

This Agreement made this _____ day of _____, 2017.

BETWEEN

THE CORPORATION OF THE TOWN OF ST. MARYS

(hereinafter called the “Town”)
Of the First Part

and

SHEPHERD GOURMET DAIRY (ONTARIO) INC.

(hereinafter called “SGD”)
Of the Second Part

and

NUTRECO CANADA INC.

(hereinafter called “Nutreco”)
Of the Third Part

WHEREAS this Agreement is made under the authority of section 2 of the *Drainage Act*, R.S.O. 1990, c. D. 17, as amended; and

AND WHEREAS the Town, SGD, and Nutreco wish to control the flow of surface waters by way of a mutual drain as set out in this Agreement;

NOW THEREFORE for the sum of TWO DOLLARS (\$2.00) paid by each of the Parties to the others (receipt of and sufficiency of which is hereby acknowledged), and for the other good and valuable consideration contained in this Agreement, the Parties hereto covenant, promise and agree with each other as follows:

1. The recitals set out above are true and form an integral part of this Agreement.

Lands Affected

2. The lands affected by this Agreement are described as follows:

- (a) The “Town Lands”, described as follows:

Part of Lot 13, Concession South Boundary (formerly in the Township of BLANSHARD), being Parts 7, 8, 9, 10, 11, 12, 13 on 44R-3949, SAVE AND EXCEPT Part 1 on 44R-4052; S/T 247903 OVER Part 9 on 44R-3949; SAVE AND EXCEPT Parts 3 and 4 on 44R-4602, and SAVE AND EXCEPT Parts 2, 3 and 4 on 44R-4615, ST MARYS, being part of PIN 53245-0168(LT);

- (b) The “SGD Lands”, described as follows:

Part of Lot 13, Concession South Boundary (formerly in the Township of BLANSHARD), being Parts 3 and 4 on 44R-4602; ST MARYS, being all of PIN 53245-0169(LT), and Part of Lot 13, Concession South Boundary (formerly in the Township of BLANSHARD), being Parts 2, 3 and 4 on 44R-4615, ST MARYS, and being part of PIN 53245-0168(LT);

- (c) “Nutreco Lands”, described as follows:

PT LOT 13 CONCESSION SOUTH BOUNDARY BLANSHARD; PT 1, 44R502; S/T R266070 ST MARYS, being all of PIN 53245-0104(LT).

Description of Drainage Works

3. The “Drainage Works” consists of that portion of a 375 mm PVC pipe located on the SGD Lands as identified on Part 2 PLAN 44R-4615, allowing drainage of surface water from the Nutreco Lands and the SGD Lands onto the Town Lands, where it is connected to the Town’s drainage system.

Construction, Repair, and Maintenance

4. The Drainage Works have been constructed by the Town.
5. SGD shall be solely responsible for the repair and maintenance of the Drainage Works.
6. SGD shall not disturb the Drainage Works. Any blockages, damages or alterations to the Drainage Works caused by SGD shall be repaired immediately at its expense. Should SGD not repair the Drainage Works immediately, the Town or Nutreco may carry out the necessary repairs with the costs being charged to SGD.
7. On reasonable notice in writing to SGD, the Town and Nutreco may have reasonable access to the SGD Lands (and other SGD lands as may be reasonably necessary to access the SGD Lands) for inspection of the Drainage Works. SGD shall allow access for inspection of the Drainage Works within ten (10) business days of providing the notice.

Costs

8. The costs of construction of the Drainage Works have been borne by the Town.
9. The costs of repair of blockages, damage, maintenance, and future alterations relating to the Drainage Works shall be borne by SGD.
10. This Agreement herein contained when executed by the Parties hereto shall be registered in the proper Registry Office and any costs shall be borne by the Town.

Other Matters

11. Nutreco and SGD hereby covenant and agree that all discharges to and from the Drainage Works shall meet the discharge quality criteria as required by the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended, and the regulations thereto, or any other relevant or successor legislation.
12. Notices to be given under this Agreement shall be directed as follows:

To the Town: The Corporation of the Town of St. Marys
 175 Queen Street East
 P.O. Box 998
 St. Marys, ON N4X 1B6

Attention: Clerk

To SGD: 38 Enterprise Drive
St. Marys, Ontario
N4X 1B5

Attention: Stewart Cardiff
e-mail: Cardiff@shepherdgourmetdairy.com

To Nutreco: 600 James Street South
St. Marys, ON
N4X 1C7

Attention: General Manager

13. The provisions herein contained shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, administrators, successors and assigns.
14. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein which are applicable to contracts made and to be performed entirely in Ontario. Each party hereby irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.
15. This Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.
16. The parties acknowledge and agree that signatures in .pdf format and delivered by e-mail or facsimile will be valid and binding as if such Agreement had been executed in original by the parties hereto, and receipt of this Agreement bearing a signature by e-mail or facsimile transmission shall constitute delivery of this Agreement.

IN WITNESS WHEREOF this agreement has been executed as of the date first written above.

THE CORPORATION OF THE
TOWN OF ST. MARYS

Per: _____
Mayor – Al Strathdee

Per: _____
CAO/Clerk – Brent Kittmer

SHEPHERD GOURMET DAIRY
(ONTARIO) INC.

Per: _____
Name: Stewart Cardiff

Title: President

NUTRECO CANADA INC.

Per: _____

Name: Kevin Wepler

Title: General Manager, Nutreco

Per: _____

Name: J. Clancy Mulholland

Title: Secretary and Treasurer

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