

## **OPT-IN AGREEMENT**

**THIS AGREEMENT** made as of the date the Agreement is signed by both of the parties.

**B E T W E E N:**

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as  
represented by the Ministry of the Attorney General**

(the "Ministry")

OF THE FIRST PART

- and -

Town of Niagara on-the-Lake

(the "Municipality")

OF THE SECOND PART

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WHEREAS the Municipality wishes to collect and enforce its own parking fines;

AND WHEREAS the Ministry, through the Defaulted Fines Control Centre, has sole authority to direct Plate Denials where a fine is in default;

**THEREFORE, IN CONSIDERATION** of this Agreement's mutual provisions, the parties agree as follows:

## 1.0 DEFINITIONS

1.1 **Definitions.** In the Agreement the following words shall have the following meanings:

**“Agreement”** means this agreement entered into between the Ministry and the Municipality, all appendices to this agreement and any instrument amending this agreement.

**“Applicable Law”** includes the *Auditor General Act*, the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Provincial Offences Act* and its regulations and any other statute, regulation, common law rule, order, judgment, or requirement having the force of law and applicable to the Agreement.

**“Business Day”** means any working day, Monday to Friday inclusive, but excluding the holidays described in section 88 of the *Legislation Act*.

**“Court”** means the court in the Regional Municipality of Niagara Court Service Area.

**“MTO”** means the Ministry of Transportation.

**“Plate Denial”** means refusal by the Registrar of Motor Vehicles to validate or issue a vehicle permit to an individual who has defaulted on a fine for a parking infraction.

**“Plate Denial Request”** means a request for Plate Denial transmitted electronically in the form contained in Appendix “A”.

“**Policies**” includes, but is not limited to:

- (a) all policies, procedures, standards, rules, guidelines and directives that apply to the collection and enforcement of parking fines, as issued by the Ministry any time after the Agreement and as amended from time to time;
- (b) the Ministry’s *Provincial Offences Act* Write-Off Directive and Operating Guidelines and any other policies, procedures, standards, rules, guidelines and directives issued by the Ministry before the Agreement that the Ministry provides to the Municipality; and
- (c) any provisions of the MOU between the Ministry and the Municipal Partner of the Regional Municipality of Niagara, including any of the principles of transfer enumerated in Article 2, that are relevant to the Agreement and that are not expressly governed by an Article of the Agreement.

“**Reports**” means the reports described in Appendix “B”.

**1.2 Number and headings.** In the Agreement, words in the singular include the plural, and vice-versa. The headings in the Agreement are for convenience of reference only and do not form part of the Agreement and in no manner modify, interpret or construe the Agreement.

**1.3 References to Applicable Law.** All references to Applicable Law are ambulatory and apply as amended from time to time.

## **2.0 TERM**

**2.1 The Agreement Commences.** The term of this Agreement shall commence on the date that this agreement is signed by both of the parties.

**2.2 Duration.** The Agreement shall continue as an agreement of indefinite duration until terminated in accordance with paragraph 14.

## **3.0 SERVICES**

**3.1 Fine enforcement.** The Ministry and the Municipality mutually undertake, on and subject to the terms set out in the Agreement, to collect and enforce fines for parking infractions by facilitating Plate Denials.

## **4.0 MUNICIPAL SERVICE RESPONSIBILITIES**

### **4.1 The Municipality shall:**

- (a) comply with Applicable Law and Policies;
- (b) remit to the Municipal Partner the amount of court costs remaining after deducting the allowances owing to the Municipality under RRO 1990, Regulation 949.
- (c) on the written direction of the Ministry, electronically provide such data as the Ministry may reasonably require from time to time, including the Reports; and
- (d) cause its staff to participate in any training that the Ministry considers appropriate for the purposes of the Agreement.

## **5.0 MINISTRY SERVICE RESPONSIBILITIES**

### **5.1 The Ministry shall:**

- (a) accept and review the Municipality's Plate Denial Requests;
- (b) where the Ministry, in its sole discretion, deems it appropriate, forward the Municipality's Plate Denial Requests to MTO;
- (c) by the twentieth Business Day of the month following the month in which the Ministry receives from MTO monies collected through Plate Denial, remit to the Municipality,
  - (i) the fine amount collected; and
  - (ii) the court costs amount.

## **6.0 REPORTS**

**6.1 Reports.** The Municipality shall submit to the Ministry the Reports and such other reports and documentation related to the Agreement as the Ministry may request from time to time.

**6.2 Preparation and Submission of Reports.** The Municipality shall ensure that,

- (a) All Reports or other requests for documentation are completed to the satisfaction of the Ministry using any forms that may specified by the Ministry from time to time; and

- (b) the Reports are received by the Ministry on the dates set out in Appendix “B” and at the address provided for the Ministry in paragraph 15.3.

## **7.0 RECORDS AND AUDIT**

- 7.1 Records.** The Municipality shall, during the term of the Agreement and for a period of one year after the date the Agreement is terminated,
- (a) keep and maintain all financial records, invoices and other financially-related documents relating to the Agreement in a manner consistent with generally accepted accounting principles and clerical practices;
  - (b) keep and maintain all non-financial records relating to the Agreement;
  - (c) permit the Ministry, its agents or the Provincial auditor, upon 48 hours’ notice and during the Municipality’s normal business hours, to examine, copy or conduct a full or partial audit of accounts, data, books and records related to its performance under the Agreement.
- 7.2 No control of records.** No right conferred upon the Ministry under Agreement shall be construed so as to give the Ministry any control over the Municipality’s records.

## **8.0 CONFIDENTIALITY**

- 8.1 Confidentiality and disclosure obligations.** Each party shall:

- (a) comply with all Applicable Law;
- (b) subject to such disclosure as is required by the Agreement and Applicable Law, use its best efforts to:
  - (i) keep secure all records and other documents pertaining to a defendant;
  - (ii) ensure the security and integrity of all records pertaining to the defendant and keep it in a physically secure and separate location, safe from loss, alteration, destruction or intermingling with other records and databases and implement, use and maintain the most appropriate products, tools, measures and procedures to do so;
  - (iii) implement all other specific security measures that in the reasonable opinion of the Ministry are necessary or advisable to improve the adequacy and effectiveness of security and the integrity and records generally.

- 8.2 Contractual information may be disclosed.** The parties acknowledge that certain contractual information is liable to be disclosed to the Legislative Assembly or to the Council of the Municipality, or both, and accordingly may become part of the public record.

## **9.0 NON-ASSIGNMENT**

- 9.1 No Assignment.** The Municipality shall not, without the prior express written consent of the Ministry, assign the Agreement or sub-contract any of its obligations under the Agreement. Any assignment is on condition that the assignee undertakes all the Municipality's obligations to the Ministry under the Agreement, and the Municipality shall not be released of its obligations to the Ministry by reasons of the assignment.

## **10.0 NON-AGENCY**

- 10.1 Municipality not Ministry agent.** The Municipality, its council members, officers, employees, agents, contractors and volunteers are not, and shall not be deemed to be, officers, employees, agents, partners or joint ventures of the Ministry.

## **11.0 INDEMNITY**

- 11.1 Indemnification.** The Municipality shall at all times defend, indemnify and save harmless the Ministry, its officers, employees and agents from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to anything done or omitted to be done by the Municipality, its council members, officers, employees, agents, contractors or volunteers in connection with the Agreement or in collecting fines for parking offences.

## **12.0 LIABILITY**

- 12.1 Limitation of liability.** The Ministry shall not be liable either for any injury or damage (including death) to the Municipality or to the person of its council members, officers, employees, agents, contractors or volunteers or for the loss of or damage to the property of the Municipality, its council members, officers, employees, agents, contractors or volunteers in any manner based upon, occasioned by, or in any way attributable to the Municipality's services under the Agreement.

## **13.0 INSURANCE**

- 13.1 Insurance.** During the term of the Agreement, the Municipality shall maintain

continuously, at its own expense, with insurers acceptable to the Ministry to an inclusive limit of not less than 1 million dollars per occurrence, comprehensive general liability insurance, including coverage for third party bodily injury, personal injury, death and property damage, including loss of use thereof.

**13.2 Policy shall contain.** The insurance policy referred to in paragraph 13.1 of the Agreement shall include at least the following terms:

- (a) Her Majesty the Queen in right of Ontario as represented by the Ministry as an additional insured;
- (b) a clause including liability arising out of contract or agreement.
- (c) a cross-liability insurance clause endorsement acceptable to the Ministry;
- (d) a requirement that the insurer give the Ministry 30 Business Days' prior written notice, in the manner set forth in the policy conditions, if a policy is to expire, be changed or be cancelled.

**13.3 Certificates of Insurance.** The Municipality shall provide the Ministry with proof of the insurance required by the Agreement in the form of a valid certificate of insurance that references the Agreement and confirms the required coverage, on or before the commencement of the Agreement. The Municipality shall provide the Ministry with renewal and replacement certificates as may be necessary.

## **14.0 TERMINATION WITH OR WITHOUT CAUSE**

**14.1 Termination without cause.** Either party may terminate the Agreement without cause by giving 180 calendar days' written notice to the other party.

**14.2 Opportunity to remedy breach.** Where the Municipality breaches any of paragraphs 4.0 (Municipal Service Responsibilities), 6.0 (Reports), 7.0 (Records and Audit), 8.0 (Confidentiality), 9.0 (Non-Assignment), 11.0 (Indemnity) or 13.0 (Insurance) of the Agreement, the Ministry may deliver a written notice to the Municipality, setting out the particulars of the breach, and demanding that the Municipality rectify or remedy that breach within a period not to be less than 30 Business Days.

**14.3 Failure to remedy breach.** Where the Municipality fails to rectify or remedy the breach within the time specified in the notice, the Ministry may terminate the Agreement,

- (a) immediately, without further warning to the Municipality, or
- (b) upon the expiration of such further period as the Ministry may specify in writing, by giving written notice to that effect.



- 14.4 Effective date.** The effective date of any termination shall be the last calendar day of the notice period.
- 14.5 Obligations on termination without cause.** If the Agreement is terminated by either party, the Ministry shall pay to the Municipality any amount due to the Municipality under the Agreement at the date of termination.
- 14.6 Rights and obligations on Termination for breach.** If the Agreement is terminated pursuant to paragraph 14.3, the Ministry shall recover from the Municipality any damages, costs and expenses incurred by the Ministry as a result of such termination, and the Ministry may set them off against any amount payable by the Ministry to the Municipality under paragraph 14.5

## **15.0 NOTICE AND COMMUNICATION**

- 15.1 Form.** Any written notice or communication shall be:
- (a) delivered personally or by pre-paid courier, or sent by facsimile, electronic mail, certified or registered mail or postage pre-paid first class mail; and
  - (b) addressed to the other party, as provided in paragraphs 15.3 and 15.4.
- 15.2 Notices Effective From.** All written notices shall be effective:
- (a) on the date the delivery is made, if the Notice is delivered personally or by pre-paid courier;
  - (b) on the date the transmission is sent, if the Notice is sent by facsimile or electronic mail before 4:30 PM on a Business Day;
  - (c) on the next Business Day after the date the transmission is sent, if the Notice is sent by facsimile or electronic mail after 4:30 PM or on a day that is not a Business Day;
  - (d) the fifth Business Day after the day the Notice was deposited in the mail if the Notice is sent by certified, registered or postage prepaid mail.

**15.3 Contact – General.** Except for communication regarding audits, all communication between the parties under the Agreement shall be conducted through the following people:

**To the Ministry:**

Court Services Division  
Ministry of the Attorney General  
720 Bay St., 2<sup>nd</sup> floor  
Toronto ON M7A 2S9

**Attention: Jeremy Griggs, Senior  
Manager  
Provincial Offences Act Unit**

E-mail: Jeremy.Griggs@ontario.ca  
Fax: (416)-326-2592  
Telephone: (416)-212-4546

**To the Municipality:**

The Corporation of the \_\_\_\_\_

Address

Attention:

E-mail:

Fax:

Telephone:

**15.4 Contacts – Audit.** All communication between the parties regarding audits under the Agreement shall be conducted through the following people:

**To the Ministry:**

Court Services Division  
Ministry of the Attorney General  
720 Bay St., 2<sup>nd</sup> floor  
Toronto ON M7A 2S9

**Attention: Nick Perera, Manager,  
Business Planning & Support Section**

E-mail: Nick.Perera@ontario.ca  
Fax: (416) 326-4666  
Telephone: (416) 326-5351

**To the Municipality:**

Municipality

Address

Attention:

E-mail:

Fax:

Telephone:

**15.5 Change of Contact.** Either party may at any time designate personnel different from those indicated above by giving the other party written notice.

## **16.0 WAIVER**

**16.1 Form of waiver.** Any provision of the Agreement may be waived in whole or in part by a party without prejudice to that party's rights in the event of a breach of any other provision of the Agreement. A waiver shall be binding on the waiving party only if it is in writing and signed by that party. The waiver of any breach of any provision of the Agreement shall not be taken or held to be a waiver of any

further breach of the same provision or any breach of any other provision.

## **17.0 APPENDICES**

**17.1 Appendices.** The following are the appendices attached to and forming part of the Agreement:

- (a) Appendix "A" (Electronic Format for Plate Denial Requests); and
- (b) Appendix "B" (Reports).

## **18.0 ENTIRE AGREEMENT**

**18.1 Entire Agreement.** The Agreement constitutes the whole agreement between the parties with respect to the matters dealt with in it, and it rescinds any prior oral or written representations and agreements.

**18.2 Modification.** Except as described in paragraph 18.3, the Agreement may only be modified by a written agreement duly executed by the Parties.

**18.3 Ministry may amend Appendices.** The Ministry may, upon giving 30 Business Days' notice to the Municipality, in its sole discretion, amend Appendix "A" or Appendix "B". The amended Appendix shall be deemed to replace the previous Appendix and to be attached to and form part of the Agreement.

**18.4 Notice must include.** The notice referred to in paragraph 18.3 shall include a copy of the amended Appendix "A" or Appendix "B".

## **19.0 SURVIVAL**

**19.1 Survival.** The following paragraphs shall survive the termination of the Agreement and any supporting or crossed referenced provisions shall continue in full force and effect for a period of one year: 7.0 (Records and Audit), 8.0 (Confidentiality), 11.0 (Indemnity), 12.0 (Liability), 15.0 (Notice and Communication), and 20.0 (Remedies).

## 20.0 REMEDIES

**20.1 Rights and Remedies Cumulative.** The rights and remedies of the parties under the Agreement are cumulative and in addition to, and not in substitution for, any rights and remedies provided by law, equity, and legislation.

**THE UNDERSIGNED** parties have made the Agreement as of the last date written below.

### Corporation of

_____ Witness	_____ Per: Mayor	_____ Date
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_____ Witness	_____ Per: [Redacted] Municipal Clerk	_____ Date
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**HER MAJESTY THE QUEEN IN RIGHT  
OF ONTARIO**, as represented by the  
Attorney General

_____ Witness	_____ Per: Jeremy Griggs Senior Manager, POA Unit <b>Criminal/POA Policy and Programs Branch</b> Court Services Division	_____ Date
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## APPENDIX A:

### ELECTRONIC FORMAT FOR PLATE DENIAL REQUESTS

#### ***Plate Denial Load***

**Summary** POA Part II (parking offences) plate denials are submitted by opted-in municipalities to the Ministry of Attorney General, DFCC (Defaulted Fines Control Centre). This specification outlines the layout of the input file and the format of the required fields on that file.

#### **File Layout**

<b>Detail Record Layout – Plate Denial Load</b>				
<b>ID</b>	<b>Field Name</b>	<b>Type</b>	<b>Field Description</b>	<b>Comments</b>
D-01	Tran Identifier	C 04	Identifies the transaction	Value is “PD30” or “PD31”
D-02	Administering Court Office Number	N 04	Identifies the 4-digit court ID that is administering the case	To be provided by the local Court. This field is part of the ICON case number. Mandatory, must be in ICON ICCRTOFC/ICCRTADR table.
D-03	Sequence no	N 04	Sequence number	Always “9999”
D-04	Batch date	N 06	Batch number Format is YYMMDD	
D-05	Batch sequence number	N 05	Batch sequence number	Always “09999”

<b>Detail Record Layout – Plate Denial Load</b>				
<b>ID</b>	<b>Field Name</b>	<b>Type</b>	<b>Field Description</b>	<b>Comments</b>
D-06	Case Jurisdiction	C 03	3 digit ICON code indicating jurisdiction	To be provided by the local Court This field is a component of the ICON ID. Mandatory, must be in ICON ICJURICD
D-07	Case Filing Year (YY)	C 02	Identifies the 2-digit year of when the Case is filed	This field is a component of the ICON ID.
D-08	Young Offender Indicator	C 01	A value of “Y” indicates that offender is classified as a Young Offender. Any other value indicates that offender is classified as an adult.	This field contains the first digit of the Ticket/Case number. This field is a component of the ICON ID.
D-09	Ticket / Case number	C 07	Identifies the rest of Case ticket number	For ticketed offences, the ticket number would be the same as the ICON case number. This field is a component of the ICON ID.
D-10	Case suffix	C 03	Indicates co-accused	Always “001”
D-11	Driver licence	C 15	Driver licence number	Optional
D-12	Plate no	C 10	Vehicle Plate number	Mandatory
D-13	Convicting Court Office Number	N 04	Identifies the 4-digit court ID that is administering the case	To be provided by the local Court. Mandatory, must be in ICON ICCRTOFC/ICCRTADR table.
D-14	Surname of Accused	C 35	Surname of the offender	Mandatory, must be entered, no leading spaces permitted
D-15	First Name of Accused	C 12	First name of the offender	Mandatory, must be enter, unless Gender Code is “C” (Company) or “U” (Unknown)
D-16	Middle Initials of Accused	C 02	Middle initials of the offender	Optional, must not be entered for a company
D-17	Address of Accused	C 25	Street address, consisting of street number, street name, and apartment number, of the offender.	Mandatory Enter “AU” if unknown or “NFA’ if no fixed address

Detail Record Layout – Plate Denial Load				
ID	Field Name	Type	Field Description	Comments
D-18	City of Accused Address	C 25	City of the offender's address	Mandatory, can be blank only if address is unknown or no fixed address
D-19	Province of Accused Address	C 25	Province of the offender's address	Province required when Driver Licence or Vehicle Plate entered
D-20	Postal Code of Accused Address	C 10	Postal code of the offender's address	Optional
D-21	Accused Gender Code	C 01	Identifies the gender of the accused.	"M" – Male, "F" –Female, "C" – Company, "U" – Unknown
D-22	Offence code	C 09	Offence code	Always "BLP"
D-23	Offence Date	N 06	Identifies the date of the offence in YYMMDD format.	Mandatory, must be entered
D-24	Birth Date of Accused	N 06	Identifies the birth date of the accused in YYMMDD format.	Optional, can be spaces or zeroes, not permitted for company
D-25	Conviction date	N 06	Format is YYMMDD	
D-26	Authorization date	N 06	Format is YYMMDD	
D-27	Outstanding Fine Amount	R 7,2	Identifies the amount of the fine that is outstanding in CDN\$.	
D-28	Outstanding Cost Amount	R 7,2	Identifies the amount of the cost that is outstanding in CDN\$.	
D-29	Outstanding Fee Amount	R 7,2	Identifies the amount of the fee that is outstanding in CDN\$.	Always zeroes
D-30	Total amount	R 7,2	Identifies the amount of the total that is outstanding in CDN\$.	Fine + Cost + Fees
D-31	Disbursement id	C 04		To be provided by the court
D-32	Filler (Define in File Format Layout)	C 06	Blank space	Default to spaces

<b>Trailer Record Layout – Plate Denial Load</b>				
<b>ID</b>	<b>Field Name</b>	<b>Type</b>	<b>Field Description</b>	<b>Comments</b>
TD-01	Tran Identifier	C 04	Identifies the transaction	Value is “PD98” or “PD99”
TD-02	Tran court office	C 04	Transaction court office	Always “9999”
TD-03	Sequence no	N 04	Sequence number	Always blank
TD-04	Batch date	N 06	Batch date Format is YYMMDD	
TD-05	Batch sequence no	N 05	Batch sequence number	Always “09999”
TD-06	Filler	C 37	Filler	Always blank
TD-07	Number of transaction	N 07	Total Number of transactions	
TD-08	Tot fine amount	R 7,2	Total fine amount	
TD-09	Tot cost amount	R 7,2	Total cost amount	
TD-10	Fee amount	R 7,2	Fee amount	Always zeroes
TD-11	Grand total amount	R 7,2	Grand total amount	Fine +Cost + Fee
TD-12	Filler [Define in File Format Layout]	C179	Blank space used or making the record confirm to a fixed length.	Default value to spaces.

Note: Use 50 to window means,

If YY is from 50 to 99 year is 1950 to 1999

If YY is from 00 to 49 year is 2000 to 2049



**APPENDIX B:  
REPORTS**

<b>Name of Report</b>	<b>Due By</b>
Annual Report	For each calendar year, June 30 of the subsequent calendar year
Other Reports	As required by the Ministry

**Report Details**

**1. Annual Report.** The Annual Report shall set out, for the calendar year to which it relates, the:

- (a) number of defaulted fines for parking infractions;
- (b) value of all fine write-offs;
- (c) value of all uncollected fines; and
- (d) number of Plate Denials requested from DFCC.

**2. Other Reports.** The reports shall contain the details requested by the Ministry, and may include:

- (a) matters referred to the clerk of the Court for default conviction;
- (b) conviction information received from the clerk of the Court;
- (c) the number of parking fines collected over a specified period of time; or
- (d) the amount of money recovered for each fine, including the amount of any costs or fees.