

CONSERVATION AGREEMENT

Made in duplicate the day of 2021.

between

THE CORPORATION OF HALDIMAND COUNTY
(hereinafter called the "Owner")

and

DUCKS UNLIMITED CANADA
(hereinafter called "DUC")

WHEREAS the Owner of the following land, in the Province of Ontario, (hereinafter call the "Land" or "Lands"), legally described as PT LT 3 INDIAN RESERVE PL 69 AS IN DV4808, DV1270 (1STLY LAND) AND PART 2, 3 & 4, 18R6115: S/T HC67699; HALDIMAND COUNTY, PIN#381120165 and as shown in Schedule 'A';

AND whereas DUC wishes to develop the Lands to maintain and improve its habitat for wildlife and waterfowl (hereinafter called the "Project") on a portion of the Lands (hereinafter called the Wetlands) as identified on Schedule 'A';

AND whereas the Owner may enter into agreements with third parties for environmental, ecological and/or habitat conservation purposes on the Lands, more specifically identified as the Wetlands or the Grasslands on Schedule 'A'; in which DUC may be responsible for execution of duties outlined within the third party agreements;

The Owner and DUC agree as follows:

1. DEFINITIONS

Whenever in this Agreement the following words or phrases are used, they shall have the following meaning:

- 1.1 **"ESA"** means the Endangered Species Act, 2007, S.O. 2007, c.6 and any subsequent amendments.
- 1.2 **"Commencement Date"** is the date of Agreement execution.
- 1.3 **"MECP"** means the Ministry of the Environment, Conservation and Parks, whose mandate is to lead to healthier communities and economic prosperity through protecting Ontario's air, land and water.
- 1.4 **"MNR"** means the Ministry of Natural Resources and Forestry, whose mandate is to protect Ontario's biodiversity while promoting economic opportunities in the resource sector and supporting outdoor recreation opportunities.

2. MANAGEMENT PLAN

2.1 DUC shall provide a management plan to the Owner upon execution of the Agreement, which may be subject to change through the term of the Agreement and which shall be provided to the Owner within a reasonable period.

3. RIGHTS OF DUC

3.1 To enter onto the Lands for the purposes of this Agreement.

3.2 The right to develop the Project consisting of rebuilding, repairing or replacement of the dam and/or other works in order to maintain the Lands, and the quality and quantity of water.

3.3 The right to operate, manage and maintain the Project, subject to successfully receiving all required permits and approvals by applicable authorities.

3.4 The right to apply for and hold all required issued permits and approvals, including but not limited to, from the MNRF, MECP, Haldimand County and Conservation Authorities.

3.5 Prepare and provide any necessary documentation as required for any legal authority to proceed with the Project including but not limited to ESA mitigation plans.

3.6 Share the Owner's name, address and Project location with project funders including all government entities or private sector where applicable. DUC shall provide notification to the Owner prior to any applications for funding being made, for Owner approval, and which shall not be unreasonably withheld but may require approval by Haldimand County Council to proceed.

3.7 Take photos or video footage of the Project or Lands. Disclosure of the Owner's name and specific address details requires written approval prior to disclosure, which will not be unreasonably withheld.

4. RIGHTS OF THE OWNER

4.1 To enter into and on the Lands without any restriction or notification to DUC.

4.2 DUC shall not charge back, invoice or request any additional funds from the Owner, with the exception of receiving approval to proceed with works or activities that the Owner has confirmed in writing prior to any work being initiated.

4.3 Any installations, additions, or alterations to the Lands shall become the property of the Owner at the termination or expiration of the Agreement.

4.4 The Owner will ensure to provide notification to DUC of any change in ownership of the Lands.

5. TERM

5.1 The Agreement shall be for a term of twenty (20) years from the date of execution.

5.2 This Agreement may be cancelled by either party by providing thirty (30) days written notice to the other party.

6. DUC COVENANTS

6.1 DUC shall document and complete regularly-scheduled inspections on the dam or other infrastructure installed during the Project, with inspection criteria and timeliness subject to industry standards, unusual weather events and Acts of God or upon identification of integrity concerns. Such documentation shall be provided to the Owner on an annual basis or as requested by the Owner.

6.2 DUC shall ensure that all employees, volunteers or third parties utilized to conduct work on the Project are qualified through training, qualifications or certifications as may be applicable to the work being completed.

6.3 DUC will provide all required training and personal protective equipment for its employees, contractors and volunteers.

6.4 DUC will provide and erect any applicable signage as required by legislation during the Project to provide notification of dangers and to safeguard the public.

6.5 DUC will provide, on an annual basis or on a more frequent basis, the proposed works to be conducted on the Lands to ensure that the Owner is aware of potential future operating and capital costs upon Agreement termination or expiration.

6.6 DUC will not commit waste and will not do or omit to be done or omit anything upon or in respect of the Land, the doing or omission of which shall result in a nuisance.

6.7 DUC will comply with all provisions of law including, without limitation, federal and provincial legislative enactments, by-laws and any other governmental or municipal regulations which relate to the Project and the Lands.

6.8 From and after the Commencement Date of the Agreement DUC shall, in the name of DUC and with The Corporation of Haldimand County being named as Additional Insured: maintain, throughout the duration of this Agreement, a General Liability Insurance Policy covering the operations taking place on the Lands, in an amount not less than \$5,000,000 (five million dollars) per occurrence from an insurer licensed to conduct business in the Province of Ontario, providing coverage, including but not limited to, bodily injury including death, property damage and contractual liability. The policy shall contain cross

liability and severability of interest clauses and provide 30 (thirty) days' prior written notice to the Owner of cancellation or material change. Prior to the execution of this Agreement and upon any insurance renewal, DUC shall provide a Certificate of Insurance to the Owner evidencing the policy as herein set out.

6.9 DUC will indemnify, hold harmless and defend the Owner from any and all liabilities, damages, costs, claims, suits or actions growing out of:

6.9.1 Any breach, violation of non-performance of any covenant or proviso herein contained on the part of DUC;

6.9.2 Any damage to anything whatsoever occasioned by the use and occupation of the Land, and;

6.9.3 Any injury to person or persons, including death, resulting at any time therefrom, occurring on the Land due to the Project completed under the responsibility of DUC. Such indemnification in respect of any such breach, violation or non-performance, damage to property, injury or death occurring during the term of this Agreement shall survive any termination of this Agreement specific to the Project activities.

7. **PROVISOS**

Provided always, and it is hereby agreed between the parties as follows:

7.1 DUC shall at all times during the term herein granted, have access to the Land for the purposes of the Project.

7.2 The Owner shall at all times during the term herein have full, unrestricted access to the Lands.

7.3 The Owner, at any time, may sell, transfer, lease, assign or otherwise dispose of the whole or any part of its interest in the Lands and, at which time, the Agreement shall be amended to remove portions of the Land that are no longer owned by the Owner or may be terminated.

7.4 It is agreed that no sign, advertisement or notice shall be inscribed, painted or affixed by DUC without prior approval of the Owner, such consent not to be unreasonably withheld, and such signage shall be at the sole cost of DUC.

7.5 The Owner shall not, in any event whatsoever, be liable or responsible in any way for any personal injury or death that may be suffered or sustained by DUC, any employee or volunteer of the DUC or any other person who may be on the Lands because of DUC.

7.6 The DUC representative for the administration of this Agreement shall be the primary contact:

Ducks Unlimited Canada
Position Name or Contact Name
92 Caplan Avenue, Suite 636, Barrie, ON L4N 9J2

7.7 The Owner representative for the administration of this Agreement shall be the primary contact for any Agreement terms or conditions which require Owner approval:

The Corporation of Haldimand County
Manager, Community Development & Partnerships
53 Thorburn Street South, Cayuga, ON N0A 1E0

7.8 The Schedule forms part of this Agreement.

7.9 There is no representation, warranty or condition affecting the Land, or supported by this Agreement, other than as expressed in this Agreement.

7.10 This Agreement shall be construed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF the parties have executed this Agreement.

Authorized by By-law No. _____

THE CORPORATION OF HALDIMAND COUNTY (Owner)

Date of Execution:

Ken Hewitt, Mayor

Evelyn Eichenbaum, Clerk

DUCKS UNLIMITED CANADA (DUC)

Date of Execution:

Name

Name

Schedule 'A' Description of the Lands

Legally described as PT LT 3 INDIAN RESERVE PL 69 AS IN DV4808, DV1270 (1STLY LAND) AND PART 2, 3 & 4, 18R6115: S/T HC67699; HALDIMAND COUNTY, PIN#381120165

Wetlands are identified with green hash marks.
Grasslands are identified with black outline.

