

Request for Proposals for a Non-profit Housing Operator for Modular Affordable Housing with Supports



Modular Housing Project in Vancouver - Photo Credit: Horizon North Inc.

Date Issued: June 15, 2020

NOTICE TO POTENTIAL PROPONENTS

REQUEST FOR PROPOSALS

Non-profit Housing Operator for Modular Affordable Housing with Supports

Please review the attached document and submit your proposal to the address below by the closing deadline of **12:00 noon (local Toronto time) on July 29, 2020**

Proposals will not be considered unless received by the date and time specified above and received at the address specified below. Submissions by facsimile or e-mail will not be accepted.

INFORMATION SESSION	July 6, 2020 , 10:00-11:30 am More information at www.toronto.ca/affordablehousing
DEADLINE FOR QUESTIONS (in writing only)	July 21, 2020 – 12:00 noon All questions should be submitted in writing by email to Mercedeh Madani, Policy Development Officer, mercedeh.madani@toronto.ca
ADDENDA	Addenda will be issued with answers to questions raised in the Information Session and questions received in writing. Addenda will be posted at www.toronto.ca/affordablehousing
City Contact: Abigail Bond, Executive Director, Housing Secretariat Metro Hall, 7 th Floor, 55 John Street, Toronto, ON, M5V 3C6 (t) 416-338-1143, (f) 416-392-4219 (e) abigail.bond@toronto.ca	

The City of Toronto will not be held responsible for submission documents submitted in envelope(s) that are not labelled in accordance with the instructions below.

PROPONENT/COMPANY NAME	
RFP NAME	Non-profit Housing Operator for Modular Affordable Housing with Supports
CLOSING DEADLINE	July 29, 2020 12:00 pm (noon)

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1 Introduction

The City is moving forward with the first phase ("Phase One") of a modular supportive housing initiative to create a total of 100 modular units on two City-owned sites for people experiencing chronic homelessness. The two sites for Phase One of the Modular Housing Initiative are:

- 150 Harrison Street (Ward 9): 44 bachelor apartments.
- 11 Macey Ave (Ward 20): 56 bachelor apartments.

The City is seeking non-profit housing operators with a strong management and financial track record of operating rental housing including affordable and social housing.

Additionally, the Request for Proposal ("RFP") requires proponents to have access to support service funding and have experience providing support services to individuals many of whom will need assistance to stabilize their housing, prevent a return to homelessness, improve tenants' community integration and connectedness, as well as their emotional, physical health and well-being.

The terminology and definitions used in this RFP are in Appendix 1.

Each reference in this RFP to a numbered or lettered "section", "subsection", "paragraph", "subparagraph", "clause" or "sub-clause" shall, unless otherwise expressly indicated, be taken as a reference to the correspondingly labelled provision of this RFP.

1.1 Purpose of RFP

The purpose of this RFP is to select qualified, not for profit housing providers with proven expertise to lease and operate **one or two modular buildings** and provide deeply affordable housing and support services to vulnerable residents, as further described in this RFP.

Proponents may make a proposal for one or both properties in one document. Proponents must clearly state in the Executive Summary section of their proposal if they are applying for both properties.

1.2 Background

Prior to the onset of the COVID-19 pandemic, Toronto was already experiencing an unprecedented demand for homeless services due to various factors including a lack of affordable housing options in the city. Despite adding 3,000 shelter spaces since 2015, shelter occupancy remains at capacity each night.

The current COVID-19 pandemic has quickly amplified the pre-existing challenges within Toronto's housing and homeless systems. In addition, it has caused considerable added strain on the emergency shelter system largely due to requirements around physical distancing and isolation. As part of the City's response to COVID-19, the City has added 30 temporary response sites in community centres and hotel locations to create physical distancing for clients within shelters, 24-hour respite sites and 24-hour drop-ins.

While ensuring that an adequate emergency shelter response for people in immediate need is important, providing appropriate permanent housing with supports is critical to reducing chronic homelessness. The City's HousingTO 2020-2030 Action Plan has also established an approval target of 18,000 supportive housing opportunities, including a minimum of 1,000 modular rental units, over the next ten years.

As such, the City is taking immediate action to create additional supportive housing for people experiencing homelessness using modular housing. Modular housing, which is prefabricated housing built in a factory and then transported to the site where it is assembled, is considered a faster construction option than conventional construction methods. As showcased in many jurisdictions in North America, modular housing provides an opportunity to respond rapidly to the city's urgent homelessness situation.

Toronto City Council, on April 30, 2020, approved the purchase and installation of 250 modular units to be used as supportive housing for homeless individuals within the City's shelter system – including the first 100 to be completed by September 2020.

Refer to the City Council decision on the first phase of the modular housing:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC20.6>

The City will issue a RFP in early 2021 to select qualified, experienced manufacturers for the second phase of the modular initiative which will include 150 modular units to be delivered in 2021.

Additionally, a competitive process will be undertaken by the Housing Secretariat to identify qualified non-profit housing providers interested in operating modular buildings, to shorten and simplify the method of matching housing providers with new sites as they become available in the future.

1.3 Modular Building Specification – Overview

The Phase One modular buildings are being designed, built and installed on each site by a manufacturer with proven expertise in developing pre-fabricated buildings, and will be ready for move-in and occupancy in the early fall of 2020.

Each modular building is proposed to be three storeys high, with an elevator and include self-contained bachelor units (approx. 350 square feet each) with a bathroom and a kitchenette. All units will be fully-furnished with beds, frames, side tables and other furniture plus appliances.

Proposed floor plans for the 11 Macey Avenue project are included in Appendix 2 as reference. In addition, each building will have communal amenity areas shared facilities, including an office, lounge, laundry and commercial kitchen. At least 25% of modular units will be fully accessible.

The City will maintain the ownership of the land and the modular buildings. The City will provide the land and buildings, through a 35-year lease arrangement.

2 Modular Housing with Support Services

2.1 Who Should Apply?

The City is seeking non-profit housing operators with a strong management and financial track record of operating rental housing, preferably with social or affordable housing program experience. Organizations must demonstrate the ability to manage the building(s) aimed at creating stable housing conditions for people experiencing chronic homelessness.

Proponents should also demonstrate availability of support services funding and their ability to deliver the support services required for people who have experienced homelessness, either directly or indirectly. This could be through a partnership with one or more support providers who have experience delivering services from a housing first and harm reduction approach. Proponents and/or the support service providers must have experience in providing supports for the intended tenant group (described in Section 2.2).

Proponents may make a proposal for one or both properties in one document. Proponents must clearly state in the Executive Summary section of their proposal if they are applying for both properties.

2.2 Intended Tenant Group

The intended tenant group are individuals experiencing homelessness who fall within one or more of the Provincial priority homelessness areas including:

- a) Chronic homelessness
- b) Indigenous homelessness
- c) Youth homelessness; and
- d) Homelessness following transitions from provincially-funded institutions and service systems or at risk of becoming homeless

Chronic homelessness refers to individuals who are currently experiencing homelessness and who meet at least one of the following criteria:

- they have a total of at least 6 months (180 days) of homelessness over the past year
- they have recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days)

Tenancy priority is to be given to those who have endured the most difficulty in obtaining housing previously and people who are experiencing chronic homelessness.

Tenant Access Plan

The City of Toronto's Shelter, Support & Housing Administration Division (SSHA) operates a Coordinated Access to Housing Supports (CAHS) Program. Prior to occupancy, SSHA staff will work with the Successful Proponent on a Tenant Access Plan for approval by the Director of Housing Stability Services, which will involve the identification of clients that are a match for the housing and the supportive services available at each of the modular sites.

Through CAHS, tenants will be referred from City-funded shelters, 24-hour drop-ins, eviction prevention programs, tenant relocation projects, or the Streets to Homes Program. Standardized support services assessment tools will be used in the referral process to ensure the tenants referred to the Successful Proponents are appropriate. These assessment tools will be provided to the Successful Proponent and any partner support service providers.

The Successful Proponent will use a housing first, harm reduction, and eviction prevention approach to tenancing these modular sites and will be required to adopt any tenant-level, case management or reporting mechanisms that the City may require.

2.4 What is Expected of the Successful Proponent

The Successful Proponent will operate one or both of the buildings, as identified in Section 1, under a long-term lease with the City of Toronto for a period of 35 years.

The Successful Proponent will be required to attend a number of meetings with local communities, the local Councillor and any additional stakeholder meetings at various stages of the project, as needed.

2.4.1 Administering and Marketing the Modular Units

Lease Payments

The Successful Proponent selected to operate each of the properties will be responsible for monthly lease payments for the term of the lease as outlined below. This rent payment is supportable by projected operating revenues.

Address	Number of Units	Monthly Lease Payment	Annual Lease Payment
11 Macey Avenue	56	\$5,850	\$70,200
150 Harrison Street	44	\$4,600	\$55,200

Administering Rents

The Monthly Occupancy Cost ("rent") for each units must not exceed 60% of the city-wide Average Market Rent (AMR). The City requires that AMR include heat, water and hydro. The following Average Market Rents for 2020 are to be used in preparing a proposal.

	100% AMR	60% AMR	Maximum Income Limit
Bachelor Unit	\$1,148	\$689	\$33,072

Rent increases will be governed by the guidelines set each year under Ontario's *Residential Tenancies Act, 2006* (RTA) and city-wide average market rents. The RTA guidelines apply pursuant to the terms of the Contribution Agreement, despite the current exemption for new buildings.

Selecting Tenants

The Successful Proponent will work with the City's Shelter, Support & Housing Administration ("SSHA") staff on a Tenant Access Plan acceptable to the City, prior to occupancy. The Proponent will be required, to accept referrals for housing placement and support services from the City's Coordinated Access to Housing System.

It will be the Proponent's responsibility to ensure all prospective tenants are income tested in order to meet the requirement of the City's Municipal Housing Facility By-law which requires that the household gross income limit be no more than four times the actual rent payable by bedroom type in the development.

2.4.2 Providing Supports

The Successful Proponent must provide housing stability support services to tenants. This can be done through direct service provision or through the development of partnerships with experienced support service providers who will work with the tenants directly and liaise with the housing operator to promote housing stability.

Types of supports provided will depend on the type of funding for supports available to the Successful Proponent. It is expected that future tenants of modular buildings will need a range of on-site support services including, but not limited to, the following:


- a meal program;
- supporting residents to maintain stability in their residencies, including but not limited to directly assisting with room de-cluttering, resident rent contribution and/or repayment plans;
- assistance with substance use issues, including assessments; referral to treatment services offered in residential and non-residential settings; relapse prevention;

recovery planning; fetal alcohol supports; supports related to concurrent disorders and withdrawal services;

- individual or group support services such as: counselling, crisis prevention, harm reduction, and intervention services
- Connecting residents to community supports and services such as: education; employment; health; life skills;
- Assistance in accessing a range of social and income assistance (Ontario Work or Ontario Disability Support Program), or establishing a bank account as appropriate.

Staffing for Support Services

The intensity of support services will vary depending on the specific needs of tenants. Therefore the Successful Proponent will ensure a sufficient staff to client ratio in order to meet case management needs. The following staff-to-client ratios should be used as a guide when determining the intensity of supports offered by a Proponent. The ratios are reduced when supports target youth tenants, as recommended by the [Canadian Observatory on Homelessness](#).

	Standard staff to client ratio	Youth staff to client ratio
 Lower support	1:25-30	1:20-25
	1:20	1:15
	Higher support 1:10	1:7

It is expected that the Successful Proponent will support clients for as long as required and if necessary transition the client to a different level of supports if the need arises.

Support services must be responsive to the individualized needs of tenants, which may vary overtime. For instance, specific supports for youth tenants are to assist in the transition to healthy adulthood through engagement with education and training, employment, and/or family reunification, where appropriate. Supports for people leaving institutional care are to meet the housing and other requirements of the relevant service system, with the goal of preventing a return to provincial institutions or homelessness.

The Successful Proponent must also adhere to the City's Anti-Racism, Access and Equity Policy and Guidelines, attached here at Appendix 3.

Support Services for Indigenous Peoples

The City of Toronto recognizes that Indigenous Peoples have the right to be actively involved in developing and determining housing and other economic and social support programs affecting them. As such, the delivery of Indigenous-led support services that facilitate culturally-competent programming will be encouraged. For Indigenous individuals and families, funding could support culturally-appropriate services and connection with community (for example, local and/or home community, including First Nation band, Métis settlement, etc.).

3 Funding and Resources

3.1 Housing Benefits

The City of Toronto will provide Housing Benefits to all residents in the two modular buildings. The Successful Proponent will receive the difference between 60% of the city-wide Average Market Rent (AMR) for a bachelor unit and the geared-to-income rent charged to the tenant. The rent payable by the tenant will be based on their income.

Proponents should identify in their proposal if there are additional sources of operating funding available for housing or support services. Additionally, all eligibility criteria or program-related criteria related to these sources of funding should be clearly articulated in the proposal.

3.2 Property Tax Exemption

The projects will be exempt from property taxes, for the purposes of municipal and school purposes for the term of the lease.

4 Legal Agreements

The Successful Proponent will be required to enter into the following agreements, copies of which are attached hereto, as indicated.

1. An Offer to Lease (Appendix 4), a signed copy of which should be included in the proposal and which Offer has the following agreements attached as part of the legal transaction:
 - a. Lease Agreement, substantially in the form attached as Schedule A to Offer to Lease (Appendix 4).
 - b. Contribution Agreement substantially in the form of the agreement attached as Schedule B to Offer to Lease (Appendix 4);

The Offer to Lease sets out terms and conditions under which the parties will enter into the Lease.

The Contribution Agreement sets out the reporting requirements, and prescribes rent levels and household income limitations and generally all obligations of the Proponent. The Contribution Agreement will be entered into at the time of signing the Lease.

Proponents should carefully review all legal agreements attached before applying to this RFP. You will be deemed to have agreed to the terms of both agreements, substantially in the form of the documents attached.

Acquiring the leasehold interest in the modular buildings

Both modular buildings are expected to be complete and ready for turn-over in September 2020, at which point the Successful Proponent(s) will be expected to sign the Contribution Agreement and enter into a lease with the City and take possession. On taking possession, the Successful Proponent must ensure that it has the full complement of operating and support staff hired, trained and ready to start.

It is anticipated, that prior to possession, the Successful Proponent will have the opportunity to inspect the building(s), together with representatives of the manufacturer and the City in order to identify outstanding deficiencies and to be trained on the buildings systems.

The Successful Proponent will be responsible for monthly lease payments of approximately \$5,833 for 11 Macey Ave. and \$4,583 for 150 Harrison Street for 35 years. This rent payment is supportable by projected operating revenues.

The Successful Proponent will also be responsible for all ongoing operational, maintenance and capital repair. A capital asset reserve fund study must be completed within the first year of the Lease and will be used to determine the contributions to a capital reserve fund. The reserve fund will be established by the Successful Proponent. The capital asset reserve fund study will also provide guidance on the timing and extent of the capital repairs and replacements required during the term of the Lease.

5 Making a Proposal

Proponents must fully respond to all sections as outlined in this section. To assist in the preparation of proposals, Appendix 5 contains a Submission Checklist of all required submission documents.

5.1 Executive Summary

(a) Letter of Introduction

The Letter of Introduction will introduce the Proponent to the City by setting out a brief outline of the proponent and the members of the team making the proposal. The Letter of Introduction should be signed by the person(s) authorized to sign on behalf of, and to bind the Proponent to, statements made and information contained in the proposals to this RFP.

The Letter of Introduction should contain the same signature as the person signing the Proposal Submission Form.

(b) Table of Contents

Include page numbers and identify all included materials in the proposal submission **including appendices and their tab numbers.**

(c) Summary of Proposal (Not Scored)

The summary should outline in a clear and concise manner the key qualifications of the Proponent and the key features of the proposal.

(d) Signed Offer to Lease

The offer to lease submitted by the Successful Proponent will be accepted by the City. There is no need to include the attachments, if an acknowledgement of your acceptance of the terms of those attachments is included in your proposal.

5.2 Affordable Rental Housing Management Qualifications

Demonstrate the Proponent's experience in operating good quality rental housing with support services, providing property management services, maintaining a portfolio of rental housing in a state of good repair by providing the following:

- (a)** An outline that demonstrates the Proponent has the experience to effectively manage the project over the term.
- (b)** References for housing projects managed over the past five years by the Proponent including:
 - name of the reference and their relationship to the Proponent or partner;
 - a contact name and title, postal address, telephone number, e-mail and website, if any;
 - a description of the project, highlighting the number of units, location, type of residents, tenure, age of building, specific features, etc. and
 - the services provided to the reference and for what period. Note any specific difficulties encountered in the management of the project, if applicable, and outline how they were overcome.
- (c)** A rental management plan explaining the roles and relationships of all parties and staff involved in the management and operation of the building, including:
 - what organization will be responsible for property management;
 - how safety and security will be managed;
 - how site supervision will be implemented;

- how tenant relations will be managed
- (d) Demonstrate successful management of capital assets by providing information on how replacement reserve funds have been managed, including capital replacement reserve studies or building condition assessments commissioned.
- (e) Provide a plan for the long term sustainability of the project including measures to showcase and promote sustainability with staff, residents and service contractors. Include information that demonstrates your success in routine and innovative management strategies such as preventive maintenance and engagement approaches for building sustainable practices and awareness among residents
- (f) A list of key consultants, organizations and individuals known at this time that would be involved in property management and in providing support services, their experience and expertise in relation to similar projects and an outline of the duties and responsibilities to be assumed in the operation and management of the proposed project and the provision of support services;
- (g) A list of resumes for the consultants and individuals involved in property management and the provision of support services provided in an appendix to the Proposal. Include a signed consent authorizing the disclosure of personal information to the City, or its designated agent, for each resume that is submitted. However, the Proponent will accept all liability for disclosure if any consent is not provided to the City.

5.3 Support Services Plan

Demonstrate the Proponent's or partner agency's financial ability to provide and experience in delivering of the housing and support programs specifically targeted to people experiencing homelessness

- (a) **Proof of funding available to** the Proponent or partner agency to deliver housing-specific support services programs appropriate for the Intended Target Group including:
 - Written confirmation from the funding source regarding availability of funding for delivering support services including amount and duration of funding.
 - Funding program details – including eligibility criteria, eligible and ineligible costs, eligible staffing positions, etc.
- (b) An outline that demonstrates the Proponent or partner agency has the **experience** in delivering housing-specific support services programs that serve individuals who have experienced homelessness, with demonstrated experience in the following areas:

- mental health and substance use supports;
- complex case management;
- housing first informed service delivery;
- working with youth experiencing/at risk of homelessness
- working with Indigenous people experiencing/at risk of homelessness in Toronto
- working with vulnerable and marginalized sectors;
- working with a trauma informed and harm reduction informed service delivery;
- system navigation and familiarity with accessing services at various levels of care; and,
- data collection and reporting for evaluation and quality assurance purposes.

(b) The Proposal must demonstrate the Proponent's ability to meet all City of Toronto requirements including:

- Accepting referrals for housing placement and support services from the City's Coordinated Access to Housing System;
- Adhering to City requirements, as required, including program oversight, contract compliance, financial and results reporting requirements, changes in target population groups, and case load management standards;
- Implementing standardized tools to enhance client assessments and improved support service provision;
- Adopting any case management or reporting software that the City may require;
- Participating in any other reporting and/or evaluation as required by the City.

(c) A staffing plan including roles and responsibilities of staff, specifying the staffing model and the staff to client ratio by the hours/day and:

- A list of and resumes for key consultants, organizations and individuals known at this time that would be involved in providing support services, their experience and expertise in relation to similar projects and an outline of the duties and responsibilities in support provision for the clients;
- Include a signed consent authorizing the disclosure of personal information to the City, for each resume that is submitted. However, the Proponent will accept all liability for disclosure if any consent is not provided to the City.

(d) In the case that support services are delivered through a third-party partner agency, that the support services delivery partner is an organization that is:

- Located within the boundaries of the City of Toronto, or an urban off-reserve Indigenous-led organization located in the City of Toronto who may also provide culturally-based programming outside the boundaries of the City of Toronto;
- A legal not-for-profit or be an urban off-reserve Indigenous-led organization;

- Not or has not been indebted to the City or be in default of the terms and conditions of any agreement (including any previous grant agreement) with any division, agency, board or commission of the City of Toronto under the discretion of the Division Head.

5.4 Corporate Financial Viability

Demonstrate that the Proponent is a financially sound and viable organization that has the experience and capability to successfully operate the project, including the provision of supports by providing the following:

(a) Proof of financial viability -

audited financial statements or annual report for the two (2) most recent years available; not-for-profits should show reserve funds;

OR

a letter from its financial institution or accountant providing assurance to the City that the Proponent has been, and is:

- i) financially viable and solvent as a going concern; and
- ii) that the undertaking of this project will not put any undue financial burden on the Proponent.

(b) Copies of the organization's Articles of Incorporation or Letters Patent, the general and borrowing bylaws, as well as a list of the directors.

(c) If the Proponent has been formed to manage this project, information about each member organization. Describe the legal nature of the relationship and the roles and responsibilities of each party. Provide details of how and when the parties have worked together in the past.

5.5 Operating Budget

Demonstrate that your proposal is financially viable for the term of the Lease with the City, and that the Successful Proponent can continue to provide quality, affordable, rental housing with supports throughout the term, by providing the following:

(a) A completed Operating Budget (in the form attached as Appendix 6) with detailed notes on assumptions to arrive at cost figures. Include figures for the entire development, if any.

- The City's property tax exemption should be assumed for the purposes of preparing the budget.

- Operating budgets are to be based on 2020 costs.
- (b)** A completed 10-year Operating Budget to show the sustainability of the project over time with anticipated inflationary costs.

5.6 Additional Mandatory Requirements

Each proposal must include the following completed forms, all of which are provided in Appendix 7:

- i. Form 1 - Proposal Submission Form signed by an authorized official of the Proponent
- ii. Form 2 - Conflict of Interest Form
- iii. Form 3 - Policy to Exclude Bids from External Parties involved in the Preparation or Development of a Specific Call/Request
- iv. Form 4 - Restrictions on the Hiring and use of Former City of Toronto Management Employees for City Contracts
- v. Form 5 - Environmentally Responsible Procurement Statement
- vi. Form 6 - Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

6. The RFP and Selection

6.1 The RFP Process

The RFP process is governed by the Terms and Conditions set out in Appendix 8. The Selection Committee, composed of staff from the Housing Secretariat, SSHA, Corporate Finance, is bound by the procedures set out in this RFP and must ensure that all Proposals receive fair and equitable treatment throughout the evaluation process.

By responding to this RFP, Proponents will be deemed to have agreed that the decision of the Selection Committee will be final and binding. The City is under no obligation to choose a Proponent if none meet the requirements outlined in this RFP.

6.2 Schedule of Events

Milestone	Date
RFP issued	June 15, 2020
RFP Online Information Meeting	July 6, 2020 – 10:00 am
Deadline for Questions from Proponents	July 21, 2020 – 12:00 noon
Release of Final Addendum (if any)	July 24, 2020
Proposal Submission Deadline	July 29, 2020 – 12:00 noon
Interviews (if applicable)	Week of August 10, 2020
Selection Announcement	Week of August 17, 2020
Lease commencement Date	September/October 2020

This schedule is subject to change and appropriate written notice of any changes will be provided where feasible on the City's Housing Secretariat website at www.toronto.ca/affordablehousing.

6.3 Information Sessions

A virtual information session will be held on July 6, 2020 at 10 am. Visit www.toronto.ca/affordablehousing for instructions on how to join in, listen and ask questions

6.4 Questions

Please direct any specific questions regarding this RFP in writing to Mercedeh Madani, Policy Development Officer, mercedeh.madani@toronto.ca before the deadline for questions date below. To ensure that all Proponents have access to the same information, all RFP revisions and any answers to submitted questions will be communicated electronically as an addendum.

6.5 Addenda

If it becomes necessary to revise any part of this RFP, post questions and answers or clarify aspects of the RFP, the information will be by Addendum circulated electronically and noted on the City website <https://www.toronto.ca/community-people/community-partners/affordable-housing-partners/open-requests-for-proposals/>. Potential proponents should monitor this webpage frequently until the day of submission deadline. Only answers to issues of substance will be posted. The City reserves the right to revise this RFP up to the Closing Deadline.

The City will make all reasonable efforts to issue the final Addendum (if any) no later than five (5) days prior to the Deadline.

6.6 Evaluation Criteria

Proposals will be assessed on the basis of the criteria set out below. A successful proposal must score a minimum of 70 points in total.

The City shall not be obliged to accept any proposals in response to this RFP.

EVALUATION CRITERIA	Points Available
Mandatory Forms	Pass/Fail
Executive Summary	Not Scored
Affordable Rental Housing Management Qualifications	25
Support Services Plan	25
Corporate Financial Viability	25
Operating Budget	25
TOTAL	100

6.7 Proposal Evaluation and Selection Process

- a. The Selection Committee will evaluate Proposals based on the information provided by the Proponents in their submissions and will score Proposals using the above Evaluation Criteria.
- b. Proponents scoring a minimum 70% may be required to attend an interview with the Selection Committee. The interview will be used to clarify information in Proposals only. No new information is permitted. The interview will be used to confirm or revise the Proponent's score before the Selection Committee's final decision.
- c. A Proponent may be invited to an interview, the results of which will be used as a mechanism to revisit, revise, confirm and finalize the evaluation score. Interviews may be conducted in person or by phone.

The representatives of a Proponent who attend an interview are expected to be knowledgeable in the content of the RFP and the Proposal. The Selection Committee may

interview any Proponent(s) without interviewing others, and the City will be under no obligation to notify those Proponents not receiving an invitation for an interview. No Proponent will be entitled to be present during, or otherwise receive, any information regarding any interview with any other Proponent.

- d. Selection Committee may also ask Proponents for clarification in writing. A request for clarification is only intended to remove contradictions or ambiguities in a Proposal to permit a fair evaluation. No new information is allowed. The Selection Committee may request this further information from one or more Proponents and not from others. Any information provided in writing by a Proponent in response to a request for clarification will form part of their formal Proposal.

Appendices

Appendix 1 – Definitions

Appendix 2 – Proposed Floor Plans for 11 Macey Avenue

Appendix 3 – City of Toronto's Anti-Racism, Access and Equity Policy and Guidelines

Appendix 4 – Offer to Lease

Appendix 5 – Proposal Checklist

Appendix 6 – Operating Budget Form

Appendix 7 – Mandatory Forms

Appendix 8 – RFP Terms and Conditions

Appendix 1- Definitions

Throughout this Request for Proposal, unless inconsistent with the subject matter or context, the following definitions will apply:

"Access Plan" means a policy established by the Proponent specifying how tenants are to be Successful and how information about such process is disseminated to the public.

"Affordable Rental Housing" for the purpose of the modular housing in this RFP means permanent affordable rental housing with the Monthly Occupancy Costs of each unit set at 60% of Average Market Rent or lower.

"Average Market Rents" or "Average Rents" or "AMR" means average monthly City-wide rents by bedroom type as determined in the autumn survey published by CMHC for the prior calendar year; if CMHC does not publish a survey of City-wide rents, then "average market rents" for the calendar year shall be City-wide average rents as determined by the City.

"Bedroom Type" means unit size as categorized by bedroom count, i.e. 1-bedroom or 2-bedroom.

"City" means the City of Toronto.

"CMHC" means Canada Mortgage and Housing Corporation.

"Contribution Agreement" means the written contract, substantially in the form of the Contribution Agreement attached hereto as Schedule B to Offer to Lease (Appendix 4).to be entered into between the City and a Successful Proponent with respect to the operation of the affordable housing contemplated by this RFP.

"Council" means Toronto City Council.

"Lease" means the lease to be entered into with the City, for the site, substantially in the form of the Lease attached hereto as Schedule A to Offer to Lease (Appendix 4).

"MFIPPA" means the Municipal Freedom of Information and Protection of Privacy Act.

"Monthly Occupancy Costs" means the total of the monthly rent payable to the Proponent for a Unit including the cost of hydro, heat, water and hot water; and Monthly Occupancy Costs do not include charges for applicable taxes, parking, cable, internet, telephone or any other like charges. If heat, water or hydro costs are separately metered and paid directly by the household, then the Proponent shall deliver the Utility Allowance by way of setting off the amount of the Utility Allowance against the monthly rental payable;

"Proponent" means a non-profit legal entity, being a person, partnership or firm that submits a Proposal in response to this formal Request for Proposal.

“Proposal” means an offer submitted by a Proponent in response to a formal Request for Proposals (RFP), which includes all of the documentation necessary to satisfy the submission requirements of the RFP.

“Province” means the Province of Ontario as represented by the Minister of Municipal Affairs and Housing.

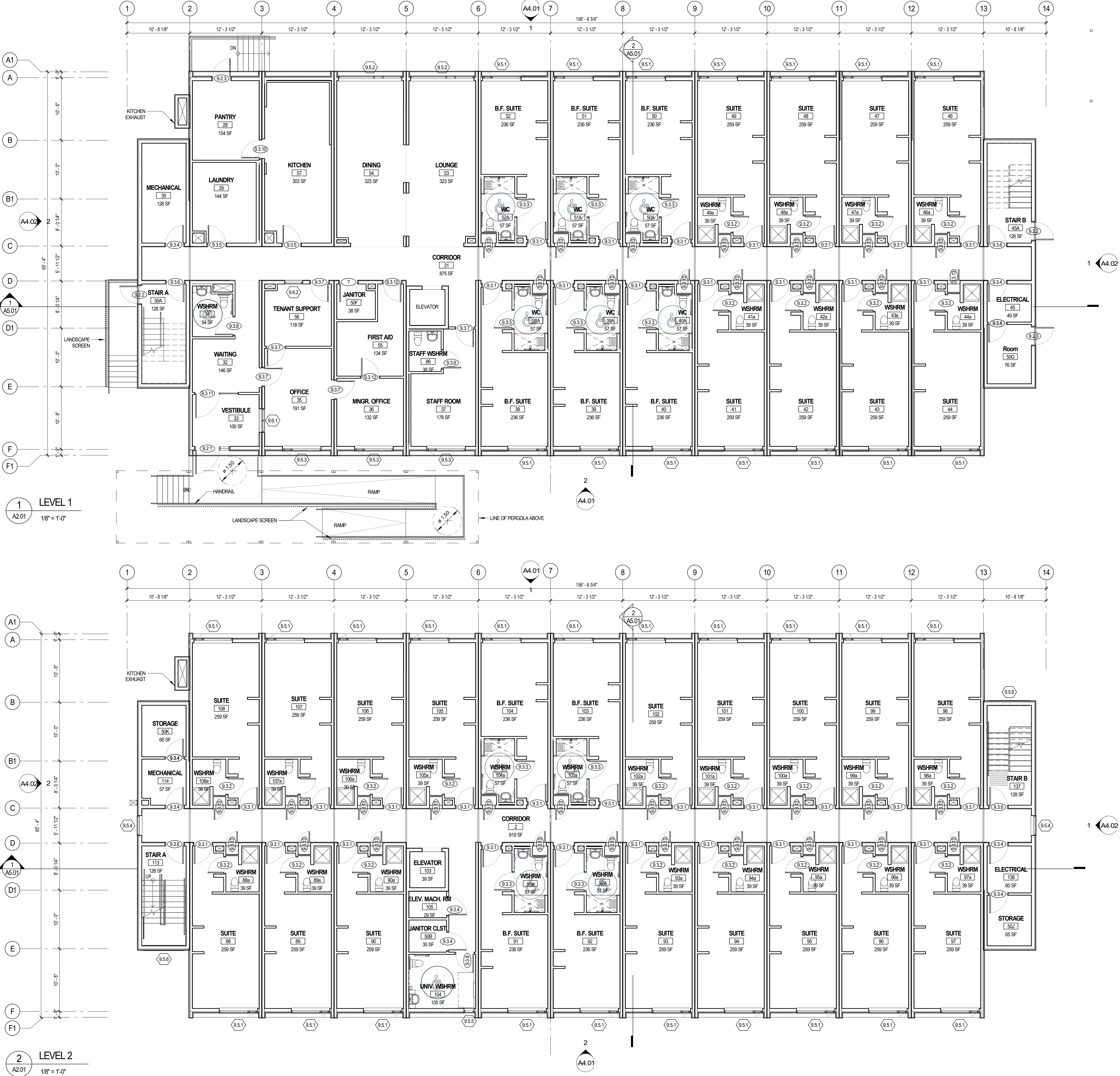
“RFP” means this Request for Proposal package in its entirety, inclusive of all Appendices and any Addenda that may be issued by the City and published on the website at www.toronto.ca/affordablehousing.

"Supportive Housing" means affordable rental housing and a combination of housing assistance and support services that enable people needing support services to live as independently as possible in their community.

“Successful Proponent” means the Proponent or Proponents whose Proposal, as determined through the evaluation criteria described in the RFP, best meets the City’s requirements and with whom the City enters into a Contribution Agreement and lease for one or both of the modular housing sites.

"Utility Allowance" means the average amount of separately metered utility costs, determined by the City and published on the City's web site.

Appendix 2-
Floor Plans - 11 Macey Avenue
(subject to final approvals)



Montgomery Sisam Architects Inc.
197 Spadina Avenue, Toronto, Ontario M5T 2C8 montgomerysisam.com
Tel 416.364.8079 Fax 416.364.7723

MontgomerySisam



3	20.06.05	ISSUED FOR SITE PLAN APPROVAL	MSA
2	20.05.29	PROGRESS SET	MSA
1	20.05.15	PROGRESS SET	MSA
#	date:	revision:	by:
revisions			



All drawing and specifications are the property of the architect. The contractor shall verify all dimensions and information on site and report any discrepancy to architect before proceeding.

Modular Housing

11 Macey Street,
Scarborough, ON

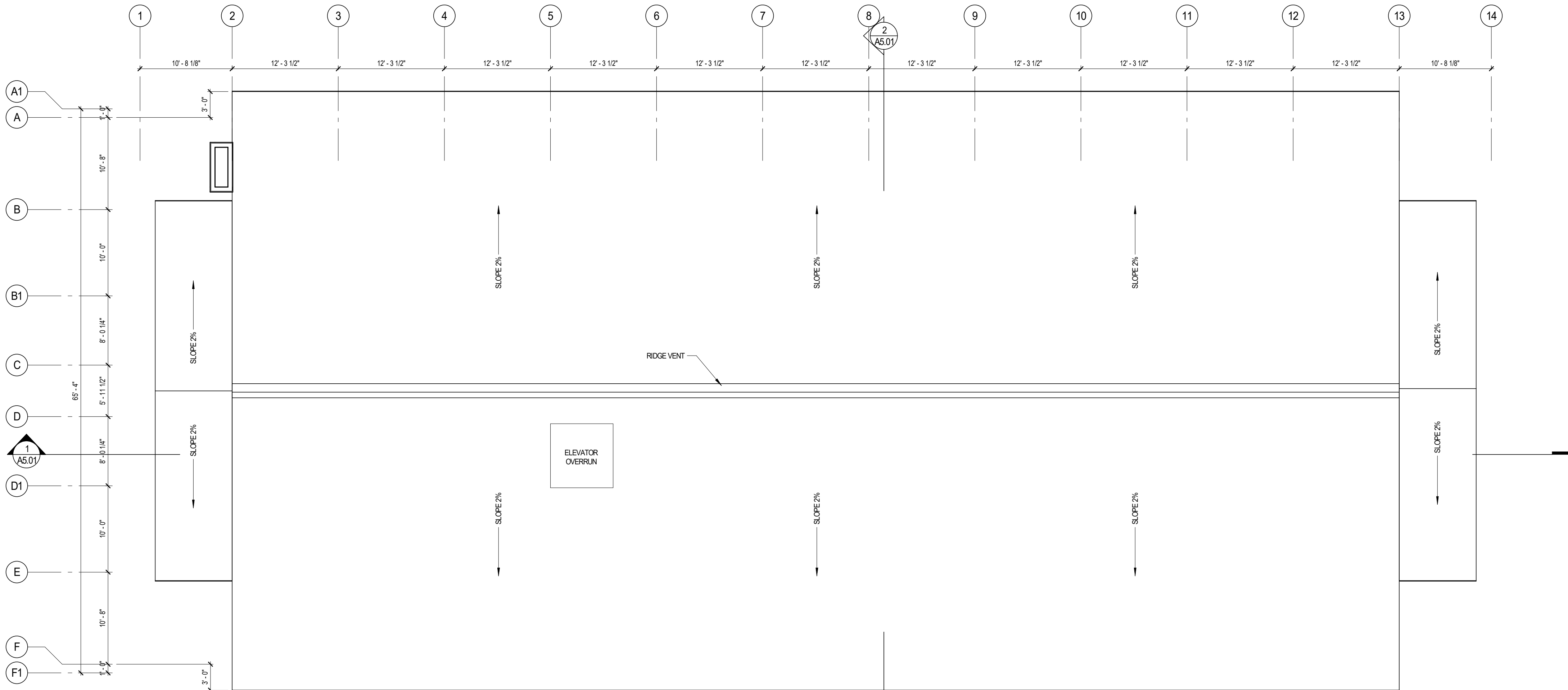
LEVEL 1 & 2 PLAN

scale: 1/8" = 1'-0"
drawn by: BW / MO
reviewed by: EM / KH
job number: 20031
plot date: 20-06-05
drawing number:

A2.01



1 LEVEL 3
A2.02 1/8" = 1'-0"



2 ROOF
A2.02 1/8" = 1'-0"



3	20.06.05	ISSUED FOR SITE PLAN APPROVAL	MSA
2	20.05.29	PROGRESS SET	MSA
1	20.05.15	PROGRESS SET	MSA
#	date:	revision:	by:
revisions			



All drawing and specifications are the property of the architect. The contractor shall verify all dimensions and information on site and report any discrepancy to architect before proceeding.

Modular Housing

11 Macey Street,
Scarborough, ON

LEVEL 3 PLAN & ROOF PLAN

scale: 1/8" = 1'-0"
drawn by: BW / MO
reviewed by: EM / KH
job number: 20031
plot date: 20-06-05
drawing number:

Appendix 3 – City of Toronto's Anti-Racism, Access and Equity Policy and Guidelines

Applicable to Recipients of Grants from the City of Toronto and its agencies, boards and commissions

**Approved by City Council, December 16 & 17, 1998
(Strategic Policies & Priorities Committee Report 6, Clause 5)**

I. Policy Statement:

The population of the City of Toronto is made up of people from diverse communities and equity-seeking groups, e.g., women, people with disabilities, ethno-cultural and racial minorities, immigrants and refugees, faiths, the socio-economically disadvantaged, Aboriginal peoples, lesbian, gay, bisexual, transgendered persons. In recognition and support of this diversity, the City as a funder will ensure that:

- (1) It provides access for organizations representing these communities to the grants programs provided by the City of Toronto. This includes access to grants information, applications, staff resources, decision-making and funding; and
- (2) The services, programs and decision-making provided by organizations receiving grants are accessible to all residents of Toronto and that organizations receiving City grants are free from discrimination.

This policy recognizes that the changing nature of the population has implications for the operation of the City's grants programs as well as the delivery of services supported by City grants. In this context, the City recognizes that:

- (1) Barriers to services exist for members of the City's diverse communities, particularly for equity-seeking groups;
- (2) Organizations representing equity-seeking groups (e.g., women's organizations, Aboriginal organizations, ethno-specific and disability organizations) must continue to play a critical role in service delivery; and
- (3) The City of Toronto, as a funder, must act as a positive force in assisting the elimination of these barriers by providing support to both mainstream and equity-seeking organizations through the change process.

Access to services is the ability or extent to which communities or residents can attain needed services and achieve full participation in the planning, development, administration and delivery of those services. Access includes consumer/client access and organizational access.

To achieve this:

- (1) The City of Toronto will ensure its diverse communities, particularly those facing barriers and other forms of discrimination and disadvantage, have equitable access to its own services, resources and decision-making in order that all communities can fully participate in the City's social, economic, cultural and political life.
- (2) The City of Toronto will also require organizations receiving City grants to undertake planned and coordinated activities aimed at enabling diverse communities, particularly those facing barriers and other forms of discrimination and disadvantage, to participate fully in their services, programs and decision-making.
- (3) The City of Toronto undertakes this because it believes that when every individual makes a conscious effort to bring about equality and to engage in egalitarian practices, the City will be able to effect the systemic and social changes needed to create a community where all people live with dignity and peace. The City of Toronto also believes that its diverse communities need to partner with and assist each other in developing actions to eradicate discrimination and attain equality in our society and that the City can play a proactive and supportive role in this process.

II. Implementation

To implement these principles, the City of Toronto's grants programs will ensure that:

- (1) All organizations receiving City grants are non-discriminatory and promote the goals of anti-racism, access and equity;
- (2) All organizations receiving City grants take reasonable steps to ensure their services, programs and decision-making reflect the community they serve;
- (3) The City of Toronto's grants programs are accessible to organizations from Toronto's diverse communities, including organizations representing equity-seeking communities; and
- (4) All required documentation and conditions will be reasonable and grants will not be withheld if the Proponent is taking reasonable steps to comply with City policy.

Actions required to achieve this are described below:

- (1) **Declaration of Non-Discrimination**
Every person has the right to live, work and serve in an environment free of individual as well as systemic harassment and discrimination. Regarding the operation of the City's grants programs, the City of Toronto requires that all individuals and organizations adopt a policy of access and non-discrimination based on the City's Human Rights Policy as a condition of receiving a grant or other support from the City's grants programs. Discrimination means someone is being treated unfairly because of her/his status. In some cases, discrimination also means someone is being treated unfairly because he or she receives welfare, or if the person has been pardoned for a criminal offence. The Declaration

of Non-Discrimination Form must be completed by individuals and organizations applying for grants or other supports.

Discrimination is prohibited on the grounds of Age, Ancestry, Citizenship, Creed (religion), Colour, Disability, Ethnic Origin, Family Status, Gender Identity, Level of Literacy, Marital Status, Membership in a union or staff association, Place of Origin, Political Affiliation, Race, Receipt of Public Assistance, Record of Offences, Sex, Sexual Orientation or any other personal characteristic. (The City of Toronto's Human Rights & Harassment policy protects grounds which are in addition to those protected under the Ontario Human Rights Code. These grounds are: gender identity, level of literacy, political affiliation. The Human Rights & Harassment policy has been approved by City of Toronto Council at its meeting on December 16-17, 1998 as embodied in Clause 2 in Report No. 19 of the Corporate Services Committee).

Discrimination could occur on the basis of employment, services, contractual arrangements, or membership in unions. It is essential to develop complaint/ mediation policies for incidents that could occur between employees, employees and management, employees and volunteers, employees and consumers, as well as between agencies.

(2) Anti-Racism, Access and Equity Components:

The following components are provided as guidelines to assist organizations receiving City grants in their efforts to integrate anti-racism, access and equity throughout their operations. The components address anti-racism, access and equity in the following areas: (a) Governance; (b) Employment; (c) Services; (d) Choice; (e) Training and Education; and (f) Information and Communications.

- (a) Access to Governance - Organizations receiving City grants will ensure that members of the City's diverse communities have equitable access to the organization's decision-making process. This includes decision-making, policymaking, budgeting and allocations. The Board of Directors, its volunteer committees and staff need to be representative of the diversity of the community it serves, as well as be responsive to the changing demographics. New board members should be educated and trained to effectively govern the organization. The Board has to be accountable to its members and communities.
- (b) Access to Employment - Organizations receiving City grants will ensure that members of the City's diverse communities have equitable access to employment. This includes recruitment, selection, staff development, performance evaluation, retention, promotion, termination. It also requires the identification and removal of systemic barriers so that the organization's staff are representative of diverse communities and are able to serve the needs of the changing population.
- (c) Access to Services - Organizations receiving City grants will ensure that they undertake planned and co-ordinated activities aimed at making their services and programs accessible to diverse communities. This includes examining and making appropriate changes to those who provide the organization's services, those who

are receiving services and the way in which services are provided to ensure they are non-discriminatory and promote the goals of anti-racism, access and equity. In this context, the organization's outreach, communications, and structures for intake, referral, needs assessment, program planning, monitoring and evaluation must be examined and appropriately changed.

In addition, organizations receiving City grants must take into consideration provision of services to disadvantaged individuals, low-income persons, families in poverty, and equity-seeking communities.

- (d) Access to Choice - Organizations receiving City grants will ensure that their services, programs and decision-making provide a range of service options that enable the consumer or the community to make their own decisions about their lives and their community issues.
- (e) Access to Training and Education - Organizations receiving City grants will ensure that those involved in the delivery of services and programs are able to participate in appropriate education and training aimed at improving their knowledge, understanding and skills in order to work with and provide services to members of diverse communities, particularly equity-seeking communities.

Such training and education may involve Board members, staff and volunteers and include orientation and development in the areas of anti-racism, human rights, accommodation for people with disabilities, sexual orientation in the workplace and the community, etc.

- (f) Information and Communications - Organizations receiving City grants will ensure that information on its services, programs and decision-making and how they can be accessed as well as all of the organization's communications appropriately portray and are accessible to diverse communities. This includes external and internal communication and must address multilingual requirements as well as accommodate those who are sight and hearing impaired.

It is essential that the components listed above are implemented with an anti-racist approach. In this context, organizations receiving City grants will be involved in the development and promotion of unbiased attitudes, beliefs, policies and procedures as well as the identification and elimination of derogatory behaviours, actions, and practices of Board members, staff, volunteers, community members, residents and the organization's policies and procedures that have a direct or adverse impact on Aboriginal, ethno-racial and linguistic minority communities.

III. Access to City Grants Programs:

In terms of the City's responsibilities, each City grant program will include the following into the operations of their grants programs:

- (1) Environmental Scanning and Priority Setting:

This will require all grants programs to identify demographic, community and service trends, priorities of other funders, gaps in service and program delivery. This is done to enable grants programs to establish priorities for funding on a regular basis and, thereby, to encourage grants Proponents to establish programs and services which meet community issues and needs.

(2) Allocation of Funds:

This will require all grants programs to undertake to provide funding based on both indicators of community need and community demographics. The issue of need as well as community demographics are determined in the environmental scanning process. In considering the allocation of funds, each grants program will need to determine the demographic make-up of the organizations seeking and receiving funding and undertake to ensure an equitable distribution of funds. Particular consideration will be given to organizations representative of equity-seeking communities.

(3) Outreach and Community Development:

This will require all grants programs to determine the most appropriate strategies to provide community outreach and development. Each grants program will ensure a planned and co-ordinated approach to these activities in order to increase the capacity of diverse communities and their organizations, particularly those representing equity-seeking groups.

(4) Setting Performance Standards and Monitoring Results:

This will require all grants programs to establish performance measures to guide the administration of grants programs and to set ways in which the grants administration process can be reviewed, assessed and improved. Monitoring results of grants administration is also essential to ensuring such programs are achieving their objectives, particularly respecting equity-seeking groups.

(5) Assessment of Organizations:

This will require each grants program to ensure that its funded organizations or recipients of other supports fulfil the anti-racism, access and equity policy outlined above. The policy is designed to ensure full civic participation of all communities and specifically to engage in efforts to achieve equality for all of Toronto's communities.

In addition, each grants program will require organizations receiving funds to develop access and equity action plans and to submit a report on this annually along with the grants application form. This information will be used in the grants assessment as well as become part of the information which will be analysed and submitted to Council.

IV. Policy Implementation:

All of the City's grants programs are required to integrate the above policy and principles within their operations. This will be done in ways that are appropriate to the operations of each grants program and their capacity to undertake the activities identified above. To ensure this is being done, all grants programs will report annually on actions being taken to implement this policy.

In addition to reporting out annually, all grants programs will work together to streamline requests from organizations receiving grants from more than one City grant program.

Terms of organizations receiving grants:

- (1) All organizations will be required to file a Declaration of Non-Discrimination;
- (2) Organizations with total annual operating budgets greater than \$25,000.00 will be required to submit documentation regarding their anti-racism, access and equity policies.
- (3) Organizations receiving one-time grants will be required to include in their grant request how they intend to address the City's policy principles.

The City of Toronto recognizes that inequities, discrimination and disadvantage are generated and maintained through various means, including individual and systemic practices. To address this, the City recognizes that it, as well as organizations seeking and receiving City grants, needs to support the creation of an equitable society. Failure or unwillingness to engage in such activities could result in negative consequences and result in the withholding of City funding or the rejection of an application for funding.

Clause # 5, Report # 6 of the Strategic Policies and Priorities Committee Adopted by Toronto City Council December 16 & 17, 1998.

APPENDIX 4 - Offer to Lease

OFFER TO LEASE

BETWEEN:

CITY OF TORONTO

(the "Landlord")

- and –

[•]

(the "**Tenant**")

Whereas:

- A.** The Landlord has agreed to lease the lands and building municipally known as **[•]** (the "**Demised Premises**") to the Tenant;

Now therefore in consideration of the mutual covenants hereinafter set out, the parties hereby covenant and agree with each other as follows:

1. Tenant Offer to Lease

- (a) The Tenant hereby offers to lease the Demised Premises from the Landlord, substantially on the terms and conditions set out in the lease attached hereto as Schedule A (the "**Lease**").
- (b) Unless otherwise defined herein, all capitalized terms used in this Offer to Lease shall have the meaning set out in the Lease;
- (c) This transaction shall be closed on October 1, 2020, unless extended as hereinafter set out (the "**Closing**").

2. Tenant's Covenants

- (a) Cooperate with the Landlord to attend at the Demised Premises in connection with the actions contemplated pursuant to Section 5.1 hereof.
- (b) Notwithstanding Section 5 below, the Tenant shall be responsible for its own information technology service contracts (i.e. Bell and Rogers) for internet, cable, TV and telephone services.

3. Landlord's Covenants

The Landlord shall upon execution of this Offer to Lease by the Tenant:

- (a) Permit the Tenant or its authorized representatives to have access to the Demised Premises prior to Closing, accompanied by a representative of the Landlord, from time to time until Closing, at all reasonable times during Business Hours on twenty-four hours' notice to the Landlord and subject to reasonable availability of the Landlord's representative, for the following purposes:
 - (i) familiarizing itself with the Demised Premises and the Building Systems, including without limitation the fire life safety system, mechanical systems, security system, IT configuration of office spaces (i.e. superintendent's office) and amenity spaces such as staff room and meeting rooms, access and control systems, signage requirements, etc.;
 - (ii) showing model units to potential Licensees; and
 - (iii) conducting inspections of the Demised Premises to determine work needed to be completed or coordinated prior to occupancy in order to rectify any deficiencies (the "**Deficiencies**") in the work (the "**Remediation Work**") under the Landlord's contract for the manufacture of the Building;
- (b) cause the Remediation Work including the Deficiencies to be rectified by Closing, provided that notwithstanding any other provision in this Offer to Lease, the Landlord's only obligation to complete the Remediation Work including the Deficiencies shall be to ensure the Remediation Work or the Deficiencies, as the case may be, are completed in accordance with the under the Landlord's contract for the manufacture of the Building ;
- (c) conduct a formal hand over session, on or before closing and to deliver to the Tenant at such session (the "**Turnover Deliveries**"):
 - (i) as-built plans, Specifications
 - (ii) approvals and certifications process and documents
 - (iii) Building Systems operating and maintenance manuals, warranties
 - (iv) commissioning reports, certifications, schedules, permits, occupancy letters, licenses, test reports
 - (v) consultants and trades lists
 - (vi) contracts for any Building Systems;
 - (vii) trade shop drawings;
 - (viii) fire safety plans;

- (ix) appliance warranties
 - (x) building systems operation and training for Tenant's maintenance staff ;
 - (xi) access and security turnover instructions;
 - (xii) information re utility accounts;
 - (xiii) warranty period deficiency procedure; and
 - (xiv) transfer emergency contact (i.e. elevator per TSSA requirement) to Tenant's contact;
- (d) deliver to the Tenant and the City on Closing all deliverables hereinafter set out.

4. Extension of Closing

- (a) In the event:
 - (i) the Remediation Work, including Deficiencies, has not been rectified by the Closing to the satisfaction of the Tenant, acting reasonably, the Closing may be extended for successive periods of Ten (10) Business Days each (or such other period of time, deemed appropriate by the Landlord) by either the Landlord or the Tenant giving five (5) Business Days' written notice to the other, until the Construction Contract has been 99% completed in the professional opinion of the Landlord's payment certifier under the under the Landlord's contract for the manufacture of the Building (the "**Payment Certifier**") acting in accordance with its professional standards (the "**Completion Date**") and the Closing shall occur on the Completion Date as set out in notice from the Landlord, and the Landlord shall deliver on Closing its written undertaking to complete the Remediation Work including any Deficiencies as soon as commercially reasonably possible after Closing having regard to delivery timelines and supplier and contractor availability, provided that if;
 - (ii) if the Landlord has been making reasonably commercial efforts to complete the Remediation Work including any Deficiencies by any extended Closing Date pursuant to Section 4(a)(i) and the under the Landlord's contract for the manufacture of the Building has been substantially completed under the as defined in the *Construction Act*, RSO C.30 but 99% of the Construction Contract has not been completed by February 28, 2020, in each case in the professional opinion of the Payment Certifier acting in accordance with its professional standards, the Landlord may, on five (5) Business Days' notice to the Tenant, require that the Closing occur on the date set out in the Landlord's notice and may deliver its written undertaking on Closing to complete the Remediation Work including any

Deficiencies as soon as commercially reasonably possible after Closing; and,

- (iii) in either 4(a) (i) or (ii) above, the Landlord shall cause any remaining Deficiencies to be completed as soon as possible after Closing using reasonably commercial efforts.
- (b) In the event the Deficiencies have not been completed to the satisfaction of the Tenant in accordance with the undertaking of the Landlord given in accordance with Section 4 (a)(ii) or (iii) above in the opinion of the Tenant acting reasonably, the matter shall be submitted to an independent arbitrator pursuant to Section 15.22 of the Lease and the Landlord shall rectify such Deficiencies required by the arbitrator to the satisfaction of the arbitrator.

5. Closing Deliveries

- (a) The Tenant shall duly execute and deliver on Closing:
 - (i) the Lease;
 - (ii) the Contribution Agreement with the City, substantially in the form of the agreement attached hereto as Schedule B;
 - (iii) evidence that the Tenant's tenant access plan has been approved by the Director, Housing Stability Services;
 - (iv) evidence the Reserve Fund Account has been established as required under the Lease together with written agreement by the Tenant, in form acceptable to the Landlord acting reasonably, securing the amount required to be contributed monthly to the Tenant's reserve account to fund the Capital Repair Cost;
 - (v) evidence of insurance as required under the Lease;
 - (vi) the Security and required legal opinion;
 - (vii) certified copy of the directors' resolution of the Tenant authorizing the transaction;
 - (viii) an acknowledgement the Deficiencies have been rectified to the Tenant's satisfaction except as set out in Section 6 above;
 - (ix) an acknowledgement that all Turnover Deliveries have been provided to it;
 - (x) Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy attached hereto as Schedule C;

- (xi) evidence of transfer of utilities; and
 - (xii) all other agreements and documentation and all acknowledgements and directions and other documentation required to complete this transaction and to register a satisfactory notice of the Lease on title to the Demised Premises
- (b) The Landlord shall duly execute and deliver on Closing:
- (i) the Lease;
 - (ii) the Contribution Agreement;
 - (iii) the Turnover Deliveries;
 - (iv) such keys, combination or other access devices required to access the Demised Premises;
 - (v) the Building Condition Assessment referred to in Section 9.3, together with written notice of the amount required to be contributed monthly to the Tenant's reserve account to fund the Capital Repair Cost; and
 - (vi) all other agreements and documentation and all acknowledgements and directions and other documentation required to complete this transaction and to register a satisfactory notice of the Lease on title to the Premises.

6. Notice

- (a) Unless otherwise provided in this Offer or any notice, approval or other communication required or permitted to be given ("Notice") shall be in writing and shall be personally delivered, sent by prepaid registered mail, and, in the case of notice to the Landlord, addressed to it as follows:

City of Toronto
Housing Secretariat
55 John Street
Metro Hall 7th Floor
Toronto, Ontario M5V 3C6

Attention: Executive Director

City of Toronto – Legal Services
55 John Street, Metro Hall, 26th Floor, Station 1260
Toronto Ontario M5V 3C6

Attention: City Solicitor

to the Tenant:



Attention:

- (b) Any Notice so given shall be deemed conclusively to have been given and received on the date of delivery if personally delivered, or on the third (3rd) business day following the date of mailing if sent by prepaid registered mail, provided that if there is any anticipated or existing postal dispute, Notice shall be personally delivered. Either party may from time to time change its address for service by Notice to the other party to this Offer.

7. Divisions/Headings

The division of this Offer into Articles, Sections, Subsections, Paragraphs and Subparagraphs, and the insertion of headings or captions, are for convenience of reference only, and shall not affect the construction or interpretation of this Offer or any parts of them.

8. Cumulative Remedies

No remedy conferred upon or reserved by one or both of the parties is intended to be exclusive of any other remedy. Each remedy shall be cumulative and in addition to every other remedy conferred or reserved, whether such remedy exists on the date of this Offer or after, and whether such remedy becomes available under common law, equity or statute.

9. Interpretation

This Offer shall be read with all changes of gender and number required by the context. If two or more persons have executed this Offer as Tenant, their liability shall be joint and several. In the event "including" or other words of inclusion are used herein, same shall be deemed to include "without limiting the generality of the foregoing."

10. Time of Essence

Time shall in all respects be of the essence of all matters provided for in this Offer provided that the time for the doing or completing of any matter may be extended or abridged by an agreement, in writing, executed by the Landlord and the Tenant, or by their respective solicitors, who are expressly appointed for that purpose.

11. Assignment

The Tenant shall not assign this Offer, or direct that the Lease be taken in the name of any person or entity other than the Tenant, without the prior written consent of the Landlord, which consent may be unreasonably and arbitrarily withheld. It shall be deemed to be an assignment of this Offer requiring the prior written consent of the Landlord if there is a transfer or assignment of the whole or any part of the ownership or control of the Tenant. If the Landlord consents to an assignment, or to a direction that the Lease be taken in the name of any person or entity other than the Tenant, the Tenant shall agree, and shall cause the assignee or such other person or entity to agree, in writing in favour of the Landlord, to be jointly and severally bound to perform the obligations of the Tenant under this Offer. The Offer shall enure to the benefit of and be binding upon the Landlord, its successors and assignees, and the Tenant, its successors and permitted assignees.

12. No Registration

The Tenant shall not register this Offer or any other document providing evidence of this Offer or of any interest of the Tenant in the Premises against title to the Premises (collectively, the "Tenant's Registration"). The Tenant irrevocably nominates, constitutes and appoints the Landlord as its agent and attorney in fact and in law to cause the removal of the Tenant's Registration from title to the Premises. Should the Tenant be in default of its obligations under this Section, the Landlord may (as agent and attorney of the Tenant) cause the removal of the Tenant's Registration from the title to the Premises.

13. Applicable Laws

This Offer shall be interpreted and enforced in accordance with the laws of the Province of Ontario and Canada. Any legal proceeding arising in connection with this Offer shall be commenced and heard in a court (or, if applicable, a tribunal of competent jurisdiction) sitting in Toronto, Ontario, which it is agreed will be the appropriate location. If the court (or, if applicable, tribunal of competent jurisdiction) does not sit in Toronto, the legal proceedings shall be commenced and heard in the jurisdiction nearest to the Landlord of Toronto within the Province of Ontario in which such court (or, if applicable, tribunal of competent jurisdiction) convenes.

14. Schedules

The following Schedules shall be incorporated herein:

- Schedule A Lease
- Schedule B Contribution Agreement
- Schedule C Declaration of Compliance with Anti-Harassment/Discrimination
Legislation & City Policy

All Schedules attached, form part of this Agreement. If there is any conflict between what is set out in a Schedule and what is otherwise set out in the Agreement, the conflicting term set out in the Schedule shall prevail.

15. This Agreement may be executed in any number of counterparts (including counterparts delivered electronically) and all such counterparts taken together will be deemed to constitute one and the same instrument. This Agreement may be executed by electronic signature and such electronic signature shall be deemed to be an original signature for the purpose of this Agreement with the same legal effect as an original signature.

16. Entire Agreement

This Offer, including any Schedules attached to this Offer shall constitute the entire agreement between the parties concerning the transaction contemplated by this Offer. The Tenant acknowledges that the Landlord has made no representation, warranty, agreement or condition, whether direct or collateral, or express or implied, which induced the Tenant to make this Offer or on which reliance is placed by the Tenant, other than as expressly set out in this Offer. This Offer shall not be modified or amended except by written agreement executed by both the Landlord and the Tenant.

DATED the _____ day of _____, 2020.

CITY OF TORONTO

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

TENANT

Per: _____
Name: _____
Title: _____

I have the authority to bind the Corporation

Schedule "A"

Lease

CITY OF TORONTO

and

LEASE

XXXXXXX Toronto, Ontario

THIS LEASE made as of the XXX day of , 2020.

IN PURSUANCE OF the Short Form of Leases Act

B E T W E E N:

CITY OF TORONTO

(hereinafter called the “**Landlord**”)

OF THE FIRST PART

- and –

XXXXX

(hereinafter called the “**Tenant**”)

OF THE SECOND PART

WHEREAS:

In consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party, the Parties covenant and agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Definitions

The terms defined herein shall have for all purposes of this Lease and of all agreements or other subsequent instruments, implemental or confirmatory or amendatory hereof now or hereafter entered into in accordance with the provisions hereof, the following meanings unless the context expressly or by necessary implication otherwise requires:

“**Additional Rent**” means any and all amounts, other than Basic Rent, required to be paid by the Tenant under this Lease, whether or not same are designated “Additional Rent” or whether or not the same are payable by Landlord;

“**Affiliate**” of any Person means, at the time the determination is being made, any other Person Controlling, Controlled by or under common Control with, that Person, whether directly or indirectly;

“**Applicable Laws**” shall mean, collectively, every statute, regulation, by-law, building code, order, which from time to time affects the Demised Premises, the Building or the Work;

"Arbitration" means that the specified dispute is to be resolved pursuant to the *Arbitration Act, 1991*, S.O. 1991, c. 17 or any successor thereto. Each party is to bear its own costs and share equally in the fees and expenses of the Arbitrator and Arbitration, unless otherwise awarded by the Arbitrator. The parties hereby expressly agree that the provisions of the *Municipal Arbitrations Act*, R.S.O. 1990, c. M.48 relating to arbitrations shall not apply.

"Article", **"Section"**, **"Subsection"** or **"Paragraph"** means the specified Article, Section, Subsection or Paragraph of this Lease;

"Basic Rent" means the rent payable pursuant to Section 3.2;

"Building" means the XXXX unit affordable housing rental building constructed, on behalf of the Landlord on the land and all other improvements including, without limitation, the Building Systems, all fixtures, fixed machinery, accessories and equipment or other facilities, installations, alterations, additions, renovations, mechanical, electrical and utility installations which in each case are permanently affixed thereto or permanently situated thereon or are of a permanent nature that are used in connection therewith from time to time and which together with the land forms the Demised Premises;

"Building Systems" means: (a) all heating, ventilating, air conditioning, climate control and humidity control equipment and systems serving the Demised Premises; (b) other systems, services, installations and facilities installed in or servicing the Building including, without limitation, the following systems, services, installations and facilities: mechanical, plumbing, sprinkler, drainage and sewage, electrical and other utilities, lighting, life safety (including fire prevention, detectors, safety system testing and plans, communications, security and surveillance), computer (including environmental, security and lighting control), ice and snow melting, refuse removal, window washing and music; (c) all machinery, appliances, equipment, apparatus, components, computer software and appurtenances forming part of or used for or in connection with any of such systems, services, installations and facilities including, but not limited to, boilers, motors, generators, fans, pumps, pipes, conduits, ducts, valves, wiring, meters and controls, and the structures and shafts housing and enclosing any of them; and (d) all Landlord owned or controlled telecommunications facilities, pathways, installations and equipment.

"Capital Repair Cost" shall mean the total expected costs as set out in the BCA;

"CMHC" means Canada Mortgage and Housing Corporation and any successor thereto;

"Commencement Date" means the day of , or the date the City takes possession of the Building.

"Control" means, with respect to any Person at any time, the possession, directly or indirectly of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract, by virtue of being (or Controlling) the general partner, manager, managing partner, board of managers, board of trustees or board of directors of such Person, or by virtue of the beneficial ownership of or control over a majority of the economic interest of such Person or otherwise; and each of **"Controlled by"** or **"Controlling"** has a corresponding meaning;

“Contribution Agreement” means the Contribution Agreement to be entered into between the Tenant and the Landlord with respect to the operation of the affordable housing units located on the Demised Premises and all schedules attached thereto;

“Demised Premises” means those lands described in Schedule “A” and shall include the Building and Building Systems;

“Deputy City Manager” means the Deputy City Manager – Corporate Services for the Landlord, his or her successor, or his or her designate(s) from time to time;

“Force Majeure” means strikes, labour troubles, inability to procure materials or services, power failure, riots, insurrection, sabotage, rebellion, actions of military or civil authorities, wars, revolutions, and terrorism, act of God, epidemics and quarantines, or other reason whether of a like nature or not, which is not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement. Notwithstanding anything to the contrary contained in this Lease, if the Tenant is bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of Force Majeure, then, the performance of such term, covenant or act is excused for the period of the delay and the Tenant as so delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. In no event shall the Tenant inability to pay any money due under this Lease be considered a “Force Majeure” event or otherwise relieve the Tenant of its obligation to make payment as required under this Lease; **“Hereof”, “hereto”, “hereunder”** or similar expressions means this Lease and, where relevant, the particular Article, Section, Subsection or Paragraph of this Lease;

“Hazardous Substances” means any hazardous or toxic substances or materials including but not limited to any products of waste, asbestos, urea formaldehyde foam insulation, radon gas or PCBs or any other contaminant or pollutant or condition of any nature or kind, including but not limited to any substance or condition defined as a contaminant or pollutant or as a hazardous or toxic substance or material or as having a negative environmental impact from time to time in any applicable legislation, by-laws or regulations or in any governmental, quasi-governmental regulatory or municipal policy or guideline.

“HST” means all harmonized taxes, goods and services taxes, sales taxes, value-added taxes, multi-stage taxes, business transfer taxes and any other taxes (however they are characterized) imposed in respect of the Rent payable by the Tenant, the rental of space by the Tenant or the provision of any service to or by the Landlord under this Lease;

“Hereof”, “hereto”, “hereunder” or similar expressions means this Lease and, where relevant, the particular Article, Section, Subsection or Paragraph of this Lease;

“Landlord” means the City of Toronto and its successors and assigns;

“Lease” means this Agreement and all amendments thereto in writing that may be agreed upon by the Landlord and the Tenant from time to time.

“Lease Year” means the twelve month period commencing on the Commencement Date or if such date is not the first day of the month, then on the first day of the month next following;

"Licensee" means any Person who enters into any lease, sublease or licence or other occupancy agreement with the Tenant related to any dwelling or storage units in any building on the Demised Premises;

"License Agreement" means an agreement between the Tenant and a Licensee;

"Parties" means the Landlord and the Tenant and their respective successors and permitted assigns; and **"Party"** means any one of the Parties;

"Person" means any individual, partnership, corporation, trust, unincorporated organization, municipality, government, or governmental agency or any combination thereof;

"Required Work" shall have the meaning in Section 9.7;

"Reserve Fund" has the meaning set out in Section 9.3 (b);

"Reserve Fund Account" has the meaning set out in Section 9.3 (b);

"Rent" means Basic Rent and Additional Rent;

"Residential Units" means the living units within the Demised Premises described in Section 3.5 below;

"RTA" means the *Residential Tenancies Act, 2002*, Chapter 174, all regulations and any successor or replacement legislation;

"Taxes" means all taxes, rates, duties, charges, impositions, levies, assessments, realty taxes, licence and permit fees, and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen of any kind and nature whatsoever whether municipal, parliamentary or otherwise, which are from time to time levied, imposed or assessed against the Demised Premises and including those levied, imposed or assessed thereon for education, schools, utilities and local improvements or in respect of any occupancy or use thereof, capital taxes and any business transfer tax, national goods and services tax, value added tax, sales tax or any tax levied, rated, charged or assessed in respect of Rent payable by the Tenant under this Lease and municipal business taxes relating to the ownership levied or imposed on all or any portion of the Demised Premises or the revenues therefrom or the Tenant in substitution for, or in addition to, Taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included in Taxes. Notwithstanding the foregoing, the Demised Premises will be the subject of an exemption from taxation for municipal and school purposes (municipal property taxes) for the term of the Lease in accordance with the terms of the Contribution Agreement;

"Tenant" means [name of Tenant], its successors and permitted assigns;

"Term" means the period from the Commencement Date to the thirty-fifth (35th) anniversary of such date;

"Transfer" means an assignment or sublet of this Lease or any transaction whereby the rights of the Tenant under this Lease or to the Demised Premises or any part, are transferred, any transaction by which any right of use or occupancy of all or any part of the Demised Premises is conferred upon a third party, any encumbrance of this Lease or the Demised Premises or any

part thereof or other arrangement under which either this Lease or the Demised Premises become security for any indebtedness or other obligations and includes any transaction or occurrence whatsoever (including, but not limited to, receivership proceedings, seizure by legal process and transfer by operation of law), or subleases, licences or other occupancy arrangements of dwelling units in the ordinary course of the Tenant's activities as permitted by Section 8.1 of this Lease. In addition, it does not include a transfer to another entity associated with and controlled by the Tenant and of which the Landlord has received notice;

"Transferee" means the Person or Persons to whom a Transfer is or is to be made; and

"Work" shall mean any renovation or capital repair of the Building with all ancillary services thereon or connected therewith and the provision of all labour, materials, tools, machinery or equipment related thereto.

ARTICLE 2 DEMISE

Section 2.1 Demise of Demised Premises

(1) In consideration of and subject to the Rent reserved and the covenants and conditions herein contained and in the Contribution Agreement on the part of the Tenant to be paid, performed, observed and complied with, the Landlord hereby demises and lets to the Tenant, and the Tenant hereby leases from the Landlord, the Demised Premises to have and to hold during the Term, unless and until sooner terminated as expressly provided herein.

(2) Each of the Landlord and the Tenant covenant and agree to perform, fulfil and observe the covenants, obligations and conditions herein contained to the extent they bind or are expressed to bind the Landlord or the Tenant, respectively.

Section 2.2 Surrender

At the expiration of the Term or the earlier termination of this Lease:

(a) The Tenant agrees to peaceably surrender and yield up to the Landlord the Demised Premises in the state of repair required of the Tenant pursuant to this Lease, which shall thereupon vest in the Landlord free and clear of all financial encumbrances without any necessity for any transfer documentation and for no consideration and thereupon the rights of the Tenant under this Lease shall terminate.

(b) The Tenant also agrees to deliver to the Landlord copies of all books and records with respect to the Demised Premises as are in its possession at such time so as to ensure the orderly continuance of operation of the Demised Premises by the Landlord if the Landlord so requires beginning on the date this Lease is terminated. The Landlord shall have the right to review the Tenant's original books and records related to the Demised Premises as and when necessary.

(c) The Tenant shall not execute any agreement with respect to the Demised Premises (including a lease or an agreement for the provision of services) which expires after the end of the Term, without the consent of the Landlord, which may be unreasonably withheld, conditioned or withheld.

(d) Notwithstanding the termination of the Lease, whether at the expiration of the Term or earlier as is provided herein, the Tenant shall remain liable to the Landlord for any default hereunder by the Tenant, notice of which has been received by the Tenant, during the Term and which remain outstanding as of the expiry of the Term.

(e) Notwithstanding the foregoing, it is understood that the Tenant, upon termination or expiry of this Lease for any cause, may go upon the Demised Premises and remove chattels, trade fixtures and other personal property in each case placed thereon by the Tenant.

(f) The Tenant shall, at the expiration or earlier termination of the Term, at its sole cost, leave the Building and any subsequent leasehold improvements in the same condition it is required to be maintained pursuant to the provisions of this Lease.

Section 2.3 Assignment of Rights

(a) At the expiration of the Term or the earlier termination of this Lease, the Tenant shall, for no consideration, assign to the Landlord all of the Tenant's interest in the Demised Premises including, for greater certainty, the Building and all Tenant's fixtures located thereon which the Tenant elects not to remove in accordance with its rights under Section 2.2 above, together with the benefit of all subleases, licence agreements, guarantees, warranties and other agreements and rights benefiting the Demised Premises or the Tenant's interest therein, if and to the extent that the Landlord shall require such benefits to be assigned, provided that such benefits are capable of being assigned. The Tenant agrees to deliver executed copies of all such documents to the Landlord at such time. The Landlord shall assume the Tenant's rights and obligations under such documents, provided that such rights and obligations are capable of being assigned. Notwithstanding the foregoing, the Tenant shall remain liable for any default, cost or obligation arising pursuant to such documents prior to the date of such assignment.

(b) The Tenant agrees to deliver an assignment agreement, with respect to all contracts and ongoing obligations, substantially in the form of the assignment agreement attached hereto as Schedule "B".

(c) The Tenant hereby constitutes the Landlord as the Tenant's true and lawful attorney fully empowered to execute any required documents in order to take any reasonable steps necessary to effect any such assignments set out in 0.

Section 2.4 Overholding

If the Landlord permits the Tenant to remain in possession of the Demised Premises after the expiration of the Term and without an agreement concerning such overholding and accepts Rent, as set out below, in respect thereof, a tenancy from month to month shall be deemed to have been created. Such tenancy may be terminated at any time either by the Landlord or, by the Tenant by notice to the other with the termination date to be set out in the notice and to be at least sixty (60) clear days after delivery of the notice and, in the absence of written agreement to the contrary, shall be subject to all of the terms of this Lease, except as to the Term.

ARTICLE 3 RENT

Section 3.1 Covenant to Pay Rent

The Tenant agrees to pay Basic Rent and Additional Rent as herein provided.

Section 3.2 Basic Rent

- (1) From and after the Commencement Date, and throughout the Term, the Tenant shall pay to the Landlord at the office of the Landlord, or at such other place designated by the Landlord, in lawful money of Canada, without any prior demand therefor and, unless otherwise expressly set out herein, without any deduction, abatement, set-off or compensation whatsoever, as Basic Rent, annual rent equal to:

[150 Harrison Street: FIFTY FIVE THOUSAND AND TWO HUNDRED DOLLARS (\$55,200) annum, in equal monthly installments of \$4,583 for the duration of the Term]

[Macey Avenue: SEVENTY THOUSAND AND TWO HUNDRED DOLLARS (\$70,200) annum, in equal monthly installments of \$5,833 for the duration of the Term]

- (2) In the event that an event of default, as set out in Section 11 of this Lease, occurs which event of default subsists beyond any applicable cure periods set out therein, then, from and after the occurrence of such default and until such time as such default is corrected, and in addition to any other rights and remedies of the Landlord under this Lease, the Tenant will be responsible for the payment of basic rent equal to the then current fair market rent for the use of the Demised Premises as a residential building as permitted under this Lease, as of the time when the Landlord invokes its rights herein to receive payment and to be agreed to by the Landlord and the Tenant. If the Landlord and Tenant cannot reach agreement, as to the basic rent payable, within three months of when such basic rent becomes due and payable, then the basic rent payable will be determined by Arbitration. The Landlord and the Tenant will each pay one-half of the fees and expenses of the Arbitration (except for the separate costs of each of the Parties. For certainty, upon correction of the event of default in question, the obligations of the Tenant under this subparagraph shall cease to apply.

Section 3.3 Late Payment Charges/NSF Cheques

If any amount due and payable to the Landlord remains unpaid thirty (30) days after it is due, interest on the amount outstanding from time to time shall be paid to the Landlord at the rate of 1.25% per month. Interest will be calculated monthly from and including the day after the last day of the thirty (30) day period and paid monthly until payment in full is received by the Landlord. The obligation of the Tenant to pay interest in accordance with this subsection is without prejudice to any of the other remedies available to the Landlord, at law or otherwise. A charge of \$40.00 (the "NSF Fee") will be paid by the Tenant for each cheque given by the Tenant to the Landlord that is not honored by the bank on which it is drawn. The NSF Fee may be increased from time to time by the Landlord so that it is equal to the fee charged by the Landlord in respect of cheques tendered in payment of municipal tax and water charges that are not honored by the banks on which they are drawn, and the Tenant agrees to pay the NSF Fee as it may be so increased from time to time.

Section 3.4 Net Lease

The Tenant acknowledges and agrees that it is intended that this Lease is a completely carefree net lease to the Landlord, save and except as is otherwise provided for in this Lease and/or the Contribution Agreement. The Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Demised Premises including, without limitation, the Building, or the use and occupancy thereof, or the contents thereof or the business or operation carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind whatsoever relating to the Demised Premises and the use thereof by the Tenant including, without limitation, the costs of all insurance and all Taxes, save and except as is otherwise provided for in this Lease and/or the Contribution Agreement, as well as all costs and expenses incurred with respect to any shared facilities or reciprocal agreement affecting the demised premises.

Section 3.5 Nature of the Lease

This Lease shall be construed and deemed to be a commercial lease, notwithstanding that parts of the Demised Premises are used for residential purposes and may be considered "Rental Units" (as this term is defined under the RTA). The Tenant itself will not occupy the Demised Premises as a residential tenant, although Persons may occupy portions of the Demised Premises as their residential premises (the "Residential Units"). The Landlord and the Tenant acknowledge that Landlord shall not be considered to be a "landlord" as defined in the RTA in relation to the Tenant's Licensees. The Landlord and the Tenant specifically acknowledge and agree that the relationship of the parties herein shall be governed by the provisions of the *Commercial Tenancies Act*, R.S.O. 1990, c.L.7.

Section 3.6 Waiver of Set-Off by Tenant

Except as otherwise provided for in this Lease and/or the Contribution Agreement, the Tenant hereby waives and renounces any and all existing and future claims and rights of set-off against any Rent and other monies payable hereunder to the Landlord and agrees to pay such Rent and other monies payable hereunder to the Landlord regardless of any claim or set-off which may be asserted by the Tenant or on its behalf.

Section 3.7 Taxes, Utility and Other Charges

Subject always to the terms and conditions of the Contribution Agreement and compliance by the Landlord with the provisions thereof, the Tenant shall pay when due at the Tenant's sole expense and for its own account from and after the Commencement Date:

- (a) each and every instalment of Taxes on the Demised Premises or any part thereof, if applicable; and
- (b) all utility charges and rates and similar taxes, rates, charges and assessments including payments in lieu thereof which are properly charged, levied or assessed in connection with the Demised Premises or any part thereof or which are properly levied or assessed against the Tenant or which would, if unpaid, become a lien on the Demised Premises or the Tenant's leasehold interest therein or where such lien will, at any time, affect the interest of the Landlord; and
- (c) all of the other costs and expenses of maintaining and operating the Demised Premises, its services, equipment and facilities; such costs and expenses to include,

without limiting the generality of the foregoing: Certificates of Property Use compliance costs, ground water discharge filtration system maintenance and repair costs, the shared facilities costs associated with the Demised Premises, water gas, electricity, telephone, telecommunications, water heating, snow and ice removal and clearance, administrative charges and salaries, repairs and replacement of equipment, fixtures and facilities, landscaping contracts, grass cutting, lighting, cleaning, supplies, supervising; and

(d) all other charges and expenses which are the responsibility of the Tenant pursuant to this Lease.

Section 3.8 HST Payable

HST shall be payable on all Rent and or Additional Rent amounts. The Tenant will pay to the Landlord, at the same time as the amounts to which HST applies are payable, the full amount of all HST, with the intent that the Landlord be fully indemnified in respect of all HST payable or collectible by the Landlord. Despite anything else in this Lease, HST will not be considered to be consideration for the rental of space or the provision of any service by the Landlord under this Lease but will be considered to be Rent and the Landlord will have all of the same remedies for and rights of recovery with respect to such amounts as it has for non-payment of Rent under this Lease or at law.

3.9 Landlord may Pay Taxes, etc.

If the Tenant fails to pay when due any Rent and or Additional Rent required to be paid by the Tenant pursuant to this Lease, the Landlord shall have the right but shall have no obligation to pay the same at the expense of the Tenant after thirty (30) days' prior notice to the Tenant and the Tenant covenants to pay to the Landlord forthwith upon demand as Rent any amounts so paid by the Landlord.

Section 3.10 Adjustment of Rent

If applicable, sums paid by the Tenant under this Article 3 shall be subject to adjustment to reflect any partial billing periods encountered at the commencement or termination of this Lease.

Section 3.9 Payments of Rent

All payments of Rent are payable in lawful money of Canada without deduction, abatement, set-off or compensation whatsoever, unless otherwise expressly set out herein. Additional Rent is due and payable as specifically provided in this Lease.

ARTICLE 4 ASSIGNMENT AND SUBLETTING AND OTHER DISPOSITIONS OF INTEREST

Section 4.1 Dealings by Landlord

(a) The Landlord shall provide a non-disturbance agreement in favour of the Tenant from any mortgagee, assignee or purchaser which non-disturbance agreement shall be in a form and in substance acceptable to the Landlord and the mortgagee, assignee or purchaser, which

confirms the Tenant can remain in the Demised Premises so long as it is good standing under this Lease.

(b) The Tenant shall, if requested by the Landlord, postpone the Lease and/or any registered notice of this Lease to any bona fide freehold mortgage registered after the date of registration of notice of this Lease against title to the Demised Premises, provided that:

(i) the holder of each mortgage or charge affecting the Landlord's interest in the Demised Premises has executed and delivered to the Tenant a non-disturbance agreement in a form and in substances approved by the mortgagee which confirms the Tenant can remain in the Demised Premises so long as it is good standing under this Lease

(ii) the Tenant shall be permitted to remain in quiet possession of the Demised Premises without interruption or disturbance from the freehold mortgagee, assignee or purchaser so long as it is good standing under this Lease;

(iii) the rights of the Tenant and those of any Leasehold Mortgagee arising out of this Lease and/or Leasehold Mortgage shall not be affected or disturbed by any freehold mortgage, assignee or purchaser, except as set out in Section (c) below;

(iv) the Tenant and any Leasehold Mortgagee shall not in any foreclosure or other proceedings under the freehold mortgage, nor in any other way, be deprived of its rights under or pursuant to the Lease, nor shall this Lease be terminated or effected by any foreclosure or sale or any proceeding under any freehold mortgage except as set out in Subsection (c) below; and

(v) the Landlord shall cause any party to whom it sells the Demised Premises to enter into an agreement with the Tenant and the Leasehold Mortgagee wherein the Purchaser assumes the covenants and obligations of the Landlord under this Lease, which shall remain in full force and effect.

(c) So long as the Tenant has executed the non-disturbance agreement with a mortgagee, any non-disturbance agreement shall provide that the mortgagee will not exercise any enforcement rights under its mortgage without providing notice to the Tenant of such actions and giving the Tenant the opportunity to rectify the default under such mortgage. So long as the immediately preceding sentence is complied with, the Landlord shall be entitled to exercise all enforcement rights under its mortgage.

(d) The Landlord represents and warrants that the Demised Premises are owned and seized in fee simple by the Landlord and the Landlord has entered into this Lease with proper authority and has the right to lease the Demised Premises to the Tenant as contemplated herein. If, at any time during the term any indebtedness, encumbrance, lien, assessment, claim or other matter shall arise or shall be asserted which in any way interferes or threatens to interfere with the Tenant's use of the Demised Premises, as permitted by this Lease, then the Tenant shall have the right to expend such sums as are necessary to abate such threat or interference and the Landlord shall forthwith pay to the Tenant, on demand, the amount of any such sum expended by the Tenant. The Landlord acknowledges and agrees that it shall not grant any consent, easement, right or interest in the Demised Premises or enter into any agreement affecting the Demised Premises without the Tenant's prior written approval.

Section 4.2 Assignment and Subletting by Tenant

(a) Subject to Articles 5 and 8 the Tenant shall not Transfer or sublet all or any part of the Demised Premises for the whole or any part of the Term and shall not enter into, consent to or permit any Transfer without obtaining the prior written consent of the Landlord, which consent will not be unreasonably or arbitrarily withheld, conditioned or delayed. In determining whether the Landlord is prepared to grant its consent to a Transfer, the Landlord may consider the following factors:

- (i) whether the financial standing of the proposed transferee is sufficient to satisfy the obligations of the Tenant under the Lease; and
- (ii) the reputation and experience of the transferee or its related corporation, its management and investors in the operation of affordable residential housing developments.

The Landlord may, in its sole discretion, charge a commercially reasonable administration fee for such request.

(b) Notwithstanding the foregoing or anything else contained in this Lease, the Tenant may effect a Transfer to or with any of the following, without the Landlord's consent, but with notice of same to the Landlord:

- (i) an Affiliate of the Tenant; and
- (ii) any lease, sublease or licence or other occupancy related to any dwelling or storage units in any building on the Demised Premises entered into with a Licensee.

(c) Consent by the Landlord to any Transfer if granted shall not constitute a waiver of the necessity for such consent to any subsequent Transfer. This prohibition against Transfer shall include a prohibition against any Transfer by operation of law. The Transfer of a part of the Demised Premises is prohibited.

(d) No assignment by the Tenant shall be effective until the Transferee has entered into an agreement directly with the Landlord, in a form satisfactory to the Landlord and Tenant acting reasonably, whereby the assignee expressly agrees to assume all of the obligations and liabilities arising from and after the date the assignment is effective, of the Tenant in this Lease including the use provision set out in Article 8. After the assignment is effected, the Tenant shall be relieved of all obligations and liabilities, under or pursuant to this Lease, including any liabilities or obligations incurred up to the date of the assignment is effective.

(e) For certainty, the Landlord acknowledges and agrees that, to the extent the Tenant is entitled to assign this Lease in accordance with the terms hereof, it shall also be entitled to assign the benefit and rights under the Contribution Agreement and such entitlement or the Landlord's consent to the assignment of this Lease shall be deemed to also be a consent to the assignment of the Contribution Agreement whether or not such consent specifies same.

(g) If the Tenant intends to effect a Transfer, the Tenant shall give prior written notice to the Landlord of such intent specifying the identity of the Transferee, the type of Transfer contemplated, and shall provide such financial, business or other information relating to the proposed Transferee and its principals as the Landlord or any mortgagee requires, each acting reasonably, together with copies of any documents which evidence the proposed Transfer

(subject always to the redaction of any confidential information). The Landlord shall, within forty-five (45) days after having received such notice and all requested information, notify the Tenant either that it consents or does not consent to the Transfer in accordance with the provisions and qualifications of this Article.

(h) For certainty, the Landlord acknowledges and agrees that in the event that it consents to the assignment of the Contribution Agreement or any rights or entitlements set out therein, the said consent shall also be deemed to constitute a consent to any corresponding Transfer of this Lease to the party entitled to receive the benefits under the Contribution Agreement as aforesaid.

Section 4.3 Conditions of Transfer

(a) Prior to the written consent of the Landlord being obtained, no acceptance by the Landlord of any payments by a Transferee shall be deemed a waiver of the Tenant's covenants or any acceptance of the Transferee as Tenant or a release from the Tenant from the further performance by the Tenant of its obligations under this Lease. Any consent by the Landlord shall be subject to the Tenant and Transferee executing an agreement with the Landlord, in form and content satisfactory to the Landlord's solicitor, acting reasonably, agreeing that the Transferee will be bound by all of the terms of this Lease and the Contribution Agreement and except in the case of a sublease, that the Transferee will be so bound as if it had originally executed this Lease as tenant.

(b) Notwithstanding the effective date of any permitted Transfer as between the Tenant and the Transferee, all Rent for the month in which such effective date occurs shall be paid in advance by the Tenant so that the Landlord will not be required to accept partial payments of Rent for such month from either the Tenant or the Transferee.

(c) Any document evidencing any Transfer permitted by the Landlord, or setting out any terms applicable to such Transfer or the rights and obligations of the Tenant or Transferee thereunder, shall be prepared by the Tenant or its solicitors and all associated reasonable legal costs shall be paid by the Tenant, subject to the Landlord's approval of the applicable form.

Section 4.4 No Advertising

The Tenant shall only advertise that the whole or any part of the Demised Premises are available for a Transfer and shall only permit any broker or other Person to do so in accordance with advertising and listings which are consistent with prudent practices in the real estate industry in the greater Toronto area for buildings and premises similar to the Building and the Demised Premises without the Landlord's consent.

ARTICLE 5 LEASEHOLD MORTGAGE

Section 5.1 Tenant's Right to Mortgage

Provided that the Tenant is not in default under this Lease or the Contribution Agreement in each case which default persists beyond any applicable cure period, the Tenant shall have the right at any time and from time to time to mortgage this Lease and the Tenant's leasehold interest in the Demised Premises. The Leasehold Mortgage may be granted by way of assignment or otherwise. The Tenant shall also have the right to extend, modify, renew or

replace any such Leasehold Mortgage with another Leasehold Mortgage, provided however that with respect to such Leasehold Mortgage.

ARTICLE 6 INDEMNITY

Section 6.1 Non-Liability of Landlord

The Landlord is not liable or responsible in any way to the Tenant or to any other Person for, and the Tenant hereby releases the Landlord from, all claims of every nature and kind arising out of or in respect of:

- (a) the use and occupation of the Residential Units by the Licensees;
- (b) ensuring that the Licensee's use of and conduct within the Demised Premises complies with this Lease and all applicable laws;
- (c) enforcing the provisions of any License Agreement relating to the Residential Units.
- (d) the acts of (including the negligent and wilful acts of): (i) any Person in the Demised Premises; (ii) occupants of properties adjacent to the Demised Premises; and/or (iii) the public;
- (e) any occurrence on the Demised Premises, howsoever caused.

All property kept or stored on the Demised Premises is at the risk of the Tenant and the Tenant shall hold the Landlord harmless from and against claims arising out of damages to same, including any subrogation claims by the Tenant's insurers or by third parties. Notwithstanding the foregoing or any other provision herein or in any other agreement, the Landlord shall not be released from any liability and shall be responsible to the Tenant for all costs, fees, expenses, claims, actions, losses and damages arising from any breach of its obligations under this Lease or for any Hazardous Materials and any Hazardous Materials Activities in existence or pertaining to the period prior to the commencement date of this Lease (the "**Excluded Liability**").

Section 6.2 Tenant's Indemnity

Other than in respect of the Excluded Liability, the Tenant shall indemnify and save harmless the Landlord from any and all costs, expenses, claims, actions and losses of every nature and kind whatsoever and of and from all liabilities of every nature and kind whatsoever in connection with the Demised Premises and this Lease, whether accrued, actual, contingent including, without limitation, the following but for certainty, excluding the Excluded Liability:

- (a) any breach, violation or non-performance of any covenant, obligation or agreement in this Lease on the part of the Tenant to be fulfilled, kept, observed or performed;
- (b) all legal fees and disbursements incurred in connection with any appeal, pertaining in any manner to this Lease and the Demised Premises;

- (c) any damage to property, either real or personal, owned by the Landlord or others resulting at any time upon or occurring in or about the Demised Premises, unless caused by the negligence of the Landlord or those for whom the Landlord is in law responsible;
- (d) any personal or bodily injury to any person or persons, including death, resulting at any time upon or occurring in or about the Demised Premises, unless caused by the negligence of the Landlord or those for whom the Landlord is in law responsible;
- (e) any contract, lien, mortgage, charge or encumbrance on or in respect of the Demised Premises arising from or occasioned by the act, default or negligence of the Tenant or those for whom the Tenant is in law responsible;
- (f) all costs and expenses of every kind and nature relating to the Demised Premises, unless expressly excluded under this Lease or unless expressly stated in this Lease to be the responsibility of the Landlord. Without limiting the generality of the foregoing, the Tenant is not responsible for any costs incurred by the Landlord with respect to the preparation and/or review of such documentation required by the Landlord to give effect to the Demised Premises, unless expressly stated to be the responsibility of the Tenant; and
- (g) any appeal of an assessment of Taxes made by the Tenant, excluding any financial loss of the Landlord due to a reduction in the amount of Taxes payable by the Tenant resulting from such appeal being successful.

This section shall survive the termination or expiry of this Lease, any provisions in this Lease to the contrary notwithstanding.

ARTICLE 7 INSURANCE

Section 7.1 "All Risks" Property Insurance

The Tenant shall, at all times during the Term, insure and keep insured the Demised Premises and all other insurable property belonging to the Tenant and from time to time located on the Demised Premises maintain in the names of the Tenant, the Landlord, and (if applicable) the Mortgagee as their respective interests may appear in an amount not less than the amount equal to that which would be required to replace or repair any loss or damage (the "Replacement Cost") thereof against loss or damage by perils of "all risks" (being the perils from time to time included in the standard "all risks" policy issued by insurers from time to time), including resultant damage from error in design and faulty workmanship, to the extent available and as would be obtained by a prudent owner of such a Demised Premises, and in any event in an amount sufficient to prevent the Landlord or the Tenant from being deemed to be a co-insurer.

Section 7.2 Public Liability Insurance

The Tenant shall, at all times during the Term, maintain or cause to be maintained comprehensive general liability insurance including contractual liability on an occurrence basis against in the names of the Tenant, the Landlord, and (if applicable) the Mortgagee as their respective interests may appear claims for personal or bodily injury, death or property damage

suffered by others arising in connection with the Demised Premises or out of the operations of the Tenant or its Licensees in, on or about the Demised Premises, indemnifying and insuring the Landlord and the Tenant and their employees and all others for whom each of them is at law responsible in such amounts and to such extent as a prudent owner of such a Demised Premises would, from time to time, carry (which amount shall initially be not less than Five Million Dollars (\$10,000,000.00) during any period of construction and thereafter not less than Five Million Dollars (\$10,000,000.00) for any personal or bodily injury, death, property damage or other claim in respect of any one accident or occurrence) and, without limiting the generality of the foregoing, with provisions for cross-liability and severability of interests.

Section 7.3 Other Insurance

The Tenant shall maintain, or cause to be maintained, and shall keep in force during the Term such other insurance as may be reasonably required by the Landlord or otherwise from time to time and to the extent such other insurance is consistent with the customary practices of a prudent owner of a property similar to the Demised Premises and similarly located.

Section 7.4 Co-Insurance

All policies of insurance required under this Article and all renewals thereof shall not contain a stated amount co-insurance clause effective for the term of the policy or the renewal with the result that the Tenant shall not be a co-insurer under the terms of such policy or policies and the same shall permit full recovery of the amount insured in the event of loss.

Section 7.5 Copies of Policies and Approval of Policies

The Tenant shall deliver certificates of all insurance to the Landlord forthwith.

The Landlord, acting reasonably, shall have the right, but not the obligation, to approve of the insurers and the insurance policies carried by the Tenant including the limits of coverage and the provisions thereof.

Section 7.6 Non-Cancellation

Each of the policies of insurance provided pursuant to this Article shall contain an agreement by the insurer to the effect that it will endeavour to not cancel or alter or refuse to renew such policy prior to its expiration, whether by reason of non-payment of premium, non-fulfilment of condition or otherwise, except after thirty (30) clear days' prior written notice to the Landlord.

Section 7.7 Premiums and Evidence of Payment Thereof

The Tenant shall duly and punctually pay or cause to be paid all premiums and other sums of money payable for maintaining the insurance to be provided pursuant to this Article.

Section 7.8 Additional Named Insureds

The Tenant shall cause any and all policies of insurance provided for in this Article 7 to include the Landlord as an additional insured or loss payee as applicable.

Section 7.9 Landlord's Right to Insure

The Tenant shall advise the Landlord of any cancellation, material alteration or lapse of any policies of insurance required to be provided hereunder. If the Tenant fails to effect and keep such insurance in force, or if such insurance is in an amount less than the amount required under this Lease, the Landlord shall have the right, upon at least 72 hours prior written notice to the Tenant and without assuming any obligation in connection therewith, to effect such

insurance at the cost of the Tenant and all outlays by the Landlord shall be payable by the Tenant to the Landlord as Rent forthwith upon demand without prejudice to any other rights and recourses of the Landlord hereunder. No such insurance taken out by the Landlord shall relieve the Tenant of its obligations to insure hereunder and the Landlord shall not be liable for any loss or damage suffered by the Tenant in connection therewith.

Section 7.10 Loss or Damage

The Landlord shall not be liable for any death or injury arising from, or out of any occurrence in, upon, at, or relating to the Demised Premises or damage to property of the Tenant or of others located on the Demised Premises, nor shall it be responsible for any loss of or damage to any property of the Tenant or others from any cause, unless and to the extent that any such death, injury, loss or damage, results from the negligence of the Landlord, its agents, employees, contractors, or others for whom it may, in law, be responsible, or as a result of any Excluded Liability. Without limiting the generality of the foregoing, the Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, falling ceiling tile, failing fixtures, steam, gas, electricity, water, rain, flood, snow or leaks from any part of the Demised Premises or from the pipes, sprinklers, appliances, plumbing works, roof, windows or subsurface of any floor or ceiling of the Building or from the street or any other place or by dampness or by any other cause whatsoever. The Landlord shall not be liable for any such damage caused by other Persons on the Demised Premises or by occupants of adjacent property thereto, or the public, or caused by construction or by any private, public or quasi-public work. All property of the Tenant kept or stored on the Demised Premises shall be so kept or stored at the risk of the Tenant only and the Tenant releases and agrees to indemnify the Landlord and save it harmless from any claims arising out of any damage to the same including, without limitation, any subrogation claims by the Tenant's insurers.

Section 7.11 Waiver of Subrogation

The Landlord and the Tenant hereby release each other, to the extent of their agreed insurance coverage, from any and all liability for any loss or damage caused by fire or any of the losses covered by the releasing party's property insurance or loss covered by the releasing party's commercial general liability insurance, required to be maintained by the releasing party hereunder. Except as provided above, nothing contained in this Lease shall be deemed to release either Party hereto from liability for damages resulting from the fault or negligence of that Party or its agents, contractors or employees

Section 7.12 Insurance Maintained by CMHC

Notwithstanding the foregoing, so long as CMHC maintains or causes to be maintained insurance coverages not less comprehensive than those provided in Sections 7.1, 7.2 and 7.3, Sections 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.8 will not be enforced against CMHC.

ARTICLE 8 USE

Section 8.1 Use and Management of Demised Premises

(a) The Tenant shall use, manage and operate the Demised Premises solely, continuously and actively for the sole purpose of providing affordable rental housing, together with all ancillary uses related thereto, or benefitting or contributing to the principal use, in each case, in accordance with the requirements of the Contribution Agreement and this Lease. The Tenant

shall not use or permit the use of the Demised Premises or any part thereof for any other business or purpose except as may be permitted under the Contribution Agreement and this Lease or as otherwise consented to by the Landlord, in its sole discretion.

(b) The Tenant shall be permitted to lease, sublease or licence units in the Building and permit occupancy of the Building only in accordance with the terms of this Lease and the Contribution Agreement.

(c) The Tenant shall protect all public works services and/or utilities and all easements and right-of-way in favour of the Landlord on above, under or affecting the Demised Premises.

(d) Notwithstanding the foregoing, the Tenant shall not be in default of its obligations under this Section 8.1 to the extent that it has ceased to operate in connection with any circumstance or delay contemplated by Section 15.12 hereof or any event of Force Majeure (as such term is defined in the Contribution Agreement); in connection with any repair or restoration work after damage or destruction; or any alteration, remodelling, renovation or expropriation or pursuant to any permitted Transfer of this Lease.

Section 8.2 Observance of Law

The Tenant shall, at its sole cost and expense (except as otherwise specified in this Lease and subject always to the terms of the Contribution Agreement), promptly:

(a) Premises or the conduct of any business in the Demised Premises, and public ways adjacent thereto and to the making of any repairs, replacements, alterations observe and comply with all Applicable Laws, and all requirements of all governmental authorities, including, without limitation, federal, provincial and municipal legislative enactments, zoning and building by-laws (where applicable), and any other governmental or municipal regulations or agreements now or hereafter in force which relate to or affect the demolition or construction of buildings and to equipping or maintenance, operation and use of the Demised, additions, changes, substitutions or improvements of or to the Demised Premises or any part thereof and including further all police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities and all requirements made by fire insurance underwriters to the extent required in order to keep the required insurance in force;

(b) observe and comply with all requirements of, and pay all costs and expenses in connection with, the controls imposed by governmental authorities for ambient air and environmental standards;

(c) observe and comply with any reciprocal or shared facility agreements entered into with the developer of the adjoining condominium and or commercial space, including the rules set out therein;

(d) observe and comply with all police, fire and sanitary regulations imposed by any governmental authorities (whether federal, provincial or municipal); and

(e) to comply with all present and future legislation under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, or any successor or replacement legislation including any regulations to designated substances;

(f) carry out all modifications, alterations or changes of or to the Demised Premises and the Tenant's conduct of business in or use or operation of the Demised Premises which are required by any such authorities as set out above.

Section 8.3 Required Provisions for Residential Leases

The Tenant shall ensure that all residential leases permit the Landlord to carry out its obligations under this Lease and, without limiting the foregoing, shall include the following clauses

- (1) "The Tenant shall purchase tenant insurance with liability limits of not less than \$1,000,000.00 per occurrence, and otherwise on commercially reasonable terms for such insurance."

Section 8.4 Performance of Work by Tenant

In performing any work on the Demised Premises, the Tenant will, at its own expense:

- (i) proceed at its own expense with all due diligence to completion and will cause the Work to be done in a good and workmanlike manner;
 - (ii) do all acts and things required for the performance and completion of the Work in accordance with all applicable building and zoning ordinances and all Applicable Laws, by-laws, orders, rules, regulations and other requirements of all federal, provincial and municipal authorities and in accordance with the Plans and Specifications, as approved by the Landlord;
 - (iii) do all acts and things required to be done in the performance of the Work in compliance with the insurance requirements;
 - (iv) proceed with care and in such a manner so that no damage or injury occurs to the Demised Premises or to the structures or other improvements located on abutting lands and if such damage or injury occurs, repair and restore the Demised Premises or such abutting lands and the structures and other improvements located thereon, to a condition satisfactory to the Landlord; and
 - (v) obtain all necessary permits at its own expense and execute the Declaration of Non-Discrimination attached as Schedule B hereto, and comply with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.
- (b) If at any time prior to completion of any Work, the Work ceases and has not been resumed within three (3) months of the date Work was discontinued or if the Tenant abandons the Demised Premises, then the Landlord shall have the right, upon at least ninety (90) days prior written notice given to the Tenant, to terminate this Lease, provided that in the event the Tenant recommences and thereafter is diligently proceeding with the undertaking of the work during such ninety (90) day period, the Landlord's entitlement to terminate the Lease pursuant to this provision in such instance shall be null and void.

Section 8.5 Construction Liens

- (a) If any lien under the *Construction Act*, R.S.O. 1990, c. C30, or any like statute shall at any time be registered against the Demised Premises by reason of work done or materials

supplied for or to the Tenant or for or to anyone holding an interest in the Demised Premises through the Tenant or if the Landlord is given notice of any such lien, the lien shall be discharged or vacated from the title to the Demised Premises by the Tenant within ninety (90) days after the lien is filed or sooner if the Demised Premises are in jeopardy of forfeiture or sale by the party performing the Work in respect of which the lien was filed even if the validity of the lien is being contested, if requested by the Landlord, or by a Leasehold Mortgagee. If the Tenant wishes to contest the amount or validity of any lien and has so notified the Landlord and if the Tenant has deposited with the Landlord or paid into court to the credit of the lien action the amount of the lien plus a reasonable amount for costs and has registered a discharge of such lien, the Tenant may defer payment of such lien for a period of time sufficient to enable the Tenant to contest the lien with due diligence, provided always that the Demised Premises shall not thereby become liable to forfeiture or sale.

(b) The Landlord may, but shall not be obligated to, discharge or vacate any construction lien if in the Landlord's judgment, exercised reasonably, the Demised Premises become liable to immediate forfeiture or sale or the Demised Premises is otherwise in jeopardy, and any amount paid by the Landlord in so doing, shall be reimbursed to the Landlord by the Tenant as Additional Rent within thirty (30) days after demand. If a construction lien is not discharged and vacated within three (3) months of registration, notwithstanding that the lien may be contested, the Landlord shall have the right, on written notice to the Tenant, to terminate the Lease.

(c) Nothing herein contained shall authorize Tenant, or imply any consent or agreement or request on the part of the Landlord to subject the Landlord's estate or interest in the Demised Premises and/or the Building to any construction lien or any other lien of any nature or kind whatsoever. Notice is hereby given to all parties that the Landlord expressly refuses and denies any consent or agreement or request to permit their estate or interest in the Demised Premises and/or the Building to be subject to any construction lien or other lien of any nature or kind whatsoever without the express written agreement of the Landlord to this effect. Tenant acknowledges that the Landlord is not, and should not be held to be, an owner as that term is defined in the *Construction Lien Act* with respect to the construction of any work on the Demised Premises by, or on behalf of Tenant.

Section 8.6 Tenant's Covenants

The Tenant covenants in respect of the use of the Demised Premises as follows:

- (c) not to commit, suffer or permit any act or omission in the Demised Premises which shall result in an illegal use or cause any breach of any of the Applicable Laws;
- (d) to maintain in force during the Term all necessary licences, permits, and authorizations relating to the use and occupancy of the Demised Premises by the Tenant; and
- (e) to comply with all terms and conditions set out in the Contribution Agreement.

ARTICLE 9 REPAIRS AND MAINTENANCE

Section 9.1 Landlord Not Responsible

The Landlord shall not be obliged to furnish any services, maintenance, repairs or facilities to the Demised Premises, it being agreed by the Tenant that the Landlord shall not at any time during the term of this Lease be required or called upon to make any repairs in or to the Demised Premises of any nature or kind whatsoever. The Landlord acting in its capacity as Landlord and not as a municipal corporation shall not be obliged to make any repairs whatsoever to the Demised Premises at any time during the Term nor to furnish any services or facilities to the Demised Premises or the Demised Premises except as set out in this Lease (including as a result of any Excluded Liability)

Section 9.2 Tenant's Obligation to Repair

- (a) The Tenant shall, at its sole cost and expense, and at all times throughout the Term, keep and maintain the whole of the Demised Premises, and every part thereof, in first class condition and repair having regard to buildings of similar age and quality, as determined by the Landlord in its sole discretion. Without limiting the generality of the foregoing the Tenant shall promptly repair, replace and maintain and shall conduct routine, scheduled and preventative maintenance, in all cases as would a prudent owner, on and to:
 - (i) the structure of the Building including the roof and roof membrane, windows, interior concrete slab floors and exterior walls;
 - (ii) any capital repairs to the Demised Premises;
 - (iii) the Building Systems;
 - (iv) all components of the exterior of the Demised Premises; and,
 - (v) interior of the Demised Premises including the Residential Units, all trade fixtures, improvements and equipment in the Demised Premises and the Residential Units, other than property owned by a Licensee.
- (b) Without limiting the generality of the foregoing, the Tenant shall complete all repairs required in the BCA at the times and in the manner required by the BCA, and shall be entitled to utilize the Reserve Fund for such purposes, subject to compliance with the provisions of Section 9.3 (c) hereof.
- (c) The Tenant shall at all times keep the Demised Premises in a neat and orderly condition, maintain in first class condition all landscaping and exterior areas, and keep all areas clear of ice and snow including any adjacent public areas as required by law, as would a prudent owner.
- (d) In the event that the Landlord determines that any condition existing or potentially existing on the Demised Premises creates a risk to life, health or safety, the Tenant shall, at its own cost and expense, effect any repairs, maintenance or other modifications to the Demised Premises required to alleviate such condition as communicated by the Landlord to the Tenant.

Section 9.3 Building Condition Assessment and Reserve Fund

- (a) Prior to the Commencement Date, the Landlord shall conduct or cause to be conducted a BCA of the Demised Premises and thereafter the Landlord shall conduct or cause to be conducted an update of the BCA of the Demised Premises no later than five (5) years after the date of the previous BCA. The Landlord may deduct its reasonable internal administration costs of conducting the BCA or its out of pocket costs in retaining a consultant to conduct the BCA, from time to time, from the Reserve Fund Account, as hereinafter defined.
- (b) The Tenant shall deposit in a trust account at a Canadian chartered Bank (the “**Reserve Fund Account**”) the following:
 - (i) sufficient funds to establish at the end of each Lease Year the annual amount required in the most recent BCA.
 - (ii) in the event the Landlord has not conducted a BCA in any of the immediately preceding five (5) Lease Years, an amount equal to five per cent (5%) of the aggregate annual effective gross income (including all subsidies) from the Demised Premises, including any rent supplement income and affordability payments from the Province of Ontario, the City of Toronto or any other municipality;

(the “**Reserve Fund**”) to be deposited monthly in equal one twelfth (1/12) installments on or before the fifteenth (15th) day of each calendar month or, in the case of payments made pursuant to Section 9.3 (b) (ii) above, estimated amounts, adjusted within 60 days of the end of each Lease Year to reflect actual effective gross income from the Demised Premises for the preceding fiscal year.
- (c) The Tenant may, with the prior written approval of the Landlord, withdraw amounts from the Reserve Fund Account to fund capital repairs (excluding routine, scheduled or preventative maintenance) of the Demised Premises in order to maintain the same in the condition required to be maintained hereunder or under the BCA. Such approval shall not be unreasonably withheld, provided the Tenant shall comply with Sections 8.4, 8.5 and 8.6 hereof in connection with all such repairs.
- (d) Prior to the Commencement Date, the Tenant shall provide the Land with evidence the Reserve Fund Account has been established in the name of the Landlord in trust for the Tenant.
- (e) In the event the Tenant fails to do any Required Work in accordance with Section 9.7 hereof, the Landlord shall be entitled to deduct the amounts from the Reserve Fund to conduct such Required Work including an administration fee of fifteen (15%) per cent.
- (f) The Tenant hereby grants to the Landlord a security interest in and lien upon, and pledges to the Landlord, all amounts in the Reserve Fund Account and all amounts at any time in or attributable to such account or successor accounts, as security for all existing and hereafter arising obligations, liabilities and indebtedness of the Tenant to the Landlord. The Landlord shall take whatever action it considers appropriate and necessary, relying upon an opinion of counsel, to protect and enforce its rights respecting the Reserve Fund Account, including completion and registration of any

documents or financing statements at the expense of the Tenant in order to perfect any security interests in the Reserve Fund Account.

Section 9.2 Reserve Fund at end of Term

All amounts in the Reserve Fund shall revert to the Landlord absolutely at the end of the Lease Term and, provided the Tenant has made all repairs to the Demised Premises in accordance with the BCA, the Landlord shall reimburse the Tenant for the cost of any repair or replacement in accordance with Section 9.3 hereof.

Section 9.3 Capital Repairs in Last Three Years of Lease

Notwithstanding any other provision of this Lease, should the Tenant, but for the provisions of this subsection 9.3 be required to effect any repair or replacement during the last three (3) years of the Term, the economically useful life of which would extend beyond the expiry of the Term, the Landlord and the Tenant may agree to terminate this Lease, or require the Tenant to proceed with the repair or replacement and, only if this Lease is not renewed and upon expiry, any unamortized amount of such repair or replacement for the period beyond the expiry of the Term will be reimbursed to the Tenant. The calculation of the unamortized amount will be based on straight line amortization of the costs of such repair or replacement over the improvements' economic life, in the opinion of the Landlord acting reasonably.

Section 9.4 Nuisance

The Tenant and its employees, agents, occupants and invitees shall not commit, cause or permit any nuisance or waste on the Demised Premises and shall ensure that nothing is done or kept at or on the Demised Premises which causes adverse disturbance, damage to or interference with normal use of any adjoining property. For certainty, the parties acknowledge and agree that the undertaking of the permitted uses herein do not violate this provision.

Section 9.5 Access by Landlord

Save in the case of emergency, as determined by the Landlord, acting reasonably in which case the Landlord shall have access without notice to the Demised Premises, the Landlord and its agents shall be entitled to enter the Demised Premises from time to time upon twenty-four (24) hours' prior notice or, where necessary, such period of time as set out in the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 or its successor legislation, to view its state of repair, and without being considered to be interfering unreasonably with the Tenant's possession of the Demised Premises or the possession of any of the Tenant's subtenants or occupants.

Section 9.6 Repairs by Landlord

In the event the Landlord determines in its sole opinion, that the Demised Premises are not being maintained in the condition required under this Lease, the Landlord may on written notice require the Tenant to make repairs, alterations, changes, adjustments, improvements or additions to the Demised Premises or any part of them (the "**Required Work**"), as the Landlord reasonably considers necessary or desirable to maintain the Demised Premises in such condition. In the event the Tenant fails to do so within thirty (30) days after receipt of the Landlord's notice, the Landlord may elect to carry out the Required Work and recover all expenses from the Tenant including a fifteen percent (15%) administration fee.

Section 9.7 Environmental Matters

(a) The Tenant shall not cause or allow any hazardous or toxic waste or substances (collectively the "Hazardous Materials") to be used, generated, stored, or disposed of on, under or about, or transported to or from, the Demised Premises (collectively the "Hazardous Materials Activities") except in strict compliance, at the Tenant's expense, with all applicable Environmental Laws, as hereinafter defined, and using all necessary and appropriate precautions which a prudent operator would exercise.

(b) The Landlord shall not be liable to the Tenant for any Hazardous Materials Activities conducted on the Demised Premises during the Term or any extension thereof, however caused, whether or not consented to by the Landlord; the Tenant shall indemnify, defend with counsel, and hold the Landlord harmless from and against any claims, damages, costs and liabilities arising out of any and all such Hazardous Materials Activities.

(c) For purposes hereof, Hazardous Materials shall include but not be limited to substances defined as contaminants or pollutants under the *Environmental Protection Act* (Ontario), R.S.O. 1990, c. E.19 or the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, and all other laws and ordinances governing similar matters; and any regulations adopted and publications promulgated pursuant thereto (collectively the "Environmental Laws"), as they may be amended from time to time.

(d) The Tenant shall notify the Landlord, as soon as reasonably possible both by telephone and in writing of any material spill or material unauthorized discharge of Hazardous Materials or of any material discharges under the Environmental Laws, and the Landlord, its representatives and employees at their expense may enter the Demised Premises at any time, upon reasonable notice, during the Term to inspect the Tenant's compliance herewith.

(e) The Tenant shall also be responsible for proper disposal of all substances and toxic materials, and other materials which under the Environmental Laws, any Governmental regulations dealing with waste and or recycling by virtue of prudent waste management procedures in the Tenant's industry require special disposal measures, including, without limitation, oil, kitchen waste, grease and cleaning substances.

(f) Subject to the provisions of Subsections 9.5 (7) and (9) below, after the Commencement Date, the Demised Premises shall be entirely at the risk of the Tenant and the Tenant shall assume any and all responsibilities and liabilities arising out of or in any way connected with any matter or condition in, on, under or in the vicinity of the Demised Premises from and after the Commencement Date, whether known or unknown and whether such responsibilities are imposed by federal, provincial or municipal laws, statutes, by-laws, rules, regulations, orders or directives or by any regulatory authority, and whether imposed by common law, equity or statute ("Environmental Laws").

(g) The Landlord releases and discharges the Tenant, its employees, directors, officers, appointees, representatives and agents from any claims, demands and actions arising out of or as a result of the condition of the Demised Premises as of the Commencement Date and any impact such condition has had on any adjacent land owned by the Landlord, except where the claim, demand or action has been caused by the negligence of the Tenant or the negligence of any person on the Demised Premises at the invitation or request of the Tenant.

(h) The Tenant hereby indemnifies the Landlord, its elected and appointed officials, directors, officers, employees, appointees, agents and representatives (the "Indemnified Parties") from and against all damages, losses, liabilities, harm, injury, costs, expenses, actions, demands and claims (including legal and witness costs) that are suffered, sustained or incurred by an Indemnified Party as a result of or in connection with the activities or omissions of the

Tenant on the Demised Premises or the activities or omissions of any person on the Demised Premises at the invitation or request of the Tenant, including in respect of any environmental investigations or remediation undertaken by the Tenant. This indemnity from the Tenant is the sole and exclusive indemnity obligation of the Tenant to the Landlord

- (i) Notwithstanding the provisions of Sections 9.5 (6), (7) and (8) in the event that:
 - (i) the soil, subsoil, surface water or groundwater of any other lands ("Neighbouring Properties") are affected by Hazardous Substance emanating from the Demised Premises to the extent that such effect is the result of the presence of Hazardous Substance on the Demised Premises prior to the Commencement Date or in respect of any Excluded Liability; and/or
 - (ii) after the Commencement Date, Hazardous Substance emanating from lands owned or controlled by the Landlord affects the soil, subsoil, surface water or ground water at, on or under the Demised Premises, this Lease shall in either case not relieve the Landlord from any responsibilities and liabilities therefor to the Tenant or the owners or occupants of any Neighboring Properties and/or any Governmental Authority to the extent the Landlord has such responsibility under Environmental Laws or otherwise under the Contribution Agreement and such effects cause damages, losses, liabilities, harm, injury, costs, expenses to, or actions, demands and claims against the Tenant or are the subject of regulatory action or third party claims, and the Tenant shall not be required to indemnify the Landlord with respect thereto. For clarity, it is understood and agreed that in the circumstances described in this Subsection 9.5 (9), the Landlord shall bear the responsibility and liability therefor, including as it would have had at law as if Subsections 9.5 (6), (7) and (8) had not been included herein.

ARTICLE 10 DAMAGE OR DESTRUCTION

Section 10.1 Continuation of Rent

Subject to subsection 10.2(2) below, the partial or complete damage to or destruction of the Building shall not terminate this Lease or entitle the Tenant to any abatement of Rent.

Section 10.2 Repair and Replacement by Tenant

(1) If the Building from time to time standing on the Demised Premises, or any equipment, machinery and other facilities are totally or partially destroyed by any cause whatsoever, there shall be no abatement of Rent and the Tenant shall repair, replace, rebuild or restore same with all reasonable diligence, provided the Leasehold Mortgagee has not elected to have any insurance proceeds applied to payment of the Leasehold Mortgage and the Tenant has first submitted its plans to the Landlord for approval and such plans have been approved by the Landlord to the extent required herein and provided that all the terms of this Lease continue to be complied with.

(2) Provided further that, notwithstanding Section 10.2(1), if the Building is damaged or destroyed in excess of 50% of the Replacement Cost of the Building above ground, the Tenant, may within ninety (90) days of such damage or destruction, at its option, give written notice to the other Party that it wishes to terminate the Lease, in which case neither the Landlord nor the Tenant shall be obliged to repair, the Tenant shall surrender the Demised Premises to the Landlord within thirty (30) days after delivery of the notice, the Rent shall be apportioned and paid to the date of such damage or destruction, and the Lease shall forthwith be terminated.

- (3) The Tenant shall not be deemed to be in default under this Lease during any period of construction or repair while the Demised Premises is tenantable.
- (4) The certificate of a quantity surveyor shall bind the Parties as to:
 - (a) the percentage of the Demised Premises rendered tenantable;
 - (b) the date upon which the reconstruction or repair is completed and the date when the Demised Premises are rendered tenantable; and
 - (c) the state of completion of any repair or replacement by the Tenant.

ARTICLE 11 REMEDIES OF LANDLORD

Section 11.1 Default and Right to Re-Enter

If and whenever:

- (a) the Tenant fails to pay any Rent or other sums due hereunder within forty-five (45) days of the later of the day or dates appointed for the payment thereof and receipt of written notice by the Tenant from the Landlord of the amounts delinquent and then outstanding; or
- (b) the Tenant fails to observe or perform any other material terms, covenants, obligations or conditions of this Lease and the Contribution Agreement and any shared facilities or reciprocal agreement affecting the Demises Premises to be observed or performed by the Tenant, (other than those terms, covenants or conditions set out below in Subsections (d), (c), (f) (g) and (i) for which no notice is required) provided the Landlord first gives the Tenant sixty (60) days prior written notice of any such failure to perform and the Tenant fails to cure such failure within such period of sixty (60) days or such longer time as would have reasonably sufficed for the remedying of such breach or non-performance if the Tenant had commenced to remedy the same within sixty (60) days and thereafter proceeded to remedy the same within reasonable diligence provided that the Tenant shall not be entitled to the advantage of such longer time unless it shall have actually proceeded thereafter to remedy the same with all due diligence and shall have provided to the Landlord, if requested by the Landlord, reasonable evidence as to the steps being taken by the Tenant toward remedying the same; or
- (c) the Tenant becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement of compromise; or
- (d) a receiver or a receiver and manager is appointed for all or a portion of the Tenant's property and the receiver's appointment is not vacated within thirty (30) days; or
- (e) any steps are taken or any action or proceedings are instituted by the Tenant or by any other party including, without limitation, any court or governmental body of competent jurisdiction for the dissolution, winding-up or liquidation of the Tenant or its

assets other than a corporate re-organization of the Tenant and such dissolution, winding-up or liquidation is not rescinded within thirty (30) days; or

(f) the Tenant abandons the Demised Premises or the Demised Premises becomes unoccupied for a period of sixty (60) consecutive days or more without the consent of the Landlord, other than as a result of circumstances set out in Section 15.12, any permitted renovations, construction, alteration or due to damage or destruction; or

(g) this Lease is taken under any writ of execution; or

(h) the Tenant purports to make a Transfer other than in compliance with this Lease, which Transfer is not withdrawn within ninety (90) days following written notice from the Landlord in respect thereof.

then and in every such case the Landlord, in addition to any other rights or remedies it has pursuant to this Lease or by law, but subject to Section 11.6, has the immediate right of re-entry upon the Demised Premises and it may repossess the Demised Premises, all without service of notice or resort to legal process and without the Landlord being considered guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

Notwithstanding the foregoing and without limiting any other remedies, the Landlord may have arising out of this Lease or at law, upon the happening of a default by the Tenant under this Lease which the Tenant has not rectified within the time required pursuant to the provisions of this Lease, the Landlord shall have the right, without any re-entry or termination of this Lease, to enter upon the Demised Premises and cure or attempt to cure such default (but this shall not obligate the Landlord to cure or attempt to cure any such default or, after having commenced to cure or attempted to cure such default, to continue to do so), and to recover from the Tenant all damages and expenses incurred by the Landlord (plus 15% for administration costs) as a result of any breach by the Tenant.

11.1A Notwithstanding the foregoing and any other provision of this Lease or any right or entitlement of the Landlord at law or in equity, the Landlord acknowledges and agrees that:

(a) in the event that the Landlord is in material breach of any of its obligations in the Contribution Agreement it may not assert a default by the Tenant of its obligations under this Lease which default may be reasonably attributable to or connected with the Landlord's failure to materially comply with its obligations under the Contribution Agreement; and

(b) in no event shall the Landlord be entitled to terminate this Lease for any default under this Lease and/or the Contribution Agreement or otherwise, save and except in the event of a breach under Section 11.1(a), (c), (d), (e) or (f) that persists beyond any applicable cure period, provided that with respect to the assertion of an event of default under subparagraph 11.1(b), such default must form part of a series of habitual, and persistent defaults by the Tenant of its non-monetary obligations under this Lease such that the Tenant is habitually and persistently over time failing to undertake the operation of an affordable housing project from the Demised Premises in the manner required under this Lease and the Contribution Agreement.

11.1B In the event that the Landlord elects to terminate the Contribution Agreement in accordance with its rights therein, the Landlord must concurrently terminate this Lease and similarly, in the event that the Landlord elects to exercise its right to terminate this Lease in accordance with its rights herein, the Landlord must concurrently exercise its right to terminate the Contribution Agreement.

Section 11.2 Right to Relet

If the Landlord elects to re-enter the Demised Premises as herein provided, or if it takes possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time to time without terminating this Lease make such alterations and repairs as are necessary in order to relet the Demised Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such Rent and upon such other terms, covenants and conditions as the Landlord in its sole discretion considers advisable. Upon each such reletting all rent received by the Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from the Tenant to the Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees, and solicitor's fees and of costs of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by the Landlord and applied in payment of future rent as the same becomes due and payable hereunder. If such Rent received from such reletting during any month is less than that to be paid during that month by the Tenant hereunder, the Tenant shall pay any such deficiency which shall be calculated and paid monthly in advance on or before the first day of each and every month. No such re-entry or taking possession of the Demised Premises by the Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to the Tenant. Notwithstanding any such reletting without termination the Landlord may at any time thereafter elect to terminate this Lease for such previous breach. If the Landlord at any time terminates this Lease for any breach, in addition to any other remedies it may have, it may recover from the Tenant all damages it incurs by reason of such breach, including the cost of recovering the Demised Premises, solicitor's fees (on a solicitor and client basis) and including the worth at the time of such termination of the excess, if any, of the amount of Rent and charges equivalent to Rent required to be paid pursuant to this Lease for the remainder of the stated Term over the then reasonable rental value of the Demised Premises for the remainder of the stated Term, all of which amounts shall be immediately due and payable by the Tenant to the Landlord.

In any events referred to in Section 11.1(e), in addition to any and all other rights, including the rights referred to in this Section and in Section 11.1(e), the full amount of the current month's instalment of Additional Rent and any other payments required to be made monthly hereunder, together with the next three months instalments for Additional Rent, all of which shall be deemed to be accruing due on a day-to-day basis, shall immediately become due and payable as accelerated Rent, and the Landlord may immediately distrain for the same, together with any arrears then unpaid.

Section 11.3 Landlord's Expenses

If legal action is brought for recovery of possession of the Demised Premises, for the recovery of Rent or any other amount due under this Lease, or because of the breach of any other terms, covenants or conditions herein contained on the part of the Tenant to be kept or performed, and a breach is established, the Tenant shall pay to the Landlord all reasonable expenses incurred therefor, including solicitor's fee (on a solicitor and client basis), unless a Court shall otherwise award.

Section 11.4 Removal of Chattels

In case of removal by the Tenant of the goods and chattels of the Tenant from the Demised Premises other than in accordance with this Lease, the Landlord may follow same for thirty (30) days in the same manner as is provided for in the *Commercial Tenancies Act*, R.S.O. 1990, c.L.7.

Section 11.5 Waiver by Tenant of Exemption from Distress

The Tenant hereby agrees with the Landlord that notwithstanding anything contained in the *Commercial Tenancies Act*, or any statute subsequently passed to take the place of or amend the said Act, none of the goods and chattels of the Tenant on the Demised Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears by the Tenant as provided for by any sections of the said Act or any amendments thereto, and that if any claim is made for such exemption by the Tenant or if a distress is made by the Landlord, this covenant and agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any sections of the said Act or any amendments thereto; the Tenant waiving, as it hereby does, all and every benefit that could or might have accrued to the Tenant under any or by virtue of any sections of the said Act, or any amendments thereto but for this covenant. Notwithstanding the foregoing, in the event that CMHC holds leasehold title, as tenant, this clause will not be enforced.

Section 11.6 Remedies of Landlord Cumulative

The remedies of the Landlord specified in this Lease are cumulative and are in addition to any remedies of the Landlord at law or equity. No remedy shall be deemed to be exclusive, and the Landlord may from time to time have recourse to one or more or all of the available remedies specified herein or at law or equity.

Section 11.7 Obligation to Mitigate

Whether or not the Landlord shall repossess the Demised Premises on default of the Tenant, the Landlord shall use reasonable efforts to mitigate its damages

ARTICLE 12 QUIET ENJOYMENT

Section 12.1 Right of Tenant

If the Tenant is not in default with respect to the payment of Rent hereby reserved, which default persists beyond any applicable cure period, the Tenant shall and may peaceably enjoy and possess the Demised Premises during the Term, without any interruption or disturbance whatsoever from the Landlord or any other Person, firm or corporation lawfully claiming from or under the Landlord, and free from the adverse claims of any Persons whatsoever and the Landlord will protect the Tenant, with full, complete and absolute possession of the Demised Premises subject in each case only to the other express provisions of this Lease. The Landlord covenants and agrees that no exclusive uses, rights or privileges shall be granted to any Persons (nor will the Landlord consent to same) which would affect the use of the Demised Premises without the written consent of the Tenant. The Landlord covenants and agrees that if any lien or encumbrance is registered against the Demised Premises which may result in the sale thereof or which causes harm to the Tenant, then the Landlord, shall, as soon as is

reasonable possible, at its own expense cause the same to be removed by payment to the lien claimant or posting security in the appropriate court of any like proceeding.

ARTICLE 13 ESTOPPEL CERTIFICATES

Section 13.1 Estoppel Certificates

Each of the Parties shall, at any time and from time to time during the Term, upon not less than fifteen (15) clear days' prior notice by the other Party, execute, acknowledge and deliver to the other Party a statement in writing certifying whether this Lease and Contribution Agreement are in good standing, unmodified and in full force and effect, or where requested, that the particular terms thereof have been met or satisfied, as the case may be, or if there have been modifications that the same are in good standing, in full force and effect as modified, stating the modifications, the dates to which the Rent and other charges, if any, have been paid in advance, the defaults, if any, on the part of the Party requesting such statement known to the Party from whom such statement is requested and the action taken or proposed to be taken by such last-mentioned Party with respect to the same; it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchaser of the Landlord's freehold estate, the Tenant's leasehold estate, any mortgagee of the freehold, any assignee or sublessee of the Tenant's leasehold estate or any leasehold mortgagee, as the case may be.

ARTICLE 14 APPROVALS, NOTICES, ETC.

Section 14.1 Approvals

Where by a provision of this Lease an approval, consent or agreement of a Party (hereinafter individually or collectively referred to as an "Approval") is required, unless the contrary is expressly provided in this Lease:

- (a) the Party whose Approval is required will, within thirty (30) clear days after receipt of a request for Approval which request shall contain reasonable detail if the circumstances require, give notice to the requesting Party either that it gives its Approval, or that it withholds its Approval, setting forth in reasonable detail its reasons for withholding;
- (b) if the notification referred to in Section 14.1(a) is not given within the applicable period of time, the Party whose approval is requested will be deemed conclusively to have given its Approval in writing;
- (c) an Approval may not be unreasonably withheld unless expressly provided in this Lease.
- (d) Notwithstanding any consent or approval given by Landlord with respect to any plans, specifications or other construction-related matter, the Landlord will not be in any way liable for the design or construction of any proposed structure, and the party that

has obtained the consent or approval of the Landlord shall be wholly liable for such design and construction.

Section 14.2 Notices

(1) All notices, demands, requests, agreements, consents, approvals and payments (hereinafter, individually or collectively called a "Notice") which may be or are required to be given pursuant to this Lease shall be in writing and shall be delivered by personal service or facsimile to the following address:

(a) to the Landlord at:

City of Toronto
Metro Hall, 55 John Street, 2nd Floor, Suite 204
Toronto, ON M5V 3C6
Attention: Deputy City Manager – Corporate Services

and a copy to:

City of Toronto
Metro Hall, 55 John Street 7th Floor
Toronto, ON M5V 3C6
Attention: Executive Director, Housing Secretariat

(b) to the Tenant at:

Attention:

Any such notice given as aforesaid shall be deemed to have been effectively given on the next business day following the date of such delivery. Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to the Party at its changed address.

(2) Either party under this Lease may from time to time by Notice to the other party change its address for service under this Lease.

ARTICLE 15 GENERAL

Section 15.1 Gender and Number

Words importing the singular shall include the plural and vice versa. Words importing gender shall include all genders.

Section 15.2 Index and Captions

The index and the captions contained in this Lease are for reference only and in no way affect this Lease.

Section 15.3 Applicable Law

This Lease shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein from time to time and shall be treated in all respects as an Ontario lease.

Section 15.4 Invalidity

The invalidity or unenforceability of any provision or covenant contained in this Lease shall not affect the validity or enforceability of any other provision or covenant herein contained and any such invalid provision or covenant shall be deemed to be severable.

Section 15.5 Covenants Independent

Each covenant contained in this Lease is a separate and independent covenant, and a breach of covenant by any Party will not relieve the other Party from its obligation to perform each of its covenants, except as otherwise expressly provided herein.

Section 15.6 Currency

All reference to currency in this Lease shall be deemed, unless the context otherwise requires, to be a reference to lawful money of Canada.

Section 15.7 Entire Agreement

This Lease, the Contribution Agreement, and the other agreements specifically referred to herein constitute the entire agreement among the Parties pertaining to the Lease of the Demised Premises to the Tenant and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect thereto. There are no conditions, warranties, representations or other agreements between the Parties in connection with this Lease except as specifically set forth herein or in such other agreements.

Section 15.8 Amendments

No supplement, modification, amendment, waiver or termination of this Lease shall be binding unless executed in writing by the Landlord and the Tenant.

Section 15.9 Non-Waiver

No waiver of any of the provisions of this Lease shall be deemed to be or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise provided.

Section 15.10 Calculations

Except as otherwise provided herein, all calculations required or permitted under this Lease shall be made on the basis of generally accepted accounting principles and practices applied on a consistent basis. All calculations made by the Landlord under this Lease shall be final and binding on the parties in the absence of manifest error or fraud.

Section 15.11 Successors and Assigns

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

Section 15.12 Excusable Delay

Except as expressly otherwise provided in this Lease:

- (i) if because of an event of Force Majeure (as such term is defined in the Contribution Agreement), the party is delayed in performing or observing a covenant or in complying with a condition under the terms of this Lease that party is required to do by a specified date or within a specified period of time or with all due diligence (save and except for the payment of Basic Rent and/or surrender of the Demised Premises on the expiration or earlier termination of the Term); and
- (ii) if the circumstance is not caused by the default or act of commission or omission of that party nor avoidable by the exercise of reasonable effort or foresight by that party

then, in that event, the date or period of time by or within which that party is to perform, observe or comply will be extended by a period of time equal to the duration of the delay, provided that nothing excuses a delay dealing with a life and safety issue or excuses the Tenant from the payment of Basic Rent hereunder when due or payment under the Contribution Agreement.

Section 15.13 Time of Essence

Time shall be of the essence of this Lease, except as specifically provided otherwise herein.

Section 15.14 Relationship of Parties

This Lease shall not be deemed to create any relationship between the Parties other than that of Landlord and Tenant as to the Demised Premises. For greater certainty, the Parties agree that they are not partners or joint ventures and that the Tenant is not the agent or representative of the Landlord and has no authority to bind the Landlord.

Section 15.15 Continuation of Certain Obligations

Wherever specifically provided for in this Lease or if it is necessary for the full implementation of any provision of this Lease, the obligations of a Party shall survive the expiration of the Term or the earlier termination of this Lease, as the case may be.

Section 15.16 No Voluntary Surrender

The Tenant shall not have the right to surrender this Lease without the prior written consent of the Landlord.

Section 15.17 Expropriation

In the event of expropriation of the Demised Premises or any part thereof by any lawful power or authority which the Tenant acknowledges may include the Landlord, each of the Landlord and the Tenant shall be entitled to seek compensation for their respective interest so expropriated. In the event of expropriation of all of the Demised Premised, this Lease and the Term shall be terminated forthwith and thereupon Rent shall be apportioned and paid to the date of termination and the Tenant shall surrender possession of the Demised Premises and the Demised Premises to the Landlord, provided that such termination shall not affect the Tenant's

claim to seek compensation. In calculating any compensation payable to the Tenant, any secured or unsecured consideration provided to the Tenant by the Landlord in respect of construction of the Demised Premises (the "Sum"), and outstanding amounts payable by the Tenant to the Landlord with respect to this Lease and the Contribution Agreement which are then due and outstanding shall be deducted from such compensation and paid to the Landlord. In determining the amount of the Sum to be included in the amount deducted from the Tenant's compensation, the Sum shall be present valued as at the day compensation is determined (the "New Sum"), and such New Sum shall be deducted from any compensation payable to the Tenant.

Section 15.18 Registration of Agreement

The Tenant shall have the right to register a notice of this Lease and any Leasehold Mortgage against title to the Demised Premises. If the Tenant registers the Lease, the Tenant agrees that it will, at its sole expense, discharge and withdraw from title any such registration of the lease within thirty (30) days after the termination of this Lease. If such registration is not discharged or withdrawn within such time, the Landlord shall have the right and is hereby appointed by the Tenant as the Tenant's agent to prepare, execute and register such documentation as is required to discharge and withdraw any such registration.

Section 15.19 Rights, Obligations and Capacity of the Landlord

All rights and benefits and all obligations of the Landlord under this Agreement shall be rights, benefits and obligations of the Landlord in its capacity as a party to this Agreement and shall not derogate from or interfere or fetter with the rights, benefits and obligations of the Landlord, its Council or its elected and appointed officials and representatives in their respective functions and capacities.

Section 15.20 Administration of Agreement

The Tenant acknowledges that all references herein to the "Deputy City Manager - Corporate Services" shall mean the Landlord's Deputy City Manager - Corporate Services, his/her successor or designate from time to time. The Deputy City Manager - Corporate Services will administer the terms of this Lease on behalf of the Landlord. The Deputy City Manager - Corporate Services shall administer and manage the Lease including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Deputy City Manager - Corporate Services may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction.

Section 15.21 Signage

(1) The signage policy for the Demised Premises identifying the, form, type, colour, design, content and location of exterior signs identifying the Demised Premises and any material amendments thereto, together with any exterior canopies and lights, shall be subject to the prior approval of the Landlord.

(2) Tenant shall not erect any signs other than those relating directly to the Demised Premises.

(3) Tenant shall be responsible for the cost of all signage, canopies and lighting.

Section 15.22 Further Assurances

Each Party agrees to make such further assurances as may be reasonably required from time to time by the other Party to more fully implement the true intent of this Lease.

Section 15.23 Assignment by the Landlord

If the Landlord transfers the Demised Premises and if the transferee executes an assumption of this Lease and the Contribution Agreement, each in a form and content acceptable to the Tenant, then the Landlord shall be relieved of all liability under this Lease after the date of such transfer.

Section 15.24 City as Municipal Corporation

(1) Nothing in this Lease derogates from, interferes with, or fetters the exercise by the City of all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the City in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities. Nothing in this Lease derogates from, interferes with, or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this Lease.

(2) No communication or dealing between the Tenant and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City that is not clearly in respect of and in accordance with this Lease will be deemed to be a communication or dealing under this Lease between the Tenant and the City as parties to this Lease, or affect the City with notice of any such communication or dealings. It is intended and agreed that any communication or dealing between the Tenant and the City as parties to this Lease will only be effective if delivered in accordance with the notice provisions in this Lease. No communication or dealing between the City as a party to this Lease and the Tenant as a party to this Lease will relieve from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or by any other lawful manner separate and apart from the obligations imposed under this Lease.

Section 15.25 Reasonableness

Except and only to the extent specifically stated otherwise herein, whenever in this Lease or any of the Schedules forming a party hereof, any allocation, appointment, consent, approval, leave, designation, judgment, discretion or permission is required of the Landlord or the Tenant shall be exercised and/or granted reasonable and equitably and without undue delay. Each architect, engineer, auditor, assessor, consultant or any other person of similar nature employed or retained by the Landlord or Tenant will act in accordance with the applicable principles and standards of such person's profession.

Section 15.26 Arbitration

Where a Party wishes to refer a matter to Arbitration for determination (including for certainty whether the occurrence of a default of Tenant's obligations under this Lease has occurred), after a Party gives notice that it is referring such matter to Arbitration for determination (the "**Arbitration Notice**"):

(a) The Parties may, within fifteen (15) days after the delivery of the Arbitration Notice, agree in writing upon the appointment of a single arbitrator who will determine the dispute or matter acting alone, failing which such arbitrator may be appointed by order of the Court in accordance with the applicable legislation in respect of private arbitrations in the Province of Ontario, upon the application of either Party, made on notice to the other Party. The language to be used in the arbitral proceedings shall be English.

(b) Within fifteen (15) days of the appointment of the arbitrator, the Party who delivered the Arbitration Notice (the "**Initiator**") shall deliver to the other Party and to the arbitrator a statement (the "**Statement of Claim**") describing the facts supporting its position, the points at issue and the relief sought. The responding Party shall deliver to the Initiator and to the arbitrator a responding statement within 15 days from the receipt of the Statement of Claim.

(c) Unless expressly agreed to in writing to the contrary, the parties undertake as a general principal to keep confidential all awards in their Arbitration, together with all materials, proceedings and evidence created for the purpose of the Arbitration and all documents produced by any Party in the proceedings not otherwise in the public domain, save and except to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a competent court.

(d) It is the intent of the parties that, barring extraordinary circumstances, the Arbitration proceedings shall be concluded within sixty (60) days from the date the arbitrator is appointed. The parties may agree to extend this time limit or the arbitrator may do so in his or her discretion if he or she determines that the interest of justice so requires. The arbitrator shall use his or her best efforts to issue the final award or awards within fifteen (15) days after closure of the proceedings. Failure to adhere to these time limits will not be a basis for challenging the award.

(e) The determination made by the arbitrator shall be final and binding upon the Landlord and the Tenant. The costs of Arbitration shall be apportioned between the parties hereto as the arbitrator may decide. Neither Party shall be deemed to be in default in respect of the dispute which is subject of the Arbitration so long as the Arbitration is proceeding.

(f) The parties expressly agree that the provisions of the *Municipal Arbitrations Act*, R.S.O. 1990, Chapter M.48 shall not apply at any time to any arbitration whatsoever initiated pursuant to this Lease. Arbitration initiated pursuant to this Lease shall proceed in accordance with the provisions of the *Arbitration Act*, 1991, S.O. 1991, Chap. 17.

Section 15.27 Planning Legislation

The Parties agree that Section 50(3) of the *Planning Act*, R.S.O. 1990, c. P.13 is not applicable to this Lease, as the City of Toronto is the Landlord.

Section 15.28 Counterparts

This agreement may be executed in one or more counter parts. Any single counterpart or a set of counterparts executed, in either case, by all the parties hereto shall constitute a full, original and binding agreement for all purposes. Counter parts may be transmitted by facsimile and/or PDF and the reproduction of signatures by way of facsimile or PDF will be treated as though such reproductions were executed originals and each party hereto undertakes to provide the other with the copy of this agreement bearing original signatures within a reasonable time after the date execution.

Section 15.29 Schedules

The following schedules form part of this Lease:

- Schedule A** - Legal Description
- Schedule B** - Declaration of Compliance with Anti-Harassment/Discrimination
Legislation & City Policy

IN WITNESS WHEREOF the Parties have duly executed this Lease as of the date of this Lease.

CITY OF TORONTO

per: _____
Name:
Title:

per: _____
Name:
Title:

per: _____
Name:
Title:

per: _____
Name:
Title:

We have authority to bind the corporation.

APPROVED AS TO FORM

.....
For Wendy Walberg, City Solicitor
File #

SCHEDULE "A"

Legal Description & Permitted Encumbrances

Legal Description:

Permitted encumbrances:

1. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements and building restrictions, provided they are complied with.
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown and any statutory exceptions to title.
3. Mortgage in favour of the City of Toronto.

Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

Organizations/individuals in Ontario, including the City of Toronto, have obligations under the Ontario Human Rights Code, the Occupational Health and Safety Act, the Employment Standards Act, the Accessibility for Ontarians with Disabilities Act, the Criminal Code of Canada and the Charter of Rights and Freedoms. In addition, the City of Toronto also has policies that prohibit discrimination on the additional grounds of political affiliation or level of literacy, subject to the requirements of the Charter. Organizations are required to have and post policies, programs, information, instruction, plans and/or other supports, and an appropriate internal process available to their employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints under the applicable legislation and including the additional grounds of discrimination prohibited under City policy. Individuals are obliged to refrain from harassment/hate activity.

The City of Toronto requires all organizations and individuals that contract with the City to sign the following Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy. This Declaration must be signed by your organization and submitted with the contract or Letter of Understanding. The name of your organization and the fact that you have signed this declaration may be included in a public report to City Council.

Declaration:

I/we uphold our obligations under the above provincial and federal legislation. In addition, I/we uphold our obligations under City policies which prohibit harassment/discrimination on a number of grounds including political affiliation and level of literacy.

WHERE LEGALLY MANDATED I/we have in place the necessary policies, programs, information, instruction, plans and/or other supports that are consistent with our obligations, and I/we have an internal process available to my/our employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints. I/we agree that I/we shall, upon the request of the City, provide evidence of the policies, programs, information, instruction, plans and other supports and an appropriate internal complaint resolution process required under this Declaration which is sufficient to allow the City to determine compliance. I/We acknowledge that failure to demonstrate compliance with this declaration to the satisfaction of the operating Division, in consultation with the City Solicitor, may result in the termination of the contract.

Name of Vendor or Name of Grant Applicant (Organization or Individual):

Complete Address:

Email

Tel. No.

Postal Code:

Fax No.

Name of Signing Officer or Name of Applicant (Name – *please print*): Position

Signature:
Authorised Signing Officer or Individual

Date:

Date:

Group/Vendor/Individual Name:

Schedule "B"
Contribution Agreement

CITY OF TORONTO

- and –

XXXXXXX

CONTRIBUTION AGREEMENT

XXXXXX, Toronto

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BETWEEN:

CITY OF TORONTO

(the "City")

- and –

XXXXXXXXXX

(the "Proponent")

Background

- A. At its meeting held April 30, 2020 Council approved the issuing of a request for proposals seeking an operator for the new modular affordable housing units, forming part of Phase 1 of the City's modular housing pilot project, being developed at XXXXXXXX and entering into a municipal capital facility agreement with the successful proponent of that request for proposals; and
- B. Section 252 of the *City of Toronto Act*, 2006 (the "Act"), provides that the City may enter into agreements for the provision of a municipal capital facility by any person and that the City may exempt from taxation for municipal and school purpose land or a portion of land on which municipal capital facilities are located;
- C. Ontario Regulation No. 598/06, as amended, prescribes municipal facilities used for the provision of affordable housing as eligible municipal capital facilities for the purpose of section 252 of the Act; and
- D. The City of Toronto passed By-law 124-2016 pursuant to the provisions of section 252 of the *City of Toronto Act* and Ontario Regulation 598/06 to set out a definition for affordable housing and policies regarding eligibility for new affordable housing; and
- E. Funding for the development of the modular housing pilot project was provided through Canada Mortgage and Housing Corporation's Affordable Rental Housing Innovation Fund and the City of Toronto.

NOW THEREFORE in consideration of the mutual covenants and other terms and conditions in this Agreement and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the parties to the other (the receipt and sufficiency whereof are acknowledged), the parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 In this Agreement and Schedules attached hereto, the following terms shall have the following respective meanings:

"Affordability Period" means a term of the Lease;

"Affordable Housing" means housing that is the affordable housing units to be operated in accordance with the terms of this Agreement;

"Average Market Rents" or "Average Rents" or "AMR" means average monthly Toronto-wide rents by unit type as determined in the end-of-year survey of City-wide rents for the prior calendar year published by CMHC; if CMHC does not publish a survey of City-wide rents, then "average market rents" for the calendar year shall be City-wide average rents as determined by the City;

"CMHC" means the Canada Mortgage and Housing Corporation, and includes any successor organization;

"Deputy City Manager" means the Deputy City Manager, Internal Corporate Services for the City of Toronto;

"Director" means the Director for the Housing Stability Services, responsible for the ongoing administration of this Agreement and includes his or her designate or successor, if any;

"Executive Director" means the Executive Director for the Housing Secretariat responsible for the administration of this Agreement prior to occupancy and includes his or her designate or successor, if any;

"First Occupancy" means the first day of the first month immediately following the month in which the Unit is rented for the first rental period following the completion of the Development Activities in connection with the Project;

"Housing Access System" means the City's centralized housing access system; which includes the allocation and administration of Housing Benefits

"Household Income" means total gross household income from all sources of all persons who reside in a Unit or who will reside in a Unit if it is rented to them as defined in the City's Community Rental Housing Program – Income Verification Guide;

"Housing" means residential accommodation and facilities, common areas and services used directly with the residential accommodation. Housing does not include commercial or institutional premises, social or recreational services, and services or facilities related to mental or physical health care, education, corrections, food services, social support or public recreation other than those services described in Article 3 hereof;

"Initial Income Limit" means Household Income at or below four (4) times the annualized Monthly Occupancy Costs, as determined annually by the Director;

"Innovation Funding" means a combination of grants and re-payable loans provided by Canada Mortgage and Housing Corporation's Affordable Rental Housing Innovation Fund to be used to help develop the Project.

"Lands" means the lands described in Article 3, together with any buildings or improvements thereon from time to time;

"Lease" means the lease entered into between the City and the Proponent for the Lands;

"MFIPPA" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M56;

"MFIPPA Protected Information" means any "Personal Information" as defined in MFIPPA;

"Monthly Occupancy Costs" means the total of the monthly rent payable to the Proponent for a Unit including the cost of hydro, heat, water and hot water; and Monthly Occupancy Costs do not include charges for applicable taxes, parking, cable, internet, telephone or any other like charges. If heat, water or hydro costs are separately metered and paid directly by the household, then the Proponent shall deliver the Utility Allowance by way of setting off the amount of the Utility Allowance against the monthly rental payable;

"Operating Budget" means the budget for the operation of the Project, as amended from time to time;

"Project" means the Affordable Housing and associated space, to be operated by or on behalf of the Proponent in accordance with the terms and conditions of this Agreement, as outlined in Article 3 and the Lease;

"Tenant Access Plan" means a policy established by the Proponent and approved by the Director, which policy shall specify how tenants are to be selected and how information about such process is disseminated to the public.

"Units" means an individual affordable housing unit in the Project; and

"Utility Allowance" means the average amount of separately metered utility costs, determined by the City and published on the City's web site.

The following schedules form part of this Agreement:

Schedule "A" Proponent's Annual Targeting Report

Schedule "B" Proponent's Initial Occupancy Report

Schedule "C" Proponent's Annual Occupancy Report

and the parties agree that unless the context clearly indicates otherwise, all references in this Agreement to "this Agreement" shall be deemed to include said schedules.

1.2 This Agreement, the Schedules incorporated into it by reference and any documents entered into pursuant to this Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof and all other prior agreements, representations, statements, negotiations and undertakings with respect to such subject matter are superseded hereby.

1.3 Any reference in this Agreement to a statute shall be deemed to include any regulations made under the statute, any amendments made from time to time and any successor legislation.

ARTICLE 2 GENERAL

2.1 It is understood and agreed that this is a municipal capital facility agreement pursuant to section 252 of the *City of Toronto Act, 2006*, S.O., c.11, Sch A, and for the purposes of the City's by-law 124-2016 "To enact a new Municipal Facility Housing By-Law and to repeal By-law No. 282-2002".

2.2 In the event of a conflict or inconsistency between the provisions of the Agreement and the provisions of the Schedule, the provisions of this Agreement shall prevail.

2.3 All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.

ARTICLE 3 THE PROJECT

3.1 The Proponent agrees to operate the Project for the Affordability Period, as detailed below:

Location: XXX, Toronto
PIN XXXXX-XXXX (LT)

Affordable Housing: # bachelor Units

Monthly Occupancy Costs: All units to be rented at or below 60% of Average Market Rents, or such other percentage of Average Market Rents, as determined by the Executive Director, in her sole discretion.

ARTICLE 4 ASSISTANCE

4.1 Assistance. The Assistance to be provided to the Proponent, shall be comprised of the following and shall be used solely for the operation of the Project.

- (a) **Lease.** The City will enter into, concurrently with the execution of this Agreement, the Lease for a period of thirty-five (35) years, substantially in the form of the lease attached to the offer to lease submitted by the Proponent in its response to its request for proposals; and
- (b) **Property Tax Exemption.** The City shall exempt the Project from taxation for municipal and school purposes for the Affordability Period.

4.2 Conditions Precedent. The obligation of the City to enter into the Lease with the Proponent or to provide the tax exemption listed in Subsection 4.1 is conditional upon prior compliance by the Proponent with such of the following conditions precedent as are not previously waived in writing by the City:

- (a) The Proponent will have provided a Tenant Access Plan, to the satisfaction of the Director;
- (b) the Proponent shall have provided certified copies of such corporate documents of the Proponent as the City may reasonably require including, without limitation, letters patent or articles of incorporation, and a certified copy of the directors' resolution authorizing the execution of this Agreement;
- (c) the City has received certificates of incumbency of the persons signing on behalf of the Proponent;
- (d) the Proponent shall have provided the City with a current Annual Targeting Report in the form of the Annual Targeting Report attached hereto as Schedule "C";
- (e) the Proponent shall have provided proof of the insurance required pursuant to the terms of the Lease.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 The Proponent represents and warrants that,

- (a) it is duly incorporated under the laws of Ontario or Canada;
- (b) the Board of Directors of the Proponent has authorized the Proponent to enter into this Agreement and such authorization has not been withdrawn;
- (c) it shall not alter, supersede or cancel its articles of incorporation, letters

patent or other constating document in any way which would affect its ability to perform its obligations under this Agreement without the prior written consent of the City;

- (d) no member of the House of Commons, Senate or Provincial Legislature and no member of the Council of the City or members of any of its agencies, boards or commissions shall be entitled to any share or part of this agreement or to any benefit to arise therefrom;
- (e) no individual to whom the City's Code of Conduct for Members of Council, the City's Re-Employment of Former City Employees' Policy or the Employee Conflict of Interest Policy apply, shall derive a direct benefit from this Agreement.

5.2 The Proponent agrees that the City shall be entitled to rely at all times on the representations and warranties set out in this Article.

ARTICLE 6 GENERAL OBLIGATIONS OF THE PROPONENT

6.1 The Proponent shall:

- (a) comply with the terms of the Lease;
- (b) ensure that, when first entering into a tenancy agreement for a Unit, the tenant has a Household Income at or below the Initial Income Limit;
- (c) manage the Project so that occupancy is maximized and that the Monthly Occupancy Costs for each Unit are maintained at a maximum of sixty percent (60%) of Average Market Rents, or such other percentage of Average Market Rents as determined by the Executive Director, in her sole discretion, for the duration of the Affordability Period;
- (d) ensure that a Unit is not rented to the Proponent or shareholder or director of the Proponent, or any individual not at arm's length to the Proponent, shareholder or director of the Proponent unless the Proponent is a non-profit co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35, as amended, or is a not-for-profit corporation;
- (e) at or near the end of the first year co-operate with the City in conducting an operational review and provide all requested relevant documents, calculations, statements or information with respect to the Project;
- (f) no later than two (2) months prior to First Occupancy, provide the Director with an Access Plan for review and approval;
- (g) no later than 30 days prior to First Occupancy, provide the City with a completed Proponent's Initial Occupancy Report, in the form of Schedule "B";

- (h) if required by the City at any time during the Affordability Period, the Proponent will make all of the Units available to tenants who are the recipients of Housing Benefits, in accordance with the terms and conditions of this agreement or any other agreement entered into with the City with respect to those Units.
- (i) operate and maintain the Project described in Article 3, in accordance with the terms and conditions of this Agreement and the Lease and in a good state of repair in accordance with the maintenance and repair obligations of the Lease;
- (j) put in place a good corporate governance policy, satisfactory to the Director, to prevent conflicts of interest in the management of the Project;
- (k) provide representatives of the City and Canada with access to its books, records, and to the Project, subject to any rights of the residential tenants, of the Project;
- (l) With the exception of any information identified by the Proponent as confidential, the Proponent grants to the City a worldwide, non-exclusive, perpetual, irrevocable, royalty-free sub-licensable licence to use and to make such modifications as may be desirable to any data, reports, photographs, images, graphics, charts and other documents and information produced by the Proponent in connection with this Agreement and the Project, solely for the purposes of research and publicity, and not for any commercial purposes.
- (m) ensure that the Project is kept free and clear of all liens and encumbrances including but not limited to liens registered pursuant to the *Construction Lien Act*, R.S.O. 1990, c.30. If a lien is registered against the Project, the Proponent will vacate the liens within ten (10) business days and provided that the lien has been vacated within ten (10) business days, the Proponent will not be considered to be in default of its obligations hereunder.
- (n) manage the Project in a fiscally responsible manner including ensuring that:
 - (i) a deficit is not incurred in any year without the approval of the Director, which approval shall not be unreasonably withheld; and
 - (ii) no expenditure is made which is of a material and excessive nature having regard to the normal practice for similar housing;
- (o) in each year, commencing on the first anniversary of the First Occupancy, provide to the City, no later than three (3) months after the end of the Proponent's fiscal year:
 - (i) the Proponent's Annual Targeting Report or in a form designated by the Director;
 - (ii) the Proponent's Annual Occupancy Report as set out in Schedule "C", or in a form designated by the Director;
 - (iii) a management representation report, in a form designated by the Director, including management declarations and a report on compliance with the provisions of this Agreement;

- (iv) audited financial statements in a form acceptable to the Director; and
- (v) information on the Household Income and household composition of the Project rented to new tenants during the year, in a form acceptable to the Director.

when the first anniversary of the date of First Occupancy of the Project occurs less than six (6) months before the end of the Proponent's fiscal year, the first fiscal period to which the provisions of this section apply shall be not less than 12 months.

ARTICLE 7

TENANT SELECTION AND MONTHLY OCCUPANCY COSTS

7.1 Income Verification. For all Units, the Proponent shall take such steps as are necessary to verify Household Income does not exceed the Initial Income Limit for each Unit prior to occupancy, determined in accordance with the City's Affordable Rental Housing Eligibility and Income Verification Guide and in a form acceptable to the Director.

7.2 Source of Tenants. The Proponent will be required, at the City's option, to participate in the City's Housing Access System or any similar process to be approved by the Director.

7.3 Monthly Occupancy Costs

- (a) The Monthly Occupancy Costs of each Unit in the Project shall not exceed sixty per cent (60%) of Average Market Rent, or such other percentage of Average Market Rent, as determined by the Executive Director, in her sole discretion, for any year of the Affordability Period;
- (b) While Monthly Occupancy Costs include the cost of heat, water and hydro, if these services are to be paid directly by the tenant, the Monthly Occupancy Costs must be adjusted in accordance with the Utility Allowance policy to be published annually by the City.

7.4 Monthly Occupancy Costs Increases

- (a) Proponent may adjust the Monthly Occupancy Costs, with respect to a Unit, if at least twelve (12) months have elapsed;
 - (i) since the day the Unit was first rented after the commencement date of the Lease; or
 - (ii) since the day of the last rent increase with respect to the Unit, if there has been an increase.
- (b) Subject to 8.4(a), the Proponent shall not increase the Monthly Occupancy Costs during the Affordability Period by more than the prevailing rent increase guideline established each calendar year pursuant to the *Residential Tenancies Act*, 2006 S.O.2006, c.17 or any successor legislation (the "Acts"), to an amount not to exceed the amount stipulated under this agreement. The

Proponent acknowledges that the rent increase guideline of the *Residential Tenancies Act, 2006* may not apply to the Project and agrees that the rent increase guideline applies by virtue of the contractual terms of this Agreement.

7.5 Tenant Provisions

The Proponent shall ensure that each lease with a residential tenant shall provide that:

- (a) the Unit may not be sublet by the residential tenant of that Unit under any circumstances;
- (b) the disclosure to the City or CMHC by the Proponent of the tenant's personal information including Household Income, has been consented to by the tenant;
- (c) the lease is exempt from paragraphs 6, 7 and 8 of subsection 30(1), Part VII of the *Residential Tenancies Act, 2006*;
- (d) the City will have to all information obtained from the tenant concerning the Household Income and family composition of each Unit, which information the City may verify; and
- (e) the Proponent will ensure that it complies with the provisions of MFIPPA, in its collection and sharing of any MFIPPA Protected Information, collected and shared, in accordance with the terms of this Agreement.

ARTICLE 8 FINANCIAL RECORDS AND RIGHT TO AUDIT

8.1 The Proponent shall, during the Affordability Period, keep proper books of account and records of the financial management of the Project, in accordance with generally accepted business and accounting practices. The accounts and records shall include all invoices, receipts, vouchers and other documents relating to Project expenditures and revenues, including funding from all other sources.

8.2 The Proponent shall put in place written operational policies and procedures relating to the financial management of the Project and shall provide a copy of those policies and procedures to the Director.

8.3 The Proponent shall retain all books, accounts, records (including records related to rent collection and tenant income and eligibility verification), receipts, vouchers and other documents, that pertain to the Project for a period of not less than seven (7) years from the end of each fiscal year of the Proponent to which the records relate.

8.4 The Proponent will make such books, accounts and records available at all reasonable times for audit and inspection by the auditors of CMHC and/or the City or anyone designated in writing by the auditor to ensure compliance with the terms and conditions of this Agreement and verify costs claimed by the Proponent.

8.5 The Proponent acknowledges and agrees that all accounts and records pertaining to payments of fees or other compensation for the solicitation, negotiating or obtaining of this agreement shall be subject to the accounts and audit provisions of this Agreement.

8.6 The Proponent shall make available all facilities, physical and otherwise, for the audits and inspections and shall provide CMHC and/or the City and their authorized representatives with all of the information as it, or they, may from time to time require with reference to the books, accounts, records, receipts, vouchers and other documents.

8.7 The Proponent shall permit the City's representatives to make copies and take extracts from such books and records and shall furnish CMHC and/or the City with such additional information as it may require with reference to such books and records.

8.8 For the purposes of this article, audit includes any type of audit.

8.9 This article shall survive the termination of this Agreement.

ARTICLE 9 INDEMNITY

9.1 The Proponent hereby agrees that it shall, from time to time, and at all times hereafter, well and truly save, keep harmless and fully indemnify the City, CMHC and their elected and appointed officials, officers, employees, agents, representatives, successors and assigns (collectively, the "Indemnified Parties"), from and against any and all actions, claims and demands whatsoever which may be brought against or made upon the Indemnified Parties and against any and all loss, liability, claims, judgments, costs, demands or expenses whatsoever which the Indemnified Parties may sustain, suffer or be put to resulting from or arising out of or in connection with:

- (a) this Agreement;
- (b) the Project, including without limitation, environmental hazards;
- (c) the obligations of the Proponent hereunder;
- (d) the failure of the Proponent, its officers, consultants, contractors, agents, servants or employees to exercise reasonable care, skill or diligence in carrying out any work in respect of the Project;
- (e) any act or omission of the Proponent, its officers, agents, servants, consultants, contractors, employees or by anyone for whom the Proponent is at law responsible relating to any work or any other thing required to be performed or rendered hereunder by the Proponents;
- (f) all insured and uninsured damage to property installed, property in transit and contractors' tools and equipment during the course of the renovation or repair work to the Project; and/or
- (g) death or economic loss, caused by or in any way related to any of the Proponent's obligations under this Agreement.

provided that the Proponent shall not be liable for any loss, liability, claims, judgements, costs, demands or expenses which result from negligent or wrongful acts of the Indemnified Parties.

9.2 For greater clarity, the Proponent shall not be obligated or liable to repay all or any portion of the indebtedness hereunder including principal, interest, premium, costs of realization, damages or any other monies secured by or owing under or in connection herewith, including under any indemnity (collectively for the purpose of this paragraph only the "Indebtedness") and that the recourse of the City to recover the Indebtedness shall be limited and restricted to the right of the City to enforce its security solely against the Land and the rents, chattels and proceeds (including insurance proceeds) relating to the Land and to realize against the interest of the Proponent in the Land and the proceeds thereof, and the City shall not be entitled to effect realization against any other Land or assets of the Proponent (or any other person, corporation, partnership or entity) any deficiency remaining outstanding after such realization. However, the City shall be entitled to name the Proponent in any action, enforcement or proceeding commenced to enforce its rights and to realize against the interest of the Proponent in the Property, but only for the purposes of being able to realize against the Land.

ARTICLE 10 INSURANCE

10.1 Property Insurance. The Proponent shall, at all times during the Affordability Period, insure and keep insured the Project and all other insurable property belonging to the Proponent and from time to time located on the Project in accordance with the terms of the Lease.

10.2 Certificates of Insurance and Approval of Policies. The Proponent shall deliver certificates of insurance to the City, including the renewal or the replacement of the insurance policies, upon request of the Director.

ARTICLE 11 RESTRICTIONS ON CHANGES

11.1 The Proponent shall not mortgage, charge or otherwise encumber the Project or assign this Agreement, at any time during the Affordability Period without the consent of the Director, which consent may be withheld, acting in her sole discretion.

11.2 The City, in its absolute discretion, may withhold consent to a sale, lease or other disposition of the Project if the sale, lease or other disposition does not meet the following conditions:

- (a) the sale, lease or other disposition is to a corporation which has been approved by the City;
- (b) the purchaser enters into an agreement with the City and under that agreement assumes all of the Proponent's obligations and liabilities under this Agreement in respect of the Project;

- (c) the character and capabilities of the Project will not be changed or diminished;
- (d) the sale or lease will not decrease the number of Units in the Project;
- (e) the reserve fund established pursuant to the Lease will be transferred to the purchaser, lessee or other transferee; and
- (f) such other condition or conditions as the City may determine from time to time.

11.3 Notwithstanding any other statement in this Article 11, the Proponent may lease Units to individual tenants.

ARTICLE 12 DEFAULT

12.1 The following shall be considered events of default under this Agreement:

- (a) the Proponent ceases operate the Project pursuant to the terms and conditions of this Agreement;
- (b) the Proponent is in default under the Lease, which default has gone unremedied in the time given by the City;
- (c) the Proponent, in its response to Request for Proposals No. [xxxxxx] or in connection with this Agreement, has made materially false or misleading representations or statements, or provided materially false or misleading information to the City;
- (d) if in the opinion of the City, acting reasonably, the Proponent knows or ought reasonably to have known at initial occupancy that a Unit was rented to a tenant whose Household Income exceeds the Initial Income Limit, that the household composition has been misrepresented or has not been verified on initial occupancy as set out in 7.1 hereof;
- (e) the Proponent is unable or unwilling to pay its debts as they become due;
- (f) an order is made or resolution is passed for the winding up or dissolution of the Proponent, or the Proponent is dissolved;
- (g) the Proponent becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or fails any proposal or makes any assignment for creditors or any arrangement or compromise;
- (h) a receiver or receiver-manager is appointed for the Project by a creditor other than the City;

- (i) if the City gives notice that it does not approve the Proponent's insurer; or
- (j) there is, in the opinion of the City, acting reasonably, a material adverse change in risk in the Proponent's ability to carry out its roles and responsibilities under this Agreement with respect to the implementation and/or the operation of the Project.

12.2 In an event of default occurs and:

- (a) the default has not been remedied within 30 days of receipt by the Proponent of written notice of an event of default or within such longer period or is reasonably required provided the remedy is being diligently pursued; or
- (b) a plan satisfactory to the Executive Director and/or the Director to remedy the default has not been implemented within the time period specified in the notice,

the City may, in its absolute discretion, without restricting any remedies otherwise available, immediately terminate the Agreement by giving written notice to the Proponent.

12.3 If the City gives the Proponent written notice of an event of default, the City may suspend any further payment under this Agreement until the breach is remedied.

12.4 Upon providing a notice of termination, the City shall have no obligation to make any further advances to the Proponent.

ARTICLE 13 REMEDIES

13.1 During the Affordability Period, if there is an event of default by the Proponent that is continuing, then, in addition to the remedies set out in Article 13, the City may exercise any or all of the following remedies in any combination that the City chooses, and without limiting the generality of the foregoing, the City may:

- (a) require the Proponent to provide additional information or documents to the City;
- (b) correct the breach itself or by retaining a third party and the cost of so doing shall be payable forthwith by the Proponent to the City and may be retained from any unpaid portion of the funding being provided pursuant to this Agreement or may be recovered in any court of competent jurisdiction as a debt due to the City;
- (c) appoint or seek the appointment of a manager and/or receiver for the Project, whether an officer, employee or agent of the City or not if the City has determined that there are serious financial matters that could result or have resulted in the Proponent being unable to pay its debts as they become due;
- (d) cancel the Lease and demand possession of the Project and the Land;

- (e) rescind the Property Tax Exemption By-law passed with respect to the Project; and/or;
- (f) seek any additional remedy available to the City at law or in equity.

13.2 All rights and remedies of the City under this Agreement shall be cumulative and not alternative.

ARTICLE 14 RECEIVERSHIP

14.1 Where a Receiver is appointed by the City pursuant to Subsection 14.1, the Receiver shall have the power to:

- (a) take control, direction and possession, or any of them, of the Project, the revenue and the assets of the Proponent, the operation and books, records and accounts of the Proponent or any part of them;
- (b) take control and direction of the employees and agents of the Proponent;
- (c) receive and recover and use all revenues and assets of the Proponent;
- (d) incur and pay liabilities;
- (e) complete the construction of the Project and maintain, operate and repair the Project; and
- (f) execute and prosecute all suits, proceedings and actions which the Receiver considers necessary for the proper protection of the Project, to defend all suits, proceedings and actions against the Proponent or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action, then pending or thereafter instituted and to appeal any suit, proceeding or action.

14.2 The City may at any time and from time to time change, terminate or renew the mandate of the Receiver or replace or reinstate the Receiver and fix the reasonable remuneration of the Receiver who may deduct the same out of the revenues of the Project.

14.3 Without limiting any rights of the City under this Agreement, the City acknowledges that it is the intention of the City to reinstate the Proponent whenever feasible, as determined by the City, as a self-governed entity retaining substantial control of the management of the Project within sixty days after the receivership becomes effective.

14.4 The Receiver shall be deemed to be the agent or attorney of the Proponent and the City shall not be responsible for the Receiver's acts or omissions.

14.5 The Proponent undertakes to ratify and confirm whatever the Receiver may do pursuant to the Receiver's mandate.

ARTICLE 15 CONFIDENTIALITY

15.1 The Proponent, its officers, agents and employees shall treat all information which is obtained by the Proponent through its performance of this Agreement, as confidential and shall not disclose same, unless required by law, other than in accordance with this Agreement, without the prior written approval of the City.

15.2 Notwithstanding Subsection 15.1, the Proponent may disclose information to its lawyers, accountants and other professionals, provided that such persons require the information in order to properly perform their duties.

15.3 The Proponent shall not, unless required by law, release information pertaining to tenants and applicants for tenancy at the Project to third parties without first obtaining the written consent of the affected tenant or applicant.

15.4 The collection, use and disclosure of information by the City shall be governed by MFIPPA.

ARTICLE 16 PUBLIC ACKNOWLEDGEMENT OF FUNDS

16.1 The Proponent shall ensure that in any and all communication activities, internet web site information, publications, advertising, signs and press releases referring to the Project, there is included an appropriate acknowledgement, in accordance with the guidelines and instructions provided by the City to the Proponent, of the contributions made by CMHC and the City. The Proponent shall notify the City in advance of any and all communication activities, publications, advertising and press releases.

16.2 The Proponent agrees to display such signs, plaques or symbols as one or more of the three levels of government may provide in such locations on its premises as the City may designate.

16.3 The Proponent shall co-operate with representatives of the City and CMHC during any official ceremonies relating to the promotion of the Project.

ARTICLE 17 DISPUTE RESOLUTION

17.1 The City and Proponent agree that alternate dispute resolution processes such as mediation, appointment of a neutral third party evaluator or arbitration may be preferable to litigation as a way to resolve disputes that may arise under this Agreement and they agree to give good faith consideration to having resort to an alternate dispute resolution process before initiating legal or other proceedings to deal with any such disputes.

17.2 In the event the parties agree to arbitration, the arbitration shall be governed by the provisions of the *Arbitration Act, 1991*, S.O. c.17.

ARTICLE 18 NOTICES

18.1 Unless otherwise provided in this Agreement, any notice, approval or other communication required or permitted to be given ("Notice") shall be in writing and shall be personally delivered, sent by prepaid registered mail, or sent by electronic messaging and, in the case of notice to the City, addressed as follows:

(a) if to the City, at:

City of Toronto
Metro Hall, 55 John Street, 7th Floor
Toronto, ON M5V 3C6
Fax No. : (416) 392-8492

Attention: Executive Director, Housing Secretariat

with a copy to the City Solicitor, at

City of Toronto
55 John Street, Station 1260
26th Floor, Metro Hall
Toronto, ON M5V 3C6
Fax No: (416) 397-5624

Attention: City Solicitor

(b) if to the Proponent, at:

XXX
Toronto, Ontario xxx xxx
Fax No.: (416)

Attention:

18.2 Any Notice shall be deemed to have been validly and effectively given and received:

if personally delivered, on the date of delivery; if sent by prepaid registered mail, on the third (3rd) business day next following the date of mailing, provided, however, that during any postal disruption or threatened postal disruption, delivery shall be in person; and if sent by facsimile, on the business day next following the day on which it was sent.

18.3 Any Notice permitted or required to be given by the City may be given by the Deputy City Manager. However, the Deputy City Manager specifically reserves the right to submit the issue of the giving of any Notice, or of the contents of any Notice, to City Council for its determination.

18.4 Notwithstanding any consent or approval given by the City with respect to any plans, specifications or other construction-related matter, the City will not be in any way liable for the design or construction of any proposed structure, and the party that has obtained the consent or approval of the City shall be wholly liable for such design and construction.

18.5 Either party under this Agreement may from time to time by Notice to the other party change its address for service under this Agreement.

ARTICLE 19 CONTRACTUAL STATUS OF THE PARTIES

19.1 The Proponent shall be solely responsible for the payment of any person or entity employed, engaged or retained by the Proponent for the purpose of carrying out the Project or otherwise assisting it in the discharge of its obligations under this Agreement.

19.2 The Proponent shall ensure that any contract entered into by it in respect of the Project is in its own name and is in no way purports to be binding upon the City.

19.3 The Proponent acknowledges that it is not the agent or representative of the City and has no authority to make a promise, agreement or contract on behalf of the City in respect of the Project.

19.4 The parties agree that, in respect of the Project, the City is not an "Owner" within the meaning of the *Construction Lien Act*, R.S.O. 1990, c. C.30.

ARTICLE 20 UNCONTROLLABLE CIRCUMSTANCES

20.1 Except as expressly provided for in this Agreement, neither party shall be liable to the other party for any loss, damage or delay to the extent it results from an uncontrollable circumstance if such circumstance is neither caused by the default or act of commission or omission of such party nor avoidable by the exercise of reasonable effort or foresight provided that nothing excuses a delay caused by lack of funds or other financial circumstances or excuses a party from payment of any amount payable hereunder when due.

20.2 For the purpose of this article, the words "uncontrollable circumstance" means any force majeure, strike, walkout, labour dispute, civil commotion, war or similar event, invasion, the exercise of military power, act of God, change in laws, government regulations or controls, court order, or any cause beyond the reasonable control of the party, unless any such lack of control results from deficiency in financial resources.

ARTICLE 21 GENERAL PROVISIONS

21.1 The Proponent shall permit the City to provide an executed copy of this Agreement to the governments of Canada and Ontario.

21.2 This Agreement may be changed only by written amendment duly executed by authorized representatives of both parties.

21.3 In this Agreement, words in or implying the singular include the plural and vice versa, and words having gender include all genders.

21.4 The insertion of headings and the division of this Agreement into articles and subdivisions thereof is for convenience of reference only and shall not affect the interpretation hereof.

21.5 Any reference in this Agreement to an "article" or any subdivision thereof shall, unless the context otherwise requires, be taken as a reference to the correspondingly-labelled provision of this Agreement.

21.6 Time shall in all respects be of the essence of all matters provided for in this Agreement, provided that the time for the doing or completing of any matter may be extended or abridged by an agreement, in writing, executed by the City and the Proponent, or by their respective solicitors, who are expressly appointed for that purpose.

22.7 The waiver by a party of strict compliance or performance of any of the terms and conditions of this Agreement or of any breach on the part of any other party shall not be held waiver of any subsequent failure to comply strictly with or perform the same or any other term or condition of this Agreement or of any breach thereof.

22.8 No waiver of any breach of any provision of this Agreement will be effective or binding unless it is in writing and signed by an authorized representative of the party purporting to give such waiver and, unless otherwise provided, will be limited to the specific breach waived.

22.9 Should any provision of this Agreement be declared or found to be illegal, unenforceable, legally ineffective or void, then each party shall be relieved of any obligation arising from such provision, but the balance of this Agreement, if capable of performance, shall remain in full force and effect.

22.10 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

22.11 Each obligation of the City or of the Proponent expressed in this Agreement, even though not expressed as a covenant, is considered to be a covenant for all purposes.

22.12 The covenants, representations, warranties and indemnity of the Proponent set forth

in this Agreement shall survive the expiry of the Affordability Period.

22.13 Wherever any consent, agreement or approval of the City is required under the terms of this Agreement, unless otherwise provided and subject to any specific provision respecting such consent, agreement or approval, the City shall not unreasonably or arbitrarily withhold its consent, agreement or approval.

22.14 Nothing in this Agreement derogates from or interferes with or fetters the exercise by the City of all of its rights as a municipality, or imposes any obligations on the City, in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including planning rights and responsibilities. Nothing in this Agreement derogates from or interferes with or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this Agreement.

22.15 No communication or dealing between the Proponent and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City will be deemed to be a communication or dealing under the provisions of this Agreement between the Proponent and the City as parties to this Agreement, or to affect the City with notice of any such communication or dealings. It is intended and agreed that the City acts solely in a private capacity under this Agreement and any communication or dealing between the City and the Proponent as parties to this Agreement will only be effective if delivered in accordance with the notice provisions set out in this Agreement. No communication or dealing between the City as a party to this Agreement and the Proponent as a party to this Agreement will relieve the Proponent from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or in any other lawful manner separate and apart from the obligations of the Proponent imposed by this Agreement.

22.16 This Agreement may be executed in any number of counterparts (including counterparts delivered electronically) and all such counterparts taken together will be deemed to constitute one and the same instrument. This Agreement may be executed by electronic signature and such electronic signature shall be deemed to be an original signature for the purpose of this Agreement with the same legal effect as an original signature.

22.17 This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

THIS SPACE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF the parties hereto have affixed their respective corporate seals attested to by the hands of their proper signing officers in that behalf duly authorized.

DATED this day of **XXXX 20**20.

CITY OF TORONTO

Per: _____
Name: Abigail Bond
Title: Executive Director Housing Secretariat

DATED this day of **XXXX, 20**20.

XXXXXXXXXXXX

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the Corporation

Authorized by Item No. CC20 as adopted
by City of Toronto Council on April 30, 2020.

APPROVED AS TO FORM

For City Solicitor

SCHEDULE “A”

PROPONENT’S ANNUAL TARGETING REPORT

Affordable Housing Program – New Program – Rental and Supportive Component Service Manager Funding Delivery

For year ending December 31, 20____

Name of Owner	RENTAL				SOCIAL HOUSING				AVERAGE RENT OF UNITS PER MONTH
	Number of Units				Number of Units				
	New	Conversion	Rehabilitation	Major Additions	New	Conversion	Rehabilitation	Major Addition	

CLIENTELE					
Number of Units					
Family	Single	Senior	Supportive Victims of Domestic Violence	Supportive Mental Health	Other Target Group (Name)

SCHEDULE “B”**PROPONENT’S INITIAL OCCUPANCY REPORT****Modular Housing Initiative****A. Project Information**

Reference No.	
Project Name	
Project Address	
Occupancy Date	
Contribution Agreement Expiry Date	

B. Number of Units in Project

Unit Type	City of Toronto Funded Units (A)	Units Not Receiving City of Toronto Funding (B)	Total Number of Units (A + B)
Bachelor			
Other (specify)			
Total			

C. Depth of Affordability: Rents at Occupancy

Unit Type	Unit Size	Number of Units (A)	Actual Rent to be charged per month (B)	CMHC Average Market Rent (AMR – 20XX) or City published AMR (C)	Actual Project Rents (D)=(A)X(B)	Project Rents as per CMHC AMR or Alternate (E)=(A)X(C)
Bachelor						
Other (specify)						
TOTAL						

Notes:

1. For Column (B), actual rent is the net to occupants after all subsidies
2. For Column (C), Alternate e.g. modified Ontario Works Shelter Allowance, ODSP (in the event CMHC AMR does not apply)

Weighted Average Rents	Project Weighted Average Rent Total of (D)÷Total of (A) =	CMHC or City published Weighted Average Rent Total of (E)÷Total of (A) =
Depth of Affordability	(Project Weighted Average Rent ÷ CMHC (or Alternate) Weighted Average Rent) x100 =	

D. Project Certification

I certify, to the best of my knowledge, that the information provided in Sections B and C above is true and correct. I hereby authorize the Minister to review the rent roll from appropriate source(s) if deemed necessary.

Name of Proponent:

by:_____ Date: _____

Name:

Title:

I have authority to bind the corporation

City of Toronto

by:_____ Date: _____

Name:

Title:

I have authority to bind the corporation

SCHEDULE "C"
PROPONENT'S ANNUAL OCCUPANCY REPORT

For the Year Ended December 31, 20XX

A. Project Information

Reference No.	
Project Name	
Property Address	
Occupancy Date	
Contribution Date	
Contribution Agreement Expiry Date	

B. Average Rents at Year End

		Previous year		Current Year			
Unit Type	City of Toronto Funded Units	Actual Rent per Unit per Month (A)	RTA Permitted Increase per Unit per month X % (specify) (B)	Actual Rent per Unit per Month (\$) (C)	Rent Increase (D)= (A) – (C)	(E) CMHC or City published AMR	Rationale (if D>B)
Bachelor							
Other (specify)							
TOTAL							

C. Depth of Affordability: Rents during year of reporting

Unit Type	Unit Size	Number of Units (A)	Actual Rent to be charged per month (B)	CMHC Average market Rent (AMR – 20XX) or City published AMR (C)	Actual Project Rents (D)=(A)X(B)	Project Rents as per CMHC AMR or City Published (E)=(A)X(C)
Bachelor						
Others (specify)						
TOTAL						

Notes:

1. For Column (B), actual rent is the net to occupants after all subsidies
2. For Column (C), Alternate e.g. modified Ontario Works Shelter Allowance, ODSP (in the event CMHC AMR does not apply)

Weighted Average Rents	Project Weighted Average Rent Total of (D)=Total of (A) =	CMHC or City Published Weighted Average Rent Total of (E)=total of () =
Depth of Affordability	(Project Weighted Average Rent+ CMHC (or City published) Weighted Average Rent) X100=	

D. Project Certification

I certify, to the best of my knowledge, that the information provided in Section B above is true and correct. I hereby authorize the City of Toronto to review the rent roll from appropriate source(s) if deemed necessary.

Name of Proponent:

by: _____ Date: _____
Name:
Title:

I have authority to bind the corporation

City of Toronto

by: _____ Date: _____
Name:
Title:

I have authority to bind the corporation

Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

Organizations/individuals in Ontario, including the City of Toronto, have obligations under the Ontario Human Rights Code, the Occupational Health and Safety Act, the Employment Standards Act, the Accessibility for Ontarians with Disabilities Act, the Criminal Code of Canada and the Charter of Rights and Freedoms. In addition, the City of Toronto also has policies that prohibit discrimination on the additional grounds of political affiliation or level of literacy, subject to the requirements of the Charter. Organizations are required to have and post policies, programs, information, instruction, plans and/or other supports, and an appropriate internal process available to their employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints under the applicable legislation and including the additional grounds of discrimination prohibited under City policy. Individuals are obliged to refrain from harassment/hate activity.

The City of Toronto requires all organizations and individuals that contract with the City to sign the following Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy. This Declaration must be signed by your organization and submitted with the contract or Letter of Understanding. The name of your organization and the fact that you have signed this declaration may be included in a public report to City Council.

Declaration:

I/we uphold our obligations under the above provincial and federal legislation. In addition, I/we uphold our obligations under City policies which prohibit harassment/discrimination on a number of grounds including political affiliation and level of literacy.

WHERE LEGALLY MANDATED I/we have in place the necessary policies, programs, information, instruction, plans and/or other supports that are consistent with our obligations, and I/we have an internal process available to my/our employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints. I/we agree that I/we shall, upon the request of the City, provide evidence of the policies, programs, information, instruction, plans and other supports and an appropriate internal complaint resolution process required under this Declaration which is sufficient to allow the City to determine compliance. I/We acknowledge that failure to demonstrate compliance with this declaration to the satisfaction of the operating Division, in consultation with the City Solicitor, may result in the termination of the contract.

Name of Vendor or Name of Grant Applicant (Organization or Individual):

Complete Address:

Email _____

Tel. No. _____

Postal Code:

Fax No. _____

Name of Signing Officer or Name of Applicant (Name – *please print*): Position

Signature: _____
Authorised Signing Officer or Individual

Date: _____

Appendix 5 – Proposal Checklist

- ☐ Letter of Introduction
- ☐ Table of Contents
- ☐ Summary of Proposal
- ☐ Signed Offer to Lease (See Appendix 4)
- ☐ Affordable Rental Housing Management Qualifications
- ☐ Support Services Plan
- ☐ Corporate Financial Capacity
- ☐ Operating Budget (See Appendix 6)
- ☐ Form 1 - Proposal Submission Form signed by an authorized official of the Proponent
- ☐ Form 2 - Conflict of Interest Form
- ☐ Form 3 - Policy to Exclude Bids from External Parties involved in the Preparation or Development of a Specific Call/Request
- ☐ Form 4 - Restrictions on the Hiring and use of Former City of Toronto Management Employees for City Contracts
- ☐ Form 5 - Environmentally Responsible Procurement Statement
- ☐ Form 6 - Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

Appendix 6- Operating Budget Form

Project Revenue (Per Year)			Amount/Year
1	Gross Rental Income (includes Housing Benefits)		
2	Laundry Income		
3	Support Services Funding		
4	Other Sources of Revenue		
5	Gross Project Revenue		
6	Minus Vacancy Allowance (specify %)		
7	Minus Allowance for Bad Debt (specify %)		
A	NET PROJECT REVENUE		

Project Expenses (Per Year)			Amount/Year
8	Administration Costs (e.g. bookkeeping, audit, legal, phone, office supplies, etc.)		
9	Property Management		
10	Support Staffing costs		
11	Utilities		
11-a	Heat (common areas and units)		
11-b	Electricity (common areas and units)		
11-c	Water/Sewer (common areas and units)		

Project Expenses (Per Year)		Amount/Year
11-d	Garbage Levy	
11-e	Other (common areas and units)	
12	Maintenance Staff Salaries and Benefits	
13	Repairs and Maintenance (supplies, trades and service contracts including sprinklers, snow removal etc.)	
14	Other Operating Expenses (e.g. Insurance)	
15	Capital Replacement Reserve (i.e. 5%)	
16	Other (specify)	
17	Contingency (minimum 1% of expenses less mortgage payment)	
18	Sub-Total Operating Expenses	
19	Lease Payments	
B	TOTAL PROJECT EXPENSES	
C	OPERATING SURPLUS/DEFICIT (i.e. Net Project Revenue less Total Project Expenses)	

Explanatory Notes –Operating Budget Form

Please explain in detail how you arrived at your estimates for each of the requested lines. Costs are to be based on 2020 costs inflated to time of occupancy with notes explaining assumptions for escalation.

Line Item	Description	Explanation
1	Include your calculations for Gross Rental Income, comprised of Housing Benefit funding and rents from tenants. Note this amount must not exceed 60% AMR per unit.	
3	Specify the source of funding for support services, amounts available, eligibility criteria and any other relevant program parameters.	
4	Specify sources of funding, and amounts received from these revenue sources. Provide written confirmation of each, where possible.	
9	Specify if property management expenses is in the form of staff salaries/benefits or contracted services.	

Line Item	Description	Explanation
13	Specify budgeted expenses under Repairs and Maintenance category.	

Appendix 7- Mandatory Forms

Mandatory Form 1 - Proposal Submission Form signed by an authorized official of the Proponent

Proponent/Property Owner(s) Information	
This Proposal is submitted by:	
Name(s)	
<i>(Please provide the full legal name)</i>	
Company Name (if applicable)	
Address (for business mail)	
Phone	Fax
E-mail	
<p>I/we hereby submit a Proposal for <i>the Opportunity to Lease and Operate Modular Housing with Support Services</i> as described within the Request for Proposals.</p> <p>I/we have carefully reviewed the RFP including all appendices and have a clear and comprehensive understanding of the requirements.</p> <p>I/we have submitted all the relevant information and if selected, agree to use the funding in accordance with the RFP's terms, conditions and specifications, as described in our Proposal as submitted, and pursuant to the Contribution Agreement with the City of Toronto.</p> <p>I/we agree that this submission is being made without any collusion or fraud.</p> <p>I/we acknowledge receipt of the following addenda by number and date (if applicable):</p> <p style="text-align: center;">Addendum # _____ Date _____</p> <p style="text-align: center;">Addendum # _____ Date _____</p> <p style="text-align: center;">Addendum # _____ Date _____</p> <p>I/WE AGREE THAT THE CONTENTS OF THIS SUBMISSION ARE ACCURATE AND TRUTHFUL.</p>	
Signature of authorized signing officer	Signature of authorized signing officer
_____ Name (<i>print</i>): Date:	_____ Name (<i>print</i>): Date:

This form must be signed and submitted with your proposal or your proposal will be declared informal and will not be accepted.

If this form is being signed by an agent of the owner, the "authorization of agent" section must be signed and submitted or the proposal will be declared informal and will not be accepted.

Mandatory Form 2 - Conflict of Interest Form

I,

Applicant Name or an Authorized Signing Officer Name (Print - First, Last)

hereby acknowledge that it is the Applicant's responsibility to ensure that all contracts are entered into, with respect to the parties with whom the development and operation of affordable rental housing at _____

are to be at arm's length from both the Applicant and other contracting parties, and that any contracts with parties with whom the Applicant or other contracting parties are not at arm's length will be considered a conflict of interest and will disqualify the Applicant for funding.

Further, I understand that the City of Toronto reserves the right to verify any information provided in the Application.

Applicant Signature:

Applicant Name (First, Last):

Date (yyyy-mm-dd):

Mandatory Form 3 - Policy to Exclude Bids from External Parties involved in the Preparation or Development of a Specific Call/Request

To ensure Fair and Equal Treatment in its competitive procurements, the City of Toronto will undertake to:

- Disallow Applicants from submitting an Application in which the Applicant has participated in the preparation of the call document

Did you, the Applicant, assist the City of Toronto in the preparation of this call for Applications?

Specify: Yes No

For a copy of the [City of Toronto Policy](http://www.toronto.ca/citybusiness/pdf/bidsfromexternalparties.pdf), visit the website at:
www.toronto.ca/citybusiness/pdf/bidsfromexternalparties.pdf

Mandatory Form 4 - Restrictions on the Hiring and use of Former City of Toronto Management Employees for City Contracts

The purpose of this Policy to ensure that former City of Toronto management employees who took part in a separation program or received a retirement package, are prohibited from participating in contracts directly or indirectly related to the City of Toronto or its special purpose bodies for a period of two years starting from an employee's separation date.

Former employees covered by this policy are prohibited from participating in contracts directly or indirectly related to the City of Toronto or its special purpose bodies for a period of two years starting from the employee's separation date. This would include, but not be limited to, for example, the following roles:

- As an independent contractor/consultant;
- As a contractor/consultant on City project work for a company/firm (but, the firm may compete); or
- As a contractor/consultant on City project work for a company/firm that has been sub-contracted by another company/firm.

Respondents are to state the name(s) of any former City of Toronto management employee(s) hired/used by your firm, if any, who have left the employ of the City or its special purpose bodies within the last two years.

Name (First, Last)

Notes:

- (1) Adopted by Council at its meeting of February 4, 5, & 6, 1998, Report No. 2, Clause No. 2 of the Strategic Policies and Priorities Committee, and
- (2) Revised by City Council at its meeting of November 26, 27, 28, 2002, Report No. 14, Clause No. 6, Administration Committee.

Mandatory Form 5 - Environmentally Responsible Procurement Statement

The City of Toronto Environmentally Responsible Procurement Policy encourages bidders to use products/services that are environmentally preferred.

Environmentally preferred products/services are those such as durable products, reusable products, energy efficient products, low pollution products/services, products (including those used in services) containing maximum levels of post-consumer waste and/or recyclable content, and products which provide minimal impact to the environment.

An environmentally preferred product is one that is less harmful to the environment than the next best alternative having characteristics including, but not limited to the following:

1. Reduce waste and make efficient use of resources: An Environmentally Preferred Product would be a product that is more energy, fuel, or water efficient, or that uses less paper, ink, or other resources. For example, energy efficient lighting, and photocopiers capable of double sided photocopying.
2. Are reusable or contain reusable parts: These products such as rechargeable batteries, reusable building partitions, and laser printers with refillable toner cartridges.
3. Are recyclable: A product will be considered to be an Environmentally Preferred Product if local facilities exist capable of recycling the product at the end of its useful life.
4. Contain recycled materials: An Environmentally Preferred Product contains post-consumer recycled content. An example is paper products made from recycled post-consumer fibre.
5. Produce fewer polluting by-products and/or safety hazards during manufacture, use or disposal: An EPP product would be a non-hazardous product that replaces a hazardous product.
6. Have a long service-life and/or can be economically and effectively repaired to upgrade.

Bidders shall if requested, provide written verification of any environmental claims made in their bid/Proposal satisfactory to the City of Toronto within five (5) working days of request at no cost to the City. Verification may include, but not be limited to, certification to recognize environmental program (e.g., Environmental Choice Program [ECP]), independent laboratory tests or manufacturer's certified tests. Only proven environmentally preferred products/services shall be offered. Experimental or prototype products/services will not be considered.

For a copy of the [City of Toronto Environmentally Responsible Procurement Policy](http://www.toronto.ca/calldocuments/pdf/environment_procurement.pdf), visit the website at www.toronto.ca/calldocuments/pdf/environment_procurement.pdf

State if environmentally preferred products are being used: Yes No

We encourage the use of environmentally preferred products.

Date:

Group/Vendor/Individual Name:

Mandatory Form 6- Declaration of Compliance with Anti-Harassment/ Discrimination Legislation & City Policy

Organizations/individuals in Ontario, including the City of Toronto, have obligations under the Ontario Human Rights Code, the Occupational Health and Safety Act, the Employment Standards Act, the Accessibility for Ontarians with Disabilities Act, the Criminal Code of Canada and the Charter of Rights and Freedoms. In addition, the City of Toronto also has policies that prohibit discrimination on the additional grounds of political affiliation or level of literacy, subject to the requirements of the Charter. Organizations are required to have and post policies, programs, information, instruction, plans and/or other supports, and an appropriate internal process available to their employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints under the applicable legislation and including the additional grounds of discrimination prohibited under City policy. Individuals are obliged to refrain from harassment/hate activity.

The City of Toronto requires all organizations and individuals that contract with the City to sign the following Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy. This Declaration must be signed by your organization and submitted with the contract or Letter of Understanding. The name of your organization and the fact that you have signed this declaration may be included in a public report to City Council.

Declaration:

I/we uphold our obligations under the above provincial and federal legislation. In addition, I/we uphold our obligations under City policies which prohibit harassment/discrimination on a number of grounds including political affiliation and level of literacy.

WHERE LEGALLY MANDATED I/we have in place the necessary policies, programs, information, instruction, plans and/or other supports that are consistent with our obligations, and I/we have an internal process available to my/our employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints. I/we agree that I/we shall, upon the request of the City, provide evidence of the policies, programs, information, instruction, plans and other supports and an appropriate internal complaint resolution process required under this Declaration which is sufficient to allow the City to determine compliance. I/We acknowledge that failure to demonstrate compliance with this declaration to the satisfaction of the operating Division, in consultation with the City Solicitor, may result in the termination of the contract.

Name of Vendor or Name of Grant Applicant (Organization or Individual):

Name of Signing Officer or Name of Applicant (Name and Position – *please print*)

Appendix 8 - RFP Process Terms and Conditions

Table of Contents

- (i) Proponent's Responsibility
- (ii) City Contacts and Questions
- (iii) Addenda
- (iv) Exceptions to Mandatory Requirements, Terms and Conditions
- (v) Omissions, Discrepancies and Interpretations
- (vi) Incurred Costs
- (vii) Post-Submission Adjustments and Withdrawal of Proposals
- (viii) No Collusion
- (ix) Prohibition Against Gratuities
- (x) Acceptance of Proposals
- (xi) Verification
- (xii) Conflicts of Interest
- (xiii) Ownership and Confidentiality of City-Provided Data
- (xiv) Ownership and Disclosure of Proposal Documentation
- (xv) Intellectual Property Rights
- (xvi) Failure or Default of Proponent
- (xvii) Governing Law

(i) Proponent's Responsibility

It shall be the responsibility of each Proponent:

- to examine all the components of this RFP, including all appendices, forms and addenda;
- to acquire a clear and comprehensive knowledge of the requirements before submitting a Proposal;
- to become familiar, and (if it becomes the Successful Proponent) comply, with all of the City's Policies and Legislation set out on the City of Toronto website at <http://www.toronto.ca/calldocuments/policy.htm>

The failure of any Proponent to receive or examine any document, form, addendum, Agreement or policy shall not relieve the Proponent of any obligation with respect to its Proposal or any Agreement entered into based on the Proponent's Proposal.

(ii) City Contacts and Questions

The City invites questions concerning this RFP in writing. All questions should be sent by email to Mercedeh Madani, Policy Development Officer, Housing Secretariat, at mercedeh.madani@toronto.ca.

No City representative, whether an official, agent or employee, other than those identified "City Contacts" are authorized to speak for the City with respect to this RFP, and any Proponent who uses any information, clarification or interpretation from any other representative does so entirely at the Proponent's own risk. **Not only shall the City not be bound by any representation made by an unauthorized person, but any attempt by a Proponent to bypass the RFP process may be grounds for rejection of its Proposal.**

From and after the date of this RFP until the time of an agreement is entered into with the Successful Proponent, no communication with respect to this matter shall be made by any Proponent, or its representatives, including a third-party representative employed or retained by it (or any unpaid representatives acting on behalf of either), to promote its Proposal or oppose any competing Proposal, nor shall any Proponent, or its representatives, including a third party representative employed or retained by it (or any unpaid representatives acting on behalf of either), discuss the RFP or its Proposal with any City staff, City officials or Council member(s), other than a communication with the "City Contact" identified on page 1 on this RFP.

Proponents should be aware that communications in relation to this RFP outside of those permitted by the applicable procurement policies and this RFP document contravene the Lobbying By-law, an offence for which a person is liable to a maximum fine of \$25,000.00 on a first conviction and \$100,000.00 on each subsequent conviction. In addition, the City's Procurement Processes Policy provides that any Proponent found in breach of the policy may be subject to disqualification from this RFP or a future RFP or calls at the discretion of Council.

Notwithstanding anything to the contrary as set out in this document, the obligations as set out in the City of Toronto Municipal Code, Chapter 140 shall apply.

For your information, please find below the links to the City's Procurement Processes Policy, Lobbying By-Law and Interpretive Bulletin on Lobbying and Procurement:

http://www.toronto.ca/citybusiness/pdf/policy_procurement_process.pdf

http://www.toronto.ca/legdocs/municode/1184_140.pdf

http://www.toronto.ca/lobbying/pdf/interpretation-bulleting_lobbying-procurements.pdf

(iii) Addenda

If it becomes necessary to revise any part of this RFP, the revisions will be by Addendum posted electronically in Adobe PDF format on the City's website at www.toronto.ca/affordablehousing. The City will post Addenda with all questions and answers on the Affordable Housing website. Questions should be sent by email to Mercedeh Madani, Policy Development Officer, Housing Secretariat, at mercedeh.madani@toronto.ca.

The City reserves the right to revise this RFP up to the Closing Deadline. When an Addendum is issued the date for submitting Proposals may be revised by the City if, in its opinion, the City determines more time is necessary to enable Proponents to revise their Proposals. The City's Housing Secretariat will make reasonable efforts to issue the final Addendum (if any) by July 21, 2020.

Proponents and prospective Proponents should monitor the website www.toronto.ca/affordablehousing as frequently as they deem appropriate, until the day of the Deadline.

All Proponents must acknowledge receipt of all Addenda in the space provided on the Proposal Submission Form.

(iv) Exceptions to Mandatory Requirements, Terms and Conditions

If a Proponent wishes to suggest a change to any mandatory requirement, term or condition set forth in any part of this RFP, it should notify the City in writing not later than the deadline for questions. The Proponent must clearly identify any such requirement, term or condition, the proposed change and the reason for it. If the City wishes to accept the proposed change, the City will issue an Addendum as described in the article above titled Addenda. The decision of the City shall be final and binding, from which there is no appeal. Changes to mandatory requirements, terms and conditions that have not been accepted by the City by the issuance of an Addendum are not permitted and any Proposal that takes exception to or does not comply with the mandatory requirements, terms and conditions of this RFP will be rejected.

(v) Omissions, Discrepancies and Interpretations

A Proponent who finds omissions, discrepancies, ambiguities or conflicts in any of the RFP documentation or who is in doubt as to the meaning of any part of the RFP should notify the City in writing not later than the deadline for questions. If the City considers that a correction, explanation or interpretation is necessary or desirable, the City will issue an Addendum as described in the article above titled Addenda. The decision and interpretation of the City shall be final and binding, from which there is no appeal. No oral explanation or interpretation shall modify any of the requirements or provisions of the RFP documents.

(vi) Incurred Costs

The City will not be liable for, nor reimburse, any Proponent, as the case may be, for costs incurred in the preparation, submission or presentation of any Proposal, for interviews or any other activity that may be requested as part of the evaluation process or the process for the negotiation or execution of an Agreement with the City, as the case may be.

The rejection or non-acceptance of any or all Proposals shall not render the City liable for any costs or damages to any firm that submits a Proposal.

(vii) Post-Submission Adjustments and Withdrawal of Proposals

No unilateral adjustments by Proponents to submitted Proposals will be permitted. A Proponent may withdraw its Proposal at any time prior to the Deadline by notifying the contact for the Affordable Housing Office designated in this RFP in writing on company letterhead or in person, with appropriate identification. Telephone and e-mail requests will not be considered.

A Proponent who has withdrawn a Proposal may submit a new Proposal, but only in accordance with the terms of this RFP.

If the City makes a request to a Proponent for clarification of its Proposal, the Proponent will provide a written response accordingly, which shall then form part of the Proposal.

(viii) No Collusion

No Proponent may discuss or communicate about, directly or indirectly, the preparation or content of its Proposal with any other Proponent or the agent or representative of any other

Proponent or prospective Proponent. If the City discovers there has been a breach at any time, the City reserves the right to disqualify the Proposal or terminate any ensuing Agreement.

(ix) Prohibition against Gratuities

No Proponent and no employee, agent or representative of the Proponent, may offer or give any gratuity in the form of entertainment, participation in social events, gifts or otherwise to any officer, director, agent, appointee or employee of the City in connection with or arising from this RFP, whether for the purpose of securing an Agreement or seeking favourable treatment in respect to the award or amendment of the Agreement or influencing the performance of the Agreement,

including without restriction enforcement of performance standards, or expressing appreciation, or providing compensation, for the award of an Agreement or for performance of the City's obligations thereunder or for conferring favours or being lenient, or in any other manner whatsoever.

If the City determines that this article has been breached by or with respect to a Proponent, the City may exclude its Proposal from consideration, or if an Agreement has already been entered into, may terminate it without incurring any liability.

(x) Acceptance of Proposals

The City shall not be obliged to accept any Proposal in response to this RFP. The City may, without incurring any liability or cost to any Proponent:

- (i) accept or reject any Proposal(s) at any time;
- (ii) waive immaterial defects and minor irregularities in any Proposals;
- (iii) modify and/or cancel this RFP prior to accepting any Proposal;
- (iv) award a contract in whole or in part.

The City is relying on the experience and expertise of the Proponent. The City reserves the right to disqualify any Proponent who has given inaccurate, incomplete, false or misleading information in the sole opinion of the City.

(xi) Verification

The City reserves the right to verify with any Proponent or with any other person any information provided in its Proposal but shall be under no obligation to receive further information.

(xii) Conflicts of Interest

In its Proposal, the Proponent must disclose to the City any potential conflict of interest that might compromise its performance. If such a conflict of interest does exist, the City may, at its discretion, refuse to consider the Proposal. All members of the Proponent's team must be acting at arms ' length to each other.

The Proponent must also disclose whether it is aware of any City employee, Council member or member of a City agency, board or commission or employee thereof having a financial interest in the Proponent and the nature of that interest. If such an interest exists or arises during the evaluation process or the negotiation of the Agreement, the City may, at its discretion, refuse to consider the Proposal or withhold the awarding of any Agreement to the Proponent until the matter is resolved to the City's sole satisfaction.

Proponents are cautioned that the acceptance of their Proposal may preclude them from participating as a Proponent in subsequent projects where a conflict of interest may arise. The Successful Proponent for this project may participate in subsequent/other City projects provided the Successful Proponent has satisfied pre-qualification requirements of the City, if any, and in the opinion of the City, no conflict of interest would adversely affect the performance and successful completion of an Agreement by the Successful Proponent.

(xiii) Ownership and Confidentiality of City-Provided Data

All correspondence, documentation and information provided by City staff to any Proponent in connection with, or arising out of this RFP, the acceptance of any Proposal:

- i) is and shall remain the property of the City;
- ii) must be treated by Proponents as confidential;
- iii) must not be used for any purpose other than for replying to this RFP, and for fulfillment of any related subsequent Agreement.

(xiv) Ownership and Disclosure of Proposal Documentation

The documentation comprising any Proposal submitted in response to this RFP, along with all correspondence, documentation and information provided to the City by any Proponent in connection with, or arising out of this RFP, once received by the City:

- (i) shall become the property of the City and may be appended to the Agreement with the Successful Proponent;
- (ii) shall become subject to the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), and may be released, pursuant to that Act.

Because of *MFIPPA*, prospective Proponents are advised to identify in their Proposal material any scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which could cause them injury.

Each Proponent's name at a minimum shall be made public. Proposals will be made available to members of City Council provided that their requests have been made in accordance with the City's procedure and may be released to members of the public pursuant to *MFIPPA*.

(xv) Intellectual Property Rights

Each Proponent warrants that the information contained in its Proposal does not infringe any intellectual property right of any third party and agrees to indemnify and save harmless the City, its staff and its consultants, if any, against all claims, actions, suits and proceedings, including all costs incurred by the City brought by any person in respect of the infringement or alleged infringement

of any patent, copyright, trademark, or other intellectual property right in connection with their Proposal.

(xvi) Failure or Default of Proponent

If the Proponent, for any reason, fails or defaults in respect of any matter or thing which is an obligation of the Proponent under the terms of the RFP, the City may disqualify the Proponent from the RFP and/or from competing for future RFPs issued by the City. In addition, the City may abandon the Agreement if the offer has been accepted, whereupon the acceptance, if any, of the City shall be null and void.

The Proponent and its affiliates, associates, third-party service providers, and subcontractors shall not release for publication any information in connection with this RFP or any Agreement without prior written permission of the City.

(xvii) Governing Law

This RFP and any Proposal submitted in response to it and the process contemplated by this RFP including any ensuing Agreement shall be governed by the laws of the Province of Ontario. Any dispute arising out of this RFP or this RFP process will be determined by a court of competent jurisdiction in the Province of Ontario.