

Bill No.342  
2020

A.- \_\_\_\_\_ - \_\_\_\_\_

A by-law to authorize and approve a standard form "Rapid Housing Initiative Agreement" (RHI) (Schedule 1) with Canadian Mortgage and Housing Corporation (CMHC) and to delegate the duties of the City as it relates to the administrative and development activities for capital development within the Rapid Housing Initiative (RHI).

WHEREAS under the Rapid Housing Initiative established pursuant to Section 76 of the *National Housing Act*, the Canadian Mortgage and Housing Corporation (CMHC) provides funding for the development or implementation of proposals to help increase the supply of new permanent affordable housing;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City including respecting climate change, and the health, safety and well-being of persons;

AND WHEREAS section 8 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS The City has established the Housing Development Corporation, London (HDC) as a mechanism to advance the development and sustainability of affordable housing;

AND WHEREAS City is responsible for the delivery and administration of affordable housing initiatives through other direct delivery or through the Housing Development Corporation, London;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows to:

1. AUTHORIZE and APPROVE the standard form the "Rapid Housing Initiative (RHI) Agreement" attached as Schedule 1 substantially in the form attached the agreement to be completed in accordance with the RHI program between CMHC and The Corporation of the City of London;
2. DELEGATE, duties of the City as Recipient to the "Rapid Housing Initiative (RHI) Agreement" as it relates to the administrative and development activities for capital development within the Rapid Housing Initiative program are hereby delegated to Housing Development Corporation, London (HDC); as agent for the City, to obtain approvals for applications and project plans from the Managing Director, Housing Social Services and Dearness Home and the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer;
3. AUTHORIZE the Mayor and City Clerk to execute program agreements or amendments as required related to the Rapid Housing Initiative.

It being noted that the City as Service Manager will retain responsibilities for ongoing operational compliance.

This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on November 10, 2020.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First reading – November 10, 2020  
Second reading – November 10, 2020  
Third reading – November 10, 2020

## Schedule 1

### RAPID HOUSING INITIATIVE AGREEMENT

THIS AGREEMENT is made as of the \_\_\_ day of \_\_\_\_\_, 202\_\_ (the "**Effective Date**") between **CANADA MORTGAGE AND HOUSING CORPORATION** ("CMHC") and **[NAME OF CITY/MUNICIPALITY]** ("Recipient").

(collectively the "**Parties**" and individually a "**Party**")

**WHEREAS** the COVID-19 crisis has exacerbated existing housing affordability and homelessness issues particularly for the most vulnerable Canadians;

**WHEREAS** the Parties wish to implement the Rapid Housing Initiative ("**RHI**") to rapidly house some of the most vulnerable Canadians; and

**WHEREAS** in connection with the RHI, CMHC is authorized under the *National Housing Act* to make contributions to the Recipient for the purposes of developing, in conformity with an investment plan to be approved by CMHC and attached as **Schedule B** (the "**Investment Plan**"), at least **[number of units]** affordable housing units in **[Municipality / Region]** (the "**Units**");

**NOW THEREFORE** for value received, the Parties agree as follows:

#### **1. Contribution and Purposes**

The contribution by CMHC under this Agreement is \$**[●]** (the "**Contribution**") and will be advanced to the Recipient following signature of this Agreement, subject to the terms and conditions herein and for only to be used for the following purposes (as will be further specified by the Recipient in the Investment Plan):

(a) (i) acquisition of land and the construction of affordable multi-residential Modular Housing Units (as defined in **Schedule A**); (ii) acquisition of land and buildings for the purpose of conversion of non-residential into affordable multi-residential housing Units; or (iii) acquisition of land and buildings in disrepair or abandoned for the rehabilitation<sup>1</sup> into affordable multi-residential housing Units; and

(b) costs related to the pre-development, pre-construction (e.g. environmental site assessments, cost consultant reports, architectural or engineering reports, legal/closing costs related to acquisition of land and buildings) for the development of permanent affordable housing Units.

For greater certainty, costs must be incurred on or after the date of this Agreement and do not include operational expenses.

#### **2. Conditions to Funding**

The Recipient agrees it will:

(a) use the Contribution only for the purposes specified in the Investment Plan (and no other purpose) to create affordable Units for People And Populations Who Are Vulnerable (as defined in **Schedule A**) who are targeted by the Affordability Criteria (as defined in **Schedule A**);

(b) ensure, for a minimum period of 20 years (or for such longer period as agreed to in the Investment Plan) commencing on March 31, 2022, or on another date as may be set by CMHC at this discretion (the "**Term**"), the Units meet the Affordability Criteria (as defined in **Schedule A**) and are for People And Populations Who Are Vulnerable;

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<sup>1</sup> The land and buildings to be rehabilitated must have been in disrepair and/or abandoned and in both cases inhabitable and lost to the housing stock.

- (c) ensure the Units, and the newly constructed building(s) where the Units are situated, will exceed by at least 5 percent the local accessibility requirements in its jurisdiction during the Term;
- (d) ensure the Units, and the newly constructed building(s) where the Units are situated, will exceed by at least 5 percent the energy efficiency standards, as set out in the 2015 National Energy Code for Buildings (NECB), or as set out in the local/regional standard, whichever is higher;
- (e) deliver within 30 days of receipt of the notice of the Recipient's allocation,<sup>2</sup> for CMHC's review and approval, the Investment Plan in the form and content attached as **Schedule B**, which will among other elements (1) show that the Units can be available for occupancy within twelve months of its approval by CMHC;<sup>3</sup> (2) indicate how the Recipient is considering community benefits in the development of the Units; (3) indicate how the development of the Units by the Recipient is targeting, where possible, women and girls (30% of the Units) and urban Indigenous peoples<sup>4</sup> (15% of the Units); and (4) confirm (i) how the full Contribution will be committed by the Recipient; (ii) how the Recipient will construct and operate the Units in accordance with this Agreement; and (iii) how the Recipient will, throughout the Term, comply with the covenants of affordability, accessibility and energy efficiency set out in this Agreement;
- (f) where it intends to engage a third party intermediary (the "**Intermediary**") to construct and/or operate the Units: (i) exercise appropriate care in selecting an Intermediary who is a reputable entity that meets the Recipient's integrity regime and Know-Your-Client requirements; (ii) enter with the Intermediary into agreements as may be needed, setting out terms and conditions reflecting the requirements of this Agreement; and (iii) take all necessary actions to cause the Intermediary to comply with the obligations under this Agreement, noting however that the Recipient shall remain at all times primarily liable to CMHC for the fulfillment of all obligations under this Agreement; and
- (g) be, and cause the Units and any property on which the Units will be constructed and operated to be, at all times in compliance with all applicable laws including environmental laws and municipal zoning, in all material respects.

### **3. Return of Contribution**

In support of the implementation of the RHI to rapidly house some of the most vulnerable Canadians affected by the COVID-19 crisis, the Recipient will select projects that can be implemented within the short period of time specified in the Investment Plan. As a consequence, the Recipient agrees to the following:

- (a) CMHC may periodically review the progress in fulfilling the Investment Plan. Where CMHC or the Recipient considers that there may be reasonable doubt any part of the Investment Plan will be fully and timely delivered as expected, or where the Recipient has not started a project within [●] months of [●], the Parties shall consult together and make all efforts to find an acceptable solution that minimizes impacts on the projects and that is in the best interest of the RHI implementation, following which CMHC may reduce or cancel the Contribution to the extent that CMHC considers reasonable. In that case, the Recipient shall return any such reduced or cancelled Contribution within 30 days of being notified in writing by CMHC.

<sup>2</sup>The 30 days period starts as of the date the Recipient receives its notice of allocation, notwithstanding whether or not the Recipient already signed this Agreement.

<sup>3</sup> If the Recipient has projects in excess of their initial allocation for consideration for future contributions that may be available, the Recipient should provide additional information (e.g. expediency of project completion; evidence of long-term viability), which may be considered by CMHC in connection with any future funding under the RHI.

<sup>4</sup> The Recipient should, where possible, select and engage Indigenous governing bodies or organizations with the necessary experience and capacity as their intermediaries to construct, operate and deliver housing targeted at Indigenous peoples under this Agreement.

(b) The Recipient shall return to CMHC any undisbursed funds within 30 days of the Quarterly Attestation (as defined below) for the quarter in which all projects set out in the Investment Plan are completed, and in all cases no later than May 30, 2022, unless otherwise agreed by CMHC.

#### **4. Disposition and Encumbrance of Units**

(a) The Recipient is permitted to dispose of Units provided that (i) such Units are substituted by the Recipient with units that satisfy the terms and conditions of this Agreement; or (ii) the transferee acquiring such Units agrees to comply with the obligations of this Agreement by entering in a contract with the Recipient that is satisfactory to CMHC, acting reasonably; and (iii) in both cases, CMHC confirms in writing its consent to such disposition, after conducting a due diligence that is satisfactory to CMHC.

(b) The Recipient may not encumber the Units or any lands acquired with the Contribution without CMHC's prior written consent, acting reasonably.

#### **5. Reporting**

The Recipient agrees it will:

(a) deliver an attestation to CMHC within 30 days of each of March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021 and March 31, 2022, unless directed otherwise by CMHC, and in accordance with **Schedule C** (the "**Quarterly Attestation**"); and

(b) deliver an attestation to CMHC within 60 days of the Recipient's fiscal year end, commencing in the first fiscal year ending after March 31, 2022 and on each fiscal year thereafter, until the completion of the Term and in accordance with **Schedule C** (the "**Yearly Attestation**").

#### **6. Projects Stream**

The Recipient may, as part of the Investment Plan submitted under this Agreement for RHI funding pursuant to the *Major Cities Stream*, ask CMHC to be also considered for RHI funding pursuant to the *Projects Stream*. To do so, the Recipient must provide and include in the Investment Plan in the form and content attached as **Schedule B**, all additional information that is necessary for the *Projects Stream*, for CMHC's review and approval. In this scenario, the Investment Plan will serve for both RHI streams.

#### **7. Schedules**

Schedules attached hereto, including the Investment Plan (**Schedule B**) and the Additional Terms (**Schedule D**), form a part of this Agreement.

**[Signature pages follow]**

**IN WITNESS WHEREOF** the Parties hereto have duly executed this Agreement as of the date first written above.

**CANADA MORTGAGE AND HOUSING CORPORATION**

700 Montreal Rd  
Ottawa, Ontario  
K1A 0P7

\_\_\_\_\_  
**Name:**  
**Title:**

\_\_\_\_\_  
**Name:**  
**Title:**

*[Signature page for the Rapid Housing Initiative Agreement  
between Canada Mortgage and Housing Corporation and [Recipient]]*

**[RECIPIENT]**

**[Address]**

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**Name:**

**Title:**

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**Name:**

**Title:**

*[Signature page for the Rapid Housing Initiative Agreement  
between Canada Mortgage and Housing Corporation and **[Recipient]**]*

## **SCHEDULE A**

### **Definitions**

**"Affordability Criteria"** means:

All units must serve and be affordable (household is paying less than 30% of gross income on housing costs) to targeted People and Populations Who Are Vulnerable and who are also, or otherwise would be, in severe housing need or people experiencing or at high risk of homelessness as described below. Affordability must be maintained for a minimum of 20 years. The Recipient will be required to confirm, through an attestation, that all units serve the intended targeted population. CMHC may require incremental validation throughout the 20-year affordability period as needed.

A household in severe housing need is a subset of core housing need households that pays 50% or more for their current dwelling. A household is said to be in core housing need if its housing falls below at least one of the adequacy, affordability or suitability standards and it would have to spend 30% or more of its total before tax income to pay the median rent of alternative local housing that is acceptable (meets all three housing standards).

Homelessness is described as the situation of an individual, family or community without stable, safe, permanent, appropriate housing, or the immediate prospect, means and ability of acquiring it. Populations at imminent risk of homelessness are defined as individuals or families whose current housing situation will end in the near future (for example, within 2 months) and for whom no subsequent residence has been established.

A Recipient who has already adopted its own definitions for 'severe core housing need', 'homelessness' or at 'risk of homelessness' may, with approval of CMHC, apply such definitions to the Affordability Criteria. Otherwise, the definitions for these terms indicated herein apply.

**"Modular Housing Units"** means housing units which are partially or fully built in off-site (e.g. a factory, warehouse, or similar facility) by a qualified manufacturer and delivered to the site in whole or in parts and installed on an appropriately zoned and serviced lot.

**"People and Populations Who Are Vulnerable"** means the following groups and the individuals belonging to these groups:

- Women and children fleeing domestic violence;
- Seniors;
- Young adults;
- Indigenous peoples;
- People with disabilities;
- People dealing with mental health and addiction issues;
- Veterans;
- LGBTQ2+;
- Racialized groups;
- Black Canadians;
- Recent immigrants or refugees; and
- Homeless people or those at risk of homelessness.

**SCHEDULE B**

**Investment Plan**

[see attached]



1. Identification	Project A	Project B
Date submitted :		
Project name :		
Project description (Need, targeted population, program support, etc) :		
Street number :		
Street name :		
Municipality :		
Province :		
Postal code :		
Please provide the name of the intermediary, if different from the municipality (developer, owner or operator) :		

2. Project details	Project A	Project B
Type of intervention :		
Building type :		
Building purpose :		
Total soft costs :		
Soft costs incurred before agreement date :		
Soft cost eligible for RHI :	0.00 \$	0.00 \$
Total hard costs :		
Hard costs incurred before agreement date :		
Hard cost eligible for RHI :	0.00 \$	0.00 \$
Total land and acquisition cost :		
Was the land purchase/acquisition of building done before the agreement date :		
Total land and acquisition cost eligible for RHI :	0.00 \$	0.00 \$
Contingency costs (as % of soft and hard costs):		
Contingency costs :	0.00 \$	0.00 \$
Total other costs :		
Total other costs incurred before agreement date :		
Other costs eligible for RHI :	0.00 \$	0.00 \$
Total project costs :	0.00 \$	0.00 \$
Total eligible project costs :	0.00 \$	0.00 \$
CMHC funding requested (must be equal or less to Total eligible project costs) :		

**Note: If each individual is assigned a specific bed, please enter the number of beds serving a priority group, otherwise, please enter the number of units.**

3. Eligibility	Project A	Project B
Total number of new affordable units/beds created :		
Primary vulnerable population targeted :		
Number of new affordable units/beds created for primary vulnerable population :		
Secondary vulnerable population targeted :		
Number of new affordable units/beds created for secondary vulnerable population :		
Tertiary vulnerable population targeted :		
Number of new affordable units/beds created for tertiary vulnerable population :		
Is every unit/bed associated with a vulnerable population group? (Mandatory)	Yes	Yes
Provide a general description of the Community Employment Benefits that will be derived from each Project (see footnote for detail)		
Residential Space (% of Area) including program space :		
Date of acquisition / construction start date :		
Estimated completion date / ready for occupancy :		
Estimated full occupancy date :		
Will the tenants occupying the units (1) not spend more than 30% of their income on the applicable unit, and (2) be composed of individuals and families who are, or otherwise would be, in severe housing need, or people experiencing or at high risk of homelessness?		
How long will the affordability be maintained?		
For modular projects, will your project exceed by 5% the local accessibility requirements in its jurisdiction?		
For modular projects, will your project exceed by 5% the energy efficiency standards as set out in the 2015 National Energy Code for Buildings (NECB) or local/regional standard whichever is greater?		

**Please fill-out the following section only for projects you wish to be considered for additional funding under the "Cities / projects stream" funding.**

4. Prioritization	Project A	Project B
Will your project meet the affordability definition for a minimum of 20 years?		
Will 100% of the units provide permanent housing to tenants from the vulnerable population groups?		
Will your project reach first occupancy within 12 months of the execution of the contribution agreement?		
Are project lands located Off Reserve?		
Are project lands located On Reserve?		
Are project lands located North?		
Are project lands in a Remote location?		
How long will affordability be maintained?		
How quickly do you expect reaching first occupancy?		
How quickly do you expect completing your project?		
What is the status of the land?		
What is the duration of confirmed operating subsidy?		
What percentage of funding is needed from CMHC?		
Please confirm if you are specifically targeting any of these vulnerable population groups.		
For modular projects, will your project exceed the energy efficiency standards as set out in the 2015 National Energy Code for Buildings (NECB) or local/regional standard		

For modular projects, will your project exceed the local accessibility requirements in its jurisdiction?		
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**Footnotes :**

**Questions**

Type of intervention :

Building type :

Building purpose :

Note related to costs incurred before the agreement date

Was the land purchase/acquisition of building done before the agreement date : Yes / No

Primary, secondary and tertiary targeted vulnerable population :

Provide a general description of the Community Employment Benefits that will be derived from each Project.

Confirm that the contribution will create units for vulnerable populations who are in severe housing need or people experiencing or at high risk of homelessness : Yes / No

Project exceeds local accessibility criteria by 5% of the local accessibility requirement in it's jurisdiction : Yes / No

Project exceeds local accessibility criteria by 5% of the energy efficiency standard as set out in the 2015 National energy code for buildings (NECB) or as set out in the local/regional standard, whichever is higher : Yes / No

Will your project meet the affordability definition for a minimum of 20 years? Yes / No

Will 100% of the units provide permanent housing to tenants from the vulnerable Yes / No

Will your project reach first occupancy within 12 months of the execution of the Yes / No

Are project lands located Off Reserve? Yes / No

Are project lands located On Reserve? Yes / No

Are project lands located North? Yes / No

Are project lands in a Remote location? Yes / No

How long will affordability be maintained? 20 years, 21 to 30 years, 31 to 40 years+

How quickly do you expect reaching first occupancy? First occupancy within 12 months of execution of contribution agreement, First occupancy within 6 months of execution of contribution agreement, First occupancy within 3 months of execution of contribution agreement

How quickly do you expect completing your project? Project completed within 12 months of execution of contribution agreement, Project completed within 9 months of execution of contribution agreement, Project completed within 6 months of execution of a contribution agreement

What is the status of the land? Land is not yet owned/no agreement of purchase and sale and no executed lease in place (or current lease is not for min 20-year duration), Land has an agreement of purchase and sale with closing date within 3 months, Land is already owned in fee simple/leasehold interest

What is the duration of confirmed operating subsidy? Operating subsidy not yet confirmed, Confirmed up to 5 years, Confirmed more than 5 years up to 10 years, Confirmed more than 10 years but less than 20 years, Confirmed for full 20-year affordability period

What percentage of funding is needed from CMHC RHI Funding requested for 100% of costs, RHI Funding requested for 81% to 90% of costs, RHI Funding requested for 71% to 80% of costs, RHI Funding requested for 60% to 70% of costs, RHI Funding requested below 60%

Please confirm if you are specifically targeting any of these vulnerable population groups. Specifically targeting Black Canadians, Specifically targeting Women and Children, Specifically targeting Indigenous People, Not targeting any of these vulnerable population groups

For modular projects, will your project exceed the energy efficiency standards as set out in the 2015 National Energy Code for Buildings (NECB) or local/regional standard whichever is greater? It meets the energy efficiency standards, but doesn't exceed them, it exceeds by 5%, It exceeds by 10%, It exceeds by 15%, It exceeds by 20%

For modular project, will your project exceed the local accessibility requirements in its jurisdiction? It meets the accessibility requirements of the jurisdiction, but doesn't exceed them., It exceeds by 5%, It exceeds by 10%, It exceeds by 15%, It exceeds by 20%

**SCHEDULE C**

**Reporting**

**Quarterly Attestation**

[see attached]

**Yearly Attestation**

[see attached]

1. Attestation	Project A	Project B
Attestation date :		
Municipal building address :		
Amount of RHI funding that was used towards eligible costs?		
% of completion of the project :		
Construction / Renovation / Conversion start date :		
Construction / Renovation / Conversion completion date (all units are ready for long term occupancy) :		
Full occupancy date (all units are occupied) :		
Total number of new affordable units/beds in project :		
Number of new affordable housing units temporarily occupied (conversion/renovation not complete) :		
Number of new affordable housing units completed (occupancy permit obtained) :		
Number of new affordable housing units occupied (long term occupancy) :		
Type of intervention :		
Building type :		
Building purpose :		
Did changes to the distribution of units among vulnerable groups occur?		
(If changes occurred, please fill out the following)		
Primary vulnerable population targeted :		
Number of new affordable units/beds created for primary vulnerable population :		
Secondary vulnerable population targeted :		
Number of new affordable units/beds created for secondary vulnerable population :		
Tertiary vulnerable population targeted :		
Number of new affordable units/beds created for tertiary vulnerable population :		
Comments - please describe any other material changes to the project or units :		
Signature :		

	Project A	Project B
Attestation Date:		
Total number of affordable units that have been retained		
Building purpose :		
Did changes to the distribution of units among vulnerable groups occur? (If changes occurred, please fill out the following)		
Primary vulnerable population targeted :		
Number of new affordable units/beds created for primary vulnerable population :		
Secondary vulnerable population targeted :		
Number of new affordable units/beds created for secondary vulnerable population :		
Tertiary vulnerable population targeted :		
Number of new affordable units/beds created for tertiary vulnerable population :		
Are the tenants occupying the units (1) pay less than 30% of gross income on the applicable unit, and (2) composed of individuals and families who are, or would otherwise be, in severe housing need, or people experiencing or at high risk of homelessness?		
Is the project meeting the commitment towards number of accessible units?		
Comments - please describe any other material changes to the project or units.		
Signature		

## SCHEDULE D

### Additional Terms

Parties agree to the following additional terms and conditions:

#### 1. Termination

In the event that the Recipient (or a representative thereof) does not adhere to the terms and conditions of this Agreement, or commits fraud, misconduct, criminal acts, gross negligence or willful misconduct, CMHC may immediately terminate this Agreement and declare the Contribution to be repayable to CMHC in whole or in part, and may exercise any other rights and remedies it has by operation of law or equity. Sections 2, 3 and 4 of this **Schedule D** shall survive the expiry or termination of this Agreement.

#### 2. Indemnification

The Recipient agrees to indemnify and save harmless the Government of Canada, CMHC, its officers, directors and employees against all claims, demands, actions, suits or other proceedings (including but not limited to environmental claims) of any nature whatsoever arising from or as consequence of or relating to (a) any breach by the Recipient of its obligations, or any misrepresentation by the Recipient under this Agreement, (b) the construction or operation of the Units, (c) the failure of the Recipient to comply with all environmental laws or losses suffered in connection with the presence of any hazardous material on the land upon which Units are situated; or (d) any act or failure to act on the part of the Recipient in connection with the Contribution or the Units, whether or not CMHC is named as a party.

#### 3. Liability

CMHC shall not be liable to the Recipient or any other party in relation to the Contribution. To the extent the Recipient engages or retains any third party in respect of its obligations under this Agreement, the Recipient shall remain primarily liable to CMHC for the fulfillment of its obligations under this Agreement. For the purposes of this Agreement, CMHC will only deal with the Recipient, and not with third parties retained by the Recipient including the Intermediary.

#### 4. Recipient's Representations and Warranties

(a) The Recipient has the requisite power, authority and capacity to execute, deliver and perform its obligations under this Agreement, which has been duly authorized, executed, and delivered by the Recipient and constitutes a legal, valid, and binding obligation of the Recipient.

(b) The Recipient and any property on which the Units are situated are in compliance with all applicable laws, including all environmental laws and municipal zoning, in all material respects.

(c) It is a condition of this Agreement that all representations and warranties made in this Agreement or any other document or reporting by the Recipient are true, complete and correct.

#### 5. Official Languages

In areas of significant demand, the Recipient agrees to provide all information and services pertaining to the RHI in both French and English. The Recipient will use the criteria for communications and services in the *Official Languages Regulations* made pursuant to Canada's *Official Languages Act* as a guideline to determine "significant demand". The Recipient will consult with representatives of local minority language groups.

## **6. Information and Communications**

(a) Subject to the *Access to Information Act* (Canada), the *Privacy Act* (Canada), and the applicable provincial, territorial or municipal freedom of information and privacy legislation, the Parties shall hold confidential any information clearly identified and marked as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Nothing in this Agreement shall be construed in a manner that would contravene the access to information and privacy legislation that applies to the Parties.

(b) The Recipient consents to the collection, use and disclosure of information submitted to CMHC by the Recipient for the following purposes: (i) to assess the Recipient's eligibility under the RHI; (ii) for analytics, policy analysis, auditing and research by CMHC; (iii) to communicate to the Recipient possible opportunities under other CMHC programs, or possible collaboration opportunities with third parties; (iv) for evaluation of the RHI; (v) for use by CMHC in and the Government of Canada for purposes related to the *National Housing Act* (Canada); and (vi) for information verification and due diligence purposes, including to detect and protect CMHC from errors and fraud. The Recipient shall obtain the foregoing consents from any third party intermediary engaged by the Recipient to construct and/or operate the Units.

(c) CMHC and its representatives are authorized to use and disclose the information, on a need to know basis, to CMHC employees, officers and directors, the office of the Minister responsible for CMHC and provincial/territorial/municipal entities collaborating with CMHC for the purposes outlined in Section 6(b) of this **Schedule D**.

(d) Any public communications related to projects under this Agreement must be approved in advance by CMHC. Notwithstanding the preceding, each Party retains the right to communicate information to Canadians about the projects to meet its respective legislated and regulatory obligations, with prior notice to the other Party.

(e) If requested by CMHC, the Recipient shall publicly acknowledge CMHC's and the Government of Canada's Contribution under this Agreement in a manner acceptable to CMHC, acting reasonably, including through use of signage at the project (at the costs of CMHC).

## **7. Audit**

(a) CMHC and any of its officers, employees and agents shall have the right to inspect, audit and make extracts from the Recipient's books and records in relation to the Contribution upon its request, acting reasonably, until the completion of the Term.

(b) CMHC or a third party representative may conduct onsite visits to inspect and monitor the construction and operation of the Units and compliance with the terms and conditions of this Agreement. All site visits are for CMHC's program and risk management purposes only and are not to be considered a technical inspection to confirm the quality of the work or the Recipient's compliance with applicable laws, including building codes.

## **8. Notice**

Delivery of notice under this Agreement shall be effective three days after posting by regular mail, or on the day following transmission by e-mail, to the Parties at addresses set out on the signature pages of this Agreement.

## **9. Independent Recipient**

The Parties agree that under this Agreement CMHC is solely a financial contributor in respect of the Units and there shall be no legal partnership or joint venture between CMHC and the Recipient or the Intermediary. No

Party will use the name, logo or marks of the other party without the prior express written consent of that other party.

**10. Costs**

The Recipient is responsible for its own costs and expenses incurred in connection with the preparation, execution, enforcement and implementation of this Agreement.

**11. Conflict of Interest**

The Recipient shall avoid any conflict of interest during the Term of this Agreement and shall immediately declare any existing, potential or apparent conflict and shall, upon direction of CMHC, take steps to eliminate any conflict, or perception that a conflict of interest exists.

**12. House of Commons/Senate**

No member of the House of Commons or the Senate of Canada shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

**13. Assignment and Amendment**

This Agreement shall be binding upon and shall enure to the benefit of the Parties and their successors and assigns. This Agreement may not be assigned by a Party without the prior written consent of the other Party. Any amendment to this Agreement must be approved by both Parties in writing.

**14. Counterparts**

This Agreement may be executed in any number of counterparts, which 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 a manual signature.

**15. Waiver**

The failure of CMHC to insist on strict compliance with one or more of the terms of this Agreement shall not constitute a waiver of its right to enforce those terms at a later date. No provision of this Agreement shall be deemed to have been waived as a result of a breach by either Party of the provisions of this Agreement, unless such waiver is in writing and signed by CMHC. Any such waiver shall not be deemed a waiver for a subsequent breach of the same or any other provision of this Agreement.

**16. Governing Law and Jurisdiction**

This Agreement will be governed by and construed in accordance with the laws of the province or territory where the Units are situated, and the federal laws of Canada applicable therein. The courts of such jurisdiction shall exclusively hear any dispute related to this Agreement. Funding under this Agreement is at all times subject to appropriations by the Parliament of Canada.

**17. Entire Agreement**

This Agreement contains all of the agreements and understandings between the Parties and no other representations or warranties, verbal or otherwise, exist between the Parties. If any provision of this Agreement



is held by a competent authority to be invalid, illegal or unenforceable for any reason, the remaining provisions of this Agreement and any schedules attached hereto, will continue to be in full force and effect.

**18. Additional Funds**

Notwithstanding Section 17 of this **Schedule D**, if following the Effective Date, the Recipient is allocated - under either RHI streams - additional RHI funds that are separate and in addition to what is provided in the initial Investment Plan<sup>5</sup> under this Agreement (the "**Additional Funds**"), CMHC may use this Agreement as a basis for its agreement with the Recipient in relation to the Additional Funds. If the Recipient accepts such allocation, and unless directed otherwise by CMHC, it shall deliver an additional investment plan substantially in the form of the Investment Plan attached as **Schedule B** (the "**Additional Investment Plan**") in respect of the Additional Funds (including the additional contribution, units and applicable term) within 30 days of receiving notice of the additional allocation, for CMHC's review and approval at its sole discretion. The terms and conditions of this Agreement, as varied by the Additional Investment Plan, shall apply to the Additional Funds mutatis mutandis unless otherwise agreed by the Parties.

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<sup>5</sup> For the avoidance of doubt, as per section 6 of the Agreement, the initial Investment Plan may itself comprise RHI funds pursuant to both RHI streams, without the need for an Additional Investment Plan for the *Project Stream* at that initial stage. Additional Funds are separate and in addition to the initial Investment Plan, and require an Additional Investment Plan.