

**Schedule A.4**

**MAINTENANCE SECURITY AGREEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

BETWEEN:

**DISTRICT OF LAKE COUNTRY**, a municipal corporation incorporated under the laws of British Columbia and having an address of 10150 Bottom Wood Lake Road, Lake Country, BC V4V 2M1

(the "District")

AND:

(the "Owner")

**WHEREAS:**

- A. The Owner is the registered Owner or holder of a Registered Right to Purchase lands and premises situate, lying and being in the District of Lake Country, Province of British Columbia, and more particularly known and described as:

CIVIC ADDRESS \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

PID: \_\_\_\_\_ ROLL: \_\_\_\_\_

(the "Lands"):

- B. The Owner's Engineer has certified that the Owner has attained substantial performance of the subdivision or development of the Lands, and a Certification of Compliance has been received and accepted by the District Engineer.
- C. The Owner is desirous of entering into this Agreement with the District pursuant to the provisions of the Subdivision and Development Servicing Bylaw to warrant the construction and installation of all works in order to obtain approval from the Approving Officer for the subdivision plan, or issuance of a completion certificate from the Building Inspector.

**NOW THEREFORE** in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

- 1. In this Agreement, unless the context otherwise requires all words and expressions shall have the same meaning as like word or expressions in the District's Subdivision and Development Servicing Bylaw, as amended from time to time.

2. The Owner covenants and agrees to warrant for a period of eighteen (18) months from the date of execution of this Agreement any works or services which were installed or constructed as a requirement of the provisions of the Subdivision and Development Servicing Bylaw.
3. The Owner covenants and agrees that any defects or deficiencies that appear prior to the expiration of this Agreement will be repaired within 10 working days after the date of written notification by the District Engineer.
4. The Owner agrees that the works for which this Agreement applies are those works listed below and initialed by the Owner: (Initial those items listed below that apply to this Agreement. All disciplines will not necessarily be employed on every subdivision or development.)

- \_\_\_\_\_ roads and walkways
- \_\_\_\_\_ curbs and gutters
- \_\_\_\_\_ sidewalks
- \_\_\_\_\_ boulevard
- \_\_\_\_\_ water distribution system
- \_\_\_\_\_ sanitary sewer system
- \_\_\_\_\_ storm drainage system
- \_\_\_\_\_ Street lighting
- \_\_\_\_\_ electrical and communication wiring
- \_\_\_\_\_ geotechnical
- \_\_\_\_\_ sediment and erosion control

5. The cost of all work required to repair any defects or deficiencies shall be at the expense of the Owner. The Owner shall employ only bondable contractors to carry out and complete the work.
6. The Owner shall obtain and provide to the District, upon request and free of charge, true copies of all contracts and sub-contracts entered into by the Owner or its contractors and relating to the works.
7. The District covenants and agrees to schedule with the Owner a site visit at least forty five (45) days prior to the expiry date of this Agreement to inspect the works and determine what deficiencies or defects, if any, exist. Upon completion of the site visit the District will notify the Owner, in writing, at least thirty (30) days prior to the expiry date of this Agreement what deficiencies or defects, if any, exist.
8. The Owner covenants and agrees that he shall cause all deficiencies and defects identified during the site visit to be repaired to the satisfaction of the District Engineer no later than seven (7) days prior to the expiry date of this Agreement, the "Completion Date".
9. The decision of the District Engineer shall be final and binding on all parties hereto in determining whether or not the work or any part thereof has been repaired and completed in accordance with the provisions of this Agreement.
10. Prior to the issuance of a Certificate of Total Performance by the District Engineer and as security for the due and proper performance by the Owner of all his covenants and agreements herein contained, the Owner shall deposit with the District cash or bank draft or an unconditional, Irrevocable Letter of Credit, drawn on a chartered bank in Canada for a term of not less than eighteen (18) months, in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_), which is equal to the amount required pursuant to Section T.1.3 (a) of the Subdivision and Development Servicing Bylaw. The Irrevocable Letter of Credit shall be in the form acceptable to the District and shall form part of this Agreement as Appendix A.

11. The Owner agrees that if the required repairs, or any part thereof, are not completed in accordance with the provisions of this Agreement, the District may draw funds from the security provided under Section 10 of this Agreement and the District may complete the work at the expense of the Owner. The cost of the repair shall be deducted from security held by the District and the balance of the security less any administration fees and costs incurred by the District will be returned to the Owner at the date of expiration of this Agreement. If there is insufficient money on deposit with the District by reason of the security deposit, then the Owner will pay such deficiency to the District immediately upon receipt of an invoice from the District. It is understood and agreed that the District may do such work either by itself, or by contractors employed by the District.
12. If the Owner completes the work, then the security deposit or unused portion of it shall be returned to the Owner without interest, not more than sixty (60) days after the Certificate of Total Performance is issued.
13. The Owner authorizes the District, its agents, employees, and contractors to enter upon the Land at any time as may be necessary or convenient for carrying out of this Agreement, including without limitation, for the purpose of inspecting or undertaking the works.
14. The Owner shall comply with the provisions of all municipal bylaws, permits and resolutions, and all applicable statutes and regulations, throughout the development.
15. In the event that any material or debris is left upon any highway or other public property during or after the construction of the works, the District may remove the material or debris at the expense of the Owner.
16. At all times during the construction and provision of the works, the Owner shall retain the Owner's Engineer to oversee the Completion of the works and any such Owner's Engineer shall be considered to be the agent of the Owner.
17. Any explanations, order, instructions, directions and requests given by the District to the Owner's Engineer shall be deemed to have been given to the Owner.
18. On or before the Completion of the works, the Owner shall prepare, execute and register in the Land Title Office, each for consideration from the District of two (\$2.00) dollars, the covenants, easements, rights of way, releases and any other Land Title Office documents and plans the District considers necessary for the operations of the works by the District.
19. The Owner acknowledges that Completion of the works includes registration of the documents and plans referred to in section 18 of this Agreement.
20. The Owner shall indemnify and save harmless the District, its officers, employees, Council members, contractors and agents against all damages, costs, losses or expenses incurred by the District as a result of the Owner's breach of this Agreement or damage to any property during the construction or provision of the Development, against all expenses and costs which may be incurred by reason of liens, non-payment of labour or materials, Workers Compensation assessments, employment insurance, Federal or Provincial tax or unions dues check off, and from any claims, actions or proceedings brought or alleged by any person relating to the construction or provisions, maintenance or repair of the works by the Owner. This indemnity shall survive any termination of this Agreement in relation to any matter arising while this Agreement is in effect.

21. In consideration of due and proper performance by the Owner of his covenants herein contained, the District covenants and agrees to permit the Owner to carry out and perform the work.
22. Any demand or notice required or permitted to be given under the provisions of this Agreement must be in writing and may be given by mailing such notice by prepaid registered post to the party concerned at the address for such party first above recited, and any such notice or demand mailed as aforesaid shall be deemed to have been received by the party to whom it is addressed on the fourth business day after the date of posting thereof.
23. The Owner acknowledges and agrees that the works become the property of the District or the agency having jurisdiction free and clear of all encumbrances upon issuance of a Certificate of Total Performance by the District Engineer.
24. The Owner's obligations under this Agreement shall not be assigned without the written consent of the District, such consent not to be unreasonably withheld.
25. It is understood and agreed that the District has made no representations, covenants, warranties, guarantees, promises, or agreements, oral or otherwise, with the Owner other than those contained in this contract.
26. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine, or body corporate or politic where the context or the parties so require.
27. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Subject to the terms of an approved assignment under this Agreement, the Owner's obligations under this Agreement shall continue in effect notwithstanding any transfer of title to all or part of the Lands.
28. Time is of the essence of this Agreement.
29. The Owner acknowledges having read and fully understood all the terms and conditions of this Agreement and confirms that this Agreement has been entered voluntarily.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at the District of Lake Country, Province of British Columbia, the day and year above written.

<b>DISTRICT OF LAKE COUNTRY</b>	)	
	)	
_____	)	
Authorized Signatory	)	
	)	
<b>OWNER</b>	)	Signed in the presence of:
	)	
_____	)	_____
Company Name (if applicable)	)	Witness Name
	)	
_____	)	_____
Print Name of Authorized Signatory	)	Witness Signature
	)	
_____	)	_____
Owner Authorized Signature	)	Witness Occupation

APPENDIX A

Letter of credit, photocopy of bank draft, or photocopy of cash receipt.