

THIS AGREEMENT made this 6<sup>th</sup> day of July, 2010

BETWEEN:

**NORTH PORT BUILDING CONSULTANTS LTD.**

Hereinafter called the "Consultant"

OF THE FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**

Hereinafter called the "Town"

OF THE SECOND PART

**WHEREAS** the Town wishes to engage the building inspector services of the Consultant;

**AND WHEREAS** the consultant has agreed to provide these services;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that the Parties hereto mutually covenant and agree as follows:

NOW AND THEREFORE the parties agree with each other as follows:

**1. Duties and Responsibilities**

1.1 Subject to the terms and conditions hereof, the Client hereby retains the Consultant to provide the services more particularly described and defined in Schedule "A" to this Agreement, and which shall be and form for all purposes part of the Agreement.

1.2 The Consultant shall:

- a) assign the building inspection services of Mr. Larry Stewart to the Town; and
- b) confirm and certify to the Town that Mr. Larry Stewart shall at all times during this Agreement remain certified and qualified in accordance with all laws applicable to the provision of building inspection services.

1.3 The Town shall pay the Consultant, by way of invoice from the Consultant, in accordance with the terms and conditions as set out in Schedule "A" attached hereto and forming for all purposes part of this Agreement.

**2. Confidentiality**

2.1 The Consultant shall keep confidential all information and

documentation provided to the Consultant by or on behalf of the Town in connection with the Project, and shall not disclose any such information or documentation to any person without the written permission of the Town.

### **3. Indemnification**

- 3.1 The Town shall indemnify and save the Consultant harmless from and against all claims, losses, damages, costs, expenses and other actions which the Consultant may suffer as a result of negligence on the part of the Town, its employees, subcontractors or agents, related in any way to the services provided by the Town pursuant to this Agreement.
- 3.2 The Consultant shall indemnify and save the Town harmless from and against all claims, losses, damages, costs, expenses and other actions which the Town may suffer as a result of negligence on the part of the Consultant, its employees, subcontractors or agents, related in any way to the services provided by the Consultant pursuant to this Agreement.

### **4. Termination**

- 4.1 The Consultant, at its option, may without giving any notice or incurring any liability whatsoever to the Town, suspend performance of the services at any time or terminate this agreement upon written notice to the Town if any invoice is outstanding for more than thirty (30) days. Upon termination, any and all amounts due under this Agreement shall become due and payable immediately and the Consultant shall have no further obligations or responsibilities under this Agreement.
- 4.2 The Town, at its option, may without giving any notice or incurring any liability whatsoever to the Consultant, suspend performance of the services at any time or terminate this agreement upon written notice to the Consultant. Upon termination, any and all amounts due under this Agreement shall become due and payable immediately and the Town shall have no further obligations or responsibilities under this Agreement.

### **5. Notice**

- 5.1 Any notice or other document required or permitted to be given, sent or delivered under this Consulting Agreement to any party hereto shall be in writing and shall be sufficiently given, sent or delivered if it is:
  - a) delivered personally to the party or to an officer or director of such party;
  - b) sent to the party entitled to receive it by prepaid courier service; or
  - c) sent prepaid by facsimile or other similar means of electronic

- communication.
- d) Notices shall be sent to the following applicable addresses or facsimile numbers:

in the case of the Town:

Town of Pelham  
20 Pelham Town Square  
Fonthill, ON, L0S 1E0

Attention: Keegan Gennings, Chief Building Official

in the case of the Consultant:

North Port Building Consultants Ltd.  
3284 Galt Crescent  
Niagara Falls, ON, L2G 7R9

Attention: Larry Stewart

or to such other address or facsimile number as the party entitled to or receiving such notice shall have communicated to the party giving, sending or delivering such notice.

5.2 Any notice, designation, communication, request, demand or other document given, sent or delivered as aforesaid shall:

- a) if delivered as aforesaid, be deemed to have been given, sent, delivered and received on the date of delivery;
- b) if sent by courier as aforesaid, be deemed to have been given, sent, delivered and received on the date of delivery; and
- c) if sent by facsimile as aforesaid, be deemed to have been given, sent, delivered and received on the next business day after the date the sender receives the fax answer back confirming receipt by the recipient.

## **6. GOVERNING LAW**

6.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that Province and shall be treated, in all respects, as an Ontario contract.

## **7. ENTIRE AGREEMENT**

- 7.1 This Agreement, including any Schedules hereto, constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. None of the parties shall be bound or charged with any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Consulting Agreement and/or its Schedules. The parties further acknowledge and agree that, in entering into this Agreement, they have not in any way relied, and will not in any way rely upon any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this Consulting Agreement.

## **8. SEVERABILITY**

- 8.1 Any provision of this Consulting Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or invalidity and shall be severed from the balance of this Consulting Agreement, all without affecting the remaining provisions of this Consulting Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

## **9. RIGHTS AND WAIVERS**

- 9.1 No delay in exercising, or failure to exercise, any right accruing to the Consultant under this Agreement will operate as a waiver of such right, nor will a waiver of any single default be deemed a waiver of any other prior, subsequent or concurrent default.

## **10. SUCCESSORS AND ASSIGNS**

- 10.1 This Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any person, other than the parties and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

)NORTH PORT BUILDING CONSULTANTS LTD.

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Larry H. Stewart, President



Donna M. Stewart, Secretary/Treasurer

)THE CORPORATION OF THE TOWN OF PELHAM

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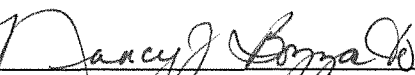
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Dave Augustyn, Mayor



Nancy J. Bozzato, Clerk

SCHEDULE " A "

CONSULTANT FEE SCHEDULE

HOURLY : \$80.00 plus HST

CALL OUT : Minimum 3 Hrs (including travel time)

MILEAGE : \$0.52 / km plus HST (mileage calculated on travel distance from and to the office of North Port Building Consultants Ltd. )