

**THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE**

**DEVELOPMENT AGREEMENT**

between

**Bradstones Developments Inc.**

- and -

**THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE**

**Dated \_\_\_\_\_, 2023**

The Corporation of the Municipality of Kincardine

1475 Concession 5, RR5  
Kincardine, ON N2Z 2X6

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

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**THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE**  
**DEVELOPMENT AGREEMENT**

THIS AGREEMENT made in triplicate on the \_\_\_\_ day of \_\_\_\_\_, 2023 A.D.

BETWEEN:

**Bradstones Developments Inc.**  
hereinafter called the “Developer”

- and -

**THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE**  
hereinafter called the “Municipality” of the SECOND PART

WHEREAS the Developer is the owner of the Land described in Schedule “A” to this Development Agreement (hereinafter called the “Agreement”) and proposes to develop it.

AND WHEREAS the Developer declares that it is the registered owner of the lands and has submitted a draft Plan of Condominium (hereinafter called the “Plan”) to the County of Bruce (hereinafter called the “County”).

AND WHEREAS the Municipality has been authorized by the County to require the Developer to agree to construct and install certain municipal services as hereinafter provided and herein referred to as the “Works” set out in Site Plan Agreement Dated July 7, 2023, and to make financial arrangements with the Municipality for the installation and construction of required services before draft approval of the Plan by the County.

AND Whereas the Developer and the Municipality will enter into a Site Plan agreement as it relates to the details of the development of the Land.

AND WHEREAS the word “Developer” where used in this Agreement includes an individual, an Association, a Partnership, or a Corporation and wherever the singular is used herein, it shall be construed as including the plural.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other good and valuable consideration and the sum of One Dollar (\$1.00) of lawful money of Canada, now paid by each of the parties hereto to each of the other parties hereto, (the receipt whereof is hereby acknowledged), the parties hereto hereby covenant, promise and agree with each other as follows:

## **SECTION 1 INTERPRETATION**

### **1.1 Definitions**

The terms defined in this Section 1.1 shall have the following meanings unless the context expressly or by necessary implication otherwise requires:

**“Agreement”** means this Agreement titled “Development Agreement”.

**“Business Day”** means any day that is not a Saturday, Sunday or statutory holiday in the Province of Ontario.

**“Certificate of Final Acceptance”** means the certificate issued by the Municipality after satisfaction of the conditions identified in Section 4.3.

**“Certificate of Inspection Re: Readiness for Occupancy”** means the certificate issued by the Municipality after satisfaction of the conditions identified in Section 8.10.

**“Certificate of Preliminary Acceptance”** means the certificate issued by the Municipality after satisfaction of the conditions identified in Section 4.2.

**“Chief Building Official” or “CBO”** means the Director of Building and Planning or the Chief Building Official, or designate for the Municipality of Kincardine

**“Conservation Authority”** means the Saugeen Valley Conservation Authority and its successors and assigns.

**“County”** means the Corporation of the County of Bruce and its successors and assigns.

**“Damage/Lot Grading Deposit”** means the amount of \$2000.00 per lot or block shall be paid by the Developer to the Municipality by way of cash or letter of credit as described in Section 8.9 of this Agreement.

**“Developer”** means, collectively, Bradstones Developments Inc. and their respective successors and assigns. “Developer” where used in this Agreement includes an individual, an Association, a Partnership, or a Corporation and wherever the singular is used herein, it shall be construed as including the plural.

**“Director of Infrastructure And Development”** means the Director of Infrastructure And Development or designate for the Municipality of Kincardine.

**“Land and/or Lands”** means the real property which is the subject of the Plan, the legal description of which is attached as Schedule “A”.

**“Municipality”** means the Corporation of the Municipality of Kincardine, and its successors and assigns.

**“Site Plan Agreement”** means the Site Plan Agreement for the subject lands.

**“Owner”** means the Owner of a lot or block and may include the “Developer”.

**“Plan”** means the plans relating to the Land as described in the attached Schedule “B”.

**“Works”** means the Works and services described in Schedule “C”.

### **1.2 List of Schedules**

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

Schedule “A” -- Description of Lands Being Subdivided

Schedule “B” -- Plans

Schedule “C” -- Checklist of Works to be Constructed

Schedule “D” -- (intentionally left blank)

Schedule “E” -- List of Lands for Municipal Purposes and Easements to be Granted to the Municipality

Schedule “F” -- No Occupancy Agreement

Schedule “G” -- Application for Reduction of Security

Schedule “H” -- Conditions of Draft Approval

Schedule “I” -- Special Provisions

## **SECTION 2 ORDER OF PROCEDURE**

### **2.1 Upon application to the Municipality for the preparation of an Agreement the Developer shall:**

- (a) Pay to the Municipality the fee required by the Municipality’s Tariff of Fees By-law.
- (b) Submit a General Plan outlining the services to be installed.

### **2.2 Prior to Registering the Agreement the Developer shall:**

- (a) Deposit with the Municipality Securities and Insurance as outlined in the Agreement.
- (b) Pay in full any outstanding taxes or drainage, local improvement charges and charges under the Municipal Act including outstanding sewer rates and/or water rates.
- (c) Provide proof of postponement of any encumbrances on the lands.
- (d) Deposit with the Municipality’s Solicitor, copies of this Agreement executed by the Developer, to be executed by the Municipality and retained by the Municipality’s Solicitor for registration as hereinafter provided.
- (e) Deliver to the Municipality’s Solicitor written authorization to register this Agreement or Notice of this Agreement both before and after registration of the Plan, and a cheque in respect of the cost of the said registrations where upon the Municipality’s Solicitor shall register this Agreement.

### **2.3 Prior to starting construction on the Services, the Developer shall:**

- (a) Have obtained final approval of the Site Plan from the Municipality.
- (b) Have submitted and obtained the written approval of the Municipality’s Engineer for the following all to be done in accordance with the Municipal Servicing Standards of the Municipality:
  - The Drainage Area Plans;
  - The Lot Grading Plan;
  - The Service Layout Plan for underground electrical services, telephone, gas, etc.;
  - Final approved drawings for all Works required in Schedule “C” to this Agreement.

- (c) Submit to the Municipality the Ministry of Environment, Conservation and Parks' Environmental Compliance Approval for the Water Supply and Distribution System, the Sewage Collection System, and the Storm Sewer System and Storm Water Management Works (if required).
- (d) Submit to the Municipal Engineer a completed Form 1 and supporting documentation for approval of the Water Distribution System.
- (e) Submit to the Municipal Engineer a completed Form SS1 and supporting documentation for approval of the Sewage Collection System, and where needed a completed Form SS2 with supporting documentation.
- (f) Provide written confirmation of having obtained the approval for drainage, road crossings, encroachment, etc. of all road authorities including the Municipality, County, Conservation Authority, the Ministry of Transportation of Ontario and any other authority involved.
- (g) Have deeded to the Municipality the lands/blocks/easements listed in Schedule "E".

**2.4 Prior to the issuance of building permits the Developer shall:**

- (a) Have complied with all requirements of Section 8.8 of this Agreement.

**2.5 Prior to any person occupying any building, the Developer shall:**

- (a) Have complied with all the requirements of Section 8.9 of this Agreement.

**SECTION 3 INSTALLATION OF SERVICES**

**3.1 General**

The Developer shall design, construct and install at his own expense and in good workmanlike manner Municipal services to the servicing standards of the Municipality.

**3.2 Municipality's Legal and Engineering Costs**

- (a) The Developer agrees to pay the Municipality's cost of the Municipal Solicitor and of the Municipality's Engineer's invoices for the checking of plans and specifications and for supervision and inspection on behalf of the Municipality.
- (b) The Developer shall be invoiced regularly by the Municipality for all costs incurred by the Municipality with respect to this Agreement pursuant to Section 3.2 (a).
- (c) The Developer shall reimburse the Municipality for all costs incurred by the Municipality as referred to in Section 3.2 (a) herein, within thirty (30) days of each billing, failing which the Municipality and its agents shall cease all work with respect to the review of the Development.

**3.3 Developer's Engineer**

The Developer shall employ engineers holding a certificate of authorization from Professional Engineers Ontario and approved by the Municipality:

- (a) To prepare designs;
- (b) To prepare and furnish all required drawings;
- (c) To prepare the necessary contract(s);

- (d) To obtain the necessary approvals in conjunction with the Municipality, the County Health Unit and the Ministry of Environment, Conservation and Parks, and others as required.
- (e) To provide the field layout, the contract documentation and the full time supervision of construction.
- (f) To maintain all records of construction and upon completion, to advise the Municipality's Engineer of all construction changes and to prepare final "as built" drawings. Paper prints and digital versions of the "as built" drawings shall be submitted to the Municipality prior to the issuance of the Certificate of Final Acceptance.
- (g) To act as the representative of the Developer in all matters pertaining to the construction.
- (h) To provide co-ordination and scheduling to comply with the timing provisions of this Agreement and the requirements of the Municipality's Engineer, for all Works specified in this Agreement.
- (i) To provide certification that the installation of services was in conformance to said plans and specifications, such certification to be in a form acceptable to the Municipality's Solicitor and the Municipality's Engineer.
- (j) To take such other actions as may be required by the Municipality, acting reasonably, for the completion of the development in accordance with this Agreement and good engineering practices.
- (k) The Developer shall notify the Municipality immediately if they change the Professional Engineer employed by the Developer for the development of the Lands.

### **3.4 Works to be Installed**

The Works to be installed are set out in Schedule "C" to this Agreement. This schedule is to set out the Works in general terms only and shall not be construed as covering all items in detail. If at any time and from time to time during the development, the Municipality's Engineer is of the opinion that additional Works are necessary to provide adequately any of the public services required by the Plan, the Developer shall, at his expense, construct, install or perform such additional Works at the request of the Municipality's Engineer.

### **3.5 Approval of Plans**

The detailed plans and specifications of all services must be submitted by the Developer to the Municipality's Engineer for endorsement of approval and such endorsement of approval shall in no way absolve the Developer or its consulting Engineers of responsibility for errors in or omissions from such plans and specifications.

### **3.6 Notification of Commencement**

The Developer shall not commence the construction of any of the Works until the plan has been registered and the Developer has provided 72 hours written notice to the Municipality's Engineer of his intent to commence work. Should, for any reason, there be a cessation or interruption of construction, the Developer shall provide 72 hours written notification to the Municipality's Engineer before work is resumed.

### **3.7 Progress of Works**

The Developer shall install all Works in a timely manner, in accordance with Municipal Standards and this Agreement. If he fails to do so, having commenced to install the aforesaid Works, fails or neglects to proceed with reasonable speed, or in the event that the aforesaid Works are not being installed in the manner



required by the Municipality, then upon the Municipality giving seven (7) days written notice by prepaid registered mail to the Developer, the Municipality may, without further notice, enter upon the said lands and proceed to supply all materials and to do all the necessary Works in connection with the installation of the said Works, including the repair or reconstruction of faulty work and the replacement of materials not in accordance with the specifications, and to charge the cost thereof together with an engineering fee of ten percent (10%) of the cost of such materials and Works to the Developer who shall forthwith pay the same upon demand. If the Developer fails to pay the Municipality within thirty (30) days of date on the bill, the money owing may be deducted from the cash deposit, letters of credit, or other securities. It is understood in the event that the Municipality must enter upon said lands and have Works completed or repaired due to situations as outlined above any or all original mylars and specifications prepared by the Developer's Engineer must be turned over to the Municipality's Engineer for his use should he require same. It is understood and agreed between the parties hereto that such entry upon the lands shall be as agent for the Developer and shall not be deemed for any purpose whatsoever, as an acceptance or assumption of the said Works by the Municipality. The Municipality, in addition to all other remedies may refuse to issue building permits until such Works are completely installed in accordance with the requirements of the Municipality.

Without limiting the obligations of the Developer herein, if the Developer shall default on the performance of any term, covenant or provision of this Agreement and if such default shall continue for ten (10) days after the Developer receives written notice of such default by the Municipality (or such shorter time as may be required in the cases of an emergency or other urgent matters or as otherwise provided for herein), the Municipality may perform that obligation on the Developer's behalf and may enter onto the lands constituting the Plan for this purpose. If the Municipality is compelled or elects to incur any expense in connection with its performance of the Developer's obligations (including any engineering or legal fees incurred in connection with such actions), any reasonable costs so incurred by the Municipality, together with all interest thereon and any damages incurred, shall be payable by the Developer and shall be collectible by the Municipality in like manner as municipal taxes. The Developer also acknowledges and agrees that the Municipality has the right to draw down any Letters of Credit, cash or other security for the purpose of collecting any such expenses incurred by the Municipality.

### **3.8 Scheduling of Works**

Prior to the start of construction and prior to the issuance of building permits, the Developer shall supply for the approval of the Municipality's Engineer a Schedule of Works setting out the order in which he considers the various sections of the Works within the Plan will be built. The Municipality's Engineer may amend this schedule and the Developer must construct, install or perform the work as the Municipality's Engineer from time to time may direct.

### **3.9 Contractor**

The said services shall be installed by an experienced, competent contractor or contractors retained by the Developer.

### **3.10 Utility Costs and Charges**

The Developer shall deal directly with all Utility companies. He or his Consulting Engineer, shall obtain all approvals and permits and pay all fees and charges directly to the appropriate Utility.

### **3.11 Access Roads**

All access roads must be maintained by the Developer in good repair acceptable to the Municipality's Engineer during the time of construction. This shall include

the removal of mud tracked from the Development as well as dust control. No roadway outside the limits of the proposed Development may be closed without the written consent of the Municipality. To obtain such consent, the Developer shall advise the Municipal Clerk, not later than 14 days prior to the proposed closure, of the date, time and duration they wish to close a roadway. All costs for advertising the closure and signage shall be borne by the Developer. The Municipality reserves the right to limit or prohibit the use of any existing access road by the Developer.

### **3.12 Movement of Fill**

The Developer covenants and agrees that it shall not dump nor permit to be dumped any fill or debris on, nor shall it remove or permit to be removed any fill, topsoil, trees or shrubs from any public lands, other than roads, without the written consent of the Municipality's Engineer. The Developer further agrees that no topsoil shall be removed from the lots and/or blocks except for construction purposes within the development and then such topsoil shall be stockpiled during grading operations and as each building is completed, the topsoil so stockpiled shall be replaced on the ground around each building to comply with the Municipal standards, and the replacing of such topsoil shall include all surfaces not covered by buildings, driveways or pavement within the development. Excess topsoil may be removed from the site with the approval of the Municipality's Director of Infrastructure And Development. Any stockpiles are to be maintained free of overgrowth, pose no adverse impacts to adjacent development, sight lines, or grading/ drainage, and shall be promptly removed upon completion of the development.

### **3.13 Damage to Existing Plant**

The Developer shall repair any damage caused to any existing road, road allowance or existing structure or plant located on the road allowance as a result of the development and shall pay for any costs involved in relocation of existing service such as hydrants, telephone poles, hydro poles, pad mount transformers, cubicles and pedestals, etc., which may be necessary because of the development.

### **3.14 Testing**

The Municipality's Engineer may have any qualitative or quantitative tests made of any materials which have been or are proposed to be used in the construction of any of the Works required by this Agreement, or may require television camera or soil tests to be carried out, and the cost of such tests shall be paid by the Developer within ten days of the account being rendered by the Municipality. Nothing herein shall relieve the Developer of its responsibility to carry out any tests required by good engineering practice.

### **3.15 Erosion and Silting Control**

The Developer must take all necessary precautions to prevent erosion and sedimentation of sewers, ditches, culverts, slopes, etc., both within the Development and downstream during construction and completion of servicing. Failing adequate precautions being taken, the Developer will be responsible for correcting any damages and paying all maintenance costs resulting therefrom.

### **3.16 Emergency Access**

The Developer shall at all times during construction and development of the Works maintain emergency access to the land to the satisfaction of the Municipality's Engineer.

### **3.17 Construction Refuse and Weeds**

The Developer, and each subsequent Owner of Lots or Blocks within the Plan, shall regularly dispose of all construction refuse, debris or weeds whether it be from site servicing or house building or any other source related to the development of the site, in an orderly and sanitary fashion. If the Developer or subsequent Owner of the Lots or Blocks within the Plan fails to remove and dispose of construction refuse, debris or weeds to the satisfaction of the Municipality's By-law Officer, the Municipality may give written notice to the Developer or lot Owner. If the Developer or each subsequent Owner of Lots or Blocks within the Plan fails to dispose of the refuse, debris or weeds within forty-eight (48) hours after receiving a written request from the Municipality to do so, the Municipality may, without further notice, undertake such removal and disposition and the cost thereof shall be paid by the Developer or each subsequent Owner of the Lots or Blocks within the Plan forthwith upon demand, which costs shall include all expenses incurred by the Municipality in carrying out such removal and disposition. The burning of construction refuse, debris of weeds, whether it be from site servicing or house building or any other source related to the development of the site on any lands within the Plan is prohibited.

### **3.18 Dust Control**

Until the Final Acceptance of all Services to be constructed under this Agreement, the Developer shall use such reasonable method to prevent any dust problem to traffic or home occupants as the Municipality shall deem necessary and for this purpose the Municipality's Director of Infrastructure And Development shall notify the Developer in writing from time to time of the requirements of the Municipality.

### **3.19 Municipal Street Numbers**

- (a) All Lot, Block or building numbers for use within the Plan shall be allocated by the Chief Building Official. To obtain such allocation, the Developer shall furnish the Chief Building Official with a copy of the Plan as registered upon which the Chief Building Official will designate the proper numbers for each Lot, Block or building.
- (b) The Developer shall display by means of a legible sign at least 300 mm x 300 mm to be erected on each Lot or Block within the Plan, the Lot or Block number as shown on the Plan and the street number and Lot or Block number for each Lot or Block prior to the issuance of a Building Permit for that Lot or Block which sign shall remain until such time as the building on such Lot or Block is occupied in accordance with the provisions of this Agreement.
- (c) Each Owner shall cause the street number so provided to be placed and maintained in a conspicuous position in the front of the property upon occupancy.
- (d) All costs related to Lot, Block or building numbering shall be the responsibility of the Developer.

### **3.20 Contaminants**

In the event the Developer discovers any waste, contaminants, pollutants, hazardous substances or any other similar substances that may be detrimental to the environment during the development of the lands constituting the Plan, the Developer hereby agrees to notify the Municipality and the Ministry of Environment, Conservation and Parks immediately and take all necessary steps and remedial efforts required by the Ministry of Environment, Conservation and Parks and the Municipality to remove such waste, contaminants, pollutants, hazardous substances or other substances that could be detrimental to the environment. In taking such action, the Developer shall fulfill all legislative

requirements for the remediation and clean-up of lands constituting the Plan and shall comply with all legislative requirements regulating the removal, transportation and disposal of such waste, contaminants, pollutants, hazardous substances or any other similar substances from the said lands.

## **SECTION 4 ACCEPTANCE OF WORKS**

### **4.1 Stages of Construction and Services**

The Municipality will grant Preliminary or Final Acceptance of servicing based upon completion of the municipal services, and when the development is phased, within the whole of each phase as approved by the Municipality. Stages of construction are as follows:

- (a) Stage 1 - consists of all underground Works including storm sewers and storm water management facilities, sanitary sewers, watermains and the completion of Granular "B" road base and a portion of the Granular "A" for a riding surface.
- (b) Stage 2 - services shall include the balance of the road Works including granular, curbs and gutter, base asphalt, grading of boulevard areas, sidewalks, installation of street and traffic signs, conduits, piping and facilities for the completion of electrical servicing, street lighting and other utilities such as gas, telephone and Cable T.V.
- (c) Stage 3 - services including the final coat of asphalt, topsoil and sodding, trees, fencing and any other requirements of this agreement.

### **4.2 Inspection and Acceptance of the Works**

When all of the services in any stage of servicing as identified above have been completed and the Municipality's Engineer has been given written certification by the Developer's Engineer that such services have been constructed in each stage in accordance with the approved plans and specifications in this Agreement and upon satisfactory inspection by the Municipality's Engineer, the Municipality's Engineer will recommend that the Municipality grant a Certificate of Preliminary Acceptance. This Certificate may include a list of minor deficiencies which the Developer must repair. The services shall then be subject to a guaranteed maintenance period as described in Section 5.1. Preliminary Acceptance will not be granted prior to registration of the Plan for the development or phase.

### **4.3 Final Acceptance of the Works**

On receipt of a written request from the Developer for final inspection and final acceptance following completion of the guaranteed maintenance period outlined in Section 5.1, the Municipality's Engineer will complete an inspection and if there are no deficiencies, will recommend to the Municipality that the Certificate of Final Acceptance be issued. This Certificate will be issued provided that the Developer has paid all accounts to the Municipality and the Municipality is:

- Satisfied the applicable services have been completely installed;
- Satisfied all repairs or maintenance work on the applicable services have been completed.

and the Municipality has:

- Approved the formal certification of final completion from the Developer's Engineer certifying that all Works and services have been installed;

- Received as-built drawings as detailed elsewhere in this Agreement.

#### **4.4 Acceptance During Winter Months**

The Municipality will not be required to provide Certificates of Preliminary or Final Acceptance during the winter months or any other time of year when inspection of the Works and services is impractical due to snow cover or other adverse conditions.

#### **4.5 Use of Works by Municipality**

The Developer agrees that:

- (a) The Works may be used prior to acceptance by the Municipality, or other authorized persons for the purposes for which such Works were designed.
- (b) Such use shall not be deemed an acceptance of the Works by the Municipality.
- (c) Such use shall not in any way relieve the Developer of his obligations in respect of the construction and maintenance of the Works so used.

#### **4.6 Replacement of Survey Bars**

Prior to the final acceptance by the Municipality, the Developer shall deliver to the Municipal Clerk a statement from an Ontario Land Surveyor approved by the Municipality that after the completion of the work, he has found or replaced all survey monuments and iron bars as shown on the registered plan.

#### **4.7 Ownership of Services**

Upon the issuance to the Developer of the Certificate of Final Acceptance, the ownership of the services described shall vest in the Municipality and the Developer shall have no claim or rights thereto except those occurring as an owner of the lands abutting the streets where such services are installed.

Notwithstanding the above, the Developer and Municipality agree that on connection of water distribution systems, the Municipality will then become the operator of said systems. This shall not relieve the Developer of any maintenance responsibilities under this Agreement. Any costs associated with the repair and maintenance of the water infrastructure during the warranty period as outlined in Section 5.2 of this Agreement shall be borne by the Developer.

### **SECTION 5 MAINTENANCE OF WORKS**

#### **5.1 Maintenance of Works**

The Developer will be responsible for the repair and maintenance of all services, until a Certificate of Final Acceptance is issued for services by the Municipality. This maintenance period shall extend for two (2) years from the date of the Certificate of Preliminary Acceptance for the Works. During this maintenance period, a 10% security holdback shall be retained by the Municipality in accordance with the provisions of Clause 9.3 (e) of this agreement. If during this period, the Developer fails to carry out maintenance work within seventy-two (72) hours after receipt of the request from the Municipality, then the Municipality's Engineer or Works Superintendent may, without further notice, undertake such maintenance work and the total costs of such work, including engineering fees, shall be borne by the Developer. If the Developer fails to pay the Municipality within thirty (30) days of the date of billing then the money owing may be deducted from the deposited securities. Towards the end of the Maintenance Period, the Developer shall make written request to the Municipality for a final

inspection to be made in respect to the issuance of the Certificate of Final Acceptance.

Notwithstanding the provisions above, operational responsibility for the water distribution system shall be transferred to the Municipality once the watermain is fully tested, disinfected and commissioned to the satisfaction of the municipality. All costs associated with repair and maintenance of the water distribution system during the maintenance period shall be charged back to the Developer and the Developer shall pay all such amounts to the Municipality forthwith upon receiving the associated invoices.

## **5.2 Emergency Repairs**

Employees or agents of the Municipality may enter onto the Land at any time or from time to time for the purpose of making emergency repairs to any of the Works. Such entry and repairing shall not be deemed an acceptance of any of the Works by the Municipality or an assumption by the Municipality of any liability in connection therewith or a release of the Developer from any of his obligations under this Agreement.

## **SECTION 6 FOUNDATION CONSTRUCTION AND PERMITS**

**6.1** The Developer shall, with respect to each building:

- (a) apply to receive a permit from the Municipality for the construction of foundations only (and excluding any other components) for each such building on the Lands;
- (b) subsequent to the construction of foundations, provide, for each such building, a certificate issued by an Ontario Land Surveyor addressed to the Municipality confirming:
  - (i) that the foundation walls between each Dwelling have been centred on the Unit boundaries as set out on the Condominium Plan;
  - (ii) that all other foundation walls for each Dwelling are located within the boundaries of the respective Unit as set out on the Condominium Plan; and
  - (iii) that the elevations at the top of all foundation walls conform to the applicable Grading Plan on file with the Municipality;
- (c) make application to the Municipality for a permit for the balance of the structure of each respective building only after the certificate referred to in 6.1(b) above is filed with the Municipality.

**6.2** It is agreed that the Municipality shall not issue the permit referred to in Paragraph 6.1 (c) above until such time as it has received, and is satisfied with, the certificate referred to in Paragraph 6.1 (b) above. In addition to compliance with this Agreement, the issuance of all permits shall be subject to compliance with all other applicable law.

**6.3** In the event that a foundation wall between Dwellings is not centred on a Unit boundary between adjoining Units, the Developer shall be responsible for all work required, including any removal, reinstallation and additional permits, in order that a certificate may be provided in accordance with 6.1 (b) above. The Developer shall indemnify and hold harmless the Municipality of Kincardine and the County of Bruce from any cost, claim, demand or damages arising from the incorrect placement of a foundation wall.

**6.4** The Developer shall not convey any portion of the Lands other than by the conveyance of a completed Dwelling, unless the transferee of such conveyance

enters into a written assumption of the Developer's obligations pursuant to this Agreement.

- 6.5** This Agreement shall bind and benefit the parties hereto and their respective successors and assigns.
- 6.6** All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants and shall run with the Lands.
- 6.7** The Parties Acknowledge that further Agreements pursuant to Section 51 of the Planning Act, R.S.O. 1990, c.P.13, as amended shall be required in order to satisfy all Conditions of Draft Plan of Condominium Approval for the Lands.

## **SECTION 7 LANDS TO BE CONVEYED**

### **7.1 Lands for Municipal Purposes**

The Developer shall convey in fee simple a good title free from encumbrances to the Municipality, lands for municipal purposes other than roads, which shall be mutually agreed upon by the Owner and the Municipality, or to make a cash payment in lieu thereof as stipulated by the Municipality and also to convey to the Municipality in fee simple, the 0.3 metre reserves and other lands required by the Municipality. The deeds for the said lands are to be approved by the Municipality's Solicitor and thereafter forthwith registered and deposited with the Municipal Clerk. The cost for preparation and registration of the said deeds shall be paid by the Developer. A list of lands for municipal purposes to be conveyed to the Municipality shall be set out in Schedule "E" of this Agreement.

### **7.2 Easements**

The Developer agrees to grant at his expense all such easements and right-of-ways as may be required for the installation and supply of services to the Development. A list of easements and right-of-ways to be granted to the Municipality shall be set out in Schedule "E" of this Agreement.

## **SECTION 8 ADMINISTRATION**

### **8.1 Voiding Agreement**

In the event that the Plan is not registered within one year from the date of the signing of this Agreement, the Municipality may at its option declare this Agreement to be null and void. All costs incurred shall be deducted from the deposit paid by the Developer to the Municipality pursuant to this Agreement or any other agreement between the Developer and the Municipality referred to herein.

### **8.2 Developer's Expense**

Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" and "as approved or accepted by the Municipality", unless specifically stated otherwise.

### **8.3 Developer's Liabilities**

Until the Municipality has issued the Certificate of Final Acceptance for the Works, the Developer hereby indemnifies and saves harmless the Municipality against all actions, causes of action, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the Developer undertaking the Plan.

#### **8.4 Insurance**

The Developer shall insure against all damages or claims for damage in an Insurance Company satisfactory to the Municipal Clerk as required under the Site Plan Agreement. The policy shall be in effect for the period of this Agreement including the period guaranteed maintenance pursuant to Section 5 of this Agreement. The issuance of such a policy of insurance shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, for which he may be held responsible.

#### **8.5 Legal Notice to Developer and Municipality**

Any notice required to be given hereunder may be given by fax, personal service delivered directly to the Developer or the Developer's engineer or by registered mail addressed to the Developer at its principal place of business, as identified in this Agreement or as provided by the Developer from time to time or as shown on the last revised assessment roll in the possession of the Municipality's Clerk, and shall be effective as of the date delivered or sent via fax or shall be effective, in the case of registered mail, the 5<sup>th</sup> day after the date the Notice was deposited in the Post Office.

Any notice required to be given to the Municipality hereunder shall be given to the Municipality by registered mail to:

Municipality of Kincardine  
1475 Concession, RR#5  
Kincardine, ON N2Z 2X6  
ATTN: Clerk

#### **8.6 Registration**

The Developer consents and authorizes the registration of this Agreement by the Municipality's Solicitor on title to the Lands both before and after the registration of the Plan in the Land Registry Office, which said registration is at the sole discretion of the Municipality and all costs of registration shall be paid for by the Developer.

#### **8.7 Mortgages/Encumbrances**

The Developer covenants and agrees to obtain and register, at its sole cost and expense, a postponement from each encumbrancer with a charge registered against title to the Land (or part thereof) so that notice of this Agreement shall be registered in priority to any such charge.

Further, the mortgagee, if any, agrees that in the event of him assigning or transferring the mortgage on the lands, the assignment or transfer shall be subject to the terms hereof in the same manner as if the assignee or transferee had executed this Agreement.

#### **8.8 Requirements for Building Permits**

The final approval of the Plan of Condominium by the County or the acceptance by the Municipality of the Works shall not be deemed to give any assurance that Municipal building permits, when applied for will be issued in respect of the Units shown on the Plans. Notwithstanding the foregoing, the Developer agrees that it, or anyone claiming titled from it or under its authority, shall not apply for any building permits for Units within the Plans until all requirements hereinafter set out have been carried out to the satisfaction of the Municipality. The Municipality shall have the right to refuse any such application until:

- (a) Site Plan Approval and the appropriate Site Plan Agreement are completed to the satisfaction of the Municipality.



- (b) The requirements of Section 6 of this agreement dealing with Foundation Permits are fulfilled to the Town's satisfaction.

## **8.9 Requirements for Occupancy**

Subject to Section 8.10 herein, no building erected on the Lots or Blocks within the Plan shall be occupied until a Certificate of Inspection re: Readiness for Occupancy has been issued by the Municipality's Chief Building Official and the said Certificate shall not be issued until:

- (a) Preliminary Acceptance has been granted Municipal services.
- (b) All storm sewers and stormwater management works are complete to the satisfaction of the Municipality.
- (c) All electrical distribution, telephone lines, cable TV, and gas mains have been installed

## **8.10 Special Building Permits / Model Homes**

Pursuant to Section 8.8 building permits are not obtainable until certain services are installed and approved by the Municipality's Engineer. The Municipality agrees that if the Developer or a builder wishes to obtain a building permit prior to the installation of services, as set out in Section 8.8, a permit may be issued provided the Developer or Builder has executed a No-Occupancy Agreement (Schedule "F") and the Municipality may require a deposit or Letter of Credit as a guarantee of no-occupancy. In the event that the Developer fails to meet all the requirements set out in Section 8.9 for any building permit that is issued pursuant to the Developer's delivery of a No-Occupancy Agreement, the Developer hereby acknowledges that the deposit shall be immediately forfeited to the Municipality. Such failure to meet the Section 8.9 obligations shall constitute a breach of this Agreement and the Municipality may immediately draw down any security held under this Agreement to complete any work required or fulfill any other requirements of Section 8.9 for any model home that was built pursuant to this Section 8.10.

## **8.11 Right to Enter into an Agreement**

The Developer agrees not to call into question directly or indirectly in any proceedings whatsoever in law or in equity any administrative tribunal, the right to 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 Developer in any such proceedings.

The Developer acknowledges that the Municipality is entering into this Agreement and approving the Plan on the express representation of the Developer that it and its successors and assigns shall observe and perform all the provisions of this Agreement and that the Municipality is of the opinion that the Plan would not be in the public interest if the Developer, its successors and assigns, the owner or owners from time to time of the land within the Plan were not obligated to observe and perform all the provisions hereof except to the extent the Municipality may lawfully change them.

## **8.12 Successors and Assigns**

The covenants, agreement, conditions, and undertakings herein contained on the part of the Developer shall run with the land and shall be binding upon it and upon its successors and assigns as owners and occupiers of the said lands from time to time.

### **8.13 Notification to Purchaser**

The Developer shall in every Agreement of Purchase and Sale or Offer to Purchase pertaining to any Unit within the Plans notify each purchaser of all of the payments to be made by the purchaser to the Municipality pursuant to this Agreement and all of the provisions of this Agreement which shall continue in force after the completion of the sale. Further, the Developer shall furnish a list of those services included in the purchase, specifying those installed and those to be installed at no additional cost.

### **8.14 Scheduling, Progress and Completion**

The Developer shall commence construction of services within eighteen (18) months of the signing of this Agreement or the registration of the Plans whichever is earlier. Within eighteen (18) months of the date of commencement of the servicing of any phase, the Developer shall complete the installation of the Stage 1 and Stage 2 services. In any phase, the top coat of asphalt shall be completed within twenty-four (24) months of preliminary acceptance of Stage 2 of the services; unless written consent altering this condition is received from the Municipal Engineer. Failure to adhere to the above schedule may result in the Municipality completing the Works in accordance with Section 3.7 of this Agreement. If the development is phased, the date for commencement of construction on the balance of the phases may be delayed for up to five years. Failure to commence construction within the time schedule above may result in the Municipality declaring this Agreement to be null and void.

### **8.15 No Municipal Liability**

This Agreement and the provisions herein do not give the Developer or any person acquiring any interest in the land within the Plan (each hereinafter in this clause called "such person"), any rights against the Municipality or the Municipality's Engineer with respect to the failure of any such person to perform any obligations under this Agreement or the failure of the Municipality to force such person to perform any obligations under this Agreement or any negligence of any such person in the performance of the said obligations.

The only duty and responsibility of the Municipality's Engineer arising out of this Agreement is to the Municipality and this Agreement. Any work or services done or performed by the Municipality's Engineer under this Agreement do not in any way create any liability on the part of the Municipality's Engineer to the Developer or any person acquiring any interest in the land within the Plan.

### **8.16 Assignment**

The Developer shall not assign this Agreement without the prior written consent of the Municipality, which consent may not be unreasonably withheld.

### **8.17 Conflict**

In the event of any conflict between or among the plans and specifications relating to the construction of the Works, the Municipality's Engineer shall decide which provisions shall prevail.

### **8.18 Severability**

If any term, covenant or provision of this Agreement shall be found or declared by a Court of competent jurisdiction to be invalid, unenforceable or ultra vires, such term, covenant or provision shall be conclusively deemed to be severable from all other terms, covenants and provisions of this Agreement and the remainder of this Agreement shall be and remain in full force and effect.

### **8.19 Amendment**

Without in any way limiting the rights of the Municipality, the Developer agrees that the Municipality may, with the consent of the then registered owner of any land within the Plan, amend this Agreement insofar as it specifically affects such land or any part thereof.

### **8.20 Further Assurances**

The Developer agrees that it shall and will, on the request of the Municipality, make, do, execute or cause to be made, done or executed all such further and other deeds, acts, things and assurances to ensure the full implementation of this Agreement and to satisfy the intention of the parties as set out in this Agreement.

### **8.21 Joint and Several**

All terms, covenants, provisions and obligations of the Developer in this Agreement shall be joint and several.

### **8.22 Headings**

The headings contained herein are for reference only.

### **8.23 Enurement**

This Agreement shall be binding upon and enure to the benefit of the parties hereto and its respective heirs, executors, administrators, successors and assigns.

## **SECTION 9 FINANCIAL PROVISIONS**

### **9.1 Development Charges, Drainage and Local Improvement Charges**

Development Charges shall be paid in accordance with the current Development Charges By-law of the Municipality.

The Developer agrees to pay for all arrears of taxes outstanding against the property herein described before the approval of the said Plan is obtained. The Developer further undertakes and agrees to pay all taxes levied on the said lands on the basis and in accordance with assessment and collector's roll entries until such time as the lands herein being subdivided have been assessed and entered on the Collector's Roll according to the Registered Plan.

Before the Plan is approved the Developer agrees to commute and pay all charges made with respect to the Drainage Act, the Local Improvement Act, and the Municipal Act, including but not limited to charges or rates outstanding in respect of the Lands under any sewer rate and/or water rate by-law which are assessed against the property on the Plan. Before the Plan is approved the Developer agrees to commute and pay the Municipality's share of any charges made under the said Drainage Act, the said Local Improvement Act and the said Municipal Act presently servicing this property and assessed against it.

### **9.2 Securities**

Prior to registering this Agreement, the Developer shall deposit with the Municipality to cover the faithful performance of the contract for the installation of the services and the payment of all obligations and contingencies as required by the Site Plan agreement signed July 7, 2023.

- (a) All Letters of Credit shall be for a minimum guaranteed period of one (1) year or such longer time as the Municipality may decide. All Letters of Credit referred to in this Section shall contain the following clause:

*“It is a condition of the Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date thereof, unless at least thirty (30) days prior to the present or any future expiration date, we notify you in writing by registered mail that we elect not to consider this Letter of Credit to be renewable for any additional period.”*

- (b) Unless each and every Letter of Credit is renewed as noted above, the Municipality shall have the absolute right to refuse to issue building permits and to prohibit occupancy of homes, whether partially or fully completed, from the said date thirty (30) days prior to the expiration of that Letter of Credit.

The Municipality reserves the right, at any time, to review the amount of security deposited in light of the value of the work remaining to be completed for any current or subsequent phases of the project and to require an adjustment in the securities, such adjustment to be based upon any anticipated changes to site conditions or construction costs.

### **9.3 Reduction of Securities**

An application for the reduction of the security on deposit with the Municipality pursuant to Section 9.2 herein may be made no earlier than thirty (30) days after the commencement of construction of the Works and every thirty (30) clear days thereafter.

- (a) To obtain a reduction in security the Developer shall file with the Municipality’s Engineer a written application in accordance with Schedule “G” attached hereto.
- (b) The application shall include written confirmation from the Developer’s Engineer:
- describing the Works constructed as at the date of the application and a calculation of the cost thereof.
  - confirming that the Works have been installed by the Developer with full time supervision of the Developer’s Engineer and in accordance with the requirements of this Agreement and schedules hereto.
  - describing the Works remaining to be completed as at the date of the application and a calculation of the estimated cost thereof.
- (c) The value of the reduction shall be determined by the Municipality’s Engineer who shall give a certificate to the Municipal Clerk and the Developer confirming the amount of the reduction of the security and the amount of the security remaining on deposit with the Municipality.
- (d) The value of the reduction shall be based upon the value of the Works remaining to be completed by the Developer plus ten percent (10%) of the value of the Works completed to the date of the application.
- (e) As a minimum security, subject to any outstanding deficiencies or contingencies, the Municipality throughout the maintenance period shall hold as security the greater of ten percent (10%) of the estimate of the cost of the Works as set out in Site Plan Agreement Dated July 7, 2023 or twenty thousand dollars (\$20,000.00).

#### **9.4 Statutory Declaration of Accounts Paid**

The Developer agrees that upon applying for a discharge of securities or for a Certificate of Preliminary Acceptance for the services, he shall supply the Municipality with a Statutory Declaration that all accounts for work and materials for said services have been paid except normal guarantee holdbacks and that there are no claims for liens or otherwise in connection with such work done or materials supplied for or on behalf of the Developer in connection with the Development.

#### **9.5 The Construction Act, R.S.O. 1990 c. C.30**

The Developer agrees that it will hold back in its payments to any Contractor who may construct the services, such sums as are provided in accordance with the Construction Act, R.S.O. 1990, c. C.30, and will otherwise indemnify and save harmless the Municipality against any claims, actions or demands for construction liens or otherwise in connection with the Works and all costs in connection therewith, and on the demands of the Municipality's Solicitor will forthwith take such steps to immediately discharge all liens upon the services.

Notwithstanding anything to the contrary contained in this Agreement, the Developer hereby agrees that the filing of any liens pursuant to the said Construction Act, with respect to the land described in Schedule "A" attached hereto, shall constitute a default by the Developer of the terms of this Agreement and shall entitle the Municipality to draw on any or all of the security referred to in Section 9.2 of this Agreement and to utilize said draw to make payment into Court of the holdback together with costs.

#### **9.6 Release**

When all of the obligations of the developer under this are completed to the satisfaction of the Municipality, then the Municipality, upon application from the developer, may consider executing a release of this agreement.

The Municipality may then enact a bylaw, or by-laws to provide that the Clerk is to execute a release of this Agreement. The completion and registration of such release shall constitute a full and final release of the obligations of the Developer.

### **SECTION 10 SPECIAL PROVISIONS – see Schedule "I"**

- 10.1 The Developer and the Municipality agree that the provisions set forth in the attached Schedule "I" form an integral part of this Agreement.

### **SECTION 11 FINALIZATION OF AGREEMENT**

- 11.1 The Developer and Mortgagee(s), if any, hereby authorize the Municipality to add to Schedule "A" to this Agreement and to all deeds, easements and other documents delivered by the Developer to the Municipality to fulfil the terms of this Agreement, the number of the Plan once registered.

**SECTION 12 SIGNATURES**

IN WITNESS WHEREOF the parties hereto have affixed their hands and seals attested to by the hands of the proper officer duly authorized on its behalf.

(Bradstones Developments Inc.  
(  
(  
( \_\_\_\_\_  
( Title:  
( I/We have authority to bind the Corporation  
(  
( THE CORPORATION OF THE MUNICIPALITY  
( OF KINCARDINE  
(  
( \_\_\_\_\_  
( Mayor  
(  
( \_\_\_\_\_  
( Clerk  
( We have authority to bind the Corporation

Developer’s Address: 18 Concession 8, Ripley, ON, N0G 2R0

Developer’s Telephone: 519-395-7999

Developer’s Email: chad@bradstones.ca

**SCHEDULE “A” OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

**DESCRIPTION OF LANDS BEING DEVELOPED**

PIN #33303-0900 (LT)

PART LOT 18, CONCESSION A, KINCARDINE, PART 1, PLAN 3R-10519;  
TOGETHER WITH AN EASEMENT OVER PART LOT 18, CONCESSION A,  
KINCARDINE, PART 2, PLAN 3R-10519 AS IN BR164551; MUNICIPALITY OF  
KINCARDINE





**SCHEDULE “C” OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

**CHECKLIST OF MUNICIPAL WORKS TO BE CONSTRUCTED**

- 1. Water distribution system, fire protection and building connections ☒

**CHECKLIST OF PRIVATE WORKS TO BE CONSTRUCTED**

- 1. Sanitary sewer collection system and sanitary services ☒
- 2. Storm sewers and stormwater management facility ☒
- 3. Roadworks and earthworks ☒

**Note: Works Required Denoted by ☒**

**SCHEDULE “D” OF AGREEMENT**

**Intentionally left blank.**

**SCHEDULE “E” OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

**LANDS FOR MUNICIPAL PURPOSES TO BE CONVEYED TO THE MUNICIPALITY**

A 0.3 m reserve to be conveyed, free and clear of all encumbrances to the Municipality of Kincardine for the lands abutting Gingras Street.

**LIST OF EASEMENTS TO BE GRANTED TO THE MUNICIPALITY**

3.0 m easement for watermain from Golf Links Road to Gingras Street and loop through site.

**SCHEDULE “F” OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

**NO OCCUPANCY AGREEMENT**

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other good and valuable consideration and the sum of One (\$1.00) Dollar of lawful money of Canada, the Parties hereto mutually covenant and agree as follows:

1. In consideration of the Corporation of the Municipality of Kincardine issuing a building permit to the Owner for  
  
\_\_\_\_\_, the  
Owner covenants and agrees that it will not apply for an occupancy permit until the above referred to services have been installed to the satisfaction of the Municipality;
2. The Municipality hereby acknowledges that it has a cash deposit from the Developer in the sum of \_\_\_\_\_ and will use its best efforts to see to it that the above referred to services are completed by\_\_\_\_\_.

THIS AGREEMENT shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

SIGNED, SEALED AND DELIVERED  
This                    day of                    , 20 \_\_\_\_.

(  
(  
( DEVELOPER (NAME OF DEVELOPER)  
(  
( THE CORPORATION OF THE  
( MUNICIPALITY OF KINCARDINE  
(  
(  
( Mayor  
(  
(  
( Clerk  
( We have authority to bind the Corporation.

**SCHEDULE “G” OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

**APPLICATION FOR REDUCTION OF SECURITY**

To: (Name of Municipality’s Engineer), Engineer, \_\_\_\_\_ of \_\_\_\_\_

Developer: (Name of Developer)

Agreement: (Date of Agreement)

Property: (Legal Description of Property)

Application No. (Specify number of application)

The undersigned, (Name of Developer’s Engineer) being the Developer’s Engineer, hereby confirms that the Works constructed as at the date of this Application have been installed by the Developer under the full time supervision of the Developer’s Engineer and in accordance with the requirements of the Agreement between the Developer and the Municipality.

The Works installed to the date hereof and the calculation of the cost thereof are detailed in the schedule attached hereto.

Further, the undersigned Developer’s Engineer hereby confirms that the Works remaining to be constructed as at the date of this Application and the calculation of the estimated cost thereof are also detailed in the schedule attached hereto.

This Application is given and delivered to the Municipality’s Engineer with full knowledge that the Municipality’s Engineer and the Municipality will rely upon the information contained herein in granting a reduction of the security held by the Municipality pursuant to Section 9.2 of the said Agreement affecting the above property.

DATED at \_\_\_\_\_, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature of Developer’s Engineer

Name of Developer’s Engineer

## **SCHEDULE "H" OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality's Agreement.

### **CONDITIONS OF DRAFT APPROVAL**



County of Bruce  
Planning & Development Department  
1243 MacKenzie Road  
Port Elgin, ON N0H 2C6  
brucecounty.on.ca  
226-909-5515

## **Conditions Of Draft Approval Vacant Land Condominium**

The Council of the Corporation of the County of Bruce hereby issues Draft Approval to the following application:

<b>File Number</b>	S-2022-023
<b>For</b>	Bradstones Developments Inc.
<b>In Respect Of</b>	KINCARDINE CON A PT LOT 18; RP 3R10519 PART 1 Municipality of Kincardine (Kincardine Township)
<b>Date of Draft Approval</b>	As per the County Decision Sheet

The following conditions have been established by the County of Bruce and must be met prior to the granting of Final Approval:

#### **Identification**

1. That this approval applies to Draft Plan of Vacant Land Condominium File S-2022-023 for Bradstones Developments Inc. in the Municipality of Kincardine, prepared by D. Culbert Ltd. on September 28, 2022, revised June 6, 2023.

#### **Lot Layout and Density**

2. That this approval is in accordance with the 'Relevant Information' section on the Draft Plan of Vacant Land Condominium, prepared by D. Culbert Ltd. on September 28, 2022, revised June 6, 2023.

#### **Reserves**

3. That a 0.3m reserve be conveyed, free and clear of all encumbrances, to the Municipality of Kincardine for the lands abutting Gingras Street.

#### **Condominium Agreement**

4. That the Owner enter into an agreement with the Municipality of Kincardine to satisfy all the requirements of the Municipality, financial or otherwise, and including matters required in these conditions of approval.
5. That the Condominium Agreement between the Owner and the Municipality of Kincardine include the following clause to the satisfaction of the County of Bruce in

consultation with the Saugeen Ojibway Nation Environment Office: Should previously undocumented archaeological resources be discovered, they may be an archaeological site and therefore subject to Section 48 (1) of the Ontario Heritage Act. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage with Saugeen Ojibway Nation Archaeology staff to pre-consult prior to obtaining a licensed consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48 (1) of the Ontario Heritage Act and in keeping with the Archaeological Standards of the Saugeen Ojibway Nation.

6. That the Municipality of Kincardine undertake to register the Condominium Agreement against the land to which it applies, and a copy of the Agreement be forwarded to the County of Bruce at the time of Final Approval of the Plan.

#### **Notices & Warning Clauses**

7. That the Condominium Agreement between the Owner and the Municipality of Kincardine include the requirement for the following Notice / Warning Clauses to be included in all offers of purchase and sale for condominium units on the Plan:

- a. "Stormwater Management Facilities

Purchasers are advised that facilities for the management of stormwater runoff on the site are subject to an approved Stormwater Management Plan. No Owner of any unit shall alter, interfere with or remove any of the Stormwater Management Facilities located within the site except in accordance with the approved Stormwater Management Plan. Changes or alterations to the approved Stormwater Management Plan shall require the prior approval of the Municipality of Kincardine."

- b. "Site Grading

Purchasers are advised that site grading is subject to an approved Grading Plan. No owner of any unit shall alter the grade or place or remove any fill material within any yard except in accordance with the approved Grading Plan. Changes or alterations to the approved Grading Plan shall require the prior approval of the Municipality of Kincardine."

#### **Easements**

8. That the Owner agree to grant such easements as may be required for utility, drainage or other purposes to the Municipality of Kincardine or other appropriate authorities.
9. That the Owner agree to grant such easements within the proposed declaration for the condominium plan as may be required for maintenance access purposes to the rear yards of interior units to the satisfaction of the Municipality of Kincardine.

#### **Utilities & Canada Post**

10. That the Owner provide an overall utility distribution plan to the satisfaction of the Municipality of Kincardine including the necessary easements and/or agreements required for the provision of utilities.
11. That the Owner agree to make satisfactory arrangements with the appropriate electricity service provider for the provision of permanent or temporary electricity services to this Plan.
12. That the Owner agree to make satisfactory arrangements with the appropriate gas service provider for the provision of permanent or temporary natural gas services to this Plan,
13. That the Owner agree to make satisfactory arrangements with the appropriate telecommunications and cable service providers for the provision of permanent or temporary telecommunications and cable services to this Plan.
14. That the Owner agree to make satisfactory arrangements for the installation of community mailboxes, if deemed necessary by Canada Post. The location and construction standard of community mailboxes shall be jointly approved by Canada Post and the Municipality of Kincardine.

#### **Bluewater District School Board**

15. That the Owner agree in the Condominium Agreement with wording acceptable to Bluewater District School Board to:
  - a. Include in all Offers of Purchase and Sale a statement advising prospective purchasers that student busing is at the discretion of the Student Transportation Service Consortium of Grey-Bruce.
  - b. Include in all Offers of Purchase and Sale a statement advising prospective purchasers that if school buses are required within the Subdivision in accordance with Board Transportation policies, as may be amended from time to time, school bus pick up points will generally be located on the through street at a location as determined by the Student Transportation Service Consortium of Grey-Bruce.
  - c. Provide sidewalks and pedestrian linkages throughout the Plan, to promote active transportation and safe walking routes to the satisfaction of the Municipality of Kincardine in consultation with the Bluewater District School Board.

#### **Staging and Lapsing**

16. That the Owner agree to stage any development of the Plan in a manner satisfactory to the Municipality of Kincardine and County of Bruce.



17. That the Owner prepare a Phasing Plan, if deemed necessary by the Municipality of Kincardine, outlining the timing of the required studies, and the design and timing of construction of all amenities and services (road construction, services, etc.).

18. That the Draft Approval for Vacant Land Condominium S-2022-023 for Bradstones Developments Inc. Inc in the Municipality of Kincardine shall lapse as follows:

- a. Three (3) years after the date of Draft Approval unless it has been extended by the County of Bruce with the concurrence of the Municipality of Kincardine.

#### **Official Plan and Zoning By-law**

19. That the County of Bruce be advised by the Municipality of Kincardine that the Plan of Vacant Land Condominium conforms to the Municipality of Kincardine Official Plan approved under the Planning Act.

20. That the County of Bruce be advised by the Municipality of Kincardine that the Plan of Vacant Land Condominium conforms to the Zoning By-law approved under the Planning Act.

#### **Digital Plan Submission**

21. That prior to Final Approval, the Owner shall submit to the Municipality of Kincardine and County of Bruce a digital file of the Plan to be registered in a format approved by the Municipality of Kincardine and County of Bruce.

#### **Clearance Conditions**

22. That prior to Final Approval being given by the County of Bruce, the County shall receive a clearance letter from the following agencies indicating how conditions applicable to their authority have been completed to their satisfaction:

- a. Municipality of Kincardine (conditions 3, 4, 6 to 10 inclusive, 16, 17, 19 to 21 inclusive);
- b. Electricity Service Provider (condition 11);
- c. Gas Utility Provider (condition 12);
- d. Telecommunications and Cable Service Provider (condition 13);
- e. Canada Post (condition 14); and
- f. Bluewater District School Board (condition 15).

If agency conditions are incorporated into the Condominium Agreement, a copy of the draft agreement should be sent to them. This will expedite clearance of the Final Plan.

## General Notes to Draft Approval

1. It is the Owner's responsibility to fulfill the Conditions of Draft Approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the County of Bruce Planning and Development Department quoting the appropriate file number.
2. Clearance letters are required from the agencies listed under "Clearance Conditions" of this approval.
3. Final Approval – An 'Application for Final Approval' together with all supporting documentation, plans and the required filing fee must be submitted to the County of Bruce. If the plans comply with the terms of approval, and the County of Bruce has received the required agency clearances, the County's stamp of approval will be endorsed on the plan, and it will be forwarded to the Registry Office for registration.

The number of mylar(s) and white paper prints as required for registration under the Registry Act must be submitted to the County of Bruce along with the 'Application for Final Approval.'

We strongly recommend that a 'draft' of the Final Plan be submitted to the County and the Registry Office for pre-clearance prior to the submission of any Application.

4. You are advised to consult the Land Registrar for requirements for registration prior to applying to the County of Bruce for Final Approval.
5. Inauguration, or extension of a water works is subject to the approval of the Ministry of the Environment under Section 52 and Section 53 of the Ontario Water Resources Act, R.S.O. 1990.
6. Note that you will not be advised in writing of the lapsing date of the Draft Plan Approval. It is your responsibility to provide the approval body with the required information and fees to extend this draft approval. Should the information and fees not be received prior to the lapsing date, the Draft Plan Approval will lapse. Please note that an updated review of the plan and revision to the Conditions of Approval may be necessary if an extension is to be granted.

## **SCHEDULE "I" OF AGREEMENT**

Note: It is understood and agreed that this Schedule forms part of the Municipality's Agreement.

### **SPECIAL PROVISIONS**

The following special provisions apply to this Agreement:

1. This agreement shall supersede any reciprocal clauses within the Site Plan Agreement, dated July 7, 2023.
2. To the satisfaction of the County of Bruce in consultation with the Saugeen Ojibway Nation Environment Office, should previously undocumented archaeological resources be discovered, they may be an archaeological site and therefore subject to Section 48 (1) of the Ontario Heritage Act. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage with Saugeen Ojibway Nation Archaeology staff to pre-consult prior to obtaining a licensed consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48 (1) of the Ontario Heritage Act and in keeping with the Archaeological Standards of the Saugeen Ojibway Nation.
3. The Owner agrees to enter into an agreement with Bell Canada or other service provider for the provision of telecommunications services.
4. The Owner agrees to maintain access routes for the Fire Department vehicles for new buildings, construction trailers and material storage areas at all times during construction.
5. The Owner agrees to satisfy the requirements of Canada Post with respect to the provision of mail delivery and the Owner agrees to place and community mail boxes that may be required to the satisfaction of Canada Post and the Municipality of Kincardine.
6. Pre-Servicing

Notwithstanding clause 2.3 (a) of this Agreement which requires registration of the Plan prior to the commencement of construction, the Developer may commence installation of the Works as outlined in Schedule C to this agreement prior to the registration of the Plan.

The Developer acknowledges that, prior to registration of the Plan:

- a) The watermain may not be connected to the Municipal system without the consent of the Municipal Engineer and the Operations Manager.
- b) Storm and Sanitary sewers may not be connected to the Municipal System without the consent of the Municipal Engineer and the Operations Manager.
- c) No model home permits, and no building permits of any nature will be issued.
- d) Inspections of completed servicing may be conducted by the municipality and the Municipal Engineer. No Preliminary Acceptance recommendations will be available prior to registration.

The Municipality agrees to consent to this pre-servicing provided:

- a) This Agreement has been registered on the Lands.

- b) A draft of the Plan to be registered has been approved by the Municipality
- c) Any external easements or property acquisitions have been completed to the satisfaction of the Municipality.
- d) The Developer has posted securities for the Work as per the Site Plan agreement, Dated July 7, 2023. Security reductions will be considered to the amount of 10% of the cost of these interim Works as outlined in Sections 5.1 and 9.3 of this Agreement.
- e) The Developer has provided proof of liability insurance as required by this Agreement.
- f) The Developer has received Municipal, Ministry of the Environment Conservation and Parks, and Saugeen Valley Conservation Authority approvals of the design drawings and;
- g) That signage during the pre-servicing stage shall include at any access to the site, "PRIVATE PROPERTY" and "NO ACCESS IS PERMITTED AT ANY TIME".

If the Works, as set out in the engineering design drawings, are not being carried out in an acceptable manner and the development of the Plan is not proceeding expeditiously to the satisfaction of the Municipality, the Municipality, will have the right to require the Owner to cease any or all construction activities, by written notice to the Owner.

Prior to the municipality providing a full release letter for the draft plan conditions that would allow the final approval and registration of the Plan, the balance of the full amount of the security under Section 9.2 of this agreement shall be posted. This security may be adjusted in value based on the amount of remaining works as determined by the Municipal engineer.

The Developer acknowledges and agrees that such servicing work is done at its sole risk and the Developer agrees to indemnify and save harmless the Municipality with respect to any claim, demand, action, cost, suit, or loss by anyone whomsoever which may occur as a result of servicing prior to the registration of a Plan of Subdivision. The Owner acknowledges and agrees that, should the Plan for this development for any reason be refused final approval and the Plan is not registered, any pre-servicing authorized under this Agreement shall cease and the Owner agrees to accept full responsibility and obligation, financial and otherwise, for all servicing provided and Works that have been constructed or installed. Should the Plan be refused final approval, the Owner agrees to remove any or all Works or portions of Works if so requested by the Municipality and to rectify any situation including all making restoration as a result of construction to the satisfaction of the Municipality, if requested by the Municipality to do so.