

EASEMENT AGREEMENT

THIS GRANT OF EASEMENT is made the 28th day of July, 2006.

BETWEEN:

S. JACHIMOWICZ LIMITED,

A body corporate, having office at the Dartmouth, Halifax Regional Municipality, Nova Scotia, hereinafter referred to as

(the "Grantor")

APPROVED
Municipal Solicitor -and-

HALIFAX REGIONAL MUNICIPALITY, a municipal body corporate, having an office at 5251 Duke Street, Duke Tower 3rd, P. O. Box 1749, Halifax, Nova Scotia, B3J 3A5, hereinafter referred to as

(the "Grantee")

WHEREAS:

- A. The Grantor is the owner of lands and lands covered by water following the shoreline of Dartmouth Cove in Halifax Harbour as more particularly described in the Deed to the Grantor which are recorded in Book 4027 at Page 903 and Book 468 at Page 1190 at the Registry of Deeds, Halifax, Nova Scotia, (the "Grantor's Lands");
- B. The Grantee is constructing and operating a storm water and sanitary sewage treatment system which includes the construction and installation of sewer mains, water lines, pumping stations, diversion chambers, outfalls, diffusers, conduits, valves, appliances, fittings and related facilities to maintain and operate the system in Halifax Regional Municipality (the "Sewage Collection System").
- C. The Grantee requires access to a portion of the Grantor's Lands for the Sewage Collection System being those lands as described in Easement HHSP-SJL1, on the Plan prepared by Alderney Surveys Limited dated the 17th day of November, 2005, which Plan and Description are attached hereto as Schedule "A" (the "Easement Lands").

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) now paid by the Grantee to the Grantor, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Grantor, the parties agree as follows:

1. **The Grant**

1.01 The Grantor does hereby grant, transfer and convey to the Grantee, for itself, its successors, assigns, employees, agents, servants and licensees, an easement and rights in perpetuity:

- (a) to use that portion of the Grantor's Lands described in Schedule "A" attached hereto (the "Easement Lands") as may be necessary for the purpose of entering, excavating, laying down, constructing, installing, operating, maintaining, inspecting, patrolling, altering, removing, replacing, reconstructing and repairing the Sewage Collection System including sewer mains, water lines, conduits, pumping stations, diversion chambers, outfalls, diffusers, valves, appliances and fittings, together with all necessary appurtenances thereto and for all purposes in

connection therewith, and to have the right of ingress and egress at any and all times over, along, across and upon the Easement Lands;

- (b) to have the right of access to and from the Easement Lands at any and all times over, along, across and upon the Grantor's Lands;
- (c) generally to do all acts necessary or incidental to the installation, construction, operation and maintenance of the Sewage Collection System in connection with the foregoing.

1.02 The Grantor permits the Grantee to construct, install, operate, maintain, replace, reconstruct and repair a pedestrian walkway of approximately 4 metres in width and known as the Dartmouth Harbour Walk Trail on and over the Easement Lands; provide however, that the Grantor shall be able to construct, install, operate, maintain, replace, reconstruct and repair a roadway or roadways over the Dartmouth Harbour Walk Trail to provide access to and egress from the Grantor's Lands.

2.

2.01 This easement and the provisions contained herein are binding upon the parties hereto and enure to the benefit of and are binding upon their respective heirs, administrators, executors, successors, and assigns.

3. Duties of the Grantor

3.01 The Grantor covenants and agrees with the Grantee:

- (a) not to do or permit to be done anything which may, in the opinion of the Grantee, interfere with or damage the Sewage Collection System or impair the operation of the Sewage Collection System.
- (b) not to make, place, erect, operate, use or maintain any buildings, structure, foundation, obstruction, equipment or to plant any growth upon the Easement Lands, which in the opinion of the Grantee, may:
 - (i) interfere with or endanger the Sewage Collection System or the installation, operation, maintenance, removal, repair or replacement of the Sewage Collection System; or
 - (ii) obstruct access by the Grantee's employees, agents, contractors and subcontractors to the Sewage Collection System; or
 - (iii) create any hazard by its operation, use and maintenance or existence on the Easement Lands.

4. Duties of the Grantee

4.01 The Grantee covenants and agrees with the Grantor:

- (a) The Grantee shall pay all charges, taxes, rates, and assessments of any kind which become payable with respect to any works constructed or placed on the Easement Lands by or on behalf of the Grantee;
- (b) The Grantee shall comply with all the laws, rules, regulations and bylaws of the Grantor and any Government Acts or Regulations from time to time in force which in any way bear upon the rights and obligations arising out of or in connection with this Agreement and, without limiting the generality of the foregoing, the Navigable Waters Protection Act (Canada). The Grantee shall comply with all applicable environmental laws, regulations, guidelines or standards including those of the Grantor and shall indemnify and hold harmless the Grantor from any claims that may be made against the Grantor arising from the failure of the Grantee to comply with such laws, regulations, guidelines or standards;

- (c) The Grantee shall not produce on or bring onto the Easement Lands any toxic or hazardous substances, including, without limitation, PCB's, radioactive materials, noxious gases or other substances which may be injurious to human life and/or the environment and the Grantee shall abide by and comply with environmental legislation including the relevant provisions of the Canadian Environmental Protection Act, as well as the regulations and guidelines made and established under it, and all applicable Provincial and Municipal legislation, regulations, rules or guidelines affecting the Easement Lands. The Grantee shall indemnify and hold harmless the Grantor from all liability from whatever source, for pollution from any cause whatsoever to or escaping from the Easement Lands. The Grantee shall permit the Grantor to inspect the Easement Lands at all times and with such expert and technical personal as the Grantor deems necessary to confirm that the Easement Lands are free from hazardous substances;
- (d) The Grantee shall, at its own expense, keep all works of any kind constructed or placed on the Easement Lands by it in a state of good repair;
- (e) The Grantor may, at any time, inspect any works constructed or placed on the Easement Lands;
- (f) All works of any kind constructed or placed on the Easement Lands by the Grantee are entirely at the risk of the Grantee;
- (g) The Grantee shall indemnify and hold harmless the Grantor from all claims, losses, liabilities and expenses (including, but not limited to, legal fees and other professional assistance) of any kind in respect of damage to the Grantor's lands or loss suffered by the Grantor including, but not limited to, liability of the Grantor to third parties arising out of or in any way connected with the exercise by the Grantee of any rights hereunder or otherwise arising out of any work constructed or placed on the Easement Lands by the Grantee, however, caused, except to the extent that the loss arises out of the gross negligence of the Grantor, its officers or servants;
- (h) The Grantee shall not have any claim or demand against the Grantor for loss, damage or injury of any nature whatsoever or howsoever caused, arising out of or in any way connected with the exercise by the Grantee of any rights hereunder, to the person or property of the Grantor except to the extent the same arises out of the gross negligence of the Grantor, its officers or servants, and the Grantee assumes all risk incurred in using or maintaining the Easement Lands;
- (i) The Grantor does not provide any express or implied warranty of title to the Easement Lands; and

General Provisions

5. The Sewage Collection System, including the sewer line or lines brought onto, and/or constructed upon or buried in or under the Easement Lands by the Grantee shall, notwithstanding any rule of law or equity, remain the property of the Grantee notwithstanding that the same may be annexed or affixed to the freehold and at any time and from time to time be removable in whole or in part by the Grantee, its successors and assigns.

6. In performing and observing the covenants and conditions on its part to be performed and observed, the Grantee shall and may peaceably hold and enjoy the rights, liberties, privilege and easements granted without hindrance, molestation or interruption by the Grantor or any person claiming by, through, under or in trust for the Grantor.

7. This Agreement shall be construed as running with the lands hereof and shall extend to and be binding upon and enure to the benefit of the heirs, executors, administrators, successors-in-title and assigns of the parties.

8. The invalidity of any particular provision of this Agreement shall not affect any other provision of it, but the Agreement shall be construed as if the invalid provision had been omitted.

9. The parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatsoever for the better performance of the terms and conditions of this Agreement.

10. The Grantor agrees to the registration of this Easement Agreement.

11. The Grantee agrees to remit, or pay to the Grantor HST as required by the Excise Tax Act, Canada.

IN WITNESS WHEREOF the parties hereto have executed this agreement on the date first written above.

SIGNED, SEALED, AND DELIVERED)
in the presence of:)

[Signature]
Witness

[Signature]
Witness

[Signature]
Witness

S. JACHMOWICZ LIMITED

Per [Signature]

HALIFAX REGIONAL MUNICIPALITY

Per [Signature]
Mayor

[Signature]
Municipal Clerk

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

ON THIS 25 day of July, A.D., 2006, before me, the subscriber personally came and appeared K. Macnamara, C. Sears, a subscribing witness to the forgoing GRANT OF EASEMENT, who having been by me duly sworn, made oath and said that her, one of the parties thereto, duly executed and delivered the same in h

[Signature]
A Commissioner of the
Supreme Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

I HEREBY CERTIFY that on the 30 day of July, A.D., 2006 one of the parties of the foregoing Indenture, signed, sealed and delivered the same in my presence and I have signed as a witness to the same.

[Signature]
A Commissioner of the
Supreme Court of Nova Scotia

JOHN A. YOUNG, Q.C.
A Barrister of the Supreme
Court of Nova Scotia

SCHEDULE "A"

**Legal Description of
EASEMENT HHSP-SJL1
Required by HALIFAX REGIONAL MUNICIPALITY
Over lands covered by water of
S. JACHIMOWICZ LIMITED
Dartmouth Cove, Dartmouth, Halifax County, Nova Scotia**

ALL THAT CERTAIN piece or parcel of land covered by water situated at Dartmouth Cove on the eastern shore of Halifax Harbour, Dartmouth, Halifax County, Nova Scotia, shown as **EASEMENT HHSP-SJL1** on a Plan showing Easement HHSP-SJL1 over lands covered by water of S. Jachimowicz Limited, Easements HHSP-DCC1 and HHSP-DCC2 over lands of Dartmouth Construction Company Limited & Marjorie H. Gibbons and License HHSP-CNR11 over lands of Canadian National Railway Company, required by Halifax Regional Municipality, signed by Michael J. Crant, N.S.L.S., dated November 17, 2005 and filed as Alderney Surveys Limited Drawing No. 055166-P, being more particularly described as follows:

BEGINNING at a point on the ordinary high water mark of the northeastern shore of Dartmouth Cove. Said point being South 31 degrees 54 minutes 22 seconds West, a distance of 161.031 metres from Nova Scotia Coordinate Monument Number 5448, as shown on the above plan;

THENCE Southeasterly, following the various courses of said ordinary high water mark of Dartmouth Cove, a distance of 180 metres, more or less, to a point. Said point being the most northern corner of Easement HHSP-DCC2 over lands of Dartmouth Construction Company Limited and being South 54 degrees 12 minutes 52 seconds East, a distance of 174.777 metres from the above described point of beginning;

THENCE Southerly, continuing to follow the various courses of the ordinary high water mark of Dartmouth Cove, a distance of 20.2 metres, more or less, to its intersection with the curved southwestern boundary of Easement HHSP-DCC2. Said point being South 16 degrees 25 minutes 15 seconds East, a distance of 20.081 metres from the last described point;

THENCE Southerly, easterly and southeasterly, continuing to follow the various courses of the ordinary high water mark of Dartmouth Cove, a distance of 32 metres, more or less, to its intersection with the curved southwestern boundary of Easement HHSP-DCC2. Said point being South 28 degrees 37 minutes 37 seconds East, a distance of 25.151 metres from the last described point;

THENCE Southeasterly and southerly, continuing to follow the various courses of the ordinary high water mark of Dartmouth Cove, a distance of 52.5 metres, more or less, to its intersection with the curved eastern boundary of Easement HHSP-DCC2. Said point being South 25 degrees 33 minutes 18 seconds East, a distance of 51.534 metres from the last described point;

THENCE Southerly, following a curve to the right having a radius of 483.508 metres, an arc distance of 10.920 metres along the ordinary high water mark of Dartmouth Cove to its intersection with a curved western boundary of Parcel 11, lands of Canadian National Railway Company (chord bearing and distance being South 13 degrees 51 minutes 20 seconds East and 10.920 metres, respectively);

THENCE Southerly, following a curve to the right having a radius of 574.489 metres, an arc distance of 28.094 metres along said curved western boundary of Parcel 11, lands of Canadian National Railway Company to a point of curvature (chord bearing and distance being South 07 degrees 44 minutes 23 seconds East and 28.092 metres, respectively);

THENCE South 06 degrees 20 minutes 20 seconds East, a distance of 32.397 metres along a western boundary of Parcel 11, lands of Canadian National Railway Company to a point on the southwesterly prolongation of the southeastern boundary of Parker Street;

THENCE South 64 degrees 41 minutes 20 seconds West, a distance of 14.890 metres along said southwesterly prolongation of the southeastern boundary of Parker Street to a point;

Continued...

SCHEDULE "A"

(Continued)

Legal Description of EASEMENT HHSP-SJL1
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THENCE North 50 degrees 18 minutes 21 seconds West, a distance of 17.273 metres to a point in Halifax Harbour;

THENCE North 09 degrees 13 minutes 18 seconds West, a distance of 32.959 metres to a point of curvature;

THENCE Northerly, following a curve to the left having a radius of 335.910 metres, an arc distance of 77.995 metres to a non-tangential point of curvature (chord bearing and distance being North 15 degrees 52 minutes 24 seconds West and 77.820 metres, respectively);

THENCE North 24 degrees 43 minutes 33 seconds West, a distance of 29.088 metres to a point;

THENCE North 36 degrees 13 minutes 45 seconds West, a distance of 7.550 metres to a point;

THENCE North 40 degrees 29 minutes 36 seconds West, a distance of 25.310 metres to a point;

THENCE North 42 degrees 47 minutes 10 seconds West, a distance of 13.774 metres to a point of curvature;

THENCE Northwesterly, following a curve to the left having a radius of 206.958 metres, an arc distance of 79.331 metres to a point of curvature (chord bearing and distance being North 53 degrees 46 minutes 02 seconds West and 78.846 metres, respectively);

THENCE North 64 degrees 44 minutes 55 seconds West, a distance of 10.454 metres to a point;

THENCE North 67 degrees 08 minutes 46 seconds West, a distance of 28.413 metres to a point;

THENCE North 29 degrees 33 minutes 04 seconds West, a distance of 14.036 metres to a point on the ordinary high water mark of Dartmouth Cove;

THENCE North 43 degrees 24 minutes 20 seconds East, a distance of 10.019 metres along said ordinary high water mark of Dartmouth Cove to its intersection with the southwestern boundary of Easement HHSP-DCC1 over lands of Dartmouth Construction Company Limited;

THENCE North 32 degrees 34 minutes 50 seconds East, a distance of 6.126 metres along the ordinary high water mark of Dartmouth Cove to the PLACE OF BEGINNING.

CONTAINING 8,640 square metres, more or less.

BEARINGS are Nova Scotia Coordinate Survey System Grid Bearings, referred to Central Meridian 64 degrees 30 minutes West Longitude.





