

THIS AGREEMENT made in triplicate this 28th. day of April, 1986 A.D.

B E T W E E N :

CAN MAR MANUFACTURING INC.

Hereinafter called the "Owner",
OF THE FIRST PART;

-and-

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town",
OF THE SECOND PART.

1. DEFINITIONS in this Agreement: -

- (a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.
- (b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.
- (c) "CHIEF BUILDING OFFICIAL" shall mean the Chief Building Official of the Corporation of the Town of Pelham.
- (d) "TREASURER" shall mean the Treasurer of the Corporation of the Town of Pelham.
- (e) "COMMISSION" shall mean the Niagara Escarpment Commission.

WHEREAS the Party of the First Part is desirous of conducting a manufacturing operation on the lands described in Schedule "A" and in accordance with Schedule "B" attached hereto, being plot plans filed in the Office of the Town and the Commission;

AND WHEREAS the Town has agreed to permit the said development subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of Fifteen (\$15.00) Dollars now paid by the Party of the First Part to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

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(1) STORM DRAINAGE:

(a) The Party of the First Part shall, at its own expense, construct a drainage system and outlet to adequately serve the development on the lands described in Schedule "A", such construction to be in accordance with the Minister's decision dated October 22nd., 1985, and the Party of the First Part agrees to undertake to repair and maintain the drainage system located on the lands described in Schedule "A", within 60 days of the signing of this Agreement.

(b) The Party of the First Part shall, at its own expense, carry out watercourse improvements in accordance with the requirements of the Town from time to time, subject to the appropriate permits being obtained from the Niagara Escarpment Commission, Niagara Peninsula Conservation Authority and the Ministry of Natural Resources, where required.

(2) PARKING:

(a) The Party of the First Part shall provide and at all times maintain on the said lands, parking areas or structures capable of accommodating 17 parking spaces for motor vehicles as shown on Schedule "B" attached hereto and forming part of this Agreement.

(b) The Party of the First Part shall, at its own expense, construct and maintain driveways to serve the said parking areas at such locations and in accordance with specifications approved by the Commission, the Town and the Regional Municipality of Niagara within 60 days of this Agreement being signed.

(c) The Party of the First Part may, at its own expense, adequately light all driveways and parking areas, such lighting to be in accordance with specifications and a design approved by the Commission and the Town and in accordance with a plan filed in the Office of the Commission and the Town.

(d) The Party of the First Part shall, at its own expense, fence and/or plant with shrubs the perimeter of all open parking areas so as to effectively screen such areas from view from adjacent lands or highways and any other areas deemed necessary and in accordance with Schedule "B" attached hereto and forming part of this agreement. All such work to be completed to the satisfaction of the Chief Building Official of the Town and the Niagara Escarpment Commission staff within 60 days of the signing of this Agreement.

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(3) CONDITION OF PROPERTY:

(a) The Party of the First Part shall keep in a constant state of cleanliness and orderliness, the lands described in Schedule "A", whereby the Chief Building Official or the Commission shall have the authority to deem the land clean and orderly, seeing that no garbage, debris, stone, wood, etc. shall be deposited for whatever reason outside of the building. If, in the opinion of the Chief Building Official or the Commission, the property is not kept in an orderly manner, then the Party of the First Part, at its expense, shall put the property in such a condition as to satisfy the Chief Building Official or the Commission.

(b) The Party of the First Part shall maintain the existing buildings to the satisfaction of the Chief Building Official.

(c) The outside storage of goods and materials, including the placement outside of pallets, racks or other materials handling equipment is not permitted on this property.

(4) BUILDINGS:

(a) Where the Party of the First Part deems it necessary to reconstruct or renovate any buildings in addition to the present existing buildings, the Town shall permit the construction, reconstruction or renovation of buildings, subject to the issuance of a Development Control Permit and a Building Permit, providing such building complies to all building requirements of the Town. Without limiting the generality of the foregoing, the material used in the exterior finish of the building shall be approved by the Commission and the Town.

(5) SIGNS:

(a) The Party of the First Part shall be required to obtain a Development Control Permit and a Sign Permit from the Town prior to the erection of signs or posters on the property described in Schedule "A". Further, the Party of the First Part agrees to obtain approval from the Region of Niagara as well, prior to the erection of signs or posters on said property.

(6) GRADING AND LANDSCAPING:

(a) The Party of the First Part shall, at its own expense, grade the said lands in accordance with the requirements of the Commission and the Town and in such a manner as to prevent ponding on the said lands and on lands adjacent thereto.

(b) The Party of the First Part shall, at its own expense and in accordance with plans on file in the Office of the Town and the Commission, adequately landscape, plant and maintain all of the lands as shown on Schedule "B" attached hereto not required for building, parking or entranceway so as at all times to provide effective green areas enhancing the general appearance of the development. The landscaping and planting to be completed within 60 days of the signing of this Agreement.

(7) GARBAGE DISPOSAL:

(a) The Party of the First Part shall at all times provide adequate collection and disposal of garbage, sanitary refuse and industrial waste in accordance with the requirements and to the satisfaction of the Town, and in the event of the failure to do so, the Town, its servants or agents shall have the right to enter on the said lands and, at the expense of the Party of the First Part, do such collections, etc. and further shall have the right to recover the cost thereof by action or in like manner as municipal taxes. The Party of the First Part shall, in addition, provide properly screened storage space for garbage in a location designated by the Town as shown on Schedule "B" and such enclosed storage space shall be of a design approved by the Town and be installed and operational within 60 days of the signing of this Agreement.

(8) WATER DISPOSAL SYSTEM:

(a) The Party of the First Part, at its own expense, shall construct and install an adequate water disposal system to handle the water runoff from the manufacturing operation so as to ensure that at no time does any sediment or unnatural materials empty into the natural watercourse. In this regard, the Party of the First Part shall agree to periodic inspections by the Ministry of the Environment or similar governmental body regulating the controls and uses of natural watercourses.

(9) HOURS OF OPERATION:

(a) The Party of the First Part agrees that any pneumatic hammer located in any building shall only be operated in the sound proofed enclosure within said buildings and only while all building openings are closed and be limited to the hours of 0800 to 1700 - Monday to Friday both inclusive.

(b) The hours of operation of any activity other than office work associated with the business shall be limited to the hours of 0800 to 1700 - Monday to Friday both inclusive.

(c) The Party of the First Part agrees that any noise emanating from the operation shall not exceed 60d BAI at any point of reception at the property boundary. Any noise measurement shall be taken under procedures outlined in Ministry of the Environment publication N.P.C.-103 and all definitions are as outlined in publication N.P.C.-101.

(10) LOADING:

(a) The loading and unloading of all materials shall be conducted inside the building and at the location as shown on Schedule "B" as Loading Bay Area.

(11) GENERAL:

(a) The Party of the First Part will at all times indemnify and save harmless the Town of and from all losses, costs, damages, and injuries which the Town may suffer, be at or be put to for or by reason of or on account of the construction, maintenance of existence of any work done by the Party of the First Part, its contractors, servants or agents on the lands described in Schedule "A", and such indemnity shall constitute a first lien and charge on the said lands.

(b) In the event of the failure of the Party of the First Part to carry out any of the provisions of this Agreement, then the Town, its servants or agents shall, on fifteen (15) days notice in writing of its intention, and forthwith in cases of emergency, have the right to enter on the said land and, at the expense of the Party of the First Part, do any such work as contained herein, and further shall have the right to recover the cost thereof by action or in like manner as taxes.

(c) The Party of the First Part shall at all times keep posted in the building or otherwise prominently displayed and visible from the outside, a notice indicating the ownership of the said building, a mailing address and telephone number of a person having authority to deal with all matters relating to the said buildings.

(d) The Party of the First Part shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the Town to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this Agreement may be pleaded as an estoppel against the Party of the First Part in any such proceedings.

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(e) Notwithstanding any of the provisions of this Agreement, the Party of the First Part shall be subject to all of the requirements of the Commission and the Town.

(f) The covenants, agreements, conditions and understandings herein contained in the part of the Party of the First Part shall run with the land and shall be binding upon its successors and assigns as owners and occupiers of the said lands from time to time and shall be appurtenant to the adjoining highways in the ownership of the Town.

(g) The Party of the First Part agrees that it shall, upon the sale or transfer by it of the lands described in Schedule "A" annexed hereto, or any part or parts thereof, require the purchaser or transferee thereof, as a condition of such sale or transfer, to execute an agreement and to be bound by and to fulfill the terms, conditions and covenants herein set forth and containing a like covenant to this effect. The said assumption agreement shall be executed by the Town, the said Party of the First Part and any such purchaser or transferee.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their Corporate Seals under the hands of their officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED

- In the Presence of -

(CAN MAR MANUFACTURING INC.

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(THE CORPORATION OF THE TOWN OF PELHAM

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