

# LANDOWNERS AGREEMENT

## MEMORANDUM OF UNDERSTANDING

Agreement made in duplicate this 16<sup>th</sup> day of MAY, 2003.

**BETWEEN: THE TOWN OF PELHAM**  
(Hereinafter referred to as the "Owner")  
OF THE FIRST PART

-And-

**THE NIAGARA PENINSULA CONSERVATION  
AUTHORITY**  
(Hereinafter referred to as the "Authority")

OF THE SECOND PART

Throughout this Agreement, the term "Parties" mean the Owner, and the Niagara Peninsula Conservation Authority (NPCA).

WHEREAS the Authority is to undertake groundwater monitoring activities (hereinafter called the "Works" described in Schedule A attached) through the Provincial Groundwater Monitoring Network on lands owned by the Owner, being the Town of Pelham, part of Lot 1, Concession 7, and part of Lot 10, Concession 6, in the Province of Ontario (hereinafter called the "Lands").

AND WHEREAS the Owner and the Authority agree to the activities as outlined in Schedule "A";

NOW THEREFORE the Owner and the Authority agree as follows:

### **TERM OF AGREEMENT**

The Parties agree:

That this Agreement shall remain in force from the date of signing and may be discontinued by a Party or the Parties acting under the PROVISIONS FOR CANCELLATION section of this agreement.

That this Agreement may be amended from time to time by mutual written agreement of the Parties.

That the equipment purchased and installed on the Lands by the Crown shall remain in the ownership of the Authority under the terms agreed upon by the Authority and the Crown, for the life of, and after termination of this agreement.

## **PROVISIONS FOR CANCELLATION**

The Parties agree:

That this Agreement may be cancelled unilaterally by either Party by providing three (3) months notice in writing of the intention of cancel to the other Party or by mutual agreement with any agreed period of notice.

## **OWNER OBLIGATIONS**

1. The Owner grants to the Authority, permission to enter upon the Lands for Works as outlined in Schedule 'A' attached to this agreement.
2. The Owner agrees not to remove, destroy or alter, in any way, the Works equipment without prior consultation and approval of the Authority.
3. If there is any noticeable visible damage, accidental or otherwise, to the Works, the Owner will immediately notify the Authority.
4. Subject to the other provisions of this agreement, the Owner, in the absence of negligence, hereby remises, releases and forever discharges the Authority from all claims and demands for injuries, including death, loss, damages and costs in any way related or connected with the Works.
5. Upon termination by the Authority or Owner and without extension of this agreement, and upon removal of the monitoring equipment by the Authority, the Owner shall re-assume the responsibility for maintenance and abandonment of the well in accordance with the Ontario Water Resources Act and Regulation 903.

## **AUTHORITY OBLIGATIONS**

1. The Authority shall perform the work as outlined in Schedule A with due diligence and care and in keeping with the expertise expected from it.
2. The Authority will make a reasonable attempt to notify landowners before entering the Lands for Works.

3. During the life of the program, the Authority shall maintain the well and the installed equipment well in accordance with the Ontario Water Resources Act and Regulation 903.
4. Upon termination and without extension of this agreement, the Authority agrees to remove and retain possession of the existing equipment installed through the Works.
5. Upon request by the Owner, the Authority shall deliver to the Owner the water quantity and/or water quality data collected from the Owner's well by the Authority for the life of this agreement.
6. Should the Authority become aware of water quality concerns, such as water sample analytical results from the program that are above the Ontario Drinking Water Objectives (ODWO), during the term of the program, the Authority agrees to provide the owner with written notification of said results.
7. The Authority reserves the right to use the information generated by this program for the management and protection of the province's water resources and human health. All data shall be subject to disclosure as required under provincial legislation.

## **INSURANCE AND INDEMNITY**

- i) During the entire term of this Agreement, the Authority agrees to obtain and keep in force a general public liability insurance policy in the maximum amount of five million dollars (\$ 5,000,000.00) of lawful money of Canada, that protects the Authority and the employees of the Authority from all claims, demands, actions, causes of action that may be taken or made against them or any of them for any loss, damage or injury, including death, of any nature or kind whatsoever that may arise through any act or omission or both including negligent acts or omissions of the Authority or any employee or employees of the Authority.
- ii) The Authority agrees to protect, indemnify, keep indemnified and save harmless the Owner from and against all claims, demands, costs, actions, causes of action, expenses, legal fees whatsoever which may be taken or made against them or any of them incurred or become payable by them or any of them for any loss, damage or injury, including death, of any nature or kind whatsoever arising out of or in consequence of any act, neglect or omission of the Authority or any employee(s) or subcontractors of the Authority in connection with the performance of this Agreement.
- iii) The Authority agrees to protect, indemnify, keep indemnified and save harmless its officers, servants and agents from and against all claims, demands, costs, actions, causes of action, expenses, legal fees whatsoever which may be taken or made

against them or any of them incurred or become payable by them or any of them for any loss, damage or injury, including death, of any nature or kind whatsoever arising out of or in consequence of any act, neglect or omission of the Authority or any employee(s) or subcontractors of the Authority in connection with the performance of this Agreement.

## **OCCUPATIONAL HAZARDS**

- i) The Authority shall take special note on site of inherent occupational hazards, if any. The Authority shall be knowledgeable of, and abide by, the provisions of all legislative enactment, by-laws and regulations in regard to health and safety in the Province of Ontario including, without limitation, the Health and Safety Act of Ontario.
- ii) The Authority shall at all times have available a competent supervisor who is authorized to act on the Authority's behalf, and who is to ensure that the work and services are properly and safely carried out.

## **COMPLY WITH THE LAWS**

The Authority employees and representatives, if any, shall at all times comply with any and all applicable federal, provincial and municipal laws, ordinances, statutes, rules, regulations and orders, and all by-laws of all relevant local authorities.

## **SCHEDULES**

The Owner and the Authority agree that the provisions of Schedule 'A' to this Agreement form a part of this Agreement as if fully incorporated herein.

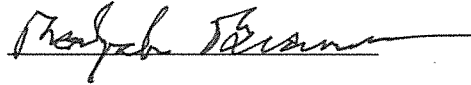
IN WITNESS WHEREOF the parties hereto have executed this Agreement

SIGNED, SEALED AND DELIVERED

**THE TOWN OF PELHAM**

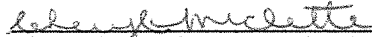
\_\_\_\_\_  
Witness as to execution

Per:



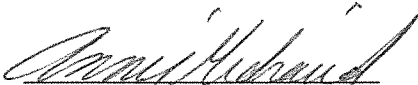
Ralph Beamer, Mayor

Name and title

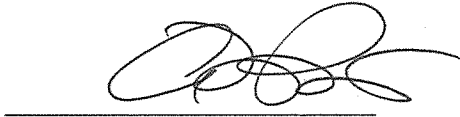


Cheryl Miclette, Clerk

**THE NIAGARA PENINSULA CONSERVATION  
AUTHORITY**

  
Witness as to execution

Per:



ANDREW L. BUNT, GENERAL MANAGER

Name and title

## **SCHEDULE 'A'**

To the Agreement between the Owner and the Authority, all or some of the following activities will be conducted as part of the Works by the Authority, its employees and agents through the Provincial Groundwater Monitoring Network project:

1. Perform any clean-up works necessary to ensure reasonable access to the monitoring well and equipment including general well site clean up and removal of obstructions to well access and to the well site access road.
2. Monitoring wells to be instrumented within the network require preparation prior to instrumentation. General requirements for monitoring well refurbishment may include a clean out, backwash, well head casing preparation and adjustment, and that a pump test be carried out to determine hydraulic conditions according to specifications outlined in Regulation 903 of the OWRA.
3. Installation of monitoring equipment including well caps, down well dataloggers and associated cables, and telemetry equipment and enclosure box mounted on a pole adjacent to and connected to the well casing by cables. Wire mesh cages may also be constructed to protect the installation.
4. Regular visits (4-12 times/ annum) to the well site to collect water level monitoring data and water quality samples. Site inspections and maintenance of the installed monitoring equipment, and to perform any minor clean-up work necessary to ensure on-going reasonable access to the well site will be also done at this time.
5. Regular visits (1-4 times/ annum) to the well site to operate water well purge equipment (pumps) prior to the collection of water quality samples from the well. These visits will coincide with regular site visits.
6. Training of new Authority personnel to ensure that assigned staff is properly trained in the operation and maintenance of the installed monitoring equipment.
7. An initial site visit to ensure that the Owner is given a briefing and documentation of the equipment housed at the well site. Additional periodic visits can be provided to the owner as required.