

SERVICES AGREEMENT

DATED as of this 19th day of May, 2020

B E T W E E N :

ONE JOINT INVESTMENT BOARD (“ONE JIB”)

OF THE FIRST PART

-and-

AIRD & BERLIS LLP (“Aird Berlis”)

OF THE SECOND PART

(each a “Party” and together the “Parties”)

RECITALS:

A. WHEREAS effective January 1, 2008, section 239.1 of the *Municipal Act, 2001*, as amended (the “**Act**”), permits a person to request an investigation of whether a municipality or local board has complied with section 239 of the Act and/or a procedure by-law enacted pursuant to subsection 238 (2) of the Act in respect of a meeting or part of a meeting that was closed to the public; and

B. WHEREAS an investigation requested pursuant to section 239.1 of the Act with respect to a local board must be undertaken by an investigator (the “**Investigator**”) appointed in accordance with section 239.2 of the Act by the municipality that established the local board or by the Ombudsman appointed pursuant to the *Ombudsman Act* (the “**Ombudsman**”) if the municipality has not appointed an investigator under the Act; and

C. WHEREAS ONE JIB is a local board established under the Act by The Corporation of the Town of Bracebridge, The Corporation of the Town of Huntsville, The Corporation of the Town of Innisfil, The Corporation of the City of Kenora, The District Municipality of Muskoka and The Corporation of the Town of Whitby pursuant to an Initial Formation Agreement made as of May 19, 2020 (the “**Founding Municipalities**”), and as such constitutes a local board for each of the Founding Municipalities; and

D. WHEREAS each of the Founding Municipalities has passed a by-law (the “**Authorizing By-law**”) authorizing the entering into of the ONE Joint Investment Board Agreement (the “**ONE JIB Agreement**”) with ONE JIB pursuant to which ONE JIB has agreed that it will manage and control certain money and investments of the Founding Municipalities that they do not require immediately and of other Ontario municipalities that may subsequently enter into the ONE JIB Agreement; and

E. WHEREAS under the Authorizing By-laws the Founding Municipalities have delegated to ONE JIB their authority to appoint an Investigator for ONE JIB and the other Ontario municipalities that subsequently enter into the ONE JIB Agreement will also delegate to ONE JIB their authority to appoint an Investigator for ONE JIB; and

F. WHEREAS effective March 1, 2019 section 223.2 of the Act requires a municipality to establish codes of conduct for its members of council and of its local boards; and

G. WHEREAS effective March 1, 2019 section 223.3 of the Act requires a municipality to appoint an integrity commissioner (the “**Integrity Commissioner**”) responsible for performing in an independent manner the functions assigned by the municipality with respect to the application of its codes of conduct and other matters set forth in section 223.3 of the Act with respect to both the municipality and its local boards or to make appropriate arrangements to have the required responsibilities provided by the Integrity Commissioner of another municipality; and

H. WHEREAS pursuant to the ONE JIB Agreement the Founding Municipalities have established a code of conduct for ONE JIB and pursuant to the Authorizing By-laws the Founding Municipalities have delegated to ONE JIB their authority to appoint an Integrity Commissioner for ONE JIB and other Ontario municipalities that subsequently enter into the ONE JIB Agreement will also thereby establish a code of conduct for ONE JIB and delegate to ONE JIB their authority to appoint an Integrity Commissioner for ONE JIB; and

I. WHEREAS ONE JIB wishes to retain Aird Berlis to act as its Investigator and Integrity Commissioner and to perform the functions and duties thereof through the use of appropriately qualified and trained individuals (each a “**Review Officer**”) on the terms and conditions set out in this Agreement;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

ARTICLE 1 APPOINTMENT

1.1 ONE JIB hereby retains Aird Berlis to act as its Investigator and to perform the functions and duties thereof in accordance with section 239.2 of the Act, including incidental and ancillary services related to closed meeting matters (the “**Investigatory Services**”).

1.2 ONE JIB hereby retains Aird Berlis to act as its Integrity Commissioner and to perform the functions and duties thereof in accordance with section 223.3 of the Act (the “**Integrity Commissioner Services**”).

ARTICLE 2 AIRD BERLIS OBLIGATIONS

2.1 During the term of this Agreement (as defined in paragraph 12.1 below), Aird Berlis shall maintain a panel of at least five (5) Review Officers who shall be members of Aird Berlis. Upon receipt of a request from ONE JIB for Investigatory Services or Integrity Commissioner Services Aird Berlis shall assign a Review Officer to provide the requested services provided that Aird Berlis shall not have a conflict in doing so.

2.2 Aird Berlis shall ensure that all Review Officers will have relevant experience in and knowledge of the proceedings of municipal governments.

2.3 Upon request by ONE JIB Aird Berlis shall provide it with a list of the then current Review Officers together with information with respect to their education and experience.

2.4 Aird Berlis shall report in writing to ONE JIB on the status of all ongoing Investigatory Services and Integrity Commissioner Services on a quarterly basis or as otherwise agreed to with ONE JIB.

2.5 Aird Berlis shall invoice ONE JIB for completed Investigatory Services and Integrity Commissioner Services. The invoices shall include the hours spent, and the hourly rates charged, by the Review Officers and any other personnel involved in the provision of the services together with detailed descriptions of the services provided.

2.6 Aird Berlis shall advise ONE JIB forthwith of all media inquiries received related to any services provided under this Agreement and shall not make any comments thereon to the media without prior authorization from ONE JIB.

2.7 At the request of ONE JIB Aird Berlis shall work with ONE JIB in the preparation of at least one (1) educational resource for ONE JIB each calendar year. An educational resource could be a written publication or a presentation to ONE JIB. The topic of each such educational resource shall be jointly determined by ONE JIB and Aird Berlis, and the content shall be developed by Aird Berlis. The Parties agree to scope out limits of the resource in advance of the undertaking.

2.8 Aird Berlis shall perform its obligations herein using suitably qualified and experienced personnel in a professional, diligent and timely manner and in the best interest of ONE JIB.

2.9 Aird Berlis shall, at its sole expense, obtain and maintain during the term of this Agreement all permits, licenses and approvals required by applicable law to perform its duties and obligations under this Agreement and, upon request by LAS, shall provide LAS with proof thereof.

ARTICLE 3 ONE JIB OBLIGATIONS

3.1 ONE JIB acknowledges that certain actions must be taken, and certain documents and other relevant information must be provided by ONE JIB to Aird Berlis, in order for Aird Berlis to perform its obligations herein. ONE JIB agrees to take such actions and provide such documents in a timely manner to the best of its ability.

ARTICLE 4 REPORTS

4.1 Aird Berlis agrees that, for purposes of quality assurance, each Review Officer's report shall be peer reviewed before it is released by Aird Berlis in final form to ONE JIB.

**ARTICLE 5
FEES**

5.1 Aird Berlis shall charge ONE JIB for the Investigatory Services and Integrity Commissioner Services according to the fee schedule attached hereto as Schedule "A".

**ARTICLE 6
CREATION AND MAINTENANCE OF WEBSITE**

6.1 Aird Berlis shall maintain a password protected website for ONE JIB. The website shall, among other matters, provide profiles of the panel of Review Officers, as well as information for ONE JIB on closed meeting procedures. Aird Berlis shall also maintain a compendium of reports made by it regarding the Investigatory Services and Integrity Commissioner Services on the public access portion of the website.

**ARTICLE 7
PERFORMANCE STANDARD APPLICABLE TO INVESTIGATORY SERVICES AND
INTEGRITY COMMISSIONER SERVICES**

7.1 Aird Berlis shall provide a consistent standard of timeliness with respect to all Investigatory Services and Integrity Commissioner Services provided under this Agreement. In typical investigations the following performance standard will be followed. If it is apparent to Aird Berlis at any point in time that an investigation is not typical, it shall advise ONE JIB that the following performance standard may not apply. Aird Berlis shall provide ONE JIB with monthly updates as to the status of all non-typical investigations.

Step	Timeline
Receive and acknowledge investigation request	Within 1 business day of receiving the investigation request
Review request, assign Review Officer, plan and advise ONE JIB	Within 3 business days of receiving complete record of investigation request
Initial interviews and produce draft report	Interviews conducted within 30 days of assigning a Review Officer Draft report within 20 days of final interviews
Review draft report	Within 5 business days of last interview
Peer review of draft report	Within 3 business days of draft report being circulated

Step	Timeline
Deliver final Report	Within 5 days of receipt of comments on the draft report emanating from the peer review
Invoice ONE JIB	Invoicing will be on a monthly basis as time for services is incurred

The Parties agree that the addition of clause 239 (3) (b) of the Act may increase investigation time in respect of Investigatory Services by up to six (6) weeks in circumstances when ONE JIB holds a closed meeting as a result of an ongoing investigation by the Ombudsman or Aird Berlis. ONE JIB may request a meeting of the Parties if it is apparent to ONE JIB that the performance standard is not being adhered to.

ARTICLE 8 CONFIDENTIALITY

8.1 The Parties agree not to disclose any confidential information related to the Investigatory Services and Integrity Commissioner Services to any person (other than a Party's legal counsel, accountants or other advisors who have a need to know such information and have agreed to keep such terms confidential) except information as agreed to by the Parties or to comply with any applicable law. Either Party shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this confidentiality obligation.

ARTICLE 9 REVIEW OF SERVICES

9.1 On a semi-annual basis, both Parties agree to review the management of the Investigatory Services and Integrity Commissioner Services including any issues that would improve the operation and communication of the Parties with regard to such services.

ARTICLE 10 BOOKS AND RECORDS

10.1 Each Party shall keep complete and accurate books and records and all other information required by either Party for the proper administration of this Agreement. All such books, records and information shall be maintained for a period of five (5) years after the termination of this Agreement or for such longer period as required by applicable law.

ARTICLE 11 AUDIT

11.1 ONE JIB shall have the right to audit the performance of Aird Berlis to ensure that Aird Berlis is in compliance with the terms and conditions of this Agreement and all applicable law. In accordance with this right, Aird Berlis shall provide to ONE JIB and its auditors and professional advisors, upon prior reasonable notice, access to any systems, books,

records or other information retained by Aird Berlis as may be reasonably required by ONE JIB or its advisors to audit:

- (i) the accuracy of an invoice or any charge or computation made thereunder;
- (ii) the overall fairness, accuracy and reliability of the financial data provided by Aird Berlis;
- (iii) the adequacy and effectiveness of existing controls for the management of risk; or to otherwise confirm and verify compliance by Aird Berlis with the terms of this Agreement and applicable law; and
- (iv) provide to ONE JIB and such auditors and advisors any assistance they may reasonably require in connection with such audits.

ARTICLE 12 TERM

12.1 This Agreement shall be in force for a term of one (1) year commencing on May 19, 2020 and expiring on May 18, 2021 (the “**Term**”). This Agreement may be terminated by Aird & Berlis at any time prior to the expiration thereof upon one hundred eighty (180) days prior written notice, provided that any investigations commenced by Aird Berlis prior to the effective termination date shall be completed pursuant to this Agreement. In the event that Aird Berlis fails to fulfill any of its obligations hereunder, ONE JIB shall be entitled to terminate this Agreement forthwith.

ARTICLE 13 INDEMNIFICATION

13.1 With respect to the Investigatory Services, Aird Berlis shall indemnify and hold harmless ONE JIB from and against any and all liabilities, costs, charges, claims, demands, losses, damages, fines, penalties and expenses including, without limiting the generality of the foregoing, any amount paid to settle an action, suit, or proceeding or to satisfy a judgment as well as the reasonable associated legal fees and disbursements on a full indemnity basis (together with all applicable taxes) which ONE JIB may be liable to pay, or may incur, of every nature and kind whatsoever as may arise in connection with this Agreement and the performance or non-performance by Aird Berlis of its obligations under this Agreement; provided, however, that Aird Berlis shall not be liable to indemnify ONE JIB if the liability was sustained as a result of ONE JIB’s own fraud, negligence, willful default or breach of this Agreement.

13.2 ONE JIB shall indemnify and hold harmless Aird Berlis from and against any and all liabilities, costs, charges, claims, demands, losses, damages, fines, penalties and expenses, including without limiting the generality of the foregoing, any amount paid to settle an action, suit, or proceeding or to satisfy a judgment as well as the reasonable associated legal fees and disbursements on a full indemnity basis (together with all applicable taxes) which Aird Berlis may be liable to pay, or may incur, of every nature and kind whatsoever as may arise in connection with this Agreement as a result of the performance or non-performance by ONE JIB of its obligations under this Agreement; provided, however, that ONE JIB shall not be liable to

indemnify Aird Berlis if the liability was sustained as a result of Aird Berlis' own fraud, negligence, willful default or breach of this Agreement.

13.3 Without limiting the application of paragraph 13.2, ONE JIB acknowledges and agrees that, with respect of the Integrity Commissioner Services, Aird Berlis has a statutory indemnity under subsections 223.3(6) and (7) and subsection 448(1) of the *Municipal Act, 2001*.

ARTICLE 14 INSURANCE

14.1 Aird Berlis shall, during and throughout the Term of this Agreement, at its sole cost and expense, take out and keep in full force and effect and in the name of ONE JIB, comprehensive general liability insurance of not less than Two Million Dollars (\$2,000,000) per occurrence and any other insurance in the form and amount as ONE JIB, acting reasonably, may require from time to time, covering such insurance risks against which a prudent person would insure. Aird Berlis shall ensure that ONE JIB is, at all times, in possession of certificates of such insurance policies executed by the underwriting insurance company that are in good standing and in compliance with the obligations of Aird Berlis hereunder.

ARTICLE 15 DISPUTE RESOLUTION

15.1 Any controversy, dispute, difference, question or claim arising between the Parties in connection with this Agreement that cannot be resolved by a manager from each Party (collectively the "**Dispute**") shall be settled in accordance with the procedure set forth in this Article.

15.2 The aggrieved Party shall send the other Party written notice identifying the Dispute, its position on the Dispute and the remedy sought. Upon receipt of such written notice, a senior officer of the other Party shall enter into good faith negotiations with a senior officer of the aggrieved Party to resolve the Dispute.

15.3 If the Dispute has not been resolved within thirty (30) days after such written notice has been given, either Party may avail itself of any process or means legally available to resolve the Dispute.

ARTICLE 16 MISCELLANEOUS

16.1 All provisions herein shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

16.2 Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered or sent by registered mail, postage prepaid, email or facsimile transmission to the recipient at the addresses and numbers set out below.

- (a) To ONE JIB:

200 University Avenue, Suite 801
Toronto, Ontario M5H 3C6

Facsimile Number: (416) 971-6191
Email Address: dkelly@oneinvestment.ca

Attention: Denis Kelly
Secretary

(b) To Aird & Berlis LLP:

Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Ontario M5M 2T9

Facsimile Number: 416.863.1515
Email Address: jmascarin@airdberlis.com

Attention: John Mascarin

Any such notice or other communication shall be deemed to have been given and received, if delivered by hand, facsimile or email, on the date of delivery (or, if the day is not a Business Day, on the next following Business Day) and, if mailed, on the second Business Day following the day on which it is mailed. If a strike or lockout of postal employees is in effect or generally known to be impending on the date of giving any such notice or other communication it shall be delivered by hand, facsimile or email and not by mail. Either Party may at any time by notice in writing to the other change the address for service of notice on it.

16.3 Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In respect of any provision so determined to be unenforceable or invalid, the Parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by law and in accordance with the intent of this Agreement.

16.4 This Agreement, including any Schedule attached hereto, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior agreements, undertakings, declarations, commitments, representations, written or oral, in respect thereof. This Agreement shall be read with all changes of gender or number required by the context.

16.5 No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by each of the Parties and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing

and signed by the Party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived.

16.6 Each Party shall promptly do, execute, deliver or cause to be done, executed or delivered all further acts, documents and matters in connection with this Agreement that the other Party may reasonably require.

16.7 Time shall be of the essence of this Agreement.

16.8 The execution of this Agreement and any other arrangements with respect to the provision of the Investigatory Services or Integrity Commissioner Services referred to in this Agreement are not intended to create, and shall not be treated as having created, a general or limited partnership, joint venture, corporation or joint stock company. Aird Berlis shall perform its obligations under this Agreement as an independent contractor and shall not be deemed to be a trustee for any person, whether or not a Party to this Agreement, in connection with the discharge by Aird Berlis of such obligations.

16.9 Neither Party may assign the whole or any part of its rights or obligations under this Agreement without the express written consent of the other Party..

16.10 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

16.11 This Agreement may be executed by the Parties electronically in accordance with the *Electronic Commerce Act, 2000*, S.O. 2000, c. 17.

[REST OF PAGE INTENTIONALLY LEFT BLANK]

Aird Berlis and ONE JIB have respectively executed and delivered this Agreement as of the date first set out above.

ONE JOINT INVESTMENT BOARD

Per: _____
Name:
Title: Chair

Per: _____
Name: Denis Kelly
Title: Secretary

We have authority to bind the board

AIRD & BERLIS LLP

Per: _____
Name: John Mascarin
Title: Partner

I have authority to bind the firm

Private Attachment - Lawyers' Fees