Township Clerk when the said plan is registered.

8.3. Parkland Dedication

~~The Owner agrees to dedicate **BLOCKS**, as shown on this plan of Condominium as Parkland, representing % of the total Lands in this plan of Condominium, being ha , hereinafter "Parkland Dedication".~~

8.4. Cash-in-lieu of Parkland Dedication

Should the Township agree to accept a cash payment in lieu of a Parkland Dedication, the Owner will pay to the Township by way of cash or certified cheque an amount equal to 5% of the Land Value being a total of \$2,100.00.

9. **Payment of Taxes**

- (1) The Owner agrees to pay all arrears of taxes outstanding against the property herein described before the final approval of the said plan of Condominium by Township Council.
- (2) The Owner further undertakes and agrees to pay all taxes levied, or to be levied, on the said Lands on the basis and in accordance with assessment and collector's roll entries appearing from time to time.

10. Commutation of Local Improvements

- (1) The Owner hereby agrees to commute and pay all existing frontage and area local improvement charges against the Lands on the said plan of Condominium.
- (2) The Owner hereby agrees to commute and pay all proposed frontage and area local improvement charges against the Lands on the said plan of Condominium. Proposed local improvement charges shall be deemed to be against the Lands when the Township has given three readings to the authorizing by-law.
- (3) The Owner agrees to commute and pay the Township share of proposed and existing local improvements serving the Lands on the said plan of Condominium.
- (4) All such payments are to be made by the Owner prior to the execution of this Agreement by the Township.

11. Financial Arrangements

12.1 Security

As security for all covenants of the Owner contained in this Agreement, the Owner shall, at the time of the execution of this Agreement, file with the Township one or more irrevocable letters of credit totalling the amount of **NIL** (A breakdown of this figure is provided in Schedule "D".) It is understood and agreed that if the Owner should fail to complete to the satisfaction of the Township any items remaining to be completed under this Agreement, (all matters under the Pre-Servicing Agreement Services having been completed), within the time limit provided for, then the Township may at its sole discretion demand payment on the Letter of Credit and may use all or any part of the value of the Letter of Credit to rectify the default.

12.2 Form of Letter of Credit

All letters of credit filed with the Township under this Agreement shall be in favour of the Township and in a form satisfactory to the Township Solicitor. Each letter of credit must be issued by a Canadian chartered bank for the amount(s) set out. The terms of the letter(s) of credit must provide that the bank shall pay to the Township Treasurer any sums as may be requested from time to time, to the maximum limit of credit, without recourse. Each letter of credit must be valid for at least one year from the date of its delivery to the Township and must provide that it cannot be revoked or terminated without at least thirty (30) days' notice to the Township Treasurer. The letter of credit is to remain irrevocable until the Works are accepted by the Township. The letter of credit may be reduced from time to time as certain stages are completed and accepted by the Township as detailed in Section 12.5.

12.3 Cash in Lieu or Performance Bond Alternative to Letter of Credit

- (1) Where security is required pursuant to the terms of this Agreement, it has been anticipated that the Sub-divider will provide this security in the form of one or more letters of credit in the form required by Schedule "D". However, the Township, in its sole discretion, may accept a cash deposit in lieu of a letter of credit. Where a cash deposit is made by the Sub-divider as security for the performance of any one or more of its obligations pursuant to this Agreement, simple interest shall be payable by the Township to the Sub-divider on the amount deposited, as reduced from time to time pursuant to the terms of this Agreement. The rate of interest shall be at the rate for short-term deposits for a term of 180 days quoted by the Royal Bank of Canada on the last Friday of the months of March, June, September and December. Interest shall be computed on the minimum quarterly

balance for the number of days which any cash deposit is on deposit during the quarter.

- (2) The Township may, at its discretion, accept a Performance Bond and Material and Labour bond in an amount equal to the letter of credit amount, in a form and from a company satisfactory to the Township Solicitor.

12.4 Increased Security after Three Years

Where a letter of credit has been tendered and accepted by the Township pursuant to this Agreement, the Township may request that the value of the letter of credit be increased after three years, whether or not the Plan has been registered, or whether or not the construction of Services has commenced, or at any stage during the construction of Services, if it appears after three (3) years to the Township, that the sum secured by the letter of credit has become insufficient to adequately indemnify the Township under this Agreement. This determination shall be made in the reasonable discretion of the Township. In the event that an increased letter of credit is not received by the Township, within 20 days of making a request for an increase, the Sub-divider shall be deemed to be in default under this Agreement, and shall not take any further steps to develop, convey or build upon the Land. If this Agreement is in default for 30 days or more the Township, may draw the whole amount of the letter of credit.

12.5 Reduction of Letter of Credit

The Township may, from time to time, reduce the amount of the letter of credit provided to secure the construction of any Services for which sums are deposited under Section 12.1 and Schedule "D" of this Agreement by an amount equal to 80% of the funds held by the Township for such completed Services. The Sub-divider acknowledges that the Township will not entertain a request for reduction unless and until it has received a certificate from the Sub-divider that all accounts relative to the installation of the completed Services has been paid, and that the *Construction Lien Act*, R.S.O. 1990, c. P. 30, as may be amended, has been complied with by the Sub-divider. Any reduction made shall be based on the progress payment made by the Sub-divider to his contractor and the estimated cost of the Services set out under Schedule "D". After final acceptance of the Below Ground Services, the balance of the letter of credit shall not be reduced to less than 20% of the estimated cost of above ground Services until a Certificate of Final Acceptance for all Services has been given. In the event that the Developer obtains a contract wherein the purchaser of the units agrees to sod the boulevard and agrees to deposit the cost in full with the Township, the Township may on an annual basis, upon receipt of the deposit from the purchaser of the unit, reduce the letter of credit by the amount of the deposit.

12.6 Guarantee

The Sub-divider acknowledges that the letter(s) of credit is/are taken to secure the completion of the Sub-divider's obligations pursuant to this Agreement and will stand to guarantee that its obligations are satisfactorily completed. If the Land is transferred while the Sub-divider's obligations under this Agreement have not been completed, the Sub-divider acknowledges that it is its own and sole responsibility to make arrangements with the transferee of the Land directly to have liability for the letter(s) of credit guaranteed or assumed by the transferee. Substitute letter(s) of credit from the transferee, will not necessarily be accepted by the Township unless in compliance with Subsection 12.2.

12.7 Direct Township Charges

~~The Sub-divider paid the Township the amount of **\$0.00** under the Pre Service Agreement for the individual items set out in detail in Schedule "C" to this Agreement.~~

11.1.1. Nature of Direct Township Charges

The money paid under Schedule "C" of this Agreement shall become the sole property of the Township, free from all claims of the Sub-divider. The Sub-divider shall not, under any circumstances, be entitled to any refund of any part of the fixed payment once it has been paid, whether or not the actual cost of providing the Services for which payment is made is less than the sum paid by the Sub-divider under Schedule "C".

11.1.2. Use of Direct Township Charges

The Sub-divider acknowledges that the Township shall use the moneys paid by the Sub-divider under Schedule "C" to pay the cost of, or to reimburse the Township for the cost of the Services or improvements on account of which the moneys are paid whether such Services or improvements were constructed or rendered before or are constructed or rendered after the date of this Agreement. The time and manner of providing these Services shall be at the sole discretion of the Township.

12.8 Development Charges

The Sub-divider acknowledges that, in addition to the amounts payable under Section 11 and Schedule "C", all applicable development charges must be paid prior to or at the time a building permit is issued.

12.9 Services to be Assumed

The total estimated cost of all the Services to be constructed which will be assumed by the Township is **NIL** as generally detailed in Schedule "D". **NIL** To secure the construction of Services which are the responsibility of the Sub-divider, the Sub-divider shall provide a letter of credit in the amount of which is 100% of the cost of constructing outstanding Services.

12.10 Off Site Servicing

The Owner agrees to pay all applicable off-site servicing costs related to this Condominium less any appropriate Township share as detailed in Schedule "E" of this Agreement.

12.11 Guarantee and Maintenance Period

The Sub-divider covenants and agrees to maintain and guarantee all the Services from all defects in workmanship or material for a period of two (2) years from the date of completion of the first lift of asphalt (the "Maintenance and Guarantee Period"). During the said Maintenance and Guarantee Period referred to above, the Sub-divider covenants and agrees to maintain all of the Services in good working order and maintain them in a good state of repair.

The Sub-divider acknowledges that the Township shall be entitled to retain not less than 5% of the value (as set out in Schedule "C" of this Agreement) included in the letter of credit provided pursuant to Section 12 of this Agreement to secure the construction of the Services until a Certificate of Final Acceptance is issued pursuant to Section 12.12 of this Agreement.

12.12 Certificate of Final Acceptance of Services

The Sub-divider shall receive from the Township Engineer a Certificate of Final Acceptance on the expiry of the Maintenance and Guarantee Period subject to the following conditions:

- (1) The Sub-divider must deliver to the Township the final engineering drawings required by Section 2.1 of this Agreement.
- (2) Any and all defects or damages to Services which occurred during the Maintenance and Guarantee Period must have been corrected.
- (3) The Sub-divider must cause its consulting engineer to provide a set of as-built plans based on the survey and inspection reports provided by the consulting engineer.

- (4) The Sub-divider must cause an Ontario Land Surveyor to provide a declaration certifying that all standard iron bars shown on the registered plan of Condominium (and marking the main points of the limits of highways and the blocks dedicated or conveyed to the Township) are still in their correct locations.

The issue of the Certificate of Final Acceptance shall relieve the Sub-divider from any further obligations of guarantee of the accepted Services.

13.1 Occupational Health and Safety

- (1) The Owner certifies that it is aware of its duties and obligations under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O. 1, or any successor thereto, and all Regulations thereunder (in this section called the "Act"), and shall ensure that its employees, contractors, subcontractors and their employees,
 - (a) are aware of their respective duties and obligations under the Act, and
 - (b) have sufficient knowledge and training to perform all Works and Services required pursuant to this Agreement safely and in compliance with the Act.
- (2) In the performance of all Works and Services required pursuant to this Agreement, the Owner shall,
 - (a) act safely and comply in all respects with the Act, and
 - (b) ensure that its employees, contractors, subcontractors and their employees act safely and comply in all respects with the Act.
- (3) The Owner shall rectify any unsafe act or practice and any non-compliance with the Act immediately upon being notified by any person of the existence of such act, practice or non-compliance.
- (4) In addition to the Owner's general indemnification of the Township pursuant to Section 13.2 below, the Owner shall indemnify and save harmless the Township,
 - (a) from any loss, inconvenience, damage or cost to the Township which may result from the Owner or any of its employees, contractors, subcontractors and their employees failing to act safely or to comply in all respects with the Act in the performance of any Work or Service required pursuant to this Agreement; and
 - (b) against any action or claim, or cost related thereto, brought against the Township by any person arising out any unsafe

act or practice or any non-compliance with the Act by the Owner or any of its employees, contractors, subcontractors and their employees in the performance of any Work or Services required pursuant to this agreement.

- (5) The Owner shall permit representatives of the Township on the site where any Works or Services required pursuant to this Agreement are being performed at any time or times for the purpose of inspection to determine compliance with this section.
- (6) No act or omission by the Township or any representative of the Township (including the entering into of this Agreement) shall be deemed to be an assumption of any of the duties or obligations of the Owner, its employees, contractors, subcontractors and their employees under the Act.

13.2 General Indemnity and Release

Until the Township has accepted the Condominium Services and roads, the Owner on behalf of himself, his assigns and successor in title, hereby covenants to indemnify and save harmless the Township from all actions, causes of action suits, claims, and demands whatsoever, for any personal injury, death or property damage which may arise either directly or indirectly from the development of this Condominium including and without limiting the generality of the foregoing, only claims arising by reason of any alteration of the existing grade or level of any street or streets on the said plan to bring the said grade or level into conformity with the grade or level approved by the Township Engineer or by reason of any damage to the lands abutting on any street or streets shown on the said Plan, or to any building erected thereon, arising from, or in consequence of any such alteration of grade or level.

- 13.2.1 The Owner further agrees to indemnify and save harmless the Township from any claim or demand arising from the design and/or approval of the Services and roads herein.
- 13.2.2 The Owner shall be liable for all damages that may be suffered by any person on the streets as shown on the Plan until the streets have been taken over by by-law by the Council of the Township of East Ferris.
- 13.2.3 In the event that any of the obligations of the Owner herein are requested by the Owner to be performed by the Township, then the Owner hereby appoints the Township as the agent of the Owner for the purpose of performing such works and the Owner shall pay the cost of any such Work forthwith upon demand. The parties hereby

agree that any Works which are required to be performed for the purpose of maintaining public travel on a road (dedicated to the Township, but not yet assumed by the Township of maintenance) in circumstances deemed by the Township Engineer in his sole opinion, to be on an emergency basis, then such Works shall be further deemed to be at the request of the Owner, at the expense of the Owner and as agent for the Owner.

- 13.2.4 Any rights, duties or obligations of the owner which are required to be performed by the Owner prior to the issuance of building permit on a unit shall not be assigned without notice in writing to the Township Engineer.

13.2.5 Environmental Remediation

The Sub-divider covenants and agrees to implement the recommendations of any pertinent environmental remediation studies which are required by this Agreement or which otherwise apply to the Lands.

13.2.6 Liability Insurance

- ~~a) The Owner shall procure and maintain liability insurance in the amount of five million dollars (\$5,000,000) on a per occurrence basis. Such insurance shall include the Township, its officers and agents as named insured for all and any claims resulting from improper installation of any Services or on any roadway prior to the Township assuming such Services or roadways.~~
- ~~b) The insurance as specified above shall not be terminated, cancelled, or materially altered unless written notice of such termination, cancellation or material alteration is given by the insurers to the Township at least thirty (30) clear days before the effective date thereof. Any revisions must be submitted to the Township for approval. The insurance will not be cancelled until all Services are complete and have been accepted by the Township.~~
- ~~c) The Owner shall provide the Township with a certificate of insurance indicating compliance with this section upon execution of this agreement.~~

14 Building Permit

The approval of the Township authorities to this proposed plan of Condominium is not to be deemed to give assurance that building permits, when applied for, will be issued on the units as shown on the Plan in Schedule "A".

15 Registration of Condominium Agreement and Release

The Owner hereby agrees that this Agreement shall be registered upon the title of the Land within the said plan of Condominium.

15.1 Release of Condominium Lands

~~Upon completion of the said Works, Services and roads and the issuance of the Final Acceptance Certificate and the payment of all accounts therefor and the submission of applicable as constructed plans, the Township Engineer will issue to the Township Clerk a report that states in his opinion the said Works have been constructed according to Township specifications, standards, and requirements or that there is adequate financial security retained therefor. When the Township Clerk has received the Township Engineer's report, the Township Clerk shall execute a certificate to release the Lands from this Agreement.~~

16 Encumbrances

16.1 Postponement

The Encumbrancer, in consideration of the approval by the Township of the Plan, postpones any rights or interests which it has in the Land with the intent that this Agreement shall take effect as though executed and registered prior to the creation of its right or registration of any mortgage, agreement or other document creating or defining its rights or interests.

16.2 Priority of Rights

The Encumbrancer, in consideration of the approval by the Township of the Plan, covenants and agrees with the Township that this Agreement, and any conveyance, Easement or other documents given pursuant to this Agreement, shall have priority over the rights of the Encumbrancer in the Land with the intent that the Encumbrancer (or anyone claiming under it) shall at no time exercise in relation to the Land any right, title or claim which could not be exercised by the Sub-divider by reason of the terms of this Agreement.

17 Successors and Assigns

This Agreement shall insure that the benefit and be binding upon the parties and their respective successor, assigns, heirs, executors and administration.

18 Assignment

The Owner may not assign all or any portion of its rights and obligations under this Agreement without the Township's written consent, which may be arbitrarily and unreasonably withheld.

IN WITNESS WHEREOF under the hands of its proper signing officers in that behalf.

IN WITNESS WHEREOF the Township has hereunto affixed its Corporate Seal under the hands of its proper signing officers authorized by By-law in that beh

SIGNED, SEALED AND DELIVERED

In the Presence of

Name: Jeffrey James Staples

MORTGAGEE

Name: _____

Title: _____
845826 Ontario Inc.

SIGNED, DELIVERED AND ATTESTED

The Township of East Ferris

In the Presence of

MAYOR – Pauline Rochefort

CLERK – Kari Hanselman

Authorized and approved by By-law Number _____
ENACTED this _____ day of _____, A.D., 20__.

SCHEDULE "A"

- (1) All and singular that certain parcel or tract of land and premises situated, lying and being in the Township of East Ferris in the District of Nipissing and more particularly described as follows:

- (a) Existing Property Description:

PART OF LOT 21, CONCESSION 3, TOWNSHIP OF EAST FERRIS,
DISTRICT OF NIPISSING. ALL OF PIN 49186-0129 (LT)

- (b) Condominium Description:

Nipissing Vacant Land Condominium No-_____

As prepared by R. D. Miller O.L.S. for TULLOCH GEOMATICS INC.

SCHEDULE "A1"

EASEMENT(S) FOR DRAINAGE

Owner agrees to provide registered Transfer to Easement(s) in favour of the Condominium Corporation in prescribed form prior to execution by the Mayor and Clerk of this Agreement.

Above Ground Storm Drainage:

NIL

SCHEDULE "A2"

EASEMENT(S) FOR HYDRO

Owner agrees to provide registered Transfer of Easement(s) in favour of Hydro One in prescribed form prior to execution by the Mayor and Clerk of this Agreement.

NIL

SCHEDULE "A3"

EASEMENT(S) FOR BELL CANADA AND OTHER TELECOMMUNICATIONS COMPANIES

Owner agrees to provide registered Transfer of Easement(s) in favour of Bell Canada or other telecommunications companies in prescribed form prior to execution by the Mayor and Clerk of this Agreement.

NIL

SCHEDULE "A6"

PARKS AND OTHER LANDS FOR MUNICIPAL PURPOSES

Parks and Other Lands

NIL

Cash in Lieu Calculation

(As set out in Section 51.1.1 of the planning Act Chpt. P.13, R.S.O. 1990 as amended)

Jeffrey James Staples will pay the Municipality 5% of the value of the land being \$2,100.00.

SCHEDULE "B"

PLANS

<u>Drawing No.</u>		<u>Description</u>
C01	-	SITE AND LOT GRADING PLAN
C02	-	EROSION CONTROL PLAN

SCHEDULE "C"

SUMMARY ESTIMATED COSTS	
PART A - Above Ground Services	NIL
PART B - Street Signs	NIL
TOTAL PARTS A AND B	NIL

* The Total estimated costs are the total estimated construction of the road and all the appurtenances in or over the road. These costs are to be used to establish the value of the letter of credit as per Section 12 of this Agreement.

SCHEDULE "D"

Part A – Above Ground Services

PART A - ABOVE GROUND SERVICES					
Item	Description	Units	Quantity	Unit Price	Amount
Road					
1				\$	\$
2				\$	\$
3				\$	\$
4				\$	\$
5				\$	\$
6				\$	\$
7				\$	\$
8				\$	\$
9				\$	\$
10				\$	\$
11				\$	\$
TOTAL PART B					\$

Calculation of Letter of Credit

LETTER OF CREDIT					
Item	Description	Units	Quantity	Unit Price	Amount
				\$	\$
				\$	\$
				\$	\$
TOTAL LETTER OF CREDIT					\$

Part B – Signs

PART B - SIGNS					
Item	Description	Units	Quantity	Unit Price	Amount
				\$	\$
TOTAL PART B					\$

SCHEDULE "E"

SPECIAL PROVISIONS

1. The Owner agrees to provide at its own expense centralized mail delivery sites suitable to Canada Post Corporation.
2. This Agreement complies with the Ontario Land Tribunal order in OLT case No OLT-21-001242.
3. Any Reference to Municipal Roads and Services in this agreement are not applicable.
4. The Condominium Corporation shall Maintain the Site in accordance with the Site Plan control agreement