

SITE PLAN CONTROL AGREEMENT

THIS AGREEMENT made this _____ day of _____, **20**_____.

B E T W E E N :

hereinafter called the "**OWNER**" of the FIRST PART

A N D :

THE CORPORATION OF THE TOWN OF HANOVER

hereinafter called the "**MUNICIPALITY**" of the SECOND PART

A N D :

hereinafter called the "**ENCUMBRANCER**" of the THIRD PART

WHEREAS the Owner is the registered owner of the lands described in Schedule "A" attached hereto (hereinafter referred to as the "lands");

AND WHEREAS the Encumbrancer(s) (if any) hold registered security interests in the lands and all encumbrancers of the lands are included as parties to this Agreement;

AND WHEREAS Section 41 of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, authorized municipalities to designate areas of Site Plan Control and to subsequently enter into agreements with respect to the conditions of development or redevelopment of lands in areas of Site Plan Control;

AND WHEREAS by virtue of By-law 1552-05-05-86 of the Municipality, the lands (described in Schedule "A" attached hereto) are subject to Site Plan Control and authorizes the Municipality to enter into this Agreement as a condition of development or redevelopment;

NOW THEREFORE, THIS AGREEMENT WITNESSETH THAT in consideration of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada and other valuable consideration now paid by the Municipality to the Owner and to each encumbrancer (the receipt of which is hereby acknowledged) the Owner hereby covenants and agrees with the Municipality as follows:

1. RECITALS

The parties acknowledge that the recitals are accurate.

2. DEFINITIONS

- 2.1. Where in the Agreement the word "owner" is used, it is deemed to include the leasee.
- 2.2. Where in the Agreement the word "encumbrancer" is used, it is deemed to include any mortgagee or other person or corporation having any secured interest or lien against the lands.
- 2.3. Reference to "Site Plans", "Site plan control agreement" or any derivative of these terms contemplates reference to Section 41 of the Planning Act, R.S.O. 1990, Chapter P.13 and amendments thereto and furthermore contemplates all those enumerated matters over which site development control relates.

3. SCHEDULES

All Schedules attached hereto, or if not attached hereto but referred to in this Agreement, form part of this Agreement and are binding on the Owner and Encumbrancers(s). The Schedules include:

- "A" Description of Lands
- "B" Site Plan

4. SITE PLAN WORKS AND REQUIREMENTS

The Owner covenants and agrees that it shall commence construction and provision of the works including Site improvements, landscaping and other items as shown on the Site Plan attached hereto as Schedule "B" as prepared by _____ on _____, 20____ and known as Project No. _____. The Owner shall advise the municipality, in writing, of the date of commencement. Some aspects may be required to be completed earlier and if so, these shall be specifically itemized. The Owner shall be responsible for all associated off-site servicing costs. All work is to be completed in a good and workmanlike manner and in accordance with all applicable laws and requirements (including Federal, Provincial and Municipal). Reference herein to Schedule "B" shall be interpreted to include reference to Schedule "B-1", "B-2" etc. inclusive, (where they apply) unless otherwise specifically stated to the contrary.

Note: It is acknowledged that there may be inadvertent differences between textual requirements and pictorial or schematic requirements shown in plans, diagrams, etc. (whether forming part of a schedule to this Agreement or otherwise). At the complete discretion of the Municipality the most stringent requirement(s) shall apply. If a requirement is expressed ambiguously, in general terms only, inadequately or incompletely (whether specified textually or shown pictorially or schematically) the Municipality may require greater particularization and detail where in its opinion it may subsequently be required and the Owner shall comply.

5. AMENDMENTS

The Owner agrees that no development, redevelopment or works shall be undertaken other than in conformity with this Agreement. Any change in operations or requirements, or any development, redevelopment or works not expressly provided for under this Agreement shall require amendment to this Agreement and/or a new Agreement between the Owner and the Municipality. The Municipality may, upon application by the Owner, summarily grant minor modifications to the requirements of this Agreement provided that they are made in writing by the Municipality. The determination of what constitutes a "minor modification" is in the exclusive discretion of the Municipality.

6. MAINTENANCE OF WORKS

All works, once constructed or provided in accordance with the requirements of this Agreement shall be properly maintained and repaired as required to the satisfaction of the Municipality at the Owner's sole expense. Maintenance shall be deemed to include the removal of snow from all access ramps, ingress and egress routes, driveways, parking and loading and unloading areas, and may include from time to time the trucking away of snow depending on conditions.

7. EXPENSES

The Owner/Leasee agrees to pay to the Municipality the reasonable costs of the Municipality's Lawyer, Planner and Engineer involved in processing the Site plan control agreement and of the Municipality's Engineer for checking of plans and specifications and for supervision and inspection on behalf of the Municipality and in this regard, to pay to the Municipality the sum of \$_____ prior to the execution of this agreement.

8. DEFAULT

8.1. All works and other matters to be constructed, provided and maintained by the Owner pursuant to this Agreement, shall be continuously provided and maintained by the Owner at his sole risk and expense and to the satisfaction of the Municipality. If, in the opinion of the Municipality, based upon reasonable grounds, the Owner has defaulted in the construction, provision or maintenance of any of the works or of any other matter required under this Agreement, the Owner must rectify such default to the satisfaction of the Municipality after notification thereof. Any matter deemed by the Municipality to be an emergency shall be rectified forthwith. Any other matters shall be rectified within thirty (30) days of receipt of notice unless a greater time period is provided by the Municipality.

- 8.2. If in the reasonable opinion of the Municipality, the Owner has not rectified all such matters and things as are in default after the stipulated time period for rectification, the Municipality may at the expense of the Owner, through its agents, employees and/or servants enter upon the lands and do all such matters and things required to rectify the default. Actual cost incurred by the Municipality in carrying out such remedial work plus fifteen (15%) per cent of such cost as a charge for overhead (and to be construed as a liquidated amount, not as a penalty) shall be paid by the Owner to the Municipality within thirty (30) days of the mailing of or presentation of an invoice to the Owner.
- 8.3. The Municipality may utilize any securities deposited by or on behalf of the Owner in full or partial satisfaction of the costs associated with any default. Money owing by the Owner may be collected by the Municipality in like manner as municipal taxes, or pursuant to provisions of the Planning Act, R.S.O. 1990, Chapter P.13 the Municipal Act, R.S.O., 1990 Chapter M.45 or by any other means legally available to the Municipality.
- 8.4. Whenever the Municipality is authorized or permitted to enter onto the lands for purposes of inspecting or completing works or facilities, maintaining same or otherwise, the Municipality, its agents, servants or employees shall not be considered to be trespassers, nor liable in any way for acts or omissions unless occasioned by gross negligence. It shall be the Municipality's sole discretion, acting reasonably, to determine when it should intervene with respect to the lands and it is hereby understood and agreed that any failure to intervene or delay in so doing shall not be grounds to condone or excuse the Owner from any default, the Municipality's remedies being cumulative.

9. **LIGHTING**

No flood lights or other lighting shall be permitted unless it is so constructed, located and directed so as not to cause annoyance from direct or indirect glare to persons on any street or on other adjoining properties (as per Site Plan).

10. **SIGNS**

Notwithstanding conformity to any relevant municipal sign by-law, no new sign(s) shall be erected on the said lands unless it is so located and has lighting content, colour and design only of a nature as will prevent the creation of any hazard, obstruction or confusion to any driver of a motor vehicle or to any pedestrian (as per Site Plan).

11. **FENCING & BUFFERING**

Notwithstanding conformity to any relevant municipal fence/buffering by-law, fencing/buffering is to be constructed or maintained in accordance with this agreement (as per Site Plan) at the satisfaction of the Municipality.

12. **PARKING**

The Owner shall not permit motor vehicles to be parked on any part of the lands unless all areas for which parking is permitted are surfaced with a hot mix asphalt and/or graded gravel surface with dust inhibitor, or another form of hard surfacing acceptable to the Municipality. Notwithstanding this provision, parking is temporarily permitted in such areas with the written permission of the Municipality (for example, where hot mix asphalt is recommended for application in the spring of the following year, it may be appropriate to permit parking to occur over winter months as a matter of convenience and to ensure proper "packing"). The Owner shall adhere to such reasonable time constraints as the Municipality may impose, (as per Site Plan).

13. **DRAINAGE AND GRADING**

The Owner shall show on Schedule "B" all elevations and contours of the lands subject to development at this time and the same shall be finally developed and further indicating and setting out the disposal systems on the lands for the disposal of storm, surface and waste water. All such plans shall be to the satisfaction of the Municipality or Saugeen Valley Conservation Authority, if deemed applicable.

The Municipality in consultation with its engineer may require the Owner to furnish detailed plans and/or information, depending upon the nature of the development, of the site and of

adjoining lands. The Owner agrees to furnish such plans and/or information and acknowledges that he may be required to retain an engineer for this purpose. The Owner shall not permit the lands to drain otherwise than into a properly installed drainage system and where they exist, with proper catch-basins connected to a Municipal storm sewer. The grades and drainage facilities shall be so established so as to provide for drainage of any surface water including roof water, only into the internal system of drainage connected to the Municipality's storm sewers where they exist (as per Site Plan).

14. **GARBAGE DISPOSAL AND ORDERLY APPEARANCE OF PROPERTY**

The Owner hereby agrees that environmentally acceptable garbage disposal shall be arranged by the Owner for all refuse or waste materials. The Owner further agrees to maintain the "paved areas", "landscaped areas" and "planting" and the exterior of all buildings and structures in a neat and orderly appearance and to remove all papers, debris, refuse and discarded material of any sort, on a continuous basis, all to the satisfaction of the Municipality.

15. **SERVICES**

It is understood and agreed that the Owner shall arrange with the Municipality, Hanover Public Works, Westario Power, Bell Canada and any other appropriate authorities for the installation of such services and works (sanitary, water, storm, roads, entrances, hydro, telephone, cable, gas, etc.) as are considered necessary in accordance with the terms, conditions and specifications required by the said authority. All fire hydrants are to be painted RED, with the exception to the cap colour which may arrive black in colour and shall remain black, or as required by the Hanover Fire Department. If requested, the Owner shall provide the Municipality with a letter from the Hanover Public Works, Westario Power, Bell Canada and any other appropriate authority where applicable stating that a satisfactory agreement has been made with respect to the cost of installing their facilities and outlining the financial arrangements concluded in this regard.

16. **NO NUISANCE**

The Owner agrees that the performance of all works and procedures during development, whether by the Owner, his contractor, sub-contractor, agents or employees, shall be performed so as not to constitute an undue nuisance or disturbance to abutting or other property owners.

17. **DAMAGE TO EXISTING PLANT**

The Owner shall be responsible for any damages caused to any existing road, road allowance or existing structure or plant located in the road allowance as a result of the development or re-development and shall pay for any costs involved in re-location of existing services such as hydrants, telephone poles, etc. which may be necessary by reason of the development or re-development.

18. **RIGHT TO INSPECTION**

The Owner agrees that duly authorized inspectors, servants, and agents of the Municipality shall have the right to enter upon said lands of the Owner at all reasonable times to make such inspections as the Municipality shall deem necessary. No entry or inspection shall be deemed to be an acceptance of any of the works by the Municipality, nor an assumption by the Municipality of any liability in connection therewith nor a release to the Owner from any obligation under this Agreement.

19. **AGREEMENT TO BE COMPLIED WITH**

It is understood and agreed that the issuance of a building permit by the Municipality, and any other works undertaken by the Owner, shall be contingent upon compliance with this Agreement in addition to all other relevant municipal by-laws, and Provincial or Federal statutes and regulations. It is further understood and agreed that all development or works shall be restricted to those uses permitted under the Municipality's Zoning By-law.

20. ACCURACY OF PLANS AND OTHER MATTERS

All plans and diagrams attached to this Agreement as a Schedule or referred to in this Agreement, the Owner warrants are accurate as to all dimensions and other matters shown thereon. The Municipality reserves the right to request plans and other matters to be done by a professional engineering or architectural firm approved by the Municipality. In the event that any material misrepresentation, whether accidental or otherwise is found to exist and which on reasonable grounds has prejudiced or compromised the Municipality's position, then the Owner shall be required, at its expense, to resolve all matters. Failing this, the Municipality may rectify the situation at the Owner's expense. For the above reasons, the Owner acknowledges the importance of having reliable and accurate plans and that the Municipality is relying upon them and is entering into this Agreement on that basis.

21. NOTICE

Any notice required or permitted to be given pursuant to the provisions of this Agreement may be given personally or shall be mailed to each party at the address hereinafter set out. If mailed by ordinary, prepaid first class post, it shall be deemed to have been received on the fourth day after it is postmarked.

To the Owners at:

To the Municipality at:

C.A.O./Clerk
Town of Hanover
341 10th Street
Hanover, Ontario
N4N 1P5

22. ENFORCEABILITY OF AGREEMENT

It is understood and agreed that the Owner shall not call into question, directly or indirectly, in any proceeding whatsoever, in law or in equity, or before any administrative tribunal, the right of the Municipality to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this Agreement may be pleaded as an estoppel against the Owner by the Municipality in any such proceeding.

23. REGISTRATION

The Owner hereby agrees that this Agreement shall be registered on the title of the lands described in Schedule "A" attached hereto at the expense of the Owner and shall be binding on the heirs and assigns of the Owner. The Owner agrees to pay the Municipality's reasonable legal costs incurred by it in connection with the preparation and registration of this Agreement. Any minor modifications to this Agreement authorized under paragraph four (4) shall also be binding upon the lands and any and all persons associated therewith. It shall be the responsibility of anyone seeking particularization of minor modifications to determine same from the Municipality.

24. GENDER

This agreement shall be read with all changes in gender or number required by the context.

25. ENUREMENT

This Agreement shall enure to the benefit of the parties hereto and their successors and assigns.

IN WITNESS WHEREOF the corporate parties have executed this Agreement by affixing thereto their corporate seals, as attested by the hand of their proper signing officers duly authorized in that behalf.

AND IN WITNESS WHEREOF the natural parties hereto have hereunto set their hands and seals.

**SIGNED, SEALED AND
DELIVERED**)

{OWNER'S NAME}

in the presence of:)

Witness)

Per: _____
Owner –

Witness)

Per: _____
Owner –

THE CORPORATION OF THE TOWN OF HANOVER

Per: _____
Susan Paterson - Mayor

Per: _____
Brian Tocheri - C.A.O./Clerk


Schedule "A"

THE LAND

All and singular that certain parcel or tract of land and premises situate, lying and being in the Town of Hanover, in the County of Grey and Province of Ontario, and being composed of Part of Lot _____, Registered Plan _____ . and Part _____ , Reference Plan _____ , and also known as _____ , Hanover, Ontario.

Schedule "B"

SITE PLAN

 {OWNER'S NAME}
{MUNICIPAL ADDRESS}
{LEGAL DESCRIPTION}