



**Municipality of Middlesex Centre
By-Law 2018-079**

Being a by-law to approve and ratify a Site Plan Control Agreement between Loughill Enterprises London Inc. (the Owner), and Dairy Lane Systems Limited (the Lessee) and The Municipality of Middlesex Centre (the Municipality) for land described as Part Lot 13, Concession 4, as in 809379; Middlesex Centre TWP/LOBO, being all of PIN 09666-0107 (LT); and Part Lot 13, as in 924210, except 133721; Middlesex Centre TWP/LOBO, being all of PIN 09666-0108 (LT).

WHEREAS the Owner owns the Land known municipally as Part Lot 13, Concession 4, as in 809379; Middlesex Centre TWP/LOBO, being all of PIN 09666-0107 (LT); and Part Lot 13, as in 924210, except 133721; Middlesex Centre TWP/LOBO, being all of PIN 09666-0108 (LT) described in Schedule A to the Site Plan Control Agreement attached hereto;

AND WHEREAS the Owner and Lessee proposes to develop and use the land in accordance with the site and servicing plans;

THEREFORE the Council of the Municipality of Middlesex Centre enacts as follows:

1. That the Site Plan Control Agreement, attached hereto, in substantially the same form, is hereby approved and ratified.
2. That the Mayor and Clerk are hereby authorized to execute the attached Site Plan Control Agreement on behalf of the Municipality of Middlesex Centre.

Passed this 12th day of September, 2018.

Al Edmondson, Mayor

Ann Wright, Clerk

SITE PLAN CONTROL AND DEVELOPMENT AGREEMENT

THIS AGREEMENT made in triplicate this day of September, 2018.

B E T W E E N:

MUNICIPALITY OF MIDDLESEX CENTRE
(hereinafter the “**Municipality**”)

OF THE FIRST PART;

-and-

LOGHILL ENTERPRISES LONDON INC.
(hereinafter the “**Owner**”)

OF THE SECOND PART;

-and-

DAIRY LANE SYSTEMS LIMITED
(hereinafter the “**Lessee**”)

OF THE THIRD PART

WHEREAS:

- A. The Municipality has by By-law No. 2003-035, as amended or replaced, designated all lands within the boundaries of the Municipality as areas of site plan control, pursuant to the provisions of Section 41 of the *Planning Act*, RSO, 1990, c.P.13, as amended or replaced (hereinafter, the “**Planning Act**”), and the lands described in **Schedule “A”** attached hereto are within such boundaries;
- B. On August 2, 2017, the Municipality entered into a Site Plan Control and Development Agreement with the Owner and Lessee (hereinafter the “**2017 Agreement**”) with respect to the development of the lands legally described as PART LOT 13, CONCESSION 4, AS IN 809379; MIDDLESEX CENTRE TWP/LOBO, BEING ALL OF PIN 09666-0107 (LT) (hereinafter the “**Original Lands**”)
- C. On December 29, 2017, the Owner acquired a parcel of land abutting the Original Lands legally described as PART LOT 13, AS IN 924210, EXCEPT 133721; MIDDLESEX CENTRE TWP/LOBO, BEING ALL OF PIN 09666-0108 (LT) (hereinafter the “**Acquired Lands**”);
- D. the Owner has submitted to the Municipality a revised Site Plan showing the existing development of the Original Lands and plans for further development of both the Original Lands and the Acquired Lands, and the Municipality has approved such plans subject to the terms and conditions contained in this Site Plan Control and Development Agreement;
- E. The Corporation of the County of Middlesex (hereinafter, the “**County**”) exercises jurisdiction with respect to the approval of certain activities affecting its highways and is a third party beneficiary to this Agreement; and
- F. Site Plan Control and Development Agreements may be entered into and registered on title pursuant to subsection 41(7), (8), and (10) of the *Planning Act* and subsection 71 of the *Land Titles Act*, RSO 1990, c.L.5, as amended or replaced.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the payment of the sum of TWO DOLLARS (\$2.00) from each party to the other and for other good and valuable consideration, including the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

Incorporation of Recitals

1. The above recitals are true and are hereby incorporated into this Site Plan Control and Development Agreement (hereinafter, this "**Agreement**") by reference.

Lands

2. The Owner is the registered Owner of the Original Lands and the Acquired Lands described in *Schedule "A"* attached hereto (hereinafter collectively referred to as the "**Lands**"). The Lessee operates a dairy equipment sales facility on the Lands. The Owner and Lessee hereby acknowledge that their obligations under this Agreement are joint and several.

Former Agreement

3. The Parties hereby agree that, following the execution of this Agreement, the Owner and Lessee are released from any and all requirements and responsibilities under the 2017 Agreement. It is recognized by the Parties that the appropriate clauses from the 2017 Agreement has been carried forward to this Agreement, including but not limited the obligation of the Owner and Lessee to maintain, at their sole risk and expense, and to the satisfaction of the Municipality the works and facilities constructed on the Lands.

Conditional Approval of Development and Site Plan

4. The Municipality approves the development and site plan in accordance with the plans and specifications attached hereto as **Schedule "B"**, subject to the covenants in this Agreement. The Lands shall be used by the Owner and Lessee, and by any subsequent Owner or occupier of the Lands, in accordance with and in conformity with the plans attached to this Agreement as *Schedule "B"*.

Installation of Works and Facilities

5. The Owner and Lessee covenant to provide, construct, and install, as set out and provided for in *Schedule "B"* and to the satisfaction of the Municipality and the County (where applicable), the works and facilities more particularly described in *Schedule "B"* (hereinafter, the "**Works and Facilities**") which shall be constructed, installed and maintained by the Owner or Lessee at absolutely no expense to the Municipality or County. Where any of the drawings set out and provided for in *Schedule "B"* require the Owner and Lessee to remove and dispose of vegetation or infrastructure, the Owner and Lessee covenant to remove said vegetation or infrastructure as set out and provided for in *Schedule "B"*, to the satisfaction of the Municipality and County (where applicable) and at absolutely no expense to the Municipality or the County.

Responsibility for the Cost of the Works and Facilities

6. The Owner and the Lessee covenant and agree to be responsible for one hundred percent (100%) of the total cost for completion of the Works and Facilities. In the event that the Owner or Lessee breaches this section 6, or any other provision of this Agreement, in any other manner whatsoever, the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced (hereafter, the "**Municipal Act**") apply and, in addition to any other remedy the Municipality or County (where applicable) may have, the Municipality or County (where applicable) may recover the costs it incurs as a result of the breach, in a like manner as municipal taxes.

Compliance with Law

7. The Owner and Lessee shall:
 - (a) Be one hundred percent (100%) responsible for ensuring that the installation and construction of the Works and Facilities, which includes the removal of certain vegetation and infrastructure as set out and provided for in *Schedule "B"*, complies with all applicable Federal, Provincial and Municipal laws, statutes regulations, by-laws and codes of conduct; and
 - (b) Be responsible for obtaining, at one hundred percent (100%) its own risk and cost, any and all approvals necessary for said installation, construction or removal, including without limitation, approvals required by the *Environment Assessment Act*, RSO 1990, c. E.18, as amended or replaced, the *Environmental Protection Act*, RSO 1990, c. E. 19, and any applicable Conservation Authority.

Application of County Highways By-laws

8. County By-laws No. 5783 and No. 6410, as amended or replaced, concerning Access/Entrance Permits, Work Permits, and Oversize Load/Weight Vehicle Permits in relation to County highways (collectively, hereafter referred to as the “**County Highways By-laws**”) apply to the commencement of any work on or under County Road 22, municipally known as Egremont Drive and any work on or under County Road 17, municipally known as Nairn Road. The Owner and Lessee shall comply with the County Highway By-laws and where applicable, shall apply for any such permit or require any contractors and/or agents acting on their behalf to apply for permits and pay appropriate fees in accordance with the County Highway By-laws in advance of commencing any work on or under County Road 22 or County Road 17. The Owner and Lessee further covenant to provide to the County any security deemed necessary by the County Engineer in accordance with the County Highway By-laws and will require any contractors and/or agents acting on its behalf to provide any security deemed necessary by the County Engineer in accordance with the County Highway By-laws and such security shall take the form of an unconditional and irrevocable letter of credit, certified cheque issued by a Canadian Charter Bank, or similar legal tender in a form approved by the County. The aforementioned security may be drawn upon by the County in the event that any portion of the Works and Facilities relating to County Road 22 or County Road 17 are either constructed or not completed in a manner in accordance with this Agreement in order for the County to complete or attempt to complete the installation or construction of Works and Facilities on or under County Road 22 or County Road 17 to a standard that is in accordance with this Agreement.

Additional Specific Covenants

9. Without limiting the covenants and obligations set out elsewhere in this Agreement, the Owner and Lessee covenant:

Contractors and Agents

- (a) To be responsible for the oversight, supervision, direction, work and service of all contractors and/or agents of the Owner or Lessee which perform work or services on behalf of the Owner or Lessee in furtherance of this Agreement and to ensure that all work and services performed by their respective contractors and/or agents conforms to the requirements of this Agreement. Any failure by any contractor and/or agent of the Owner or Lessee to perform work or services to the standard required for the Owner and Lessee by this Agreement shall constitute a breach of this Agreement by the Owner and Lessee.

Engineering Drawings

- (b) To provide engineering drawings for approval by the Municipal Engineer and the County Engineer (where applicable) inclusive of detailed designs and specifications demonstrating details of all Works and Facilities. Without limiting the foregoing, the Owner and Lessee shall provide engineering drawings detailing all grading, stormwater management, sediment erosion control, easements, servicing, entrance details, road allowance widening, pavement widening, utility construction and any other work required as part of the development. Upon approval by the Municipal Engineer, and the County Engineer (where applicable), the aforementioned drawings shall form part of *Schedule “B”* to this Agreement. Approval shall be in the sole and absolute discretion of each of the Municipal Engineer and the County Engineer (where applicable). Where any of the drawings forming part of *Schedule “B”* require amendment, such amendments shall be subject to the approval of the Municipal Engineer and the County Engineer (where applicable), in each of his sole and absolute discretion, and upon approval such plans and drawings shall form part of *Schedule “B”* to this Agreement upon written agreement of the Parties.

Private Water and Sanitary Services

- (c) To relocate, extend, construct and connect the existing private water and private sanitary services on or under the Lands as set out and provided for in *Schedule “B”* and in accordance with any and all Ministry of Environment, Conservation and Parks requirements. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(c) to the satisfaction of the Municipality and shall be responsible for one hundred percent (100%) of the total cost for completion of said works, failing which the provisions of the *Municipal Act* apply

and, in addition to any other remedy the Municipality may have, the Municipality may recover any expense it incurs in a like manner as municipal taxes.

- (d) Without limiting any other covenant in this Agreement, the Owner and Lessee acknowledge that they are one hundred percent (100%) responsible for the construction, operation and maintenance of the private water and private sanitary services on or under the Lands and that the Municipality and County have no responsibility or liability for same under any circumstances.

Stormwater Management and Municipal Drain Connection

- (e) To connect, construct and install a stormwater drainage system on or under the Lands as set out and provided for in *Schedule "B"*. Upon approval of the Municipality's Drainage Superintendent, the Owner and Lessee shall connect the aforementioned stormwater drainage system to the existing municipal drain at the northwest limits of the Lands in accordance with the plans set out in *Schedule "B"*. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(e) to the satisfaction of the Municipality and the County and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have, the Municipality or County may recover any expense it incurs in a like manner as municipal taxes. The parties acknowledge and agree that the following additional provisions apply to the works referred to in this sub-paragraph 9(e):
- (i) Prior to the commencement of construction, the Owner shall make a request to the Drainage Superintendent of the Municipality for approval to connect to the existing municipal drain. No connection shall be made to the existing municipal drain until such approval has been granted.
- (ii) The Owner and Lessee acknowledge that improvements to the municipal drain may be required prior to connection and that the Owner and Lessee shall be responsible for the cost of same.
- (iii) The *Drainage Act, RSO 1990, c. D. 17*, as amended or replaced, applies to the Owner/Lessee's connection to the municipal drain and the Owner/Lessee shall adhere to all provisions therein when performing any work on the municipal drain.
- (iv) No discharge of stormwater shall be permitted to the road side ditches located on County Road 22.
- (v) Without limiting any other section of this Agreement, all of the works referred to in sub-paragraph 9(e), shall be completed to the satisfaction of the Owner/Lessee's retained engineer, the Municipal Engineer, the County Engineer and the Municipality's Drainage Superintendent, provided however, that approval by the Municipal Engineer, the County Engineer and the Municipality's Drainage Superintendent does not relieve the Owner, Lessee and/or Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and construction/installation of the works. The Owner/Lessee's retained engineer shall provide a certificate, signed and stamped, to the Municipal Engineer and the County Engineer confirming his or her engineering approval of the as constructed works. The Municipal Engineer, the County Engineer and Municipality's Drainage Superintendent may rely on the stamped certificate of the Owner/Lessee's engineer in determining satisfaction with the works. The Owner/Lessee's engineer shall be responsible for the engineering of the works referred to in sub-paragraph 9(e) and the Owner and Lessee remain responsible for construction and maintenance of said works.

Parking and Sidewalks

- (f) To construct, install and maintain parking lots and sidewalks on the Lands as set out and provided for in *Schedule "B"*. The Owner and Lessee agree that parking on the Lands shall be limited to those locations shown on the plans attached hereto as *Schedule "B"*. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(f) to the satisfaction of the Municipality and the County, and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have,

the Municipality or County may recover any expense it incurs in a like manner as municipal taxes.

Fire Hydrants

- (g) To construct, install and locate fire hydrants as set out and provided for in *Schedule "B"* and specifically as required by the Municipal Engineer in accordance with the Municipality's standards. Such fire hydrants shall adhere to National Fire Protection Association (NFPA) requirements as to colour coding of the hydrant ports utilizing TC-FHR Fire Hydrant Reflectors as required by the Municipal Engineer. The Owner and Lessee shall complete flow testing of all such fire hydrants and complete inspections of the fire hydrants to ensure service of such with all costs, including third party costs, being at the sole expense of the Owner and Lessee. The Owner and Lessee shall be responsible for one hundred percent (100%) of the total cost for completion of the works referred to in sub-paragraph 9(g), failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality may have, the Municipality may recover any expense it incurs in a like manner as municipal taxes.

Lighting

- (h) To construct all lighting as provided for and set out in *Schedule "B"* and to orient and control the intensity of any and all lighting on the Lands so as to prevent glare on adjacent highways and residential properties. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(h) to the satisfaction of the Municipality and shall be responsible for one hundred percent (100%) of the total cost for completion of said works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality may have, the Municipality may recover any expense it incurs in a like manner as municipal taxes.

Left Turn Slip Around Lane & Right Turn Taper

- (i) To construct and install a left turn slip around lane and a right turn taper connecting to County Road 22, as set out and provided for in *Schedule "B"*. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(i) to the satisfaction of the Municipality and the County, and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have, the Municipality or County may recover any expense it incurs in a like manner as municipal taxes. The parties acknowledge and agree that the following additional provisions apply to the works referred to in this sub-paragraph 9(i):
- (i) The County Highway By-laws apply to any and all work to be performed on or under County Road 22, including but not limited to the construction of the left turn slip around lane and right turn taper, as confirmed by section 8 of this Agreement. All such works shall be subject to approval of the County Engineer.
- (ii) The left turn slip around land and the right turn taper may be assumed by the County, upon approval of the Municipal Engineer and the County Engineer, at the discretion of the County Engineer, using written notification and shall become infrastructure of the County following formal assumption by the County.
- (iii) Without limiting any other section of this Agreement, all of the works referred to in sub-paragraph 9(i), shall be completed to the satisfaction of the Owner/Lessee's retained engineer, the Municipal Engineer and the County Engineer provided however, that approval by the Municipal Engineer and the County Engineer does not relieve the Owner, the Lessee and/or Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and construction/installation of the works. The Owner/Lessee's retained engineer shall provide a certificate, signed and stamped, to the Municipal Engineer and the County Engineer confirming his or her engineering approval of the as constructed works. The Municipal Engineer and the County Engineer may rely on the stamped certificate of the Owner/Lessee's engineer in determining satisfaction with the works. The Owner/Lessee's engineer shall be responsible for the engineering of the

works referred to in this sub-paragraph 9(i) and the Owner and Lessee remain responsible for construction and maintenance of said works.

Entrances

- (j) To remove the existing entrance from the Lands to County Road 17 and to restore the Lands and County Road 17 in accordance with *Schedule "B"*. The Owner and Lessee further covenant to upgrade the existing entrance to the Lands off of County Road 22, if such improvements are deemed to be required, in the sole and absolute discretion of the County Engineer. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(j) to the satisfaction of the Municipality and the County, and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have, the Municipality or County may recover any expense it incurs in a like manner as municipal taxes. The parties acknowledge and agree that the following additional provisions apply to the works referred to in this sub-paragraph 9(j):
- (i) The County Highway By-laws apply to any and all work to be performed on or under County Road 17 and County Road 22, as confirmed by section 8 of this Agreement. All such works shall be subject to approval of the County Engineer.
- (ii) The road entrance off of County Road 22 shall be regarded as private development works and not municipal works to be assumed by the Municipality or the County.
- (iii) Without limiting any other section of this Agreement, all of the works referred to in sub-paragraph 9(j), shall be completed to the satisfaction of the Owner/Lessee's retained engineer, the Municipal Engineer and the County Engineer provided however, that approval by the Municipal Engineer and the County Engineer does not relieve the Owner, the Lessee and/or Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and construction/installation of the works. The Owner/Lessee's retained engineer shall provide a certificate, signed and stamped, to the Municipal Engineer and the County Engineer confirming his or her engineering approval of the as constructed works. The Municipal Engineer and the County Engineer may rely on the stamped certificate of the Owner/Lessee's engineer in determining satisfaction with the works. The Owner/Lessee's engineer shall be responsible for the engineering of the works referred to in this sub-paragraph 9(j) and the Owner and Lessee remain responsible for construction and maintenance of said works.

Landscaping

- (k) To ensure all landscaping is installed and maintained as provided for and set out in *Schedule "B"*, including but not limited to the vegetation buffer to be installed in accordance with the landscape plan. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(k) to the satisfaction of the Municipality and shall be responsible for one hundred percent (100%) of the total cost for completion of said works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality may have, the Municipality may recover any expense it incurs in a like manner as municipal taxes.

Grading of the Lands

- (l) To ensure that the Lands are graded, at the sole risk and expense of the Owner and Lessee, to permit surface water to run off from all areas and from adjoining properties so as to reach either road gutters, municipal drains, ditches or natural water courses, and to perform any and all other grading work required in accordance with *Schedule "B"* to this Agreement. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(l) to the satisfaction of the Municipality and the County, and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have, the Municipality or County may recover any expense it incurs in a like manner as municipal taxes.

- (m) Without limiting any other section of this Agreement, all of the works referred to in sub-paragraph 9(l), shall be completed to the satisfaction of the Owner/Lessee's retained engineer, the Municipal Engineer, the County Engineer, the Municipal Chief Building Official and the Municipality's Drainage Superintendent, provided however, that approval by the Municipal Engineer, the County Engineer, the Municipal Chief Building Official and the Municipality's Drainage Superintendent does not relieve the Owner, Lessee and/or Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and construction/installation of the works. The Owner/Lessee's retained engineer shall provide a certificate, signed and stamped, to the Municipal Engineer and the County Engineer confirming his or her engineering approval of the as constructed works. The Municipal Engineer, the County Engineer, the Municipal Chief Building Official and Municipality's Drainage Superintendent may rely on the stamped certificate of the Owner/Lessee's engineer in determining satisfaction with the works. The Owner/Lessee's engineer shall be responsible for the engineering of the works referred to in sub-paragraph 9(l) and the Owner and Lessee remain responsible for construction and maintenance of said works.

Grading and Restoration of Highways

- (n) To ensure that all highways of the Municipality and the County affected by works installed or constructed on or under highways of Municipality or the County shall be restored and graded to permit surface water to run off from all areas and from adjoining properties so as to reach either the road gutters, municipal drains, ditches or natural water courses in accordance with the plans and specifications set out in *Schedule "B"*. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(n) to the satisfaction of the Municipality and the County, and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County may have, the Municipality or County may recover any expense it incurs in a like manner as municipal taxes.
- (o) Without limiting any other section of this Agreement, all of the works referred to in sub-paragraph 9(n), shall be completed to the satisfaction of the Owner/Lessee's retained engineer, the Municipal Engineer, the County Engineer (where applicable), the Municipal Chief Building Official and the Municipality's Drainage Superintendent, provided however, that approval by the Municipal Engineer, the County Engineer and the Municipality's Drainage Superintendent does not relieve the Owner, Lessee and/or the Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and construction/installation of the works. The Owner/Lessee's retained engineer shall provide a certificate, signed and stamped, to the Municipal Engineer and the County Engineer (where applicable) confirming his or her engineering approval of the as constructed works. The Municipal Engineer, the County Engineer and Municipality's Drainage Superintendent may rely on the stamped certificate of the Owner/Lessee's engineer in determining satisfaction with the works. The Owner/Lessee's engineer shall be responsible for the engineering of the works referred to in sub-paragraph 9(n) and the Owner and Lessee remain responsible for construction and maintenance of said works.

Utilities

- (p) To arrange to have all necessary electrical, telephone, natural gas, and other utilities, public or private authorities having jurisdiction, design and install in locations approved by the Municipality and County and at no expense to the Municipality or the County, all necessary electrical, telephone, natural gas, and other utilities all of which are to be installed underground. The Owner and Lessee acknowledge and agree that their obligations pursuant to this Agreement to construct, install and maintain the Works and Facilities includes the replacement or repair of any Works and Facilities that are damaged or altered in connection with the installations pursuant to this sub-paragraph 9(p). In addition, the Owner and Lessee agree to enter into any additional or other agreements necessary in order to give effect to this sub-paragraph.

Highway Dedications, Reserves and Easements

- (q) To dedicate the following road allowance for road widening purposes shown on

the registered plan forming a part of *Schedule "B"* to the County free of all encumbrances and at no cost to the County within thirty (30) days of endorsement of this Agreement:

- (i) a road widening up to 18 metres from the centreline of construction of County Road 17 across the frontage of the southern limit of the Lands, being legally described as PART OF LOT 13, CONCESSION 4, DESIGNATED AS PART 1 AS IN PLAN 33R-20209, (GEOGRAPHIC TOWNSHIP OF LOBO) IN THE TOWNSHIP OF MIDDLESEX CENTRE, COUNTY OF MIDDLESEX, BEING PART OF PIN 09666-0108 (LT).

All Approved Plans and Drawings

- (r) Without limiting any other covenant in this Agreement, the Owner and Lessee covenant to be responsible for the completion of all Works and Facilities described in the plans and drawings attached hereto as *Schedule "B"*, including those Works and Facilities which have not been specifically referenced in section 9 of this Agreement. The Owner and Lessee shall complete the works referred to in this sub-paragraph 9(r) to the satisfaction of the Municipality and the County (where applicable), and shall be responsible for one hundred percent (100%) of the total cost for completion of the works, failing which the provisions of the *Municipal Act* apply and, in addition to any other remedy the Municipality or County (where applicable) may have, the Municipality or County (where applicable) may recover any expense it incurs in a like manner as municipal taxes.

Security

- 10. The Owner and Lessee covenant to provide to the Municipality, prior to the commencement of construction, an unconditional and irrevocable letter of credit (hereinafter "the **Letter of Credit**") in favour of the Municipality from a financial institution approved by the Municipality in an amount equal to fifty percent (50%) of the cost of the Works and Facilities to be constructed on the Lands (the "**Internal Works and Facilities**") and one hundred percent (100%) of the cost of the Works and Facilities on Lands owned by the Municipality (the "**External Works and Facilities**"), such amount shall be approved in the sole and absolute discretion of the Municipal Engineer. The Owner and Lessee shall ensure that the aforementioned Letter of Credit is kept in full force and effect and that it will pay all premiums for the said Letter of Credit as they become due. The Letter of Credit may be drawn upon by the Municipality at its discretion to repair or address any deficiency or breach of the Owner or Lessee related to this Agreement and will only be released upon fulfillment of all covenants of the Owner and Lessee in this Agreement, to the satisfaction of the Municipality and the County (where applicable).

Time for Completion

- 11. The Owner and Lessee covenant to complete the Works and Facilities as provided for and set out in *Schedule "B"* and this Agreement, within a period of one (1) year from the date of issuance of a building permit, or, within one (1) year of the execution of this Agreement by the Municipality if no building permit is required by the development provided for herein, and to provide proof of completion of the said works to the satisfaction of the Municipality and the County (where applicable) in its sole discretion. Without limiting the foregoing, the proof required shall include but is not limited to a survey, engineering certification, architectural (including landscape architectural) certification and/or any other type of certification.
- 12. Upon failure of the Owner and Lessee to complete the aforementioned works within the period set out in section 11, the Municipality or County (where applicable) and/or its authorized agents may enter in and upon the property of the Owner without providing notice to the Parties and perform and/or complete the Works and Facilities at the expense of the Owner and Lessee. Without limiting the Municipality's discretion with respect to drawing upon the Letter of Credit set out in section 10 and in the event that the Municipality and/or its authorized agents perform or complete any or all of the Works and Facilities, the Municipality may draw on the aforementioned Letter of Credit in such amount(s) as may be required to pay for the cost incurred by the Municipality and/or its authorized agents to perform and/or complete the Works and Facilities. In addition or in the alternative, the Municipality or County (where applicable) may add the full cost or any part of the cost incurred by the Municipality or County (where applicable) or its authorized agents to perform or complete the aforementioned works to the tax roll of the lands and collect the expense in like manner as municipal taxes.

Completion Certificate

13. Upon completion of all of the Works and Facilities, the Owner and Lessee shall submit to the Municipal Engineer a Certificate of Completion. The Certificate of Completion shall include the Owner/Lessee's retained engineer's certification that the Works and Facilities required by *Schedule "B"*, have been fully and completely installed and constructed in accordance with *Schedule "B"*, that any vegetation or infrastructure required to be removed by *Schedule "B"* has been removed and disposed of in accordance with *Schedule "B"*, and shall further certify that all covenants in this Agreement have been completely fulfilled, to the satisfaction of the Municipality and the County (where applicable). The Municipal Engineer and the County Engineer may rely on the Owner/Lessee's retained engineer's stamped certificate of approval, in determining satisfaction with the works. The Owner and Lessee acknowledge that approval by the Municipal Engineer and the County Engineer (where applicable) of any of the Works and Facilities does not relieve the Owner, Lessee and/or Owner/Lessee's retained engineer responsibility for any errors or omissions in engineering specifications and installation or construction of the Works and Facilities.

Maintenance of Works and Facilities

14. The Owner and Lessee covenant to maintain, at their sole risk and expense, all of the Works and Facilities as provided for and set out in *Schedule "B"*. Such obligation does not apply to any of the aforementioned works which have been formally assumed by the Municipality or County pursuant to written notice. In the event that the Owner and Lessee fail or neglects to provide such maintenance to the satisfaction of the Municipality or County (where applicable) or in the event of any failure, malfunction or unauthorized alteration to the Works and Facilities, the Municipality or County (where applicable) is hereby authorized to enter upon the Lands without notice to the Owner or Lessee in order to make all necessary repairs and perform all necessary maintenance. In the event that the Municipality or County (where applicable) and/or its authorized agents complete any repairs or perform any maintenance on any or all of the Works and Facilities required to be maintained by the Owner and Lessee pursuant to this section 14 the cost shall be borne and paid by the Owner and Lessee, failing which the provisions of the *Municipal Act*, as amended or replaced, shall apply and the Municipality or County (where applicable) may recover the expense incurred in so doing by action or by adding the expense to the tax roll of the Lands and collecting the expense in like manner as municipal taxes.

Mud and Debris Clean-up; Dust Suppression

15. The Owner and Lessee shall be responsible for all mud and debris tracked onto roadways from vehicles entering or leaving construction sites and for all dust generated during construction. The Owner or Lessee shall, upon verbal and/or written request by the Municipality or County (in relation to County highways) immediately proceed with clean-up operations at their expense. Should the Owner and Lessee fail to clean-up as directed, the Municipality or County will complete the cleaning at the expense of the Owner and Lessee by drawing on the posted Letter of Credit. In addition or in the alternative, the Municipality or County may add the full cost or any part of the cost incurred by the Municipality or its authorized agents to perform or complete the clean up to the tax roll of the lands and collects the expense in like manner as municipal taxes. To eliminate dust, the Owner and Lessee may be required to apply dust suppressants, covering stock piles of top soil with tarps or applying ground cover to the areas that have been stripped and left undeveloped at the direction of the Municipality or County.

Compensation for Costs Incurred

16. The Owner and Lessee agree to compensate the Municipality for the cost of involvement of the Municipality's retained legal counsel in the review and preparation of this Agreement on behalf of the Municipality and agree to make payment to the Municipality by cheque or by certified cheque if required by the Municipality, in its discretion, within thirty (30) days of demand being provided in writing by the Municipality.
17. The Owner and Lessee agree to compensate the Municipality for the cost of engineering and building code compliance consultant costs incurred by the Municipality in the review and negotiation of this Agreement and the obtaining of building permits by the Owner. The Owner and Lessee shall make payment to the Municipality by cheque or by certified cheque if required by the Municipality, in its discretion, within thirty (30) days of demand being provided in writing by the Municipality.

Registration of Agreement

18. The Parties acknowledge and direct that this Agreement be electronically registered on title of the Lands by legal counsel for the Municipality at one hundred percent (100%) the expense of the Owner and Lessee.

Priority of Agreement

19. The Lessee consents to the registration of this Agreement and acknowledges the priority of the provisions of this Agreement over any rights that the Lessee may have by virtue of its lease of the Lands. The Owner hereby agrees that if at the time of registration of this Agreement there are any encumbrances on the title to the Lands held by any party other than the Municipality of the Lessee, then the Owner shall arrange for the discharge of such encumbrances from title. In the alternative, the Owner shall, prior to the registration of this Agreement, obtain a postponement and consent in favour of the Municipality for each encumbrance to this Agreement's priority on title of the Lands.

Future Owners

20. In the event that the Owner sells the Lands, the Owner shall include in any Agreement of Purchase and Sale a requirement that the buyer of the Lands, sign an Acknowledgement, to the satisfaction of the Municipality, acknowledging that the obligations of the Owner under this Agreement run with the Lands, and that the buyer, in signing the Agreement of Purchase and Sale, agrees to be bound by the continuing obligations of the Owner under this Agreement with respect to the Lands.

Responsibility and Indemnity

21. The Owner and Lessee expressly acknowledge and agree that the development of the Lands, including the installation and construction of the Works and Facilities of this Agreement, is entirely and solely at their own risk and expense without liability or responsibility of the Municipality or the County.
22. Without limiting the foregoing, the Owner and Lessee release, indemnify, completely hold harmless and agree to defend the Municipality, its Councillors, officers, employees, legal counsel, agents and contractors, and the County its Councillors, officers, employees, legal counsel, agents and contractors, from and against any and all suits, judgments, claims, demands, expenses, actions, causes of action, duties, assessments, fees, penalties, liabilities, losses and costs (including without limitation, legal expenses on a solicitor-client basis and for any claim for lien made pursuant to the *Construction Lien Act* (Ontario)) and for any and all liability for:
- (a) damages to any property, including property other than the Lands;
 - (b) any direct, indirect, special or consequential damages; and
 - (c) any injury to any person (including death) however caused;

which in any manner arise out of or are in any manner related to this Agreement, the development of the Lands and/or the installation and construction of the Works and Facilities pursuant to *Schedule "B"* and this Agreement.

Insurance

Owner/Lessee Insurance

23. Forthwith upon execution of this Agreement, the Owner and Lessee shall provide the Municipality and the County with insurance policies from the Owner and Lessee supplied by an insurance broker/provider licenced to provide insurance in Ontario, which provides coverage limits of not less than Five Million Dollars (\$5,000,000.00) and names the Municipality and the County as additional insureds from and against personal injury/bodily harm (including death), property damage, errors and omissions, and contractual liability arising from this Agreement, which arise out of the installation/construction and maintenance of the Works and Facilities of this Agreement. In addition, such insurance policies shall contain a cross liability and severability of interest clause, and endeavor to provide for a minimum of thirty (30) days written notice of cancellation. The Owner and Lessee shall upon the request of the Municipality and/or the County, and in any event, prior to the commencement of any work, provide a copy of the certificate of insurance and other documentation confirming that the

premiums for the above mentioned insurance policies of the Owner and Lessee shall continue indefinitely and shall be renewed year on year thereafter to provide coverage for the continued maintenance obligation of the Owner and Lessee with respect to the Works and Facilities.

Contractor/Agent Insurance

24. Forthwith upon execution of this Agreement, the Owner and Lessee shall require any contractor and/or agent providing services or work in relation to this Agreement to provide the Municipality and the County (where applicable) with insurance policies supplied by an insurance broker/provider licenced to provide insurance in Ontario, which provides coverage limits of not be less than Five Million Dollars (\$5,000,000.00) for each of the contractor(s) and/or agent(s) and names both the Municipality and County (where applicable) as additional insureds from and against personal injury/bodily harm (including death), property damage, errors and omissions, contractual liability (from this Agreement), employer's liability, employee benefits liability and non-owned auto liability which arise out of the installation and construction of the Works and Facilities of this Agreement. In addition, such insurance policies shall contain a cross liability and severability of interest clause, and endeavor to provide for a minimum of thirty (30) days written notice of cancellation. The contractor(s) and/or agent(s) shall upon the request of the Municipality and in any event, prior to the commencement of any work, provide a copy of the certificate of insurance and other documentation confirming that the premiums for the abovementioned insurance policies have been paid and that such policies are in full force and effect. Such insurance policies of contractors and/or agents of the Owner and Lessee retained for construction of the works described herein, shall continue until all of the aforementioned works are constructed to the satisfaction of the Municipality and the County.

Retained Engineer Insurance

25. The Owner and Lessee further warrant that their respective retained engineer carries Professional Liability Insurance in the amount of at least one million dollars (\$1,000,000.00) and that it will require its retained engineer to provide a copy of the certificate of insurance and other documentation to the Municipality and the County confirming that the premiums for the abovementioned insurance has been paid and that such policy is in full force and effect with respect to coverage for the engineering work related to this Agreement.

WSIB Clearance

26. Upon execution of this Agreement, the Owner and Lessee shall arrange for a Certificate of Clearance from the Workplace Safety and Insurance Board ("**WSIB**") for any contractor and/or agent stating that all assessments or compensations payable have been paid and all the requirements of the WSIB have been complied with. From time to time and when requested, the Owner and Lessee will be required to provide a certificate of clearance from the WSIB to the Corporation from any contractor and/or agent. Such Certificate of Clearance shall indicate that the contractor and/or agent and any subcontractors have complied with the requirements of the WSIB and are in good standing in the books of the WSIB.

Work Standards and Compliance with Laws

27. The Owner and Lessee shall ensure that all work completed on property owned by the Municipality or County is carried out in a manner that is in conformity with the *Occupational Health and Safety Act*, R.S.O. 1990, Ch. O.1, as amended or replaced, and other legislation or requirements. The Municipal Engineer or County Engineer (as applicable) shall provide an "Authorization to Proceed with Construction" and give the Owner and Lessee a copy that must be on site at all times and available upon request. The Owner and Lessee shall require that the any contractor and/or agent must complete the form "Registration of Constructors and Employers Engaged in Construction" and it must be on site and available upon request.
28. The Owner and Lessee shall ensure that the contractor(s)' and/or agent(s)' employees and subcontractors perform, with the degree of care, skill and diligence of a professional contractor, as defined by normal industry practice, all of the work and services required to complete and/or maintain the works described in this Agreement. The Owner and Lessee shall further ensure, that at all times the contractor(s) and/or agent(s) as well as their subcontractors and employees are in compliance with all Federal, Provincial and Municipal laws, statutes, regulations and by-laws. All certificates of training must be available upon request of the Municipality and the County, as applicable.

Entire Agreement

29. This Agreement, including its schedules, constitutes the entire agreement between the Parties with respect to the development of the Lands, including any and all other Site Plan Control Agreements which may have been registered against title to the Lands. This Agreement, inclusive of its schedules, replaces and/or supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties concerning the development of the Lands and the Parties hereby acknowledge that there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement and its schedules. No Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement. Except as amended herein, the terms of this Agreement shall remain in full force and effect.

Amendment and Waiver

30. No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any section of this Agreement is binding unless it is in writing and executed by the Parties to be bound. No waiver of, failure to exercise, or delay in exercising, any section of this Agreement constitutes a waiver of any other section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

Estoppel

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

Enurement

32. This Agreement shall enure to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators, estate trustees, trustees, personal or legal representatives, successors and assigns.

Severability

33. Each section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:
- (a) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part; or
 - (b) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

Voluntary Agreement

34. The Parties warrant that this Agreement is voluntary, that none of the Parties are under any legal disability and that each Party has had an opportunity to seek the advice of independent legal counsel with respect to this Agreement.

Governing Law

35. This Agreement is governed by and is to be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that Province.

Counterparts and Electronic Endorsement

36. This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original and each of which may be delivered by

facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

[ONE (1) ENDORSEMENT PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties have hereunto set their hands and seals or caused to be affixed their corporate seals under the hands of their duly authorized officers, as the case may be.

LOGHILL ENTERPRISES LONDON INC.

Address for Service:
11067 Old River Road
RR 3
Komoka, ON N0L 1R0

Per: _____
Name: William A. Van Logtenstein
Title: President

I have the authority to bind the Corporation.

DAIRY LANE SYSTEMS LIMITED

Address for Service:
11067 Old River Road
RR 3
Komoka, ON N0L 1R0

Per: _____
Name: William A. Van Logtenstein
Title: President

I have the authority to bind the Corporation.

MUNICIPALITY OF MIDDLESEX CENTRE

Address for Service:
Municipality of Middlesex Centre
10227 Ilderton Road, RR#2
Ilderton, ON N0M 2A0

Per: _____
Al Edmondson, Mayor

Per: _____
Ann Wright, Clerk

We have authority to bind the Corporation.

SCHEDULE "A"

PART LOT 13, CONCESSION 4, AS IN 809379; MIDDLESEX CENTRE TWP/LOBO, BEING ALL OF PIN 09666-0107 (LT);

AND

PART LOT 13, AS IN 924210, EXCEPT 133721; MIDDLESEX CENTRE TWP/LOBO, BEING ALL OF PIN 09666-0108 (LT).

SCHEDULE "B"

No.	Drawing Name & No.	Prepared By:	Date:
1	Site Plan (SP1)	Stone Crest Engineering	August 13, 2018
2	Site Grading & Drainage and Servicing Plan (G1)	Stone Crest Engineering	February 8, 2017
3	Site Grading & Drainage and Servicing Plan (G2)	Stone Crest Engineering	February 8, 2017
4	Landscaping Plan – Removals (L1 of 2)	Stone Crest Engineering	July 6, 2018
5	Landscaping Plan – Restoration (L2 of 2)	Stone Crest Engineering	July 6, 2018
6	Plan 33R-20209	Archibald, Gray & McKay Ltd.	September 6, 2018