

SITE PLAN AGREEMENT

AND

THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

Part Lot __, Concession _____

**LETTER OF AUTHORIZATION
(SAMPLE)**

(date)

TOWNSHIP OF MALAHIDE
87 John St. S.
Aylmer, ON N5H 2C3

Attention: **Eugenio DiMeo, Director – Community and Corporate Services**

Dear Mr. DiMeo

Re: Application for (application type)
John Doe – 1234 Concession Road

I am the registered owner of the lands which are the subject of the above described application. Please consider this correspondence as my authorization for
(name) to act on my behalf on all matters with respect to the accompanying application as well as any related planning applications.

Yours truly,

John Doe

THIS AGREEMENT made this ____ day of _____, 2005.

B E T W E E N:

Hereinafter called the “**OWNER**”

OF THE FIRST PART

- AND -

**THE CORPORATION OF THE
TOWNSHIP OF MALAHIDE**

Hereinafter called the “**TOWNSHIP**”

OF THE SECOND PART

WHEREAS the Owner is the owner in fee simple of the lands situate in the Township of Malahide, in the County of Elgin being Part of Lot ____, Concession ____, more particularly described in Schedule “A” attached hereto (and hereafter referred to as the “**Lands**”);

AND WHEREAS the Official Plan of the Township of Malahide in effect, designates the entirety of the Township as a site plan control area;

AND WHEREAS the Owner intends to develop the lands in accordance with the Site Plan attached hereto, as Schedule “A” (and hereafter referred to as the “**Plan**”);

AND WHEREAS the Township, as a condition of development of the lands requires the Owner to enter into a Development Agreement;

NOW THEREFORE in consideration of other good and valuable consideration and the sum of **Two Dollars (\$2.00)** of lawful money of Canada by each to the other paid (the receipt whereof is acknowledged by each), the Owner hereby covenants and agrees with the Township as follows:

1. The Owner agrees that no building permit will be available until the Plan has been approved by the Township, and further agrees that work will not commence prior to the issuance of the building permit.
2. The following Schedules, which are identified by the signatures of the parties to this Agreement, and which are attached hereto, are hereby made a part of this Agreement, as fully and to all intents and purposes as though recited in full herein:

EXHIBIT “A” - SITE PLAN

EXHIBIT “B” - SITE SERVICING PLAN

EXHIBIT “C” - CERTIFICATE OF COMPLIANCE

3. Schedule “A” hereto describes the lands affected by this Agreement.

4. Exhibit "A" - Site Plan, shows:
 - a) the location and height of all buildings and structures to be erected;
 - b) the location of vehicular entrances and exits;
 - c) the location and provision of off-street vehicular loading and parking facilities, including driveways for emergency vehicles;
 - d) walkways and all other means of pedestrian access;
 - e) the location and provision of fences, trees and all ground cover or facilities for landscaping the lands and protecting the adjoining lands and shows the lighting including flood lighting, of the land or any building or structure thereon;
 - f) the location and provision for the collection and storage of garbage and other waste material
5. The Owner agrees that the building or buildings will be erected in accordance with the plan(s) approved, subject only to such changes as have received advance approval.
6. Exhibit "B" - Site Servicing Plan shows:
 - a) lot grading information, indicating overland flow to and from adjacent properties, collection and disposal of surface water and storm water management (if deemed necessary by the Township);
 - b) location of utilities within the road allowance and site connections to these utilities;
 - c) building finished floor elevations;
 - d) other information as required by the Township
7. The Owner agrees that the site development and servicing will be in accordance with the plan(s) as approved, subject only to such changes as have received advance approval.
8. The Owner further agrees that:
 - a) final grades and elevations will be established to the satisfaction of the Township. The Owner will provide proof of final grades and elevations certified by a professional land surveyor or civil engineer, prior to the final release of the Letter of Credit.
 - b) all necessary provisions for service connections on site will be made to the satisfaction of the Township.
 - c) construction work will be carried forward expeditiously in good and workmanlike manner, in accordance with good trade practice and so to cause a minimum of nuisance.
 - d) all necessary precautions to avoid dust, noise and other nuisance and to provide for the public safety will, so far as possible, be taken and which comply with *The Construction Safety Act*.
 - e) all necessary care will be taken to see that mud and soil is not tracked or spilled onto any public street, and where such tracking occurs, the street shall be cleaned at the end of each working day.

- f) garbage disposal facilities will be an enclosed type located as shown on the Site Plan designed in a manner satisfactory to the Township.
 - g) unless otherwise provided, all parking lots and walkways will be finished with hot-mix asphalt, concrete or paving stones to the satisfaction of the Township and have permanent bumper curbing along all parking areas that abut the property limits.
 - h) no topsoil shall be stockpiled on any other portion of the Owner's lands except those lands identified in Schedule "A" to this agreement; and all topsoil shall be stockpiled and maintained in a manner which allows for the maintenance of weeds; and the Township may go in and do the same at the Owner's expense, and collect the cost in like manner either as municipal taxes or from the Letter of Credit deposited as performance security.
 - i) stock-piling of snow will not be allowed on the site where it will constitute a hazard in the opinion of the Township.
 - j) the electrical servicing of the property shall be subject to the approval of Hydro One.
 - k) upon failure by the Owner to do any act during the development period herein, that the public safety or convenience requires, in accordance with this Agreement, upon seven (7) days written notice, the Township, in addition to any other remedy, may go in and do same at the Owner's expense, and collect the cost in like manner either as municipal taxes or from the Letter of Credit deposited as performance security.
 - l) the Township may treat any breach of this Agreement as a breach of the Building By-Law, and upon twenty-four (24) hours written notice to the Owner, stop work until the breach is rectified.
 - m) nothing in this Agreement constitutes waiver of the owner's duty to comply with any by-law of the Township or any other law.
9. The Owner shall:
- a) be responsible for consulting with Hydro One regarding any matters that relate to services provided by Hydro One.
10. The Owner shall be responsible for consulting with and obtaining any necessary approval from all regulatory bodies such as, but not limited to, the appropriate Conservation Authority and the Ministry of the Environment.
11. The Owner shall satisfy all the requirements in relation to the fire protection for the building(s) to the satisfaction of the Township's Fire Chief.
12. The Owner agrees to pay for damages to public property including but not limited to municipal drain, ditches, street surfaces, storm and sanitary sewer systems, which may occur during the period of construction. Any such repair may be undertaken by the Township at the expense of the Owner, within thirty (30) days notice.
13. Any and all lighting shall be installed and maintained so as to not, in the opinion of the Township, interfere with the use or enjoyment of adjacent properties, or with the safe flow of traffic on abutting or adjacent streets.
14. The Owner shall landscape and maintain plants and ground cover acceptable to the Township, on those lands so indicated on the Site Plan.
15. If the Ontario Building Code requires that an Architect or Professional Engineer or both, shall be responsible for the field review of any new building or extension, provided for in this

Agreement, the Owner shall not occupy or use or permit to be occupied or used, any said new building or extension, until after an Architect or Professional Engineer has given to the Township, a letter addressed to the Township, and signed by the said Architect or Professional Engineer, certifying that all construction and/or services on or in the said lands, required for this development or redevelopment, newly installed by the Owner in connection with this development or redevelopment, have been installed and/or constructed in a manner satisfactory to the Architect or Professional Engineer.

16. The Township, through its servants, officers and agents, including its Chief Building Official, Fire Chief, and Township Engineer, may, from time to time, and at any time, enter on the premises of the Owner to inspect:
 - a) the progress of development;
 - b) the state of maintenance as provided for in this Agreement.
17. In the event of any servant, officer or agent of the Township, determining, upon inspection, that the development is not proceeding in the strict accord with the plans and specifications filed, such servant, officer or agent shall forthwith, place a notice requiring all work to be stopped upon the premises and forward a copy, by registered mail, to the Owner at the last known address, on the last revised assessment roll, and the Owner shall forthwith correct the deficiency or deviation.
18. In the event of any servant, officer or agent of the Township, upon inspection, be of the opinion that the state of maintenance is not satisfactory, such servant, officer or agent shall forthwith, forward notice of such opinion, by registered mail, to the Owner, at the last known address, and the Owner shall forthwith correct the deficiency or appeal to the Council of the Township of Malahide, as hereinafter provided.
19. In the event that the Owner should disagree with the opinion of the servant, officer or agent of the Township, as to the state of maintenance, such Owner shall appear before the Council of the Township of Malahide, which after hearing the Owner, shall express its opinion as to whether the maintenance is satisfactory, by resolution, which shall constitute a final determination of the matter.
20. In the event that the Owner shall fail to obey a stop work order issued under Section 17 hereof, the Owner recognizes the right of the Township to apply to the Courts for a restraining order.
21. In the event that an Owner shall fail to correct a deviation or deficiency after notice pursuant to Section 17 or after notice of an opinion, which the Council of the Township of Malahide determines is correct, under Section 17, the Council of the Township of Malahide, may by by-law, direct, on default of the matter or thing being done by the Owner, after two (2) week's notice, to it by registered mail, at the last known address of the Owner, pursuant to the last revised assessment roll of passage of such By-Law, that such matter or thing be done by the Township, at the expense of the Owner, which expense may be recoverable by action as municipal taxes, or from the Letter of Credit deposited as performance security.
22. Unless otherwise authorized, in the event of the Owner wishing to change at any time, the buildings, structures or facilities described in Exhibit "A" and "B", it shall make application to the Council of the Township of Malahide, for approval, and shall not proceed with such change until approval is given by such Council, or in default by The Ontario Municipal Board, under the procedure set out in Section 41 of *The Planning Act*, 1990, hereinbefore referred to.

23. The Owner agrees to pay to the Township all administration costs incurred in connection with this Agreement, and the fulfillment of this Agreement, including legal, engineering and inspection costs.

24. CAPITAL CHARGES

The following capital charges are to be paid at the time that this Agreement is signed.

25. SITE PLAN REVIEW FEE

The Owner shall pay to the Township, in cash or by certified cheque, an amount of One Thousand, Six Hundred (\$1,600.00) Dollars Deposit, per application, for Site Plan Review. As set out in Schedule "A" of By-Law 05-62 being a By-Law for the purpose of establishing user fees & rates.

26. LIABILITY INSURANCE

Before commencing any of the work provided for herein, the Owner shall supply the Township with a Liability Insurance policy in the amount of \$ 2,000,000.00 per occurrence, and in a form satisfactory to the Township, indemnifying the Township from any loss arising from claims for damages injury or otherwise, in connection with the work done by or on behalf of the owner of the development. The said policy shall be provided at the time of the signing of the Agreement and remain in force, until the development is complete and all required documentation as per Article 15 has been filed with the Township.

27. PERFORMANCE GUARANTEE

The Owner hereby defines the completion date of this Agreement and project to be on or before _____. It will be the Owner's responsibility to require, in writing, an extension to this agreement/project, within sixty (60) days of the above stated completion date, should an extension be required.

As security for the performance and completion of all works required by this agreement, the Owner shall supply the Township with a Letter of Credit, equal to \$ _____. The Letter of Credit will be based on the estimated cost of alterations to public property, roadway, curbs and gutters and drains, and any repairs for damages to public property, roadway, curbs and gutters and drains, plus all site specific components as defined by the Site Plan, "Exhibit A", and the Site Servicing Plan, "Exhibit B", which are approved under this Agreement. The amount of the Letter of Credit shall be established by the Township. The irrevocable Letter of Credit from a Chartered Bank expressed to be pursuant to this Agreement and payable to the Township at any time or in part, from time to time, upon written notice from the Township, shall be provided at the time of signing of this Agreement, and shall remain in force, until Twelve (12) months following the completion of this project.

28. This Agreement and the provisions thereof, do not give to the Owner or any person acquiring any interest in the said lands any rights against the Township with respect to the failure of the Owner to perform or fully perform any of its obligations under this Agreement or any negligence of the Owner in its performance of the said obligations.

29. In the event that no construction on the said lands has commenced within one (1) year from the date of registration of this Agreement the Township may, at its option, on one month's notice to the owner, declare this Agreement to be subject to re-negotiation, whereupon the Owner agrees that it will not undertake any construction on the said lands until this Agreement has been re- negotiated.

30. The Owner agrees that it will 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 Township 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 estoppels against the Owner in any case.
31. The Owner agrees on behalf of themselves, their heirs, executors, administrators and assigns, to save harmless and indemnify the Township, from all losses, damages, costs, charges and expenses which may be claimed or recovered against the Township by any person or persons arising either directly or indirectly as a result of any action taken by the Owner, pursuant to this Agreement.
32. All facilities and matters required by this Agreement shall be provided and maintained by the Owner at its sole risk and expense to the satisfaction of the Township and in accordance with the standards determined by the Township and in default thereof, and without limiting other remedies available to the Township, the provisions of Section 326 of *The Municipal Act*, R.S.O. 1990, shall apply.
33. This Agreement shall be registered at the expense of the Owner, against the land to which it applies, and the Township shall be entitled, subject to the provisions of *The Registry Act*, to enforce its provisions against the Owner, named herein, and any and all subsequent Owners of the land.
34. A Certification of Compliance attached hereto as Exhibit "C", shall be filed by the Owner, following completion of the development to ensure all details of the Site Plan Agreement have been complied with.

IN WITNESS WHEREOF, the Parties hereto have hereupon, affixed their Corporate Seal, duly attested to by their authorized signing officers in that behalf.

OWNER

CORPORATION OF THE TOWNSHIP OF
MALAHIDE

MAYOR

CLERK

EXHIBIT "C"

CORPORATION OF THE TOWNSHIP OF MALAHIDE

CERTIFICATE OF COMPLIANCE

PROPERTY IDENTIFICATION:

Municipal Address: _____

Owner: _____

This document serves to certify that the development project on the above noted lands has been completed in accordance with the terms and conditions of The Site Plan Agreement By-law No. _____.

DATED: _____

I HEREBY CERTIFY THAT THE ABOVE DECLARATION IS TRUE AND CORRECT.

Witness

Signature:

Name of Owner:

Address:

Phone Number:

