

**PROFESSIONAL ESCROW AGREEMENT**

THIS AGREEMENT, dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **LOWER SAUCON TOWNSHIP**, a Township of the Second Class, with its principal place of business being located at 3700 Old Philadelphia Pike, Bethlehem, PA 18015 (hereinafter referred to as "TOWNSHIP")

**AND**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (hereinafter referred to as "DEVELOPER/ OWNER"),

**WITNESSETH:**

WHEREAS, DEVELOPER/OWNER, is the equitable/record owner of \_\_\_\_\_  
\_\_\_\_\_ (address) consisting of \_\_\_\_\_ acres, located in Lower Saucon Township, Northampton County, Pennsylvania, being Northampton County Tax Parcel No. \_\_\_\_\_, and is in the process of requesting subdivision/land development plan approval relative to said premises; and

WHEREAS, DEVELOPER/OWNER has requested to meet and consult with the TOWNSHIP's professionals and consultants, including, but not limited to the Township Engineer, Township Solicitor, and other experts, consultants and professionals employed and/or contracted by the TOWNSHIP relative to said subdivision/land development plan review (hereinafter "Professionals"); and

WHEREAS, DEVELOPER/OWNER recognizes that the administrative overhead of the Township, including but not limited to the staff services of its employees now or hereafter employed (hereinafter "Staff") will be utilized in said review discussions, all to the financial detriment of the Township; and

WHEREAS, DEVELOPER/OWNER further recognized that the TOWNSHIP will incur a certain amount of fees, costs, charges and expenses (collectively "Expenses") on account of said review discussions; and

WHEREAS, DEVELOPER/OWNER realizes that said Expenses will be incurred by the TOWNSHIP relative to review discussions with its Professionals and Staff, and DEVELOPER/OWNER is willing to be solely responsible for the payment of the same, so long as the same are reasonable.

NOW THEREFORE, intending to be legally bound, the parties hereto do hereby promise, covenant and agree as follows:

1. The "Whereas" clauses above mentioned are incorporated herein by reference as if fully set out and, further, form part of the parties' agreement.

2. DEVELOPER/OWNER hereby warrants and represents that it is the record/equitable owner of the subject Premises, as evidenced by \_\_\_\_\_ dated \_\_\_\_\_ between \_\_\_\_\_ (Sellers) and \_\_\_\_\_ (Purchaser); and further, that it agrees to be bound by the terms and conditions of the within Agreement.

3. TOWNSHIP, at the request of DEVELOPER/OWNER agrees to allow its Professionals and Staff to meet for review purposes with DEVELOPER/OWNER, so long as the reasonable Expenses incurred by the TOWNSHIP relative to the same are fully paid by DEVELOPER/OWNER. DEVELOPER/OWNER hereby agrees to be solely responsible for the payment of same. DEVELOPER/OWNER acknowledges that it may not be required by law to reimburse the Township for the Township Solicitor's fees. However, by executing this Agreement, DEVELOPER/ OWNER is requesting that the Township Solicitor participate in the review process and agrees to pay the Township Solicitor's fees related to that review.

4. In consideration for the privilege of DEVELOPER/OWNER meeting with the Professionals and Staff of TOWNSHIP, DEVELOPER/OWNER hereby agrees that this Agreement supplements the TOWNSHIP's Fee Schedule and any other applicable laws, ordinances, rules and regulations governing reimbursement to the TOWNSHIP of said Expenses, including applicant's rights under the Pennsylvania Municipalities Planning Code (MPC). DEVELOPER will deposit, for the sole benefit of the TOWNSHIP, as escrow agent, the initial sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars; said monies to be held in the TOWNSHIP name alone, as escrowee, in a non-interest bearing segregated account not co-mingled with its general fund, for the exclusive purposes hereinafter set forth (hereinafter "Escrow"). Receipt of the amount of \$ \_\_\_\_\_ will be acknowledged by TOWNSHIP when so deposited.

5. DEVELOPER/OWNER agrees that the Escrow account shall be used to reimburse the TOWNSHIP for any and all Expenses, fees and charges of its Professionals and Staff, which may be based on minimum charges for particular services, including Township Solicitor's fees. The TOWNSHIP will provide DEVELOPER/OWNER, on a monthly basis, with an itemized invoice containing copies of all invoices received by the TOWNSHIP from its Professionals and/or Staff during the prior month. Any dispute as to the items contained on said invoices shall be resolved in accordance with the applicable provisions of the MPC.

In the event DEVELOPER/OWNER disputes the amount of any Professional fee, DEVELOPER/OWNER shall notify the TOWNSHIP in writing by certified or registered mail of any

disputed fees. Said notification must be received by the TOWNSHIP within fourteen (14) days from the date the TOWNSHIP issued a summary statement of itemized fees to the DEVELOPER/OWNER.

6. The DEVELOPER/OWNER shall be responsible for maintaining the original balance relative to the escrow account established with the Township for the payment of Township costs and fees. Each month, the Township shall forward an invoice to the applicant setting forth the amount deducted from the said escrow account for payment of costs and fees. Within ten (10) days of the date of the invoice, the applicant shall remit the amount of the invoice to the Township, thereby bringing the balance of the escrow account back to the original amount. Any invoices not paid within the aforementioned time period shall be charged interest on the overdue balance at a rate of one and one-half (1 ½%) percent. In the event that the balance of the Escrow Account fails to be replenished, the TOWNSHIP may direct its professionals and consultants to cease work on the applicant's submission until such time as the escrow account balance is restored to its original amount. At its sole discretion, the TOWNSHIP shall review the Escrow account on a periodic basis and may require a reasonable increase in the Minimum Balance. At such time after the subdivision/land development project receives final approval, or Developer/Owner notifies the Township in writing that the project is being terminated, any balance remaining in the Escrow account shall be returned to DEVELOPER/OWNER.

7. DEVELOPER/OWNER hereby agrees that the 90 day time period for Preliminary/Final plan review imposed by the MPC shall not commence until the date of the regular meeting of the Planning Commission following the date a complete Preliminary/ Final application for approval is filed. Further, in the event that the within mentioned Escrow is established prior to the filing of the application for approval, the 90 day time period shall not commence until the next meeting of the Planning Commission following the submission of said application.

8. The Escrow established herein shall be deemed Cash Collateral for the sole and exclusive benefit of the TOWNSHIP, as that term is applied in Bankruptcy proceedings. This instrument shall also be deemed a security agreement creating a first-lien security interest in favor of the TOWNSHIP in the Escrow.

9. If DEVELOPER/OWNER fails at any time, following a request from the TOWNSHIP in accordance with paragraph 6 to replenish the escrow, the parties agree that the TOWNSHIP Professionals and Staff will not be obligated to converse or meet with the DEVELOPER/OWNER or his representatives; and DEVELOPER/OWNER waives any rights it may have under the MPC or any decisional law pertinent thereto, relative to the 90 day time limit for review imposed by Section 508 of the MPC. The review discussions with the TOWNSHIP Professionals and Staff shall continue at such time as the Escrow is replenished by DEVELOPER/OWNER.

10. The parties agree that the within Escrow Agreement is a professional Escrow only and shall in no way, either expressly or tacitly, be construed as a construction escrow.

11. Either party may terminate this Agreement for any reason by providing a notice of intent to Terminate. It is understood and agreed that, other than for good cause shown, the TOWNSHIP may not terminate this Agreement so long as the DEVELOPER/OWNER is in compliance in all material respects with all of the terms of this Agreement and any other related documentation between the parties, their successors and assigns. Upon receipt of said Notice by the TOWNSHIP, this Agreement shall terminate forty-five (45) days from said date. All Professional Fees due the TOWNSHIP, including those incurred by the TOWNSHIP within the above-referenced time period, shall be paid from the Escrow created herein. Any balance in the Escrow fund shall be paid by the TOWNSHIP to DEVELOPER/OWNER within ten (10) days after the above-mentioned forty-five (45) day time period.

12. Any notice of Intent to Terminate required under this Agreement, to be effective, shall be forwarded by certified mail, return receipt requested, to addresses as follows:

**IF TO DEVELOPER/OWNER:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**WITH COPY TO:**

**IF TO THE TOWNSHIP, ADDRESSED AS FOLLOWS:**

Lower Saucon Township  
3700 Old Philadelphia Pike  
Bethlehem, PA 18015

**WITH A COPY TO:**

B. Lincoln Treadwell, Jr., Esq.  
Treadwell Law Offices, P.C.  
915 West Broad Street  
Bethlehem, PA 18018

02/08/06 rev.

04/11/07 rev.

05/19/08 rev.

13. The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

14. No failure to act upon any default or to exercise any right or remedy hereunder shall constitute a waiver of such default or a waiver of any other terms of the within Agreement.

15. This Agreement shall be binding upon the parties hereto, their successors and assigns, and shall not be altered, amended or vacated except by the express written consent of all parties.

16. This Agreement shall be governed and shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

17. This Agreement may be signed in multiple counterparts and all such counterparts shall be deemed to be one and the same Agreement.

02/08/06 rev.

04/11/07 rev.

05/19/08 rev.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year aforesaid.

ATTEST:

LOWER SAUCON TOWNSHIP

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA :

:

SS:

COUNTY OF NORTHAMPTON :

:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of LOWER SAUCON TOWNSHIP and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes herein contained by signing for LOWER SAUCON TOWNSHIP by himself/herself as such officer.

\_\_\_\_\_  
Notary Public

02/08/06 rev.

04/11/07 rev.

05/19/08 rev.

WITNESS:

APPLICANT:

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA :

:

SS:

COUNTY OF NORTHAMPTON :

:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of \_\_\_\_\_, a Pennsylvania \_\_\_\_\_, and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes herein contained by signing for \_\_\_\_\_ by himself/herself as such officer.

\_\_\_\_\_  
Notary Public