

STATE OF MICHIGAN

COUNTY OF KALAMAZOO

VILLAGE OF VICKSBURG

**AGREEMENT FOR THE MILL AT VICKSBURG
PLANNED UNIT DEVELOPMENT**

This Planned Unit Development (“PUD”) Agreement (“Agreement”) is by and between Paper Village Development, LLC (“Developer”), whose address is 101 South Main Street, Vicksburg, Michigan, 49097, and the Village of Vicksburg, a Michigan municipal corporation (“Village”), whose address is 126 North Kalamazoo Avenue, Vicksburg, Michigan, 49097 (collectively, the “Parties”).

RECITATIONS

As of the Effective Date, Developer is the fee owner of 54.61 acres of property described on the attached and incorporated Property Description **Exhibit A** (the “Property”), located in the Village of Vicksburg, Kalamazoo County, Michigan.

Developer has proposed rezoning and development of the Property as a PUD. Accordingly, Developer has applied for approval of an amendment to The Zoning Ordinance of the Village of Vicksburg (the “Zoning Ordinance”) granting a rezoning of the Property to PUD, with the zoning on the Property to be known as “The Mill at Vicksburg Planned Unit Development.” Developer is the developer and proprietor of The Mill at Vicksburg Planned Unit Development (sometimes also referred to as the “Development”).

The Village has given the Developer approval of Development subject to the conditions set forth in this Development Agreement. This Development Agreement effective on the effective date of the Village’s Zoning Ordinance amendment granting rezoning of the Property to the Mill at Vicksburg Planned Unit Development.

Now, therefore, as an integral part of the grant of the rezoning of the Property and pursuant to the conditions of approval that the Village and Developer have agreed to as set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed as follows:

A. **Development as PUD.** The Property shall be developed and improved only in accordance with the following (referred to collectively as the “PUD Documents”):

1. Article VIII, Planned Unit Development District (PUD), Sections 82-621 through 82.627 of the Zoning Ordinance, as amended.

2. The approved PUD plans dated October ____, 2018, and any supplemental site plans for subsequent sequences of this Development approved by the Village under 82-623 and 82-624, for the Development (the “PUD Plans”).

3. This Development Agreement for The Mill at Vicksburg Planned Unit Development.

4. All other applicable Village ordinances and all design standards for the Village, except as modified by Section E below.

5. Recordation with the Kalamazoo County Register of Deeds office of an affidavit by Developer on the effective date of the rezoning, approved by the Village Attorney, containing the legal description of the Property, specifying the date of the Village's approval of The Mill at Vicksburg Planned Unit Development, and declaring that all future development of the Property has been authorized, restricted, and required to be carried out only in accordance with the "Ordinance Granting The Mill at Vicksburg Planned Unit Development" and the PUD Documents.

6. The Ordinance Granting The Mill at Vicksburg Planned Unit Development.

Except as modified by this Development Agreement and other PUD Documents, all development, use, and improvement of the Property shall comply with all applicable Village ordinances, all other approvals and permits required under applicable Village ordinances, the PUD Documents, and state laws for the respective components of the Development. In addition to the terms and conditions set forth in this Agreement, Developer shall comply with all of the other PUD Documents to the extent that those documents are consistent or otherwise do not conflict with any terms, conditions, or obligations placed upon Developer or this Development under this Agreement. All consistent, non-conflicting terms in the PUD Documents are incorporated by reference into this Agreement.

B. Effect of PUD Approval. The Ordinance Granting The Mill at Vicksburg Planned Unit Development reclassifies the zoning of the Property to PUD and constitutes the land use authorization for the Property, and all use and improvement of the Property shall be in conformity with this Ordinance and the applicable terms of the PUD Documents as described in Section A above. Any development within the PUD that includes uses not already provided for under this Agreement must go through the approval procedures set forth in Section 82-623 of the Zoning Ordinance.

C. Land Use. Within the Development, all buildings and site amenities shall be laid out, situated, and designed as described on approved PUD Plans, as may be submitted by Developer to the Village from time to time for approval.

D. Sequencing of PUD. Developer shall develop the Property in multiple sequences. All sequences described in this Agreement are subject to and shall undergo site plan review and approval as set forth in Section 82-623 and Section 82-624(3) of the Zoning Ordinance. In addition to the requirements set forth in the Zoning Ordinance with respect to site plan reviews and approvals, site plan reviews and approvals for all or any portion of the Development shall be based on the Village's determination, in its reasonable discretion, that the proposed use and the proposed structure are in compliance with the minimum standards set forth in the approved PUD Plans and in the other PUD Documents. The sequences are as follows:

1. Sequence I includes building stabilization and site preparation.

2. Sequence II includes a maximum of 160,000 square feet of renovated space, constituting Old Stove Brewery, Event Space, Partner Brewing, Beer Garden, support space for these functions, and/or other permissible uses as part of an approved site plan, consistent with this Development Agreement and the PUD Documents.

3. Sequence III includes approximately 200,000 square feet of renovated space constituting Concert / Event Venue, Craft Food and Beverage Production, support spaces for these functions, and/or other permissible uses as part of an approved site plan, consistent with this Development Agreement and the PUD Documents.

4. Sequence IV consists an approximately 60,000 square feet of renovated space constituting Residential units and/or Hotel space, support spaces for these functions, and/or other permissible uses as part of an approved site plan, consistent with this Development Agreement and the PUD Documents.

Since this is a multi-sequence Development, prior to the issuance of building permits or any other approvals necessary for any sequence of the Development, Developer shall submit for the review and approval of the Village a supplemental site plan for each sequence or any sub-sequence Developer is proceeding with. In their review of each proposed supplementary plan, the Village shall rely on the standards of review and minimum zoning requirements described in 82-625 and 82-626, and the modifications to those minimum requirements under Section F of this Agreement.

Sequences I, II III, and IV may be further broken down into sub-sequences and plans submitted for future sequences shall indicate whether approval for the entire sequence contemplated in the PUD is being sought or whether the respective sequence is being broken down. Furthermore, the timing of the construction of any of the structures approved as part of the PUD Plan need not occur only as part of, or in accordance with, the proposed sequencing; e.g., a structure listed as part of Sequence III may be constructed during the time period proposed for Sequence II, subject to the approval of the supplemental site plan by the Village (described above). As set forth under Section 82-627 of the Zoning Ordinance, Developer is responsible for the actual costs (including any attorney and consultant fees) the Village incurs, up to a cap of \$5,000 for each site plan submitted, in its review of the supplemental site plans submitted under this Section D.

E. **Zoning Standards.** The zoning of the Property shall be reclassified as a PUD. and the following zoning classifications of the Zoning Ordinance shall apply: (a) R-4; (b) C-2, C-3, C-4; and (c) I-2, and I-3 (but excluding any special land uses in I-3 as well as the following permitted uses: automobile repair garage, construction and farm equipment sales, contractor's equipment yard, gasoline service station, hardware and building supplies, lumber, fuel and feed yards, public utility buildings and storage yards, maintenance and service yard, and adult regulated uses). In addition to the zoning classifications identified above, any of the following uses, or combination of uses, are permissible at The Mill at Vicksburg Planned Unit Development:

- a. Multi-family residential apartments.
- b. Indoor and outdoor event spaces offering a diversity of activities, including, but not limited to, corporate events, conferences, conventions, music and entertainment performance, sports, cultural and art events, festivals, and exhibitions, weddings, and other

celebrations. Events which utilize offsite parking will require approval of the Village subject to Section F(7) below.

c. Food and beverage uses that include one or more entities engaged in the activities of processing, production, service, and/or shipping of beer, food, and other alcoholic beverages.

d. Breweries, beer gardens, taprooms, and/or restaurants, which may include kitchen and catering services.

e. Kitchens/Catering Services.

f. Woodworking and other manufacturing consistent with I-2.

g. Hotel, motel, and/or other short-term rental units.

h. Music industry-related support uses, including, but not limited to, rehearsal spaces, recording studios, vocal booths, control rooms, private lounges, kitchens, and other production-related spaces.

i. Museum and/or educational space.

j. Distribution, shipping, receiving, and/or cold and hot warehousing servicing businesses in and around the Development.

k. Farming demonstration plots and community/restaurant gardens/orchards.

l. Outdoor recreation and short-term camping rentals.

Unless modified under Section F of this Agreement, the above-uses are subject to the minimum PUD zoning requirements under 82-626, as well as any additional, applicable requirements under the Village Code for uses permitted under the following zoning classifications: R-4, C-2, C-3, C-4, I-2, and I-3.

F. Minimum Requirements. Developer and the Village agree to the following adjustments to the minimum zoning standards under Section 82-626 of the Zoning Ordinance:

1. Structures. No newly developed permanent structure may be taller than forty (40) feet in height. For the purpose of this measurement, antennas, solar panels, or other non-occupiable structures are excluded.

2. Open Space. No less than thirty percent (30%) of the Development shall constitute open space that is land devoted to conservation or recreational purposes and/or designated to remain undeveloped. For the purposes of this section, “open space” includes: lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, living plant materials, wetlands, and water bodies. Open space shall not include buildings, driveways, parking lots or other surfaces designed or intended exclusively for vehicular travel.

3. Setback. All newly developed permanent structures within The Mill at Vicksburg Planned Unit Development must be located no less than fifty (50) feet from all perimeter property lines of the Development. Notwithstanding the foregoing, the maintenance barn shown on the current site plan shall be exempt from this requirement and permitted to be located no less than seventeen (17) feet from the perimeter property line of the Development.

4. Multi-Family Density. For multi-family dwellings, as well as hotel, motel, and other short-term rentals, The Mill at Vicksburg Planned Unit Development may not exceed an average of four (4) residential units per acre within the Development. As part of its site plan submission, Developer will submit a density schedule as required under 82-168(3)(g).

5. Off-Street Parking. Parking shall conform to the standards and number of spaces required under the Village of Vicksburg Zoning Ordinance for the then-active uses in the Development. For events in which more than 3,000 attendees are anticipated, a minimum of one parking space for every 4 anticipated attendees is required. Parking is permitted on or off premises as a way to satisfy the parking requirements for such an event. When seeking approval for off premises parking or submitting an event plan under Section F(7) below, Developer shall provide a signed agreement with any property owner(s) providing such off-site parking to the Village. Failure to maintain minimum approved off-street parking is a violation of the PUD ordinance and this Agreement.

6. Sound. Decibel levels from the programming of amplified sound (e.g. concerts, performances, etc.) or any other sources of excessive sound at any perimeter property lines of The Mill at Vicksburg Planned Unit Development shall not exceed 80 dBA at any perimeter property lines. Notwithstanding the foregoing, at events for 20,000 or more anticipated attendees (the "Large Events"), Developer shall not exceed 85 dBA at any perimeter property lines. For all events, except the Large Events, all amplified sound programming or other sources of excessive sound must stop from 10:00 pm to 9 am Sunday through Thursday and 11:00 pm to 9 am on Friday and Saturday. Notwithstanding the foregoing, Developer shall be permitted to request extension of these hours later into the evening for specific events subject only to approval by the Village Council in its reasonable discretion. For the Large Events, which shall occur no more than six (6) days in any calendar year, excluding days for setup, sound-checking, and tear down, all amplified sound programming or other sources of excessive sound must stop from 12am to 9am for the day(s) of the Large Events. Notwithstanding the foregoing, ambient sound after the hours defined above shall not exceed 70 dBA. If excessive sound continues after the hours defined above, Developer shall pay to the Village a penalty of \$2,500 per daily overage from one to 30 minutes, and \$5,000 per daily overage of more than 30 minutes.

To monitor compliance with these requirements, Developer shall install decibel level monitoring systems as directed by a third-party sound/acoustic industry expert (such as, Enginuity, Inc.) to ensure an accurate reading in real time of the noise being generated at all perimeter property lines. For the purposes of this Section F(6), and consistent with the applicable ANSI industry standards, sound will be measured as a continuous average dBA during amplified sound, measured in one-minute increments, and only an exceedance for more than five minutes during an event shall be considered a violation of this Section F(6). Developer will notify the Village in writing of the location of these monitoring devices and give the Village access to the Property to check these monitoring systems during any amplified sound event or in response to any noise complaints. Said

monitoring devices shall be placed at the perimeter property lines subject to any exceptions outlined in the Event Plan(s) described in Section 7 of this Agreement or any approved amendments to the Agreement. Developer is also responsible for hiring security to be on site during any such event to ensure that any event participants do not engage in any activity that generates excessive noise, injury, and/or fire or electrical hazards.

7. Events.

(a) Event Approval and Plans. Developer shall submit an event plan for both one-day events (the “One-Day Event Plan”) and for multi-day festivals (the “Multi-Day Event Plan”) that require off-site parking, both scalable up to 40,000 anticipated attendees (collectively, the “Event Plans”) as early as practicable for review and approval by the Village. Upon receipt of one or both of the Event Plans, the Village agrees to consider the Event Plan or Plans for approval within ninety (90) days. The expectation of the parties is that the Event Plans will be submitted by Developer to the Village in 2019. The Event Plans shall include a description of the nature of the event, including the dates and hours for the event; and a map and site plan of the area drawn to scale showing the location of all proposed toilets to be used, water supply sources, refuse disposal and collection facilities, areas of assembly, outdoor camping areas or other short-term rentals being utilized for the event, food service areas, ingress and egress of pedestrian and vehicular traffic, locations and number of parking spaces (including, available on site or off), and location and intensity of any additional lighting being used for the event. To receive approval for the event, Developer must submit a detailed plan that demonstrates compliance with Section 82-626 (2-5) and industry standards for all of the following:

(i) Adequate Traffic Management Plan. For events where off-site parking is necessary, Developer agrees to prepare and produce an industry standard Traffic Management Plan that includes a plan for traffic control, comply with industry standards for negative traffic impacts, sufficient total parking spaces pursuant to Section E(5) above, measures to address roadway access for Village residents, emergency services, and Village services.

- (ii) Adequate toilet facilities.
- (iii) Adequate refuse storage and disposal facilities.
- (iv) Adequate food and sanitary food service, if supplied.
- (v) Adequate emergency medical facilities and communication systems.
- (vi) Adequate fire protection.
- (vii) Adequate security personnel.

(b) Event Consultation. Within the earlier of ten (10) days after the event or prior to the first event of the next larger size (see subparagraph (c) below), Developer and the Village agree to meet to evaluate the success of the event and any failure to comply with the approved Event Plan and this Agreement, along with necessary improvements to ensure

that future events comply with the approved Event Plan and this Agreement. After three (3) consecutive consultations at each event level without failure to comply with the approved Event Plan and this Agreement, consultations required under this paragraph shall be held once each calendar year or upon request of the Village. Upon written notice from the Village to Developer of a failure to comply with the approved Event Plan and this Agreement, Developer shall, prior to proceeding with further events, provide the Village with adequate assurances, including specific plans, to bring future events into compliance with the approved Event Plan and this Agreement.

(c) Event Sequencing. Notwithstanding approval of the Event Plans as detailed in Section 7(a) above, Developer agrees to put on events at the Property in the below listed sequence – moving from a smaller-sized event to a mid-size event to a Large Event, as follows:

- An event of less than 9,999 anticipated attendees utilizing off-site parking. (the “Small Event”).
- A mid-size event of between 10,000 to 19,999 anticipated attendees (“Mid-Size Event”).
- And, finally, a Large Event of 20,000 or more anticipated attendees.

Developer must demonstrate compliance with the applicable approved Event Plan for an event of each size before Developer can put on an event of the next larger size. The Village will determine, in its reasonable discretion, Developer’s compliance with the applicable Event Plan and this Agreement during the Event Consultation described in Section 7(b) above. If it is determined by the Village, in its reasonable discretion, that Developer did not comply with the applicable Event Plan and this Agreement, Developer shall, prior to proceeding with further events, provide the Village with adequate assurances, including specific plans, to bring future events into compliance with the approved Event Plan and this Agreement.

(d) Event Insurance. As part of any event plan submitted to the Village under Section F(7)(a) above, Developer must provide the Village with a certificate of insurance issued by a reputable insurance company which provides liability insurance of not less than \$1,000,000 per occurrence for death, injury or property damage arising out of any event up to 9,999 anticipated attendees; and not less than \$5,000,000 per occurrence for death, injury or property damage arising out of any event involving 10,000 to 40,000 anticipated attendees. The insurance policy must name the Village, including its agents and representatives, as an additional insured.

(e) As set forth under Section 82-627 of the Zoning Ordinance, Developer is responsible for the actual costs (including any attorney and consultant fees) the Village incurs in its review of Event Plans under this Section F(7).

8. Historic Elements. The Mill at Vicksburg is on the National Register of Historic Places and is being rehabilitated to preserve historic elements of the Mill. To that end, should a

discrepancy arise between Village zoning requirements and Developer's compliance with the Secretary of the Interior's Standards for Rehabilitation, the Secretary of the Interior's Standards for Rehabilitation shall govern, and all such improvements shall be deemed compliant with the Ordinance.

G. Water and Sanitary Sewer Systems. Developer shall, at its sole expense, construct, reconstruct, and install improvements and/or connections tying into the existing municipal water and sewage systems, as required for the Development. That includes, but is not limited to, water and sewer connection fees and pass-through fees calculated by Village staff. Notwithstanding the foregoing, this section shall not be read to limit any of Developer's rights to challenge any proposed imposition of such fees under local ordinance, state and/or federal law, and common law, all rights being expressly reserved. All of the foregoing improvements shall be designed and constructed in accordance with the approved PUD Plan and all applicable Village, state, and county standards, codes, regulations, ordinances, and laws. Such water and sanitary sewer systems shall be provided by the Developer and dedicated to the Village (as required by the Village in its discretion) to the extent necessary to fully service all proposed and existing facilities, structures, and uses within the sequence of the Development to be served by those facilities, extensions, and easements, prior to issuance of any building permits for any building in such sequence of the Development, other than building permits issued prior to the date of this Agreement.

The water and sanitary sewer improvements within and for a particular sequence must be completed to the extent that such sequence shall, on completion and dedication of such improvements, be fully capable of standing on its own in terms of the provision of water and sanitary sewer services to such sequence according to applicable laws, ordinances, codes, regulations, and standards at the time of construction of each such sequence.

H. Drives and Parking Lots.

1. Internal drives and parking lots within and for the Development shall be designed, situated, and constructed in accordance with all requirements of the applicable ordinances of the Village, the PUD Documents, and the approved PUD Plan. Developer shall determine, at its discretion, the structural pavement design adequate for the Development.

2. Internal roads, drives, and parking lots depicted on any approved PUD Plan within or necessary to serve each sequence of the Development shall be completed and approved (except top coat) prior to issuance of a certificate of occupancy for any building or structure to be served by them or to benefit from them. In the event a structure is entirely eligible otherwise for issuance of a certificate of occupancy and the top coat of paving cannot be installed due to winter conditions and the resulting closing of asphalt plants, the Village shall issue a temporary certificate of occupancy with a firm commitment by Developer for completion on or before June 15th of the following year. Any purchase agreement or lease agreement for any building, or any portion of such building, within the Development shall provide that a final certificate of occupancy will not be issued until the paving of such improvements has been completed (including topcoat and parking lot striping).

3. Developer, and any assigns and transferees of Developer, shall be solely responsible for maintenance and repairs of the drives, entranceways, and parking lots at the Development.

4. For events with anticipated attendance above the capacity for paved parking on-site, temporary on-site grass parking shall be permitted subject to an approved Event Plan.

H. Completion of Improvements. All on-site and off-site improvements of the Development, including, without limitation, all internal roads, drives, entranceways, parking lots, sanitary sewer service systems, water service systems, storm water drainage systems, detention and retention facilities, gas and electric utilities, lighting, signage, landscaping, landscaping amenities, public safety paths, internal private pedestrian walkways with related amenities and improvements, barrier or screening walls, sidewalks, retaining walls, soil erosion and sedimentation controls, and any other improvements within or for the Development shall be completely constructed and provided to all buildings and facilities within the Development as required and as set forth in the PUD Documents, the approved PUD Plans, any other approvals or permits granted by the Village, and all applicable ordinances, laws, standards, and regulations. During the construction of the Development, Developer shall be obligated to maintain the above improvements and amenities. Moreover, each sequence will be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the Development and the residents of the surrounding area.

I. Village Enforcement. Except as otherwise provided for in this Agreement, in the event of a perceived failure by Developer to comply with the terms of this Agreement, the Village may serve written notice on Developer setting forth such deficiencies and a demand that the deficiencies be cured within a stated reasonable time period, but not shorter than thirty (30) days, and specify a date, time, and place for a hearing before the Village Council, or such other Council, body, or official delegated by the Village Council, to allow Developer an opportunity to be heard as to why Village should not proceed with the correction of the deficiency. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. The foregoing notice and hearing requirements shall not be necessary in the event Village determines in its reasonable discretion that an emergency situation exists requiring immediate action. If, following the hearing described above, the Village Council, or the other Council, body, or official designated to conduct the hearing, determines that the failure has not been corrected within the time specified in the notice, or if an emergency circumstance exists as determined by Village, then the Village shall have the power and authority, but not the obligation, to take any or all of the following actions, in addition to any other legal remedies available to the Village:

1. Developer shall provide the Village with a bond with a total coverage amount of \$96,500 to secure the Property with fencing in the event of an uncured default by Developer, but shall otherwise be exempt from the bonding requirements of Section 82-171(b) of the Ordinance.

2. Initiate legal action for the enforcement of any of the provisions, requirements, or obligations set forth in the PUD Documents. Except in emergency circumstances, Developer shall be provided reasonable notice of the deficiencies from the Village and shall be afforded an opportunity to timely correct. In the event the Village is the prevailing party in any such litigation,

Developer shall pay all court costs and attorney fees incurred by the Village in connection with such a suit.

3. Issue a stop work order as to any or all aspects of the Development, deny the issuance of any requested building permit or certificate of occupancy within any part or all of the Development, regardless of whether Developer is the named applicant for such permit or certificate of occupancy, and suspend further inspections of any or all aspects of the Development.

J. **Enforcement; Severability.** Any failure or delay by the Village or Developer to enforce any provision contained in this Agreement shall in no event be deemed, construed, or relied on as a waiver or estoppel of the right to eventually do so in the future. The parties acknowledge that monetary damages for a breach of this Agreement would be inadequate to compensate the parties for the benefit of their bargain. Accordingly, the parties expressly agree that in the event of a violation of this Agreement, the non-breaching party shall be entitled to receive specific performance. This Agreement is intended to establish zoning ordinance regulations applicable to the Development and shall not be enforceable as a contract with contract remedies, except that Developer or Village may seek specific performance as detailed above. Each provision and obligation contained in this Agreement shall be considered to be an independent and separate covenant and agreement and, in the event one or more of the provisions and/or obligations shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, all remaining provisions and/or obligations shall nevertheless remain in full force and effect.

K. **Access to Property.** The Village and its contractors, representatives, consultants, and agents shall be permitted, and are granted authority, upon reasonable notice to Developer or upon no notice for fire, EMS, or other emergency services or for the purposes described in Section F(8) above, to enter all or any portion of the Property for the purposes of inspecting for compliance with and enforcing the PUD Documents. So long as any construction is occurring on the Property, Developer is responsible for providing adequate emergency services access to the Property. Developer shall provide written notice to the Village of the emergency services access provided at Property and any changes to that access. The sufficiency of the emergency access provided at the Property is subject to the approval of the Village fire chief.

L. **Agreement Jointly Drafted.** Developer has negotiated with the Village the terms of this Agreement; and this Agreement is the product of the joint efforts and mutual agreements reached between the Developer and the Village. Developer and the Village fully accept and agree to the final terms, conditions, and obligations of this Agreement. It is agreed that the improvements and undertakings described in this Agreement, as well as the terms, conditions, and obligations put on the Developer and the Development under this Agreement, are necessary and roughly proportional to the burden imposed, and are necessary in order to (1) ensure that public services and facilities necessary for and affected by the Development will be capable of accommodating the development on the Property; (2) protect the natural environment and conserve natural resources; (3) ensure compatibility with adjacent uses of land; (4) promote use of the Property in a socially, environmentally, and economically desirable manner; and (5) achieve other legitimate objectives authorized under the Michigan Zoning Enabling Act, MCL 125.3101 et seq. It is further agreed and acknowledged that all such improvements, both on-site and off-site, are clearly and substantially related to the burdens to be created by the development of the Property and all such

improvements without exception are clearly and substantially related to Village's legitimate interests in protecting the public health, safety, and general welfare.

M. **Ambiguities and Inconsistencies.** Where there is a question with regard to applicable regulations for a particular aspect of the Development or with regard to clarification, interpretation, or definition of terms or regulations, and there are no apparent express provisions of the PUD Documents that apply, Village, in the reasonable exercise of its discretion, shall determine the regulations of Village's Zoning Ordinance, as that Ordinance may have been amended, or other Village ordinances that are applicable, provided such determination is not inconsistent with the nature and intent of the PUD Documents. Any modification of the Zoning Ordinance that is favorable to the Developer shall be incorporated by reference into this Agreement.

N. **Warranty of Ownership.** Developer warrants that it is the owner in fee simple of the Property described on the attached Property Description, **Exhibit A**.

O. **Running with the Land; Governing Law.** This Development Agreement shall run with the land constituting the Property and shall be binding on and inure to the benefit of the Village and its successors, Developer, all future owners of any part of the Development, all undersigned parties, and all of their respective heirs, successors, assigns, and transferees. An affidavit providing notice of the rezoning of the Property, the PUD Documents, this Development Agreement, and the general obligations relating to the PUD shall be executed by the property owners and may be recorded by any of the undersigned parties following the execution of this Agreement. This Development Agreement shall be interpreted and construed in accordance with Michigan law and shall be subject to enforcement only in Michigan courts. The parties understand and agree that this Development Agreement is consistent with the intent and provisions of the Michigan and U.S. Constitutions and all applicable law.

P. **Single Ownership and/or Control of PUD Property.** Developer represents and warrants to Village that, as of the Effective Date, the single ownership and/or control of the Property has been vested solely in Developer in accordance with and for all purposes necessary to satisfy Section 82-626(3) of Village Zoning Ordinance, and Developer is fully authorized and empowered to rezone and develop the Property in accordance with and pursuant to the PUD Documents and all other documents, agreements, plans, dedications, ordinances, and recordings applicable to The Mill at Vicksburg Planned Unit Development as submitted to and as approved by the Village Council.

Q. **Modifications.** This Agreement may not be modified, replaced, amended, or terminated without the prior written consent of the Village Council and the Developer or its successors in title to the Property as of the date of the modification, replacement, amendment, or termination.

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This Agreement was executed by the respective parties on the date specified with the notarization of their signatures and shall be considered to be dated on the date of the Village Council's adoption of the Ordinance Granting The Mill at Vicksburg Planned Unit Development, and shall take effect on the effective date of Village's Ordinance Granting The Mill at Vicksburg Planned Unit Development rezoning (the "Effective Date").

WITNESS:

/s/ _____

Name: _____

DEVELOPER:

Paper City Development, LLC

By: /s/ _____
Christopher E. Moore
Its: Managing Member

WITNESS:

/s/ _____

Name: _____

STATE OF MICHIGAN)
KALAMAZOO COUNTY)

Acknowledged before me in Kalamazoo County, Michigan, on _____, 2018, by Christopher E. Moore of Paper City Development, LLC, a Michigan limited liability company, on behalf of the company.

/s/ _____

Notary Public's Name: _____

Notary public, State of Michigan, County of Kalamazoo.

My commission expires _____

WITNESS:

/s/ _____

Name: _____

VILLAGE:

The Village of Vicksburg, a Michigan municipal corporation

WITNESS:

/s/ _____

By: /s/ _____
Jim Mallery
Its: Village Member

Name: _____

By: /s/ _____

Name of Clerk: _____

Its: Clerk

STATE OF MICHIGAN)

KALAMAZOO COUNTY)

Acknowledged before me in Kalamazoo County, Michigan, on _____, 2018, by Jim Mallery of The Village of Vicksburg, a Michigan municipal corporation, on behalf of the municipality.

/s/ _____

Notary Public's Name: _____

Notary public, State of Michigan, County of Kalamazoo.

My commission expires _____

Drafted by:

Sielatycki Law Firm, PLC

By: /s/ _____

Steve J. Sielatycki, Esq. (P66751)

516 Whites Road, Suite 4

Kalamazoo, MI 49008

(269) 718-3012

When recorded return to:

[Name], Clerk

Village of [Village)

[Address, telephone]

