

**PREGRADE AGREEMENT
(STRIPPING & GRADING)**

_____ **SUBDIVISION**

CITY OF CHESTERMERE

AND

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

BETWEEN:

CITY OF CHESTERMERE
("Municipality")

-and-

("Developer")

PREGRADE AGREEMENT

RECITALS:

- A. The Developer is, or is entitled to become, the registered owner of part or all of those lands situated in the Municipality, which are legally described in Schedule "A" to this Agreement;
- B. The Developer intends to subdivide part or all of the Lands (hereinafter referred to as the "Subdivision Area") as shown on the plan attached as Schedule "B" to this Agreement;
- C. The Municipality and the Developer are agreeable to the Developer completing or contributing to the Municipal Improvements required to properly access and service the Subdivision Area, in accordance with the provisions of this Agreement;
- D. Pursuant to Sections 648, 650, 651 and 655 of the *Municipal Government Act*, as a condition of development approval the Municipality requires the Developer to enter into an agreement regarding obligations for construction and Security; and
- E. The Municipality and the Developer have agreed that the said construction and installation of the Municipal Improvements and all matters and things incidental thereto and all other matters and things relating to the development of the Subdivision Area, shall be subject to the terms, conditions and covenants hereinafter set forth.

NOW THEREFORE WITNESSETH THAT IN CONSIDERATION OF the foregoing, the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. DEFINITIONS

- 1.1 "Agreement"** means this agreement, the recitals and Schedules A to F.
- 1.2 "Commencement of Construction" or "Commence Construction"** means the date that the Developer commences any Pregrade of the Subdivision Area, (provided that any work relating to the preparation or clearance of any site, including any removal of any cables, buildings, structures, pipes, ducts, lines and tangible improvements, whether located, in whole or in part, above, upon or below ground, or the removal of any debris from such site, or the placing of any machinery or equipment on such site shall not be considered Commencement of Construction).
- 1.3 "Complete" or "Completion"** means that the Municipal Representative, acting reasonably, has determined that the Developer has completed the Pregrade of the Subdivision Area in a good workman like manor according to the City of Chestermere Design and Construction Standards.
- 1.4 "Consulting Engineer" or "Developer's Consultant"** means a professional engineer registered in the Province of Alberta who is a member in good standing of the Association of Professional Engineers and

Geoscientists of Alberta and is employed or retained by the Developer in connection with the design, installation and construction of the Municipal Improvements. Where applicable can also mean a professional landscape architect, Alberta land surveyor or professional land use planner.

- 1.5 “CUI” means Chestermere Utilities Incorporated.
- 1.6 “Developer” means the owner of a subdivision, development, or Municipal Improvements pursuant to a subdivision approval or development permit, respectively, issued by the Municipality, and who has or will enter into a Development Agreement with the Municipality as contemplated under the Sections 655 and 650 of the *Municipal Government Act*.
- 1.7 “Dispute Resolution Procedure” means that the dispute resolution procedure contained within Section 2.20 of this Agreement.
- 1.8 “Lands” means those lands situated in the City of Chestermere, province of Alberta, which the Developer is the owner or will become the owner, and for which the Developer intends to receive subdivision or development permit approval.
- 1.9 “Municipal Representative” means any person employed by the City of Chestermere or empowered to act on the municipalities behalf with respect to this Agreement or any of the work related hereinto.
- 1.10 “Municipality” means the municipal corporate of the City of Chestermere and/or the land laying within the corporate limits of the City of Chestermere, as the context requires, and whether or not CUI is specifically mentioned in a section, in the case of the water, wastewater, and stormwater Municipality includes CUI, unless the context otherwise requires. The Municipality shall be represented by the Chief Administrative Officer, designated Municipal Representative, or, in the case of the water, wastewater, and stormwater, CUI Representative.
- 1.11 “Pregrade” means earthwork and associated tasks done in the Subdivision Area to strip, pile, cut, fill, level, place, compact, or otherwise alter the topography for the purpose of development within the Subdivision Area including any erosion and sediment control.
- 1.12 “Pregrade Plans” means the documents outlined in Schedule “B”.
- 1.13 “Public Property or “Public Properties” means all area within and adjacent to the Lands to be owned or administered by the Municipality, including utility rights-of-way granted to the Municipality.
- 1.14 “Security” means an irrevocable letter of credit with a Canadian chartered bank at a branch in Alberta, or cash *in lieu* of payment, provide by the Developer to the Municipality to secure obligations contained in this Agreement, and any amendments hereto.
- 1.15 “Subdivision Area” means the Lands or that portion of the Lands upon or within which the Developer proposes to subdivide.
- 1.16 “Third Party” means a person or entity that is not a part of this Agreement.

2. ADMINISTRATIVE PROVISIONS

2.1 Scope

- (a) The scope of this Agreement shall define the duties, liabilities, and obligations of the Developer with respect to those matters that are specifically set out herein.
- (b) This Agreement is only to be used for Stripping and Grading areas greater than 2000m².

2.2 Compliance with Law

- (a) The Developer shall at all times comply with all legislation, regulations, municipal bylaws, and resolutions relating to the development of the Subdivision Area.
- (b) This Agreement does not constitute approval of any subdivision and is not a building permit, or other permit granted by the Municipality, and it is understood and agreed that the Developer shall obtain all approvals and permits which may be required by the Municipality or any government authority.
- (c) Where anything provided for herein cannot lawfully be done without the approval or permission of any authority, person or board, the rights or obligations to do it do not come into force until such approval or permission is obtained provided, that the parties will do all things necessary by way of application or otherwise in an effort to obtain such approval or permission.

2.3 Assignments

- (a) This Agreement shall not be assignable by the Developer without the express written approval of the Municipality, which consent shall be subject to the terms of this Agreement and may be withheld by the Municipality in its discretion. If the Developer is a corporation, an assignment of this

Agreement is deemed to have occurred upon (i) any merger, amalgamation, consolidation or acquisition of the corporation with, by or into another corporation, (ii) any transfer of shares of the corporation, (iii) any issuance of additional shares, or (iv) any change in the legal or beneficial ownership of the shares of the corporation, that material affects the control of the corporation.

- (b) This Agreement shall enure to the benefit of, and shall remain binding upon (jointly and severally, where multiple parties comprising the Developer), their heirs, executors, administrators, attorneys under a power of attorney, and other personal representatives of all individual parties and their respective estates, and shall enure to the benefit of, and shall remain binding upon, all successors and assigns (if and when assignment permitted herein) of all corporate parties.

2.4 Caveats

- (a) The Developer acknowledges and agrees that the Municipality shall be at liberty, pursuant to the Municipal Government Act, upon the execution of this Agreement, to file at the Land Titles Office for the South Alberta Land Registration District a caveat against the Subdivision Area and against the undeveloped portion of the lands described in Schedule "A" for purposes of protecting the Municipality's interests and rights pursuant to this Agreement.

2.5 Waiver

- (a) A waiver by either party hereto of the performance by the other of any covenant of this Agreement shall not, of itself, constitute a waiver of any subsequent breach of such covenant of this Agreement.

2.6 Time

- (a) Time shall be of the essence and any time limits specified in this Agreement may only be extended by written agreement executed by the parties, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall continue to be of the essence.

2.7 Notice

- (a) Unless otherwise specified within this Agreement, any notice, communications, or request to be given to either party shall be in writing and delivered by personal delivery, courier, prepaid mail or facsimile transmission.

- (i) **City of Chestermere**
City Hall
105 Maria Road
Chestermere, AB T1X 1V7

Phone: (403) 207-7050
Fax: (403) 569-0512

Attention: Director of Development and Infrastructure Services

and

- (ii) _____

Phone: (_____) _____ - _____

Fax: (_____) _____ - _____

Attention: _____

- (b) Any notice delivered by personal delivery or courier shall be deemed to have been received on the date of delivery if delivered between 8 a.m. and 5 p.m. (MST), and, if delivered after 5 p.m., then the next business day. Any notice delivered by prepaid mail shall be deemed to have been received 5 days after the date of mailing with Canada Post. In the event that notice is to be served at a time

when there is an actual or anticipated interruption of mail service affecting the delivery of such mail, the notice shall not be mailed but shall be delivered by courier or by hand. Any notice delivered by facsimile transmission shall be deemed to have been received on the date of the facsimile confirmation of transmission if transmitted between 8 a.m. and 5 p.m. (MST), and, if transmitted after 5 p.m., then the next business day.

- (c) Any party may change its address for delivery or communication by providing the other party with at least ten (10) days notice of the new address.

2.8 Interpretation

- (a) The validity and interpretation of this Agreement and of each part hereof shall be governed by the laws of the Province of Alberta.
- (b) In interpreting this Agreement, the principle of *contra proferentem* shall not be applied. This Agreement shall be interpreted so as to protect the interests of the Municipality.

2.9 Force Majeure

- (a) In the event that either Party is rendered unable, wholly or in part, by *force majeure* to carry out its obligations under this Agreement, other than its obligations to make payments of money due, such Party shall give written notice to the other Party stating full particulars of *force majeure*. The obligation of the Party giving such notice shall be suspended during the duration of the delay resulting from such *force majeure*, to a maximum of one hundred and eighty (180) days. The term *force majeure* means acts of God, strikes, lockouts, or other industrial disturbances of a general nature affecting an industry critical to the performance of the work, acts of the Queen's enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, civil disturbances, explosions, inability with reasonable diligence to obtain materials and any other cause not within the control of the Party claiming a suspension, which, by the exercise of due diligence, such Party shall not have been able to avoid or overcome; provided however, the term *force majeure* does not include a lack of financial resources or available funds or similar financial predicament or economic circumstances or any other event, the occurrence or existence of which is due to the financial inability of a Party to pay any amount that a prudent and financially sound entity in similar circumstances would reasonably be expected to pay or avoid or discontinue such event.

2.10 Indemnity

- (a) The Developer shall indemnify and save harmless the Municipality, its Council, administration, employees, agents and contractors from and against any and all losses, costs (including, without restriction, all legal costs on a solicitor and his own client full indemnity basis), damages, actions, causes of actions, suits, interest, claims and demands, whatsoever that may arise, directly or indirectly, from any act or omission of the Developer, its employees, agents, contractors, or those for whose actions the Developer is responsible for in law, in pursuance of this Agreement, including, without restriction, any default by the Developer in the due and punctual performance of any of its representations, warranties, covenants, and agreements contained in this Agreement. A waiver of rights of subrogation against the Municipality for liability and property insurers shall be provided to the Municipality. Such indemnity shall survive completion or termination of this Agreement.
- (b) The Developer shall defend in the name of and on behalf the Municipality, its Council, administration, employees, agents and contractors any third party claims, actions, suits or other proceedings that may at any time be instituted against the Municipality, its Council, administration, employees, agents and contractors that may arise, directly or indirectly, from any act or omission of the Developer, its employees, agents, contractors, or those for whose actions the Developer is responsible for in law, in pursuance of this Agreement, although such claims, actions, suits or other proceedings may be groundless, false or fraudulent. The Municipality may elect, in its sole discretion, to defend the Municipality, its Council, administration, employees, agents and contractors, and the Developer will reimburse the Municipality for defence costs and expenses (including but not limited to legal fees and disbursements on a solicitor and his own client basis, other professional costs, and expert fees) that are incurred by the Municipality.

2.11 Insurance

- (a) The Developer shall carry Commercial General Liability insurance with policy limits of not less than FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence for such period as the Developer

has any rights or obligations hereunder with respect to the Subdivision Area, and an all risk builders' policy, including extended coverage and malicious damage endorsement, as per industry standard, insuring the full value of the work, and naming the Municipality as an additional insured party. The Developer shall provide a certified copy of liability insurance policy to the Municipality ten (10) days prior to Commencement of Construction and shall ensure that the Policy provides for the Municipality to receive thirty (30) days written notice of material change or cancellation from the insurer. The limit of liability on the insurance policy shall not be construed as to be the limit that the Developer may be held liable for under the indemnity provisions of this Agreement. The Policy shall be in a form and with an insurer acceptable to the Municipality. Further, the Policy shall (i) be primary coverage, non-contributing with, and not in excess of any other insurance available to the Municipality, and (ii) waive any right of subrogation against the Municipality, its Council, administration, employees, agents and contractors

- (b) In addition, the Developer shall carry a Standard Automobile Policy providing coverage of at least TWO MILLION DOLLARS (\$2,000,000.00) inclusive, per occurrence, for bodily injury, death and damage to property, for all vehicles owned, leased or operated by the Developer which are used in condition with the work done under this Agreement.

2.12 Security

- (a) To ensure the Developer fully complies with the terms, covenants, and conditions of this Agreement, the Developer shall deposit to the Municipality security in the form of an irrevocable letter of credit (or by way of cash *in lieu*), to be automatically renewed annually, reviewed and accepted by the Municipality, in an amount determined on the following criteria and in accordance with the terms and conditions of this Agreement:
 - (i) **Construction:**

Prior to and during the Pregrade in the Subdivision Area the Developer shall provide and maintain security in the amount of the 150% the estimated cost to construct the following: haul and place loam, seed and provide all necessary erosion and sediment control for the Subdivision Area, or FIFTY THOUSAND DOLLARS (\$50,000.00), whichever is greater, and such further and other amounts as required by this Agreement.
- (b) The Developer shall, during the currency of this Agreement maintain in full force and effect all security prescribed by this Agreement. Further and notwithstanding the aforementioned, any security required to be deposited by the Developer pursuant to this Agreement may be required to be increased by the Municipality to the Developer at any time during the currency of this Agreement if it shall appear to the Municipality, in their sole discretion, that the security deposited is insufficient in relation to the costs or protection to the Municipality, for which security has been provided. Without limiting the generality of the foregoing the Municipality may require an increase in security if: (i) the Developer has failed to comply with the construction schedule, (ii) the Developer has breached this Agreement or has received a notice of default pursuant to this Agreement, or (iii) an order pursuant to sections 545 or 646 of the *Municipal Government Act* has issued against the Developer.
- (c) The security requirements of this Agreement, to be provided by the Developer, shall be without prejudice to the Developer's responsibilities and covenants under this Agreement, and the Municipality's other rights and remedies under this Agreement, municipal bylaws, and the Municipal Government Act. Nothing shall prevent the Municipality from demanding payment of performance by the Developer in excess of the required security, and without having to call upon or exhaust its remedies in respect of the required security prior to making such demand.
- (d) In the event that the Municipality has negotiated, called upon, or otherwise received proceeds from the security deposited by the Developer for any reason contemplated within this Agreement, the Municipality shall be entitled to hold and apply such proceeds as a security deposit *in lieu* of the whole or a portion of the original security. Where the Municipality applied the proceeds as a security deposit *in lieu* of a portion of the original security, the Developer shall immediately deposit with the Municipality the remainder of the amount of the original security as a new security deposit.
- (e) The amount of security shall be reduced following the Municipality's acknowledgement of all Pregrade Completion, including but not limited to; acceptance of the Developer's correction of deficient items, inspection of the work as may be required, and receipt of any and all required or requested testing or reports. The reduction amounts shall be as follows:
 - (i) **Full Reduction:**

If at the time of Completion there is a Development Agreement for the entire Subdivision Area the entire security shall be returned.

(ii) Partial Reduction:

If at the time of Completion there is a Development Agreement for a portion of the Subdivision Area the Security shall be reduced to 150% the estimated cost to construct the following: haul and place loam, seed and provide all necessary erosion and sediment control for the remaining Subdivision Area. Any stockpiles that remain will be included in the calculation for Security.

2.13 Fees

- (a)** The Developer acknowledges that the Municipality may incur costs and expenses in the reviewing the Pregrade Plans, as well as costs and expenses for the inspection of the Pregrade which costs and expenses are part of the costs of Pregrade and should be borne by the Developer. The Municipality and the Developer agree that unless otherwise required by any applicable fees bylaw or any other bylaw of general application, or unless otherwise stipulated within Schedule “E”, upon the execution of this Agreement the Developer shall pay to the Municipality the approval and inspection fees as per the fees established from time to time by the Municipality. Such fees may be applied on a flat rate basis or for each hectare within the gross area of the Subdivision Area, or applied on the rate and/or basis required by any applicable fee bylaw or other applicable bylaw of general application, as set forth in Schedule “D”, and failing those as maybe established from time to time by the Municipality.
- (b)** The Developer acknowledges that the amount of the approval and inspection fees payable, whether or not specified in Schedule “D”, are subject to adjustment by the Municipality, and the Developer and the Municipality further covenant and agree that the follow provisions shall apply:
 - (i)** That in the event that at the time of the payment of the approval and inspection fees for the Subdivision Area the Municipality has not as yet established the approval and inspection fees for the applicable calendar year, the Developer shall pay to the Municipality an amount equal to the approval and inspection fees calculated on the basis of the current rate as required within this Agreement.
 - (ii)** Within thirty (30) days of the new approval and inspection fees being established by the Municipality for the applicable calendar year, the amount of the payment shall be adjusted upwards or downwards and the difference shall be paid by the Developer to the Municipality, or paid by the Municipality to the Developer, as the case may be; and

2.14 Special Clauses

- (a)** In addition to the provisions set forth in this Agreement, the Developer agrees that the special clauses set forth in Schedule “F” are hereby incorporated and form part of this Agreement. The Developer agrees that they shall comply with the special clauses in Schedule “G”. Where there is an inconsistency between any provisions of this Agreement and the special clauses in Schedule “G”, the special clauses in Schedule “F” shall govern.

2.15 Developer Default and Remedies

- (a)** An event of default includes:
 - (i)** A change in the registered ownership of the Lands;
 - (ii)** The Developer assigns or purports to assign or there is a deemed assignment of this Agreement or any part of it, without the prior written consent of the Municipality;
 - (iii)** The Developer fails to perform or comply with this Agreement or any provision of this Agreement;
 - (iv)** The Developer becomes insolvent or admits in writing its inability to pay its debts as they become due or makes an assignment in bankruptcy for the benefit of its creditors;
 - (v)** A receiver or bankruptcy trustee is appointed to manage the property or affairs of the Developer.
- (b)** If an event of default occurs, the Municipality:
 - (i)** In the case of a default that is not a default of a payment obligation,
 - A** the Municipality may give notice in writing to the Developer of such default requiring the Developer to rectify the default, whereupon the Developer shall have thirty (30) days (or a longer period as determined by the Municipality in its sole

- discretion) from the receipt of such notice within which to rectify such default;
and
- B Upon expiration of the above-noted rectification period, the Municipality may enter onto the Lands, as an agent for the Developer, and rectify or attempt to rectify such default at the Developer's cost and expense; and
- (ii) In the case of a default of a payment obligation, the Municipality may give notice in writing to the Developer of such default, whereupon the Developer shall have five (5) days from the receipt of such notice to rectify such default.
- (c) In addition to section 2.15(b), if an event of default occurs, the Municipality shall be entitled to any and all rights and remedies available at law or in equity including, without restriction:
- (i) The unfettered right to terminate this Agreement, in which event the Municipality shall be entitled at its option to take ownership and/or control of all or any portion of the Pregrade without any further compensation to the Developer whatsoever and without prejudice to any claims, rights of action, or remedies available to the Municipality;
- (ii) Enter onto the Subdivision Area, and perform or otherwise rectify the Developer's obligations in default, in which event the Developer shall be responsible for payment in full of all costs and expenses incurred by the Municipality and shall immediately pay to the Municipality sufficient funds to cover all the Municipality's costs and expenses upon demand;
- (iii) Invoke, cash, call upon, collect, enforce, and otherwise make demands as payee under the provisions of any and all security provided by the Developer as security for obligations contained within this Agreement including, without restriction, make demand for payment in full of any and all amounts secured by any mortgage, charge, or encumbrance security and draw upon any irrevocable letter of credit or bond security; or
- (iv) Expend, utilize, apply, and set off against any and all funds received or held by the Municipality as security for the Developer's obligations, for the purposes of satisfying any of the Developer's obligations under this Agreement.
- (d) Notwithstanding anything to the contrary herein, in the event that the Municipality acting reasonable, considers it necessary to undertake any immediate work for the completion or repair of any of the said municipal improvements in a situation where the Municipality considers it to be an emergency, the Municipality shall be entitled to cause such work to be done to normal municipality standards at the Developer's cost and expense without notification to the Developer; provided that, upon completion of said completion or repair work, the Municipality shall give notice in writing to the Developer, stating the reasons for the actions and a detailed claim.
- (e) The Municipality and the Developer agree that any rights and remedies available to the Municipality and the Developer, whether specified in this Agreement or otherwise available at law, are cumulative and not alternative and the Municipality and the Developer shall be entitled to enforce any right or remedy in any manner that the Municipality or Developer deems appropriate in its discretion, without prejudicing, or waiving any other right or remedy otherwise available to the Municipality or the Developer.

2.16 Dispute Resolution

- (a) **Definitions** – for the purposes of this provision, the following words and phrases mean:
- (i) **“Arbitrator”** means the person appointed to act as such to resolve any Dispute;
- (ii) **“Arbitration”** means a process whereby each of the Parties, with or without legal counsel, agrees to jointly engage and meet with an Arbitrator, who will render a legally binding decision in respect of the Dispute;
- (iii) **“Dispute”** means any disagreement or controversy between the Parties concerning any matter arising out of this Agreement;
- (iv) **“Mediation”** means a process whereby a Representative from each Party, with or without legal counsel, agrees to jointly engage the services and meet with a Mediator to participate in a mediation, conciliation, or similar Dispute Resolution process;
- (v) **“Party”** means a party to this Agreement, and **“Parties”** means more than one of them; and
- (vi) **“Representative”** means an individual who has no direct operational responsibility for the matters comprising the Dispute, who holds a senior position with a Party and who has full authority to settle a Dispute.

- (b) **Dispute Resolution Process** – in the event of any Dispute, prior to commencing any administrative or legal proceeding, the Parties shall undertake the following process to seek Dispute Resolution:
 - (i) First, by negotiation between the Parties;
 - (ii) Second, by way of Mediation; and
 - (iii) Third, by way of Arbitration, if mutually agreed by all Parties in writing at any time of the Dispute, Negotiation, or Mediation.
- (c) **Negotiation** – A Party shall commence the Dispute Resolution Process by giving written notice (“Dispute Notice”) to the other Party setting out the Dispute, the facts upon which the Party relies, and the remedy sought. Within seven (7) days following receipt of the Dispute Notice, the Parties shall each appoint a Representative, who shall, in good faith, meet and seek to resolve the Dispute through full and frank discussion and negotiation. If the Dispute is not resolved within thirty (30) days of receipt of the Dispute Notice, the negotiation shall be deemed to have failed. All discussions and negotiations shall be without prejudice, unless a resolution is reached.
- (d) **Mediation** – If negotiation fails to resolve the Dispute, then the Dispute shall be referred to Mediation. Within fourteen (14) days of the failure of negotiation, the Parties shall, in good faith, select and appoint a mediator. The Parties shall provide the Mediator with the Dispute Notice. If the Mediation is not completed within sixty (60) days from the date of receipt of the Dispute Notice, the Mediation shall be deemed terminated unless the Parties mutually agree, in writing, to extend the time for the completion of the Mediation.
- (e) **Arbitration**
 - (i) If the Parties agree, in writing, the Dispute shall be submitted to Arbitration under the Arbitration Rules of the ADR Institute of Canada Inc. (the “Rules”).
 - (ii) The *Arbitration Act* (Alberta) shall apply to all Arbitrations but if there is a conflict between the Rules and the provisions of the *Act*, the Rules shall prevail.
 - (iii) The Arbitrator shall proceed to hear and render a written decision concerning any Dispute within:
 - a) Forty-five (45) days of the appointment of the Arbitrator, if the subject matter of the Dispute is less than FIFTY THOUSAND DOLLARS (\$50,000.00); or
 - b) One hundred and twenty (120) days of the appointment of the Arbitrator, if the subject matter of the Dispute is greater than FIFTY THOUSAND DOLLARS (\$50,000.00).
 - (iv) The Arbitrator’s decision is final and binding, but is subject to appeal or review by any court of proper jurisdiction only with respect to an allegation of fraud or perjury.
- (f) **Location** – Unless otherwise agreed upon by the Parties, the place for Mediation and Arbitration shall be the City of Chestermere, Alberta.
- (g) **Selection of Mediator or Arbitrator** – If the Parties are unable to agree upon the appointment of a single Mediator or Arbitrator, either of the Parties may request that a single Mediator or Arbitrator, as the case may be, of suitable training, experience and independence, and who in respect of the subject matter of the Dispute has a reasonable practical understanding be appointed by the Executive Director or other individual fulfilling that role for the ADR Institute of Canada, Inc. The Executive Director shall be requested to make this appointment within five (5) business days of receipt of the request.
- (h) **Litigation and Limitations Act** – No Party shall commence any administrative or legal proceeding concerning the Dispute until the Mediation is concluded. The time during which any Dispute is subject to the negotiation and Mediation processes shall not be counted toward any limitation period set forth in the *Limitations Act* (Alberta) and the limitation period shall be extended by this time. This is an agreement in accordance with Section 7 of the *Limitations Act* (Alberta).
- (i) Any Party may commence an administrative or legal proceeding to preserve its legal rights and remedies under the *Limitations Act* (Alberta), or to prevent irreparable harm to a Party where that Party seeks a pretrial injunction to prevent such harm or imposes a sections 545 or 645 order under the *Municipal Government Act*.

3. PREPARATION AND APPROVAL OF PREGRADE PLANS

3.1 Pregrade Plans

- (a) Prior to the execution of this Agreement, the Developer and/or Developer’s Consultant shall:

- (i) Prepare the Pregrade Plans for the Subdivision Area, in accordance with the requirements of Schedule “C”;
 - (ii) Prepare the Pregrade Plans for the Subdivision Area, in accordance with the Engineering Design and Construction Standards;
 - (iii) Submit the Pregrade Plans to the Municipal Representative for review;
 - (iv) Provide to the Municipality the evidence of insurance coverage, and the security for performance of the Developer’s obligations under this Agreement, in the form and content required by this Agreement;
 - (v) Obtain any and all permits required in relation to the construction and installation of the Pregrade (including, without restriction, any development permit from the Municipality, highway development permit or consent from Alberta Transportation, and any permit, license or consent from Alberta Environment and Parks, when and if applicable and/or required by the respective government or local authority); and
 - (vi) Obtain any required license, right-of-way, or right of entry necessary to allow the Developer or its contractors access to the Subdivision Area (including, without restriction, any roads), when and if applicable and/or required by the respective owner, government or local authority).
- (b) The Municipality shall not unduly delay in accepting or rejecting the Pregrade Plans, which have been submitted to the Municipal Representative. Once accepted, the Pregrade Plans shall be deemed to be incorporated within this Agreement, and shall be considered attached to this Agreement as a schedule. If the Pregrade Plans are rejected for any reason, the Municipal Representative shall provide the Developer’s Consultant with a written explanation of the reasons of rejection, whereupon the Developer’s Consultant must revise and correct the plans and return them to the Municipal Representative. If the Municipal Representative rejects the revised or corrected Pregrade Plans required to be submitted by the Developer to the Municipal Representative, the Developer shall be entitled to pursue Dispute Resolution in accordance with Section 2.16.
- (c) The Pregrade Plans for the Subdivision Area shall be stamped and signed by a Professional Engineer registered in the Province of Alberta.
- (d) Subject to the terms of this Agreement, the Developer shall be entitled to Pregrade in accordance with the Pregrade Plans, once such plans have been accepted by the Municipality. The reviews and comments provided by the Municipality do not relieve the Consulting Engineer of liability for any error or omissions in the designs. The Consulting Engineer is professionally responsible for the proper design of the Subdivision Area.
- (e) The Municipality’s review and acceptance of the Pregrade Plans and all amendments after for the Municipal Improvements, as contemplated above, may be subject to the occurrence of unforeseen conditions, and in the case of unforeseen conditions which may adversely affect development of the detailed design specifications for any of the Pregrade shall be subject to review and revision, from time to time, by the Municipal Representative to account for such circumstances in accordance with the Engineering Design and Construction Standards and in accordance with accepted engineering and construction practices.
- (f) The Developer shall not Commence Construction of the Subdivision Area, or any portion, until such time as the Municipality has issued written acceptance of the Pregrade Plans and an executed Pregrade Agreement.
- (g) The Municipality’s acceptance of the Pregrade Plans is not and shall not be construed as a warranty, representation or guarantee by the Municipality, or its employees or consultants respecting the content of the Pregrade Plans including, without restricting, the generality of the foregoing:
- (i) The Pregrade Plans are suitable for the intended purpose;
 - (ii) The Pregrade Plans comply with any required Federal, Provincial, or Municipal legislation, regulation, bylaw, policy or guideline;
 - (iii) The Pregrade Plans comply with the Engineering Design and Construction Standards; and
 - (iv) The Pregrade Plans are in accordance with standard acceptable engineering practices.

4. CONSTRUCTION

4.1 General

- (a) Unless otherwise specified in this Agreement, the Developer shall Commence Construction identified in the Agreement within one (1) year of its execution.

- (b) In the event that the Developer has not Commenced Construction of the Subdivision Area specified in Schedule “B” of this Agreement, then the Municipality shall be entitled to terminate this Agreement, and further upon termination of this Agreement; the Developer agrees that:
 - (i) The termination of this Agreement shall be effective upon the Municipality serving notice of termination on the Developer;
 - (ii) The Developer shall not be entitled to Commence Construction on the Subdivision Area, unless and until a new Agreement is entered into between the Developer and the Municipality.
- (c) The Developer covenants and agrees that at all times during the construction and installation of the Municipal Improvements by the Developer related thereto:
 - (i) The Municipality shall have free and immediate access to all records within the possession, power, and control of the Developer and the Developer’s Consultant and may make copies of any record relating to the performance of the work including, but not limiting to the generality of the foregoing, all design, inspection, material testing, and “as constructed” records;
 - (ii) The Municipality may:
 - (a) Inspect the performance of the work, as the Municipality may deem necessary and advisable, to ensure the full and proper compliance by the Developer with the Developer’s undertaking to the Municipality, and proper performance of the work;
 - (b) Reject any design, material, or work which is not in accordance with the Engineering Design and Construction Standards, Landscape Standards and Specifications, or accepted engineering and construction practices;
 - (c) Order that the performance of the work, or part thereof, be stopped until the Developer fully and properly complies with the Developer’s undertakings; and
 - (d) Order the testing of any materials to be incorporated in the work and additional testing as may be reasonably requested.
 - (iii) The Developer, at its own cost and expense, shall comply with said orders and requirements of the Municipality unless the Developer takes issue with any such order or requirement, in which case the Developer shall request, in writing, that such issue be referred to the Dispute Resolution Procedure; provided that, in no event shall the Developer be entitled to Dispute nor commence any proceedings with respect to any decision made by the Municipality pursuant to Sections 4.1(c)(ii)(b) or 4.1(c)(ii)(d); and provided further; that the affected work, excepted as otherwise agreed by the Municipality, in writing, shall stop until such Dispute Resolution has taken place.
- (d) Notwithstanding anything expressed or implied in Section 4.1(c):
 - (i) The Municipality shall have no obligation or duty to exercise any of the Municipality’s powers of inspection nor any obligation or duty to discover or advise the Developer of any deficiencies in construction or workmanship during the course of the Pregrade construction;
 - (ii) The Developer shall, during the course of the Pregrade construction, provide and maintain adequate inspection services, supervised by a Professional Engineer, at the Developer’s own cost and expense; and
 - (iii) Nothing set forth in the preceding paragraph shall in any way be construed so as to relieve the Developer of any responsibilities as set forth in this Agreement, and without restricting the generality of the foregoing, the Developer shall fulfill all responsibilities in respect to the design and construction as required by the terms of this Agreement.
- (e) The Developer covenants that all Pregrade construction shall be constructed according to the approved Pregrade Plans, the City of Chestermere Engineering Design and Construction Standards, and/or Landscape Standards and Specifications, and where not specified to default to City of Calgary specifications. It shall be the Developer’s responsibility to develop the Subdivision Area in accordance with standards that conform to good engineering and construction practices.

4.2 Public Property

- (a) The Municipality shall, acting reasonably and upon application by the Developer, grant to the Developer under written agreement or consent the right, permission and power to use, break-up, dig, trench, or excavate in the public streets, roads and boulevards, under the control of the Municipality, within or adjacent to the Subdivision Area, and otherwise do such work therein and thereon as may

be necessary, from time to time, construct, develop, erect, lay, operate, maintain, repair, extend, relay and/or remove any Municipal Improvements forming part of the work of the Developer, as may be necessary for the purpose of this Agreement, PROVIDED that:

- (i) No less than fourteen (14) days prior to the date that the developer intends to enter upon any Public Property (except in the case of emergency repair work), the Developer shall provide to the Municipality a written detailed proposal, for approval by the Municipal Representative, for the work to be done within any such property including:
 - (a) A specific work schedule and proposed procedures to be followed;
 - (b) Detailed drawings of all connections to existing municipal services;
 - (c) Provisions to be implemented for temporary access and services;
 - (d) Installation of temporary traffic control devices and/or personnel deployment to minimize traffic disruption; and
 - (e) Form and schedule notification of the public and provide communication strategy to be utilized.
- (ii) The performance of such work shall be inspected by the Municipality whose review comment and recommendations shall be addressed prior to Construction Commencement;
- (iii) No such work shall be commenced prior to the Developer obtaining the written consent of the Municipality to enter upon such Public Properties, and the Municipality shall not unreasonably delay or withhold such written consent;
- (iv) The Developer shall do as little damage as possible in the performance of such work, and will cause as little obstruction to such Public Properties as possible;
- (v) Upon completion of such work, the Developer shall be responsible for the restoration of the Public Properties to their condition prior to performance of the work including, but not limited to, concrete work, asphalt paving, re-planting or replacement of trees, shrubs, and sod, to the satisfaction of the Municipal Representative;
- (vi) The restoration of Public Properties shall be part of the municipal improvements to be constructed and installed by the Developer and the Developer shall be required to obtain construction completion certificates and final acceptance certificates for the restoration work;
- (vii) The Developer shall indemnify and save harmless the Municipality from and against all losses, claims, suits or demands of any nature (including all legal costs and disbursements on a solicitor and client basis), which may arise by reason of the performance of work by the Developer; and
- (viii) The Developer shall, at all times, during the construction provide safe and acceptable access to residents and occupiers adjacent to the Subdivision Area.

4.3 Contracts

- (a) Notwithstanding anything contained in this Section 4.3, the Developer shall be fully responsible to the Municipality for the performance by the Developer of all the Developer's obligations in this Agreement, and further, the Municipality shall not be obligated to commence or prosecute any claim, demand, action or remedy against any person with whom the Developer may contract for the performance of the Developer's obligations.
- (b) Any contract entered into between the Developer and a Third Party in respect to the performance of all or any of the Developer's obligations as set out in this Agreement shall ensure:
 - (i) The Third Party shall indemnify and save harmless the Municipality and the Developer from and with respect to any damages, claims or demands (including all legal costs and disbursements on a solicitor and client basis), arising out of the performance of any work undertaken by the Third Party or arising in any way from the acts or omissions including, but not limited to, negligence of the Third Party's contractors, agents or employees;
 - (ii) The Third Party shall comply with the provisions of the *workers Compensation Act* and the *Occupational Health and Safety Act* for the Province of Alberta;
 - (iii) The Third Party will allow the Municipality access to the work for the purpose of inspection;
 - (iv) The Third Party shall coordinate with the Municipality workforces and others to facilitate construction that protects municipal infrastructure from damages;
 - (v) The Third Party will carry adequate Public Liability insurance of an amount and coverage satisfactory to the Municipality to protect the Third Party and the Municipality from any claims, actions or demands arising from the pursuance or purported pursuance of the work

being performed by such Third Party. This insurance shall be primary insurance to any other policies of insurance covering the Municipality.

4.4 Water

- (a) The Developer shall be responsible for contacting CUI for any use of potable water required for Pregrade construction. The Developer may be required to obtain a water meter from CUI for the tracking and cost of any potable water used for Pregrade construction.

4.5 Fencing and Signage

- (a) Prior to the Commencement of Construction the Developer shall install parameter fencing, to the satisfaction of the Municipal Representative, to protect any Environment Reserve (ER) or other environmentally sensitive area that may be identified.
- (b) Prior to the Commencement of Construction the Developer shall install signage at the perimeter of the Subdivision Area, to the satisfaction of the Municipal Representative, such as, No Trespassing, Private Property, Open Excavation and No Dumping.

4.6 Erosion and Sediment Control

- (a) The Developer shall take effective measures and ensure best management practices for erosion and sediment control within the Subdivision Area throughout all phases of construction. In the event that that Municipal Representative deems that there is dust control, sediment build up, mud tracking, or erosion issues the Municipality shall attempt to notify the Developer or the Developer's Consultant of the issued by telephone or e-mail. The Developer shall remedy the issue within seventy-two (72) hours' of the notice. The seventy-two (72) hours' notice may be waived or shortened by the Municipality if:
 - (i) there is an emergency (as deemed by the Municipality);
 - (ii) The Municipality is unable to directly contact the Developer or the Developer's Consultant; and/or
 - (iii) The Developer or Developer's Consultant, by its conduct or words, gives the Municipality the reasonable inference that it will not perform the necessary work within the required time frames.
- (b) In the event that the Developer fails to remedy an erosion and sediment control issue, the Municipality may, in its sole discretion, complete the work on behalf of the Developer and submit an invoice for work done within thirty (30) days. In addition to payment of said invoice, the Municipality may impose damages for administrative time and expense upon the Developer according to the following offence list:
 - (i) First event of non-compliance – ONE THOUSAND DOLLARS (\$1,000.00);
 - (ii) Second event of non-compliance – TWO THOUSAND and FIVE HUNDRED DOLLARS (\$2,500.00); or
 - (iii) Third event of non-compliance – FIVE THOUSAND DOLLARS (\$5,000.00).
- (c) The Developer covenants and agrees that all invoices and damages for non-compliance of erosion and sediment control shall be paid prior to the release of security.

4.7 Garbage and Weeds

- (a) The Developer shall take effective measures to reasonably control garbage and weeds in and around the Subdivision Area including, and without limiting the generality of the foregoing, any buildings and landscaping so that garbage originating therein shall not cause annoyance or become a nuisance to property owners and others within or adjacent to the Subdivision Area. The Developer shall, at its own cost and expense, provide dumpsters or such other containers suitable for the collection and containment of the garbage within the Subdivision Area. In the event; however, that the Municipal Representative deems that there is garbage or weed issues, the Municipality shall attempt to notify the Developer or Developer's Consultant of the issue by verbal or written communication. The Developer shall rectify the issue within seventy-two (72) hours' of the notice by taking effective measures to control the garbage or weed issue. The seventy-two (72) hours' notice may be waived or shortened by the Municipality if:
 - (i) There is an emergency (as deemed by the Municipality);
 - (ii) The Municipality is unable to directly contact the Developer or the Developer's Consultant; and/or

- (iii) The Developer or Developer's Consultant, by its conduct or words, gives the Municipality the reasonable inference that it will not perform the necessary work within the required time frames.
- (b) In the event that the Developer does not comply with an order to remedy a garbage or weed issue, the Municipality may, in its sole discretion, complete the work on behalf of the Developer and submit an invoice for work done within thirty (30) days. In addition to payment of said invoice, the Municipality may impose damages for administrative time and expense upon the Developer according to the following offence list:
 - (i) First event of non-compliance – ONE THOUSAND DOLLARS (\$1,000.00);
 - (ii) Second event of non-compliance – TWO THOUSAND and FIVE HUNDRED DOLLARS (\$2,500.00); or
 - (iii) Third event of non-compliance – FIVE THOUSAND DOLLARS (\$5,000.00).
- (c) The Developer covenants and agrees that all invoices and damages for non-compliance of garbage and weed control shall be paid prior to the release of a security.

4.8 Contamination

- (a) During construction of the development, if the Developer, or any of their agents or contractors becomes aware of any type of contamination within the Lands:
 - (i) The person discovering such contamination shall immediately report the contamination to Alberta Environment and the City of Chestermere;
 - (ii) The applicant shall, prior to Completion, submit a Phase II Environmental Site Assessment prepared by a qualified professional to Alberta Environment and the City of Chestermere;
 - (iii) If required to do so by Alberta Environment or the City of Chestermere, the applicant shall submit a remediation plan or risk management plan (Phase III ESA) prepared by a qualified professional to Alberta Environment and provide a copy of the report to the City;
 - (iv) If submission of a Phase III ESA has been required at any time, Completion shall not be approved until a qualified professional has submitted to the Municipality a letter, in a form satisfactory to the Municipal Representative, certifying that the physical components in the Phase III ESA have been implemented.
- (b) In the event that contamination originated from the Subdivision Area, the developer, at its own expense, shall rehabilitate any adjacent lands to the satisfaction of the affected owners prior to Completion of the Pregrade.

4.9 Survey Control Markers

- (a) The Developer shall, at no expense to the Municipality, install or replace any and all statutory iron posts, iron posts, temporary block cover posts, and lot corner posts as established by legal survey and all triangulation and reference markers or posts and any survey control station or monument, which had previously been placed in the Subdivision Area or any public area accessed by the Developer, and is damaged or disturbed by the Developer, its servants or agents. In addition, the Developer shall, at no expense to the Municipality, replace any or all survey control stations within original road allowances and surveyed roads that have been removed or damaged due to development of the Lands.

4.10 Completion

- (a) Successful completion of the Pregrade shall require the following including, but not limited to:
 - (i) Complete construction as per the approved Pregrade Plans;
 - (ii) Submission of weekly inspection reports;
 - (iii) All testing results reviewed by the Municipality, when applicable;
 - (iv) Any required as-built drawings;
 - (v) Confirmation of fee payments, any unpaid damages;
 - (vi) All private and Public Properties, which have been disturbed or damaged have been fully restored by the Developer;
 - (vii) All Special Clauses as identified in Schedule "F" have been fulfilled.

5. GENERAL

5.1 General

- (a) This Agreement is the entire agreement between the Developer and the Municipality and there are no covenants, promises, agreements, conditions or understandings either oral or written between them with respect to the same subject matter.
- (b) Except as provided in this Agreement, no alteration, amendment, change or addition to this Agreement shall be binding on the Parties unless in writing and executed by the Parties.
- (c) The parties shall not call into question or challenge, directly or indirectly, in any proceeding in court or before any administrative tribunal, a party’s right to enter into and enforce this Agreement. The parties agree that adequate consideration has flowed from each party to the other. This provision may be pleaded by either party in any proceeding as an estoppel.
- (d) Notwithstanding any other provision of this Agreement, the Parties agree that none of the provisions of this Agreement are intend to operate nor shall have the effect of operating, in any way whatsoever, to fetter the Municipality’s Council in the exercise of its discretionary powers, duties or authorities.
- (e) Whenever the singular, gender-neutral, or masculine is used in this Agreement, it will be construed as meaning the plural, feminine, or body Corporate, where the context so required.
- (f) If one or more Sections of this Agreement are declared invalid or unenforceable by a Court, the Section(s) will be severable from the remainder of this Agreement, and the other provisions will remain in full force and effect.
- (g) References in this Agreement to any statute or any provision of a statute include the statute or provision as amended, revised, re-enacted, and consolidated from time to time and any successor statute.
- (h) The Developer hereby acknowledges that it is hereby executing this Agreement having been giving the full opportunity to review the same and seek competent, independent legal advice, and that the Developer is executing this Agreement freely, voluntarily, and of its own accord, without any duress or coercion whatsoever and that the Developer is fully aware of the terms, conditions, and covenants contained herein and the legal effects thereof.

IN WITNESS WHEREOF the Parties hereto have affixed their corporate seals, duly attested by the hands of their respective proper officers in that behalf, as of the _____ day of _____, 20 ____.

MUNICIPALITY:

CITY OF CHESTERMERE

Per:

Per:

DEVELOPER:

Per:

Per:

SCHEDULE “A” - LEGAL DESCRIPTION OF LANDS

[Insert Legal Description]

SCHEDULE "B" - SUBDIVISION AREA

[Insert diagram/site plan]

SCHEDULE “C” - PREGRADE PLANS

Pregrade Plans shall include the following:

- 1.1** Certificate(s) of Title, any Registered Covenants, Utility Right-of-Way, Easement or Caveat
 - 1.1.1 One hard copy, one digital copy PDF
- 1.2** Authorization Letter (if applicable)
 - 1.2.1 One hard copy, one digital copy from the registered land owner(s) signed and dated
- 1.3** Land use Site Plan
 - 1.3.1 One 11x17 hard copy, one digital PDF
- 1.4** Utility Conformation Letter
 - 1.4.1 One hard copy, one digital PDF
 - 1.4.2 Engineering Consultant confirming all affected utility companies have been contacted
- 1.5** Existing Contour Plan
 - 1.5.1 Two full size hard copies, two 11x17 hard copies and one digital PDF
 - 1.5.2 Contours should be minimum 0.5m intervals
 - 1.5.3 Show property lines
 - 1.5.4 Include any existing buildings approximate location
 - 1.5.5 Include any ER area to be fenced off and any heavily treed areas.
- 1.6** Cut / Fill Plan
 - 1.6.1 Two full size hard copies, two 11x17 hard copies and one digital PDF
 - 1.6.2 Pregrade area outlined in red
 - 1.6.3 Show cut/fill with fills greater then 2m highlighted
 - 1.6.4 Show property lines
 - 1.6.5 Include any ER area to be fenced off
 - 1.6.6 Borrow Pit and stockpile locations outlined in green
 - 1.6.7 Show any ROWs, easements, overhead, deep and shallow utilities
 - 1.6.8 Include access points and signage locations
- 1.7** Deep Fills Report
 - 1.7.1 One hard copy and one digital PDF
 - 1.7.2 Report to be prepared as per City of Calgary guidelines
- 1.8** Erosion and Sediment Control Plans
 - 1.8.1 Two full size hard copies, two 11x17 hard copies and one digital PDF
 - 1.8.2 Contours should be minimum 0.5m intervals
 - 1.8.3 Include property lines
 - 1.8.4 Borrow Pit and stockpile locations outlined in green
 - 1.8.5 Construction plan, and finished grading conditions plan
 - 1.8.6 Include any ER area to be fenced off
 - 1.8.7 Include access points and signage locations
- 1.9** Staging Plan (if applicable)
 - 1.9.1 Two full size hard copies, two 11x17 hard copies and one digital PDF
- 1.10** Backsloping Agreement (if applicable)
- 1.11** Traffic Accommodation Strategy (if applicable)
- 1.12** Road Use Agreement (if applicable)
- 1.13** Environmental Site Assessment (if applicable)
- 1.14** Proof of existing well decommissioning (if applicable)
- 1.15** Biophysical Inventory Assessment (if applicable)
- 1.16** Any Additional Detail, Plan or Profile as may be required by the Municipal Representative

SCHEDULE "D" - FEES

1.0 Fees

Fees shall be applied at the current rates as shown in Policy 643.

Subdivision Requests

| | |
|------------------------------------|-----------------|
| Road Closure | \$1,500 |
| Stripping and Grading | \$750 flat rate |
| Subdivision time extension request | \$350 |

Additional Inspection Fees

| Type of Inspection | # of free Inspections (First and Second) | Additional Inspection |
|---|--|-----------------------|
| Stripping & Grading | 2 | \$125/hr. |
| Performance/landscaping Deposit Inspection | 2 | \$125hr |
| Erosion and Sediment Control Measure Inspection | 2 | \$125/hr. |

Note: City staff reserves the right to refuse inspection due to unsafe site conditions. At the discretion of the inspector, additional inspection charges/fees may apply.

Fee Calculation

| Fee Type and Description | Rate | Area | Sub-Total |
|--------------------------|------|------|-----------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Total _____

SCHEDULE "E" - SECURITY

1. For purposes of calculating the security required to be deposited by the Developer pursuant to Section 2.12, and subject to the provisions below, the cost estimates for the construction and installation of the Municipal Improvements are as follows:

a) **Pregrade Rehabilitation**

| | | |
|------|------------------------------------|----|
| i. | Loam Subdivision Area (~150mm) | \$ |
| ii. | Hydro-mulch & seed (min 3500kg/Ha) | \$ |
| iii. | ESC | \$ |
| iv. | Fencing and Signage | \$ |
| v. | | \$ |
| vi. | | \$ |

Pregrade Rehabilitation Subtotal \$ _____

X 150%

Total Value of Security Required \$ _____

2. The Parties hereby represent, warrant, covenant and agree that all of the costs for the Pregrade construction for the Subdivision Area, as set out above, are estimates, and as such, shall in no way limit or restrict the Developer's responsibility under this Agreement, nor in any way whatsoever establish or otherwise suggest a maximum amount of the Developer's obligations under this Agreement.
3. Where estimates are not available as of the date of this Agreement, the Developer shall provide such estimates as can reasonably be extrapolated, and the amount of the security shall be established by the Municipality at that time.

SCHEDULE "F" - SPECIAL CLAUSES

[IF INTENTIONALLY LEFT BLANK, THERE ARE NO SPECIAL CLAUSES TO THIS AGREEMENT]