

## Report to Strategic Priorities and Policy Committee

**To:** Chair and Members  
Strategic Priorities and Policy Committee

**From:** Anna Lisa Barbon, Deputy City Manager, Finance Supports

**Subject:** LMCH – CMHC Co-Investment – Loan Agreement

**Date:** November 9, 2021

## Recommendation

That, on the recommendation of the Deputy City Manager, Finance Supports:

The attached proposed by-law (Appendix “A”) **BE INTRODUCED** to:

- (a) Approve the Credit Agreement, substantially in the form attached, between the Canada Mortgage and Housing Corporation, London and Middlesex Community Housing Inc. and The Corporation of the City of London (the “Credit Agreement”);
- (b) approve the Guarantee, substantially in the form attached, between the Canada Mortgage and Housing Corporation and The Corporation of the City of London (the “Guarantee”);
- (c) approve the Operating Agreement, substantially in the form attached, between the Canada Mortgage and Housing Corporation, London and Middlesex Community Housing Inc. and The Corporation of the City of London (the “Operating Agreement”);
- (d) approve the Certificate of Officer, substantially in the form attached, for the City of London (the “Certificate of Officer”);
- (e) authorize the City Treasurer to approve any amendments to the Credit Agreement, Guarantee, Operating Agreement and Certificate of Officer prior to the execution by the Mayor and City Clerk;
- (f) authorize the Mayor and the City Clerk to execute the Credit Agreement, the Guarantee, and the Operating Agreement;
- (g) authorize the City Treasurer to execute the Certificate of Officer;
- (h) delegate authority to the Deputy City Manager, Finance Supports to approve further agreements, documents or forms required by the Canada Mortgage and Housing Corporation;
- (i) authorize the Mayor and the City Clerk to execute any further agreements, documents or forms required by the Canada Mortgage and Housing Corporation and approved by the Deputy City Manager, Finance Supports;
- (j) authorize the Deputy City Manager, Finance Supports (or delegate) to execute any financial reports required under the Credit Agreement, the Guarantee, the Operating Agreement, and the Certificate; and,
- (k) authorize Civic Administration to undertake all administrative acts required in connection with these agreements.

The attached proposed by-law (Appendix “B”) **BE INTRODUCED** to:

- (a) ratify the Resolution of the Shareholder of London & Middlesex Community Housing Inc. to approve the borrowing under the Credit Agreement among London & Middlesex Community Housing Inc., the Corporation of the City of London, and Canada Mortgage Housing Corporation and the Operating Agreement among the Canada Mortgage Housing Corporation, London & Middlesex Community Housing Inc. and The Corporation of the City of London, and the granting of security under the Account Security Agreement between London & Middlesex Community Housing Inc. and Canada Mortgage Housing Corporation.

(b) Authorize the Mayor and Clerk to execute the Resolution of the Shareholder.

## Executive Summary

Canada Mortgage and Housing Corporation (CMHC) offers a National Housing Co-Investment Program that provides low-cost loans and financial contributions for the preservation and renewal of existing community housing supply. London and Middlesex Community Housing's (LMCH) portfolio of housing is aging and requires significant capital investment. With the 2020-2023 Multi-Year Budget, Municipal Council approved a \$37.0 million business case to access the Co-Investment program.

To complete the process of securing the loan agreement, CMHC requires a number of documents to be executed:

- (a) a Credit Agreement signed by CMHC, LMCH and the City of London;
- (b) a Guarantee signed by CMHC and the City of London;
- (c) an Operating Agreement signed by CMHC, LMCH and the City of London;
- (d) a Certificate signed by CMHC and the City of London.

The purpose of this report is to present the required documents to Municipal Council and introduce a by-law to authorize the Mayor and the City Clerk to execute the required documents.

## Linkage to the Corporate Strategic Plan

The following report supports the Strategic Plan through the strategic focus area of "Building a Sustainable City", under the outcome of ensuring London's infrastructure is built, maintained, and operated to meet the long-term needs of our community.

Federal investments supporting public housing in London represent important contributions to maintaining and improving the quality of life for Londoners.

## Analysis

### 1.0 Background Information

#### 1.1 Previous Reports Related to this Matter

Strategic Priorities and Policy Committee, December 17, 2019, Agenda Item #3.1, 2020-2023 Multi-Year Budget – Additional Investment Business Case #18

<https://london.ca/sites/default/files/2020-11/2020%20to%202023%20Multi%20Year%20Budget%20Business%20Case%20Cerlox.ah%20FINAL%20as%20of%20November%203%2C%202020.pdf>

Community and Protective Services Committee, June 1, 2021, Agenda Item #2.4, LMCH-CMHC Co-Investment Letter of Intent

<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=81193>

#### 1.2 Background

Canada Mortgage and Housing Corporation's (CMHC) National Housing Co-Investment Program (Program) provides low-cost loans and financial contributions for the preservation and renewal of existing community housing supply. London and Middlesex Community Housing's (LMCH) portfolio is aging and requires significant capital investment. Under the Housing Services Act, LMCH is required to maintain the condition of units in a state of good repair that is fit for occupancy. CMHC Co-Investment funding provides an avenue to access significant levels of forgivable loans in conjunction with loan financing.

As part of the 2020-2023 Multi-Year Budget, Municipal Council approved Business Case #18 – LMCH Co-Investment with CMHC to support repairs and rehabilitation to LMCH housing units. The business case included \$36.5 million in CMHC funding with

\$14.6 million (40%) as a forgivable loan and \$21.9 million (60%) as a repayable loan. An additional \$0.5 million of City funding was also approved for a total investment of \$37.0 million. The funding would address approximately 2,080 units (63% of the total LMCH portfolio), a partial portfolio approach, reducing GHG emissions by 25% and increasing accessible units to 20% (or 413 units) of the invested portfolio.

In June 2021, Municipal Council approved execution of a Letter of Intent signed by CMHC, LMCH and the City of London that communicated the City's commitment to support and guarantee the total loan portion of CMHC Co-Investment funding.

Co-Investment funding will provide needed improvements to the quality of LMCH homes. For example, replacing building envelopes ensures that issues with water infiltration and potentially mould are prevented. As a result, LMCH homes are healthy for tenants. At the same time, the public appearance of these homes is improved and consequently the stigma that tenants may experience because of their home's appearance is reduced. Other energy saving repairs include furnaces, water heaters, windows and doors. The projects will lower operating costs and improve accessibility, addressing the important needs of an aging population and Accessibility for Ontarians with Disabilities Act requirements. The funding will also improve the Facility Condition Index (FCI) and extend the life of the assets significantly.

The documents requiring execution to secure the arrangement between CMHC, LMCH and the City include a Credit Agreement, Guarantee, Operating Agreement and Certificate of the City. Further details on these requirements are outlined in the following sections.

### 1.3 Credit Agreement

Significant components and key considerations of the Credit Agreement appear below. See **Appendix A – Schedule 1** for the complete text of the Credit Agreement.

1. The obligations in the Credit Agreement are between the Borrower (LMCH) and the Lender (CMHC) with the City (Guarantor) guaranteeing the performance and payment of LMCH.
2. CMHC conditionally allocates up to \$40,136,090 (up to \$24,602,101 in repayable loans and up to \$15,533,989 in forgivable loans). LMCH must spend an additional \$28,447,776 on the portfolio, for a total investment of \$68,583,866. LMCH has secured this additional funding from approved annual life cycle funding to address their infrastructure gap. It should be noted that these amounts are slightly greater than the approved business case to allow for some flexibility during the seven-year repair period, but the additional investment beyond the approved amount is optional and will require future Council approval.
3. LMCH must complete the work no later than December 31, 2027, and achieve program requirements for the impacted portfolio of units, including:
  - i. affordability will be maintained for at least 20 years such that rents for a minimum of 50% of the units will be on average below 50% of the median market rental rate;
  - ii. energy consumption and greenhouse gas emissions are reduced by at least 25% relative to the pre-repair levels; and
  - iii. at least 20% of the units will meet or exceed accessibility criteria required for the program.

Failure to achieve the above targets may result in some of the forgivable loans becoming repayable.

4. The Credit Agreement requires LMCH to make a drawdown by December 31, 2021. The obligation to provide these loans expires if no drawdown is made under both the repayable and forgivable loan facilities by December 31, 2021. If the final signed agreement is delayed, there is a possibility that LMCH will run out of time to begin construction and make a draw before December 31, 2021. To address this risk, LMCH is prepared to begin construction as soon as the agreement is final.

5. The interest rate is not defined in the Credit Agreement. The agreement requires a separate repayable loan facility for each of the seven years of the agreement, established at the beginning of each year equal to the accumulated amount of drawdowns from the previous year. The applicable interest rate for each facility will be determined as each facility is established. This is administratively challenging and subjects LMCH (and the City as Guarantor) to potential interest rate risk given potential fluctuations in interest rates.
6. The \$15.5 million forgivable loan is interest free as long as the conditions specified in the Credit Agreement are met and no event of default has occurred. If an event of default occurs, CMHC may give notice to the Borrower to declare that the forgivable loan shall bear interest at a rate of 5% with interest beginning from the date of declaration.
7. Example “events of default” include:
  - i. A failure to pay within three business days any amounts payable under the Loan Documents. The City will have to be prepared to step in quickly to pay the loan amounts in this event as CMHC was unwilling to modify the deadline to remedy such an event of default.
  - ii. If CMHC considers the loan not to be proceeding in a timely manner, which is not defined in the Credit Agreement.
8. Insurance requirements in the Credit Agreement will be captured in the insurance section of the contractor vendor procurement process. Staff in the City’s Risk Management division meet the qualifications required for “Insurance Consultants” defined in the Credit Agreement.
9. The Credit Agreement requires annual audited financial statements of LMCH and the City within 120 days. Currently the City requires up to 210 days to complete consolidated statements. CMHC has indicated they will be flexible with this requirement.
10. The loan can be terminated at any time by CMHC without any reason if funding for the program is no longer available due to no or insufficient appropriations by the Government of Canada. The City believes this risk is low.

#### **1.4 Guarantee**

Significant components and key considerations of the Guarantee appear below. See **Appendix A – Schedule 2** for the complete text of the Guarantee.

1. The City of London, the Guarantor, agrees to provide an unlimited payment and performance guarantee and indemnity agreement for all the obligations of LMCH and the City of London related to the Credit Agreement and all other related agreements.
2. The City has to pay the total amount of the guaranteed obligations and all other amounts payable by it or the Lender under this Guarantee immediately after demand for same has been made by CMHC. This may include all reasonable costs, charges, and expenses incurred by the Lender in collecting and enforcing the Guarantee
3. The indemnity under this agreement is substantial, indemnifying CMHC from all losses, claims, damages, liabilities, fees, costs, and expenses.
4. The City’s potential liability and obligations under the Guarantee are absolute and unconditional.

#### **1.5 Operating Agreement**

The Operating Agreement contains many of the same representations, remedies and indemnities as included and discussed above for the Credit Agreement. See **Appendix A – Schedule 3** for the complete text of the Operating Agreement.

## 1.6 Certificate of the City of London (Certificate)

Civic Administration does not have any concerns with the Certificate. See **Appendix A – Schedule 4** for the complete text of the Certificate.

## 1.7 Resolution of the Sole Shareholder

The City of London is the sole shareholder of London & Middlesex Community Housing Inc. The Declaration of the Sole Shareholder requires LMCH to seek and obtain the City's approval to create debt. The Resolution of the Sole Shareholder attached as Appendix 'B' approves the creation of debt created by:

- The Credit Agreement;
- The Operating Agreement;
- The granting of security under the Account Security Agreement.

LMCH advises that the Account Security Agreement creates a security interest in the:

- Repair Program Funding Account;
- All credit balances and all other amounts from time to time on deposit in, accredited to, or held for the credit of, the Repair Program Funding Account and all the rights which may be derived therefrom;
- The interests at any time deposited or required to be deposited into the Repair Funding Account; and
- All proceeds of every nature and kind arising from the foregoing whether such proceeds arise before or after commencement of proceedings under any applicable bankruptcy, insolvency or other similar law.

## 2.0 Financial Impact/Considerations

As anticipated in the Multi-Year Budget Business Case, loan amounts included in the Letter of Intent are approximately 60% loan and 40% forgivable loan (grant). CMHC loans are amortized over 40 years; terms are ten years in length with a fixed interest rate, locked in upon first advance each term. To mitigate the interest rate risk with the long-term amortization of these loans, the approved Multi-Year Budget Business Case includes funding for principal and interest repayment, as well as a reserve fund contribution, the objective of which is to set aside funding to fully extinguish the debt after ten years.

To execute the work, three additional full-time equivalent contract staff will be hired by LMCH for project management. The estimated cost is \$2.8 million and is included in the total project costing approved through the Business Case.

Improvements to building efficiency, mostly achieved through new building envelopes on townhouse properties, is projected to result in \$370,000 in operational savings following construction completion. The savings have been factored into the overall financial analysis and approved Business Case funding.

The following due diligence was undertaken to protect the City's financial interests in this project and mitigate risks to the extent possible, but to access this funding the risk cannot be fully eliminated.

1. Civic Administration reviewed the consultant's plan for achieving the accessibility targets required by CMHC. If the accessibility renovations are completed as planned, the accessibility targets should be easily met.
2. Civic Administration also reviewed the consultant's plan for achieving the CHMC energy saving targets. The plan exceeds the targets, with some contingency, but the achievement will be monitored annually. During the seven-year project period, adjustments can be made to ensure the targets are met.
3. There is some risk that all the planned projects will not be completed by the National Housing Co-Investment Program current end date of December 2027. However, LMCH is well underway on project planning and projects will be

completed in achievable portions so that a large project will not be left uncompleted at the end.

### **3.0 Next Steps**

Once the bylaw attached as Appendix 'A' is passed, the City of London will sign the four required documents to finalize the loan agreement with CMHC through the National Housing Co-Investment Fund. LMCH will also sign their applicable documents.

LMCH will continue to finalize plans for the rehabilitation and repair projects and will begin construction after confirmation that all required documents have been signed and the loan agreement is complete.

## **Conclusion**

With the 2020-2023 Multi-Year Budget, Municipal Council approved a \$37.0 million business case to allow LMCH to access the National Housing Co-Investment Program from CMHC. This program provides low-cost loans and financial contributions for the preservation and renewal of existing community housing supply. LMCH's housing portfolio is aging and requires significant capital investment.

To complete the process of securing the funding, CMHC requires a Credit Agreement and Operating Agreement signed by CMHC, LMCH and the City of London and a Guarantee and a Certificate signed by CMHC and the City of London. The purpose of this report is to present these documents to Municipal Council and introduce a by-law to authorize the Mayor and the City Clerk to execute each of them.

**Prepared by:** Alan Dunbar, CPA, CGA, Manager III, Financial Planning and Policy

**Submitted by:** Kyle Murray, CPA, CA, Director, Financial Planning and Business Support

**Recommended by:** Anna Lisa Barbon, CPA, CGA, Deputy City Manager, Finance Supports

Attachments:

Appendix A – By-law

Cc:

Jason Davies – Manager III, Financial Planning and Policy

Meng Liu – Senior Financial Business Administrator

Annette Ripepi – Financial Business Administrator

## Appendix “A”

Bill No.  
2021

By-law No.

A by-law to approve and authorize the execution of the Credit Agreement, the Operating Agreement between The Corporation of the City of London, the London Middlesex Community Housing Inc. and the Canada Mortgage and Housing Corporation and to approve the Guarantee between The Corporation of the City of London and the Canada Mortgage and Housing Corporation

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 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 subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting, among other things: i) financial management of the municipality and its local boards; and ii) economic, social and environmental well-being of the municipality

AND WHEREAS subsection 107(1) of the *Municipal Act, 2001* authorizes a municipality to make a grant on such terms as to security and otherwise as the council considers appropriate to any person, group or body for any purpose that the council considers to be in the interests of the municipality;

AND WHEREAS subsection 107(2) of the *Municipal Act, 2001* provides that the power to make a grant under subsection 107(1) includes the power to guarantee a loan;

AND WHEREAS the Canada Mortgage Housing Corporation has agreed to lend London & Middlesex Community Housing Inc. loans to assist with the financing of repairs and renewal of housing units and it is desirable for the City to guarantee such loan;

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

1. The Credit Agreement between The Corporation of the City of London, London & Middlesex Community Housing Inc. and the Canada Mortgage Housing Corporation, substantially in the form attached as Schedule “1” to this by-law, is hereby authorized and approved.
2. The Mayor and City Clerk are hereby authorized to execute the Credit Agreement authorized and approved under section 1 of this by-law.

3. The Operating Agreement between The Corporation of the City of London, London & Middlesex Community Housing Inc. and the Canada Mortgage Housing Corporation, substantially in the form attached as Schedule “2” to this by-law, is hereby authorized and approved.
4. The Mayor and Clerk are hereby authorized to execute the Operating Agreement authorized and approved under section 3 of this by-law.
5. The Guarantee between The Corporation of the City of London and the Canada Mortgage and Housing Corporation, substantially in the form attached as Schedule “3” to this bylaw, is hereby authorized and approved.
6. The Mayor and Clerk are hereby authorized to execute the Guarantee authorized and approved under section 5 of this bylaw.
7. The City Treasurer is hereby authorized to approve any amendments to the Credit Agreement, Guarantee, Operating Agreement and Certificate of Officer approved under sections 1, 3, 5, and 10 of this by-law prior to execution by the Mayor and Clerk.
8. The Deputy City Manager, Finance Supports is hereby authorized to approve any further agreements, documents or forms required by the Canada Mortgage Housing Corporation.
9. The Mayor and Clerk are hereby authorized to execute any agreements, documents or forms required by the Canada Mortgage Housing Corporation approved by the Deputy City Manager, Finance Supports under section 8 of this bylaw.
10. The Certificate of Officer, substantially in the form attached as Schedule “4” to this bylaw, is hereby authorized and approved.
11. The City Treasurer is authorized to execute the Certificate of Officer authorized and approved under section 10 of this bylaw.
12. Civic Administration is authorized to undertake all administrative acts required in connection with the Credit Agreement, the Operating Agreement and the Guarantee.
13. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on November 16, 2021

First Reading – November 16, 2021  
Second Reading – November 16, 2021  
Third Reading – November 16, 2021

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Ed Holder  
Mayor

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Catharine Saunders  
City Clerk



## Appendix “B”

Bill No.

2021

By-law No.

A by-law to ratify and confirm the Resolution of the Shareholder of London & Middlesex Community Housing Inc.

WHEREAS London & Middlesex Community Housing Inc. is incorporated under the *Business Corporations Act*, R.S.O. c. B.16 (the “BCA”);

AND WHEREAS subsection 104(1)(b) of the BCA provides that a resolution in writing dealing with all matters required by the BCA to be dealt with all matters required by the BCA to be dealt with at a meeting of shareholders, and signed by the shareholders or their attorney authorized in writing to vote at the meeting, satisfies all the requirements of the BCA relating to that meeting of shareholders;

AND WHEREAS The Corporation of the City of London provide that a municipality has the capacity, rights, powers and privileged of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 5(3) 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 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:

1. The Resolution of the Shareholder of London & Middlesex Community Housing Inc. (attached as Schedule I) to approve the borrowing under the Credit Agreement among London & Middlesex Community Housing Inc., the Corporation of the City of London, and Canada Mortgage Housing Corporation and the Operating Agreement among the Canada Mortgage Housing Corporation, London & Middlesex Community Housing Inc. and The Corporation of the City of London, and the granting of security under the Account Security Agreement between London & Middlesex Community Housing Inc. and Canada Mortgage Housing Corporation is hereby ratified and confirmed.
2. The Mayor and Clerk are authorized to execute the Resolution of the Shareholder ratified and confirmed under section 1 of this by-law.
3. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on November 16, 2021

First Reading – November 16, 2021  
Second Reading – November 16, 2021  
Third Reading – November 16, 2021

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Ed Holder  
Mayor

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Catharine Saunders  
City Clerk

Schedule "I"

London & Middlesex Community Housing Inc.  
(the "Corporation")

WHEREAS subsection 104(1)(b) of the *Business Corporations Act* (Ontario) ( the "Act") provides that a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders, and signed by all the shareholders or their attorneys authorized in writing entitled to vote at its meeting, satisfies all the requirements of the Act relating to that meeting of shareholders;

The following special resolution, signed by the sole shareholder of the Corporation entitled to vote thereon, is hereby passed pursuant to the Act.

AND WHEREAS pursuant to section 6.4(a)(i) of the Declaration of the Sole Shareholder by The Corporation of the City of London, LMHC shall not create any debt without the approval of the Shareholder;

NOW THEREFORE BE IT RESOLVED AS A RESOLUTION THAT:

1. The Shareholder approves the creation of debt created by the Credit Agreement, attached as Schedule 1 and Operating Agreement, attached as Schedule 2 ("Agreements") between the Canada Mortgage Housing Corporation, the London & Middlesex Community Housing Inc. and The Corporation of the City of London, and the granting of security under the Account Security Agreement

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**The Corporation of the City of London**

By:

\_\_\_\_\_

Ed Holder  
Mayor

By:

\_\_\_\_\_

Catharine Saunders  
City Clerk

**Schedule 1 – Credit Agreement**

**Schedule 2 - Guarantee**

**Schedule 3 – Operating Agreement**

**Schedule 4 – Certificate**

**LONDON & MIDDLESEX COMMUNITY HOUSING INC.**

as Borrower

- and -

**THE CORPORATION OF THE CITY OF LONDON**

as Guarantor

- and -

**CANADA MORTGAGE AND HOUSING CORPORATION**

as Lender

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**CREDIT AGREEMENT**

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Dated as of [●]



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## CREDIT AGREEMENT

**WHEREAS** the CANADA MORTGAGE AND HOUSING CORPORATION (“**CMHC**”) administers the National Housing Co-Investment Fund (the “**Program**”) as part of Canada’s National Housing Co-Investment Strategy.

**AND WHEREAS** in connection with the Program, CMHC has agreed to lend to London & Middlesex Community Housing Inc. (the “**Borrower**”) the Loans described herein to assist with the financing of repairs and renewal of Housing Units (as defined herein) that the Borrower and The Corporation of the City of London (the “**Guarantor**” and, together with the Borrower, the “**Credit Parties**” and each, a “**Credit Party**”) are undertaking on the terms and conditions hereinafter set forth in this agreement (this “**Agreement**”).

**NOW THEREFORE** the parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree as hereinafter set forth.

### 1 INTERPRETATION

Schedule A contains the definitions of capitalized terms which are used in this Agreement.

### 2 LOANS

(a) Subject to the terms and conditions of this Agreement, CMHC hereby establishes in favour of the Borrower:

- (i) seven (7) repayable, non-revolving, fixed-rate loan facilities (the “**Repayable Loan Facilities**” and each, a “**Repayable Loan Facility**”) up to the respective annual commitment amounts described in the Drawdown Schedule (the “**Repayable Loan Commitment Amounts**” and each, a “**Repayable Loan Commitment Amount**”) and in an aggregate amount of up to \$24,602,101 for all the Repayable Loan Facilities (the “**Total Repayable Loan Commitment Amount**”), in each case in subject to any adjustment or reduction pursuant to the terms and conditions hereof, by way of multiple advances; and
- (ii) one (1) forgivable, non-revolving loan facility (the “**Forgivable Loan Facility**”, with the Repayable Loan Facilities and the Forgivable Loan Facility being referred to herein collectively as the “**Loan Facilities**”) up to the respective annual commitment amounts described in the Drawdown Schedule (the “**Forgivable Loan Commitment Amounts**” and, and each, a “**Forgivable Loan Commitment Amount**”) and in an aggregate amount of up to \$15,533,989 (the “**Total Forgivable Loan Commitment Amount**”), in each case subject to any adjustment or reduction pursuant to the terms and conditions hereof, by way of multiple advances,

with the Total Repayable Loan Commitment Amount and the Total Forgivable Loan Commitment amount being referred to herein in the aggregate as the “**Available Commitment**”.

(b) **Reduction of Available Commitment.**

- (i) If either CMHC or the Borrower becomes aware that the number of Housing Units in the Portfolio has dropped below the Minimum Unit Count at any time prior to all of the Loans being fully advanced (including by way of a notification and/or updated Repair Properties List delivered by the Borrower pursuant to Section 14(c)), then the Available Commitment will be reduced from and including the immediately following calendar year on a *pro rata* basis (based on the ratio of (i) the decrease

in the number of Housing Units below the Minimum Unit Count to (ii) the Minimum Unit Count), such reduction to be applied on a *pro rata* basis to the Repayable Loan Commitment Amounts and the Forgivable Loan Commitment Amounts for each period from and including the immediately following calendar year. CMHC will adjust the Drawdown Schedule for the immediately following calendar year and each succeeding calendar year accordingly based on the revised amount of the Available Commitment and will deliver a revised Drawdown Schedule to reflect the adjustments.

- (ii) If the actual costs for carrying out the Repair Program is (or in the sole opinion of CMHC, acting reasonably, will be) less than the costs set out in the Repair Program Budget (as received and approved by CMHC as at the date hereof), and to the extent such costs (if incurred) would have been financed by a Drawdown hereunder, then CMHC may, in its sole discretion, reduce the Available Commitment by the same proportion as the decrease in actual costs relative to the those set out in such Repair Program Budget, from and including the immediately following calendar year on a *pro rata* basis.
- (c) **Purpose of Loans.** The Loans shall be used in respect of the financing of the Repair Program and shall not be used for any other purpose. For the avoidance of doubt, permitted use of the Loans may include physical improvements to the Portfolio of any kind (including but not limited to mechanical systems improvement, exterior cladding replacement, elevator replacements, roof replacements, in-suite refurbishments or upgrades, entrance and common ground renovations and modifications, garage refurbishments, balcony replacements, electrical and lighting component replacements and upgrades, or other similar building improvements and repairs or maintenance work on the properties). Soft Costs related to foregoing are permitted, but may not be used for general operating costs.
- (d) **Availability.** Following the Closing Date, the Borrower may borrow up to the amount of the Available Commitment in accordance with the terms hereof including the Drawdown Schedule, provided that an Event of Default shall not have occurred and be continuing and the other conditions precedent to Drawdowns hereunder have been satisfied at the time of any Drawdown.
- (e) **Expiration of Commitment.** If the first advance of the Repayable Loan under any one Repayable Loan Facility and the first advance of the Forgivable Loan under the Forgivable Loan Facility have not been made by December 31, 2021, then CMHC's obligation to make the Loans under the Repayable Loan Facilities and under the Forgivable Loan Facility shall end at CMHC's sole and absolute discretion.

### 3 DRAWDOWNS UNDER LOANS

- (a) This Agreement will become effective on the Closing Date and thereafter the Borrower may request advances (each, a "**Drawdown**") under the Loan Facilities in accordance with the Drawdown Schedule and as provided for hereunder. Each Drawdown must:
  - (i) include a contemporaneous *pro rata* Drawdown of the then current Repayable Loan Facility and up to the then current Forgivable Loan Commitment Amount of the Forgivable Loan Facility (based on the relative proportions thereof) as set out in the Drawdown Schedule; and
  - (ii) be proportionate to contemporaneous drawdowns or contributions under funding from the Guarantor and other funding sources, in accordance with the Drawdown Schedule, such that, as at December 31, 2027 (as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to

Section 13(a)(ii) and (c) in respect of the 2027 fiscal year), the aggregate outstanding principal amount of all Loans will not cause the CMHC funding proportion of the aggregate principal amount of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, to exceed the Maximum CMHC Funding Proportion.

- (b) For the avoidance of doubt, unless CMHC otherwise agrees in its sole and absolute discretion, the Borrower must draw down the entire amount of each Repayable Loan Facility and the entire annual Forgivable Loan Commitment Amount of the Forgivable Loan Facility within the calendar year sequentially as specified in the Drawdown Schedule prior to requesting a Drawdown under the next Repayable Loan Facility and corresponding annual Forgivable Loan Commitment Amount of the Forgivable Loan Facility allocated to the following calendar year, in accordance with the Drawdown Schedule.
- (c) Subject to the provisions of this Agreement, the Borrower may make Drawdowns under the Loan Facilities by providing CMHC with a notice (a "**Drawdown Notice**") in substantially the form attached to this Agreement as Schedule B. Each Drawdown shall not be less than \$50,000 and will be conditional upon satisfaction of all conditions precedent on or prior to the date that the Borrower deliver a Drawdown Notice to CMHC and, as applicable, on the date of the Drawdown. Each Drawdown Notice given by the Borrower hereunder is irrevocable.
- (d) Unless otherwise agreed to by CMHC in writing, the Borrower shall make the initial Drawdown under this Agreement on any Thursday (or the next Business Day if the Thursday is not a Business Day) in the month following the Closing Date. Thereafter, the Borrower will not be entitled to make Drawdowns more frequently than once per quarter, which shall occur on any Thursday (or the next Business Day if the Thursday is not a Business Day) in the month, or as otherwise agreed to in writing by CMHC. Drawdowns shall only be requested and made in respect of reimbursement of Repair Program Costs that the Borrower has expended (or for which the Borrower has been invoiced) in respect of Completed Work.
- (e) The Borrower must provide CMHC with a copy of the Drawdown Notice at least ten (10) Business Days prior to the proposed date of the first Drawdown, and at least ten (10) Business Days prior to any subsequent Drawdown (each, a "**Drawdown Date**"). A Drawdown Date must be a Business Day. Each Drawdown Notice must be delivered to CMHC by the Borrower on or prior to 4:00 p.m. (Ottawa time) on a Business Day.
- (f) Each Drawdown shall be advanced by CMHC into a segregated depository account designated by the Borrower in respect of the Repair Program, the particulars of which have been provided to CMHC (the "**Repair Program Funding Account**").

#### **4 INTEREST**

- (a) Following the delivery by the Borrower of the first Drawdown Notice and before the first Drawdown Date, CMHC will, in its sole and absolute discretion, calculate the Interest Rate for the applicable Repayable Loan Facility. CMHC's confirmation of the Interest Rate shall be delivered to the Borrower by email on or about such date.
- (b) Each Repayable Loan will bear interest on the unpaid principal amount thereof from the first Drawdown Date under the applicable Repayable Loan Facility until and including the Principal Amortization Date at the Interest Rate, calculated semi-annually and not in advance, commencing on the first day of the month following the month in which the first

Drawdown under the applicable Repayable Loan Facility was made, or as CMHC may otherwise determine. Interest only payments shall be due and payable in arrears monthly on the first day of the month until and including the Principal Amortization Date (from which date blended payments of interest and principal shall be made according to an amortization schedule in accordance with Section 6(a)).

- (c) The Forgivable Loan is interest-free for so long as the conditions specified in this Agreement are met and no Event of Default has occurred. If an Event of Default has occurred, CMHC may, at its option, by notice to the Borrower declare that the Forgivable Loan shall bear interest at five percent (5%) *per annum* (provided that, for the avoidance of doubt, the accrual of interest following default will not be sufficient to make CMHC whole in the event of a default under this Agreement and CMHC may exercise other default remedies in accordance with this Agreement and the other Loan Documents). In such case, the Forgivable Loan will bear interest on the outstanding principal amount thereof from the date of such declaration until the date on which the Forgivable Loan is repaid in full at the rate of five (5%) percent *per annum*, accruing monthly not in advance, commencing on the first day of the month following the month in which such declaration was made by CMHC or as CMHC may otherwise agree in its sole and absolute discretion. In such circumstances, interest payments shall be due and payable in arrears monthly on the first day of the month until and including the date on which the Forgivable Loan is repaid in full or as CMHC may otherwise agree in its sole and absolute discretion.

## **5 COMPUTATION OF INTEREST**

Interest will continue to accrue after maturity and default and/or judgment, if any, until payment thereof, and interest will accrue and be compounded monthly on overdue interest, if any. The Borrower shall not be obligated to pay any interest, fees or costs under or in connection with this Agreement in excess of what is permitted by law. For the purposes of the *Interest Act* (Canada), the yearly rate of interest to which any rate calculated on the basis of a period of time different from the actual number of days in the year (360 days, for example) is equivalent is the stated rate multiplied by the actual number of days in the year (365 or 366, as applicable) and divided by the number of days in the shorter period (360 days, in the example), and the parties hereto acknowledge that there is a material distinction between the nominal and effective rates of interest and that they are capable of making the calculations necessary to compare such rates and that the calculations herein are to be made using the nominal rate method and not on any basis that gives effect to the principle of deemed reinvestment of interest.

## **6 REPAYMENT OF PRINCIPAL**

- (a) Commencing on the Principal Amortization Date, the principal balance outstanding under each Repayable Loan Facility will be amortized according to an amortization schedule to be agreed between CMHC and the Borrower at such time based on an amortization period of 40 years, resulting in blended payments of principal and interest being payable on the 1st Business Day of each month following the Principal Amortization Date until the end of the Term. Repayment in full of the remaining principal balance of the Repayable Loans and any interest or other payments due to CMHC shall be due on the final day of the Term.
- (b) If the final advance under a Loan Facility has not been made on or before the Repair Program Completion Outside Date, CMHC may in its sole and absolute discretion require the Borrower to begin repayment of a portion of the principal of the Loan outstanding under such Loan Facility prior to the final advance.
- (c) An equal one-twentieth portion of the principal amount of the Forgivable Loan shall be forgiven on each anniversary of the date of the final advance in respect of the Forgivable Loan, provided that no Event of Default has occurred. To the extent any principal amount

of any Forgivable Loan is not forgiven, repayment in full of the remaining principal balance of such Forgivable Loan and any interest or other payments due to CMHC shall be due on the final day of the Term, or as CMHC may otherwise agree in its sole and absolute discretion.

- (d) If either CMHC or the Borrower becomes aware that the number of Housing Units in the Portfolio has dropped below the Minimum Unit Count at any time after all of the Loans have been fully advanced (including by way of a notification and/or updated Repair Properties List delivered by the Borrower pursuant to Section 14(c)), then a *pro rata* portion (based on the ratio of (i) the decrease in the number of Housing Units below the Minimum Unit Count to (ii) the Minimum Unit Count) applied to the principal amount outstanding of the Forgivable Loan (immediately before CMHC or the Borrower having become aware of such decrease in the number of Housing Units) shall be accelerated and immediately due and payable.
- (e) If, as at December 31, 2027 (as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to Section 13(a)(ii) and (c) in respect of the 2027 fiscal year), the aggregate outstanding principal amount of all Loans will cause the CMHC funding proportion of the aggregate principal amount of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, to exceed the Maximum CMHC Funding Proportion, then the amount by which the aggregate outstanding principal amount of all drawn Loans at any time exceeds the Maximum CMHC Funding Proportion, as applied on a *pro rata* basis to the principal amount outstanding of each Repayable Loan and of the Forgivable Loan, shall be accelerated and immediately due and payable.
- (f) The Loans shall be closed to voluntary prepayment, either in whole or in part, prior to the expiration of their respective Terms.
- (g) The Borrower may, at its option, agree with CMHC to extend the Term of any of the Repayable Loans, in whole and not in part, for an additional ten (10) years (each such modification, an “**Extension**”) pursuant to one or more written offers (each an “**Extension Offer**”) made from time to time by the Borrower to CMHC, under any Repayable Loan. In connection with each Extension, the Borrower will provide notification to CMHC, no later than 90 days prior to the end of the Term of any applicable Repayable Loan, that it wishes to extend such Repayable Loan for an additional ten (10) year term (each new extended end of Term maturity date for an extended Repayable Loan, an “**Extended Maturity Date**”) and confirming that the criteria outlined in paragraphs (i) to (iv) (inclusive) below are or will be satisfied. CMHC shall respond within 30 days to acknowledge receipt of the notice and that the process and procedures for the Extension will be carried out. To the extent that CMHC does not respond to an Extension Offer by the applicable due date or notifies the Borrower that the criteria outlined in paragraphs (i) to (iv) (inclusive) are not satisfied, it shall be deemed to have rejected such Extension. The consummation and effectiveness of each Extension shall be subject to the following:
  - (i) no Event of Default, any event or circumstance that constitutes an Event of Default or that, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default, shall have occurred and be continuing at the time any Extension Offer is delivered to CMHC or at the time of such Extension (after giving effect to such Extension);
  - (ii) each of the Repayable Loans extended pursuant to any Extension (as applicable, “**Extended Repayable Loans**”) shall have the same terms as the relevant original Repayable Loan (the “**Existing Repayable Loan**”), except that (A) the final

maturity date of any Extended Repayable Loan will be ten (10) years later than the end of the Term at the time of such Extension; (B) CMHC shall calculate a new Interest Rate, in its sole and absolute discretion, for each Extended Repayable Loan, which shall apply to the relevant Extended Repayable Loan for the duration of the extended Term (and, for the avoidance of doubt, the interest rate with respect to the Extended Repayable Loan may be higher or lower than the interest rate for the relevant Existing Repayable Loan); and (C) for the avoidance of doubt, no repayment of any Extended Repayable Loan shall be permitted unless such repayment is accompanied by repayment of all earlier maturing Repayable Loans (including previously extended Repayable Loans) in accordance with the terms hereof (or all earlier maturing Repayable Loans (including previously extended Repayable Loans) shall otherwise be or have been terminated and repaid in full in accordance with the terms hereof);

- (iii) the representations and warranties of the Borrower contained herein or in any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct, in each case, on and as of at the time any Extension Offer is delivered to CMHC or at the time of such Extension (after giving effect to such Extension), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects, or true and correct, as the case may be, as of such earlier date; and
- (iv) all documentation in respect of such Extension shall be consistent with the foregoing and on or before the date of any Extension, CMHC shall have received all other information and documents required by it, as CMHC may reasonably require in connection with such Extension,

and, in connection with any Extension, the Borrower shall follow such procedures, if any, as may be reasonably established by, or acceptable to, CMHC to accomplish the purposes of this Section 6(g) and the Borrower and CMHC shall enter into any amendments to this Agreement and the other Loan Documents as may be required by CMHC in order to effect and reflect the Extension, in each case on terms consistent with this Section 6(g). Promptly following the consummation and effectiveness of any Extension, CMHC will furnish to the Borrower written notice setting forth the Extended Maturity Date and material economic terms of the Extension, including the interest rate and the aggregate principal amount of each Repayable Loan after giving effect to the Extension and attaching a copy of the fully executed Extension amendment.

## 7 PAYMENTS GENERALLY

- (a) With respect to each Repayable Loan, amounts payable by the Borrower hereunder shall be paid by direct debit from an account designated by the Borrower, the particulars of which been provided to CMHC (the "**Repair Program Loan Payment Account**").
- (b) Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day. Interest payable under this Agreement is payable both before and after any or all of default, maturity date, demand and judgment.

## 8 CONDITIONS PRECEDENT

- (a) **Conditions Precedent to Effectiveness of Agreement.** The effectiveness of this Agreement is subject to and conditional upon the satisfaction (in form and substance satisfactory to CMHC, in its sole discretion) of each of the following conditions precedent (and the date on which the last condition precedent is satisfied or waived and this



Agreement becomes effective, as confirmed in writing by CMHC, is referred to herein as the “**Closing Date**”):

- (i) CMHC shall have received executed counterparts of this Agreement, the other Loan Documents, and the Material Repair Program Documents;
- (ii) CMHC shall have received and shall be satisfied with its review of the Action Plan, the Plans and Specifications, the Repair Program Budget and the Repair Schedule;
- (iii) CMHC shall be satisfied with PPSA (if applicable), insolvency and judgment searches against each of the Credit Parties in those jurisdictions as CMHC shall make confirming that the Properties and all other Collateral are not subject to any Encumbrances other than Permitted Encumbrances;
- (iv) if applicable, CMHC shall be satisfied with sub-searches confirming that no Encumbrances have been registered on title to the Properties other than Permitted Encumbrances;
- (v) CMHC shall be satisfied with the results of its diligence, including legal, corporate, and financial diligence, and diligence with respect to the legal structure of the Credit Parties (including any principals) and the Portfolio, any Co-Investment Agreements, and with respect to zoning, permitting and title to the Properties;
- (vi) CMHC shall have received evidence of the completion of, or of arrangements reasonably satisfactory to CMHC for the completion of, any other actions, recordings and filings of or with respect to this Agreement, the Material Repair Program Documents and the other Loan Documents that CMHC may deem necessary;
- (vii) CMHC shall have received and be satisfied with its review of the Repair Program Budget and Material Repair Program Documents;
- (viii) CMHC shall have received from the Borrower and be satisfied with its review of the Drawdown Schedule;
- (ix) CMHC shall have received an Energy Efficiency Report prepared by a qualified third party and such other third party reports (as appropriate, supported by reliance letters addressed to CMHC), as CMHC requires in its sole discretion;
- (x) CMHC shall have received in respect of each of the Credit Parties, certified on or just prior to the Closing Date by an appropriate corporate officer of each of the Credit Parties:
  - (A) a copy of its organization documents, as in effect on the Closing Date;
  - (B) a copy of its by-laws or equivalent document, as in effect on the Closing Date;
  - (C) copies of the resolutions of its board of directors, authorized subcommittee thereof, or other equivalent body authorizing the execution, delivery and performance of the documents to which it is a party; and
  - (D) the names and true signatures of the officers authorized to execute, deliver and perform, as applicable, this Agreement and all other documents to be

delivered hereunder, together with a certificate of good standing or equivalent document from the applicable Governmental Authority of its jurisdiction of incorporation or organization as of a recent date;

- (xi) CMHC shall have received a customary written legal opinion from counsel to each of the Credit Parties, addressed to CMHC and dated on or just prior to the Closing Date, as to (A) the creation and existence of each Credit Party, (B) the capacity and due authorization of each Credit Party to enter into and perform its obligations under the Loan Documents to which it is a party, (C) the absence of conflicts with law and regulations and the organizational documents of each Credit Party, (D) the enforceability of the obligations of each Credit Party under the Loan Documents to which it is a party, (E) if applicable, security matters and (F) such other matters as CMHC may require;
- (xii) CMHC shall have received evidence that the Borrower shall have opened the Repair Program Funding Account and entered into a pre-authorized debit (PAD) Agreement for making payments to CMHC from the Repair Program Loan Payment Account by direct debit in accordance with Section 6(a), and executed and delivered any documentation required in respect thereof;
- (xiii) CMHC shall have been paid all accrued and unpaid fees, and reasonable costs and expenses to the extent then due and payable to CMHC on or just prior to the Closing Date;
- (xiv) CMHC shall have received a certificate signed by an officer on behalf of each Credit Party, dated on or just prior to the Closing Date:
  - (A) confirming that such Credit Party has received all required co-investment commitments and governmental authorizations and third party approvals (or arrangements reasonably satisfactory to CMHC in lieu of such co-investment commitments and approvals) from each relevant third party and applicable Governmental Authority that are contemplated hereby and/or that are necessary in connection with the Repair Program and/ or that may be required by Applicable Laws; and
  - (B) confirming the solvency of such Credit Party.
- (xv) CMHC shall have received from each of the Credit Parties the documentation and other information that is required by CMHC in respect of its “know-your customer” policies and procedures;
- (xvi) CMHC shall have received such financial and other information or documents relating to each of the Credit Parties as CMHC may reasonably require;
- (xvii) CMHC shall have received confirmation, certified by an officer of the Borrower, that (A) there are two thousand and eighty-two (2,082) Housing Units, which are within 13 buildings located in the City of London (such number of Housing Units, or such other number of Housing Units as may be agreed to in writing by CMHC from time to time in its sole discretion in accordance with the terms hereof, is referred to herein as the “**Minimum Unit Count**”) in the Portfolio that are the subject of the Repair Program (the Housing Units that are subject to the Repair Program from time to time are referred to herein as the “**Subject Units**”); (B) either (1) all of the Subject Units are occupied or available for occupancy and will be occupied or available for occupancy throughout the Repair Program Execution; or (2) if all of the Subject Units are not occupied or available for occupancy or will not be

occupied or available for occupancy throughout the Repair Program Execution, this is solely due to the Subject Units being temporarily vacant as a result of repairs or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by the Borrower so that any relocated tenant is not materially adversely impacted by the Repair Program Execution;

- (xviii) CMHC shall have received evidence satisfactory to it that the Repair Program will be effected, and the Portfolio will be operated, such that the Portfolio Affordability Requirements, the Portfolio Accessibility Requirements and the Portfolio Energy Efficiency Requirements will be satisfied; and
  - (xix) CMHC shall have received evidence that the Credit Parties have in place appropriate insurance for its business and assets as required by CMHC from time to time, including with respect to the Repair Program and the Properties, that meets at least the Insurance Requirements pursuant to the terms hereof, including (A) copies of all initial certificates of insurance; and (B) an opinion of an Insurance Consultant relating to such insurance, which has been prepared in accordance with the Insurance Requirements and is in form and substance satisfactory to CMHC in its sole and absolute discretion.
- (b) **Conditions Precedent to Drawdowns.** The obligation of CMHC to advance any Drawdown hereunder is subject to and conditional upon the satisfaction of each of the following conditions precedent on or just prior to the date the applicable Drawdown Notice is delivered (or such earlier date as may be specified below):
- (i) CMHC shall have received a completed Drawdown Notice from the Borrower;
  - (ii) as at the date of the applicable Drawdown Notice, CMHC shall have received sufficient evidence of the Repair Program Costs expended by the Borrower or invoiced to the Borrower for Completed Work that will be funded by the Drawdown made pursuant to the applicable Drawdown Notice, including by way of a Completion Report attached to the Drawdown Notice as Appendix A thereto;
  - (iii) in the case of each Repayable Loan Facility, the Interest Rate shall have been set by CMHC;
  - (iv) if applicable, CMHC shall be satisfied with sub-searches confirming that no Encumbrances have been registered on title to the Properties other than Permitted Encumbrances;
  - (v) the representations and warranties deemed to be repeated pursuant to Section 12 on each Drawdown Date will continue to be true and correct as if made on and as of the Drawdown Date;
  - (vi) no default or Event of Default or Ratings Trigger Event will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
  - (vii) a Material Adverse Change will not have occurred and be existing on the Drawdown Date, or would result from making the requested advance;
  - (viii) the Credit Parties must have delivered to CMHC all reporting covenants required by Section 13;

- (ix) CMHC shall have received evidence satisfactory to it that the Minimum Borrower Contribution will have been invested by the Borrower as of the Drawdown Date;
  - (x) CMHC shall have received evidence that the Repair Program achieves a minimum Debt Service Coverage Ratio of 1.0x after giving effect to such Drawdown;
  - (xi) CMHC shall have received evidence satisfactory to it that the full budgeted funding and contributions by the Guarantor and any other funding sources (pursuant to any Co-Investment Agreements or otherwise) have been made or will be made contemporaneously with a Drawdown hereunder;
  - (xii) CMHC shall have received confirmation from the Borrower that all Permits and approvals necessary for (A) any Repair Program Execution to be undertaken in respect of the Portfolio pursuant to the Repair Program, in respect of which the Drawdown is being made and (B) any prior Repair Program Execution undertaken in respect of the Portfolio pursuant to the Repair Program, are in place at the time of such Drawdown;
  - (xiii) all other terms and conditions of this Agreement upon which the Borrower may obtain advances that have not been waived will have been fulfilled as of the Drawdown Date;
  - (xiv) CMHC shall have received confirmation from the Borrower, certified by an officer of the Borrower in the Drawdown Notice, that the Minimum Unit Count is satisfied and either (A) all of the Subject Units are occupied or available for occupancy and will be occupied or available for occupancy throughout the Repair Program Execution; or (B) if all of the Subject Units are not occupied or available for occupancy or will not be occupied or available for occupancy throughout the Repair Program Execution, this is solely due to the Subject Units being temporarily vacant as a result of repairs or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by the Borrower so that any relocated tenant is not materially adversely impacted by the Repair Program Execution;
  - (xv) CMHC shall have been paid all accrued and unpaid fees, and reasonable costs and expenses to the extent then due and payable to CMHC on or just prior to the Drawdown Date; and
  - (xvi) if a Ratings Trigger Event has occurred and CMHC has delivered one or more Collateral Coverage Notices to the Credit Parties in accordance with Section 14(a)(xviii), the Collateral Coverage Ratio shall be equal to or greater than the Applicable Collateral Coverage Ratio.
- (c) **Documentation.** All documents and evidence executed and/or delivered pursuant to this Section 8 must be in full force and effect, and in form and substance satisfactory to CMHC in its sole and absolute discretion.
  - (d) **Waiver.** The conditions set forth in Sections 8(a), 8(b) and 8(c) are inserted for the sole benefit of CMHC and may be waived by CMHC, in whole or in part (with or without terms or conditions), in respect of any Drawdown without prejudicing the right of CMHC at any time to assert such conditions in respect of any subsequent Drawdown.

## 9 RECORDS

- (a) CMHC will maintain records evidencing each Drawdown made by the Borrower under this Agreement. CMHC will record the amount of each borrowing thereunder, the payment of

principal and interest and all other amounts becoming due or paid to CMHC under this Agreement. CMHC's accounts and records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to CMHC pursuant to this Agreement.

- (b) CMHC reserves the right to review, analyze and audit the costs of the Borrower in connection with the Repair Program to ensure compliance with this Agreement and the Program. The Borrower will maintain proper and detailed records and statements of account, including receipts, vouchers, invoices, and other documents related to the Repair Program Costs and shall permit CMHC, or its designated representative, to access to such records and statements for audit and inspection purposes within five (5) Business Days of such written request from CMHC.

## 10 LOAN DOCUMENTS AND SECURITY

- (a) CMHC's security in respect of the Loans and all other obligations of the Credit Parties to CMHC under this Agreement and the other Loan Documents shall include the security interests (where applicable) created in favour of CMHC by the following documents in form and substance satisfactory to CMHC in its sole and absolute discretion (and which, if applicable, shall be registered under applicable legislation), subject only to Permitted Encumbrances:
  - (i) a security agreement signed by the Borrower granting a first priority security interest over the Repair Program Funding Account;
  - (ii) an Operating Agreement in respect of the Repair Properties;
  - (iii) an unlimited payment and performance guarantee and, if applicable, indemnity and postponement of claim from the Guarantor in favour of CMHC;
  - (iv) if required by CMHC pursuant to Section 14(a)(xviii), with respect to each Post-Closing Designated Property:
    - (A) a first priority mortgage granted by the applicable Credit Party in favour of CMHC in respect of such Post-Closing Designated Property (to be registered on title to such Post-Closing Designated Property) in an amount equal to 120% of the Available Commitment;
    - (B) a first priority, site-specific general security agreement signed by the applicable Credit Party granting a security interest in all of the present and after acquired personal property of such Credit Party comprising or otherwise relating to such Post-Closing Designated Property;
    - (C) an Operating Agreement in respect of such Post-Closing Designated Property;
    - (D) a first priority general assignment of rents and leases security interest signed by the applicable Credit Party/ies in respect of such Post-Closing Designated Property;
    - (E) if requested by CMHC, a first priority security assignment signed by the applicable Credit Party/ies of all insurance policies relating to such Post-Closing Designated Property; and

- (F) if requested by CMHC, a first priority security assignment signed by the applicable Credit Party/ies of all Material Repair Program Documents relating to such Post-Closing Designated Property; and
- (v) if requested by CMHC, any other security, intercreditor agreements, subordination agreements and ancillary documentation from time to time deemed necessary by CMHC in its sole and absolute discretion.

## **11 RECOURSE**

CMHC shall have full recourse to the Borrower and Guarantor and the Collateral for the full term of the Loans.

## **12 REPRESENTATIONS AND WARRANTIES**

Each of the Credit Parties represents and warrants to CMHC, as of the Closing Date and (subject to any amendments or exceptions from time to time approved in writing by CMHC in its sole and absolute discretion) as of each Drawdown Date, that:

- (a) it is duly incorporated, amalgamated, continued, created or established, as the case may be, and validly existing under the laws of its jurisdiction of incorporation, amalgamation or continuance, creation or establishment, as the case may be, and is duly registered or qualified to carry on business in the Province of Ontario;
- (b) it has the power, authority and right:
  - (i) to enter into and deliver, and to exercise its rights and perform its obligations under, the Loan Documents and all other instruments and agreements delivered by it pursuant to any of the Loan Documents, and
  - (ii) to own its property and carry on its business as currently conducted and as currently proposed to be conducted by it and without limiting the foregoing (A) the Borrower has all necessary power and authority to own the real and personal property comprising the Portfolio and to develop and complete the Repair Program and is duly licensed, registered and qualified to carry out such activities and (B) each Credit Party has all necessary power and authority to, if applicable, own, develop and operate all real and personal property owned by it constituting Collateral;
- (c) the execution, delivery and performance of the Loan Documents to which it is a party have been duly authorized by all necessary corporate and other actions and do not violate its respective constating documents, any Applicable Laws or any agreements to which it is subject or by which it is bound;
- (d) it has obtained, made or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required as to the date hereof in connection with the execution and delivery by it of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated in the Loan Documents;
- (e) it has paid or made adequate provision for the payment of all taxes levied on it or on the Portfolio, the Collateral or its income that are due and payable, including interest and penalties, or has accrued such amounts in its financial statements for the payment of such taxes, except taxes that are not material in amount or that are not delinquent (or if delinquent are either (A) Permitted Encumbrances, or (B) being contested in good faith,

and in respect of which non-payment would not individually or in the aggregate constitute, or be reasonably likely to cause, a Material Adverse Change), and there is no material action, suit, proceeding, investigation, audit or claim now pending, or to its knowledge threatened, by any Governmental Authority regarding any taxes that constitutes or could reasonably be expected to become a Material Adverse Change nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of taxes;

- (f) its most recent financial statements provided to CMHC fairly present its financial position as of the date thereof and its results of operations and cash flows for the fiscal period covered thereby, and since the date of such financial statements, no Material Adverse Change has occurred;
- (g) it is not subject to any judgment, order, writ, enforcement charge, injunction, decree or award, or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in similar businesses) that has not been stayed or of which enforcement has not been suspended and that individually or in the aggregate constitutes, or could reasonably be expected to become, a Material Adverse Change;
- (h) there is no claim, action, prosecution or other proceeding of any kind pending or threatened against it or any of its assets or properties before any court or administrative agency which could reasonably be expected to have a Material Adverse Change, and there are no circumstances of which it is aware which might give rise to any such proceeding which has not been fully disclosed to CMHC;
- (i) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a default or an Event of Default or a Ratings Trigger Event or a breach of any covenant or other term or condition in respect of any other of its outstanding Debt ;
- (j) there are no liabilities (including contingent liabilities) that, in the aggregate, are material in respect of the Repair Program or that constitute or could reasonably be expected to become a Material Adverse Change, which have not been previously disclosed in writing to CMHC;
- (k) it:
  - (i) has not committed any act of bankruptcy;
  - (ii) is not insolvent, or has not proposed or given notice of its intention to propose, a compromise or arrangement to its creditors generally;
  - (iii) has not had an application for a bankruptcy order, or application for the appointment of a receiver, trustee, inspector, monitor or similar party filed against it;
  - (iv) has not made a voluntary assignment in bankruptcy, taken any proceeding with respect to any stay, proposal, sale, compromise or arrangement, taken any proceeding or corporate action to have itself declared bankrupt, liquidated, dissolved or wound-up, taken any proceeding to have a receiver appointed of any part of its assets;
  - (v) has not had the holder of any Encumbrance take possession of its property; or

- (vi) has not had an execution or distress become enforceable or become levied, or an enforcement of security or foreclosure, on any material portion of its assets and property;
- (l) it is not in default under any other loan or contribution provided by CMHC nor any other loan or contribution and any related operating agreements or any Co-Investment Agreement from other funding sources in respect of the Repair Program or the Portfolio;
- (m) the Repair Properties and the Housing Units listed in the Repair Properties List constitute the Portfolio that is the subject of the Repair Program;
- (n) the Borrower has good and marketable title, free and clear of all Encumbrances other than Permitted Encumbrances, to (A) all of its properties, (B) all other real and personal property comprising the Portfolio and related to the Repair Program and (C) all Collateral owned by it;
- (o) to the best of its knowledge and belief, after due inquiry and all reasonable investigation:
  - (i) it is not engaged in any unfair labour practice that constitutes or could reasonably be expected to become a Material Adverse Change; and there is no unfair labour practice complaint pending against it or threatened against it, before any Governmental Authority that if adversely determined could reasonably be expected to become a Material Adverse Change;
  - (ii) no grievance or arbitration arising out of or under any collective bargaining agreement is pending against it or threatened against it, that could reasonably be expected to become a Material Adverse Change; and
  - (iii) no strike, labour dispute, slowdown or stoppage is pending against it or threatened against it and no union representation proceeding is pending with respect to any of its employees, except (with respect to any matter specified in this sentence, either individually or in the aggregate) such as could not reasonably be expected to become a Material Adverse Change;
- (p) except as disclosed to CMHC in writing and accepted by CMHC, to the best of its knowledge after due inquiry, it, the Repair Program and the Portfolio are in compliance with all Applicable Laws (other than Environmental Laws, which are addressed below) except for any non-compliance that individually or in the aggregate could not reasonably be expected to become a Material Adverse Change, and there are no facts known or which ought reasonably to be known, in either case after due enquiry, which could give rise to a notice of non-compliance to such extent with any Applicable Laws (other than Environmental Laws, which are addressed below);
- (q) to the best of its knowledge, there are no pending or proposed changes to Applicable Laws which would render illegal or materially restrict the Repair Program Execution or operation of the Repair Program;
- (r) the Repair Properties are zoned to permit the Repair Program Execution and operation of the Repair Program and the existing and proposed uses of the Properties comply in all material respects with all Applicable Laws;
- (s) it has not received notice of any proposed re-zoning of all or any part of the Properties that could be reasonably likely to become a Material Adverse Change in respect of the Repair Program Execution of the Repair Program or otherwise nor has it received notice of any expropriation of all or any part of the Properties;



- (t) the only real property interests necessary for the Repair Program Execution in respect of the Repair Program in accordance with the Action Plan are the real property interests comprising the Repair Properties and any easements, interests or rights appurtenant thereto;
- (u) it is in good standing under each Repair Contract;
- (v) no event has occurred and is continuing that would constitute a material breach of or a material default under any Material Repair Program Document to which it is a party is binding upon it and, to the best of its knowledge, is a binding agreement of each other Person who is a party thereto;
- (w) to the best of its knowledge after due inquiry:
  - (i) there has been no complaint, prosecution, investigation or proceeding, environmental or otherwise, respecting the Properties or the business or assets of the Borrower or the Guarantor, by a Government Authority or any third party, in respect of which there is a reasonable likelihood of a determination adverse to the Borrower or the Guarantor, as applicable, and which, if so adversely determined, constitutes or could reasonably be expected to become a Material Adverse Change;
  - (ii) the Properties (for the avoidance of doubt, including, without limitation, the Subject Units) are in compliance with, and it operates in compliance with, all applicable Environmental Laws and there are no Hazardous Materials in, on, under, migrating from or to the Properties not in compliance with Environmental Laws, except to the extent that non-compliance does not individually or in the aggregate constitute and could not reasonably be expected to become a Material Adverse Change; and
  - (iii) it possesses all Permits as may be necessary to conduct its business, in compliance with requirements of Applicable Laws, and such permits will not expire during the Term, except to the extent that failure to have any such Permits in place does not individually or in the aggregate constitute and could not reasonably be expected to become a Material Adverse Change;
- (x) there are no claims, demands, actions or other proceedings pending or, to the knowledge of any Credit Party, threatened, affecting any Collateral, the Repair Program Execution, the operation of the Repair Program on the Repair Properties at law or in equity before or by any Governmental Authority, with respect to aboriginal rights, treaty rights or the duty to consult;
- (y) neither the Credit Parties nor any Properties are subject to any outstanding judgment, order, writ, injunction or decree with respect to aboriginal rights, treaty rights or the duty to consult affecting the Repair Program Execution or the operation of the Repair Program on the Repair Properties or otherwise affecting any Property, and neither the Repair Program nor the Properties are subject to a modern treaty;
- (z) it is not a non-resident for the purposes of Section 116 of the *Income Tax Act* (Canada);
- (aa) it has in place appropriate insurance for its business and assets as required by CMHC from time to time, including with respect to the Repair Program and the Properties, that meets at least the Insurance Requirements and is consistent with the recommendations of the Insurance Consultant opinion prepared as described in Section 8(a)(xix), except where the failure to have such policies of insurance in place would not constitute and could not reasonably be expected to become a Material Adverse Change;

- (bb) it is in compliance with all terms and conditions of all insurance policies issued in respect of the Repair Properties and the Repair Program and, if applicable, in respect of any Post-Closing Designated Properties; and
- (cc) the contents of the Integrity Declaration remain true and correct.

Sections 12(a) to (l), (n) to (t) and (v) to (cc) shall survive and remain in full force and effect in accordance with their terms, notwithstanding the termination of this Agreement or the repayment, satisfaction or discharge of all obligations under any Loan Document until the termination of the Operating Agreement.

### 13 REPORTING COVENANTS

- (a) The Borrower covenants and agrees with CMHC to deliver (or cause to be delivered) to CMHC, at the expense of the Borrower (each of the following to be in form and substance satisfactory to CMHC in its sole and absolute discretion):
  - (i) **Quarterly Progress Reports:** following the earliest of (i) the first advance to the Borrower hereunder, and (ii) the first advance under any Co-Investment Agreement, as soon as available and in any event within thirty (30) days after the end of its fiscal quarter, progress reports prepared in relation to the Repair Program by a Qualified Professional, in each case providing detailed information regarding the planning, design, construction, financing, revenue generation and performance monitoring of the Repair Program including:
    - (A) an update to the Drawdown Schedule, Repair Program Budget and Repair Schedule together with comments on any material variances from the original Drawdown Schedule, Repair Program Budget and Repair Schedule provided to CMHC; and
    - (B) comments on any material changes to the Repair Program or any potential or actual problem areas which have been identified and may affect completion of the Repair Program in accordance with the Repair Program Budget and Repair Schedule provided to CMHC.
  - (ii) **Annual Progress Reports:** on an annual basis within one hundred and twenty (120) days of the end of each fiscal year of the Borrower:
    - (A) an energy performance report in respect to such fiscal year prepared by the Borrower and validated by a Qualified Professional, reporting on the progress in respect of such fiscal year as measured against the baseline energy use and greenhouse gas emissions for the Portfolio as established in the Energy Efficiency Report;
    - (B) a progress report (an "**Annual Progress Report**") certified by an officer of the Borrower in the form of Schedule G in respect of such fiscal year, which will include detailed information in relation to performance monitoring of the Repair Program and progress updates with respect to the Action Plan, including:
      - (1) the number of Subject Units;
      - (2) confirmation that the Minimum Unit Count is satisfied and that either (I) all of the Subject Units are occupied or available for occupancy and will be occupied or available for occupancy

throughout the Repair Program Execution; or (II) if all of the Subject Units are not occupied or available for occupancy or will not be occupied or available for occupancy throughout the Repair Program Execution, this is solely due to the Subject Units being temporarily vacant as a result of repairs or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by the Borrower so that any relocated tenant is not materially adversely impacted by the Repair Program Execution;

- (3) confirmation of the satisfaction of, or progress satisfactory to CMHC toward the satisfaction of, the Portfolio Affordability Requirements, the Portfolio Accessibility Requirements and the Portfolio Energy Efficiency Requirements pursuant to the terms hereof, including (x) the average percentage of the Median Market Rental Rate of the rents of all Subject Units in respect of such fiscal year, (y) the number and percentage of Subject Units satisfying the Portfolio Accessibility Requirements, and (z) the conversion count of the Subject Units that have become units that meet the Portfolio Accessibility Requirements, in respect of such fiscal year;
- (4) the total amount of Repair Program Costs that have been expended by the Borrower (or that have been invoiced to the Borrower) in respect of Completed Work in such fiscal year and cumulatively since the date hereof [and confirmation that the aggregate CMHC funding proportion of such cumulative repair costs does not exceed the maximum CMHC funding proportion thereof permitted by Section 3(a)(ii);
- (5) an updated Action Plan, Plans and Specifications, Repair Program Budget, Repair Schedule and Drawdown Schedule; and
- (6) such other information as CMHC deems necessary, including reports, the frequency of which may vary, that include, but are not limited to, the information required in Schedule G,

and noting any material variances that occurred (x) in such fiscal year from the Action Plan, Plans and Specifications, Repair Program Budget, Repair Schedule and Drawdown Schedule most recently delivered to CMHC in accordance with the terms hereof and (y) cumulatively from the Action Plan, Plans and Specifications, Repair Program Budget, Repair Schedule and Drawdown Schedule delivered to CMHC in accordance with 8(a)(ii).

- (b) **One-time Report Upon Completion:** Within sixty (60) days of the date of final advance, a report to CMHC identifying all material deviations from the Plans and Specifications, including those that may have impacted the Repair Program's energy consumption or greenhouse gas ("GHG") emissions plan, accessibility plan and overall eligibility under the Program; where such deviations have resulted in or are likely to have a 10% or more change in the energy consumption or GHG emissions of the Portfolio, and an updated Energy Efficiency Report for use by CMHC to assess energy consumption and GHG emission reduction performance of the completed Portfolio as against the Portfolio Energy Efficiency Requirements.
- (c) **Audited Financial Statements:** Each Credit Party covenants and agrees with CMHC to deliver (or cause to be delivered) to CMHC, at the expense of the relevant Credit Party, as soon as available and in any event within one hundred and twenty (120) days after the end

of each of its fiscal years, its annual audited financial statements including a balance sheet/statement of financial position, statement of income/statement of operations, statement of changes in equity/statement of changes in net assets, statement of cash flows and source and application of funds for such fiscal year, which will be prepared in accordance with GAAP on an audited basis, and the auditor's report shall include an opinion on the compliance of the Borrower with this Agreement (such financial statements and auditor's report to be in form and substance satisfactory to CMHC in its sole and absolute discretion).

- (d) All reporting required under this Agreement shall be stand-alone Repair Program reporting, isolating the Repair Program's financial and operating information from that of other properties owned by the Borrower, if any.
- (e) The Borrower shall ensure that the use of personal information of tenants or occupants required to fulfill the foregoing reporting obligations, if any, is authorized and consented to by such persons and is otherwise in accordance with applicable privacy laws.
- (f) Sections 13(a)(ii)(B)(1),(2) and (3), 13(c), 13(d) and 13(e) shall survive and remain in full force and effect in accordance with its terms, notwithstanding the termination of this Agreement or the repayment, satisfaction or discharge of all obligations under any Loan Document until the termination of the Operating Agreement.

## 14 COVENANTS

- (a) **Positive Covenants.** Each Credit Party covenants and agrees with CMHC, while this Agreement is in effect and except as otherwise permitted by the prior written consent of CMHC, to:
  - (i) pay all sums of money when due by it under this Agreement;
  - (ii) maintain a minimum Debt Service Coverage Ratio of 1.0x;
  - (iii) keep its existence in full force and effect and carry on and conduct its business and operations in a proper, efficient and businesslike manner, in accordance with good business practice and all Applicable Laws;
  - (iv) take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business;
  - (v) comply with all Material Repair Program Documents, Material Licences and requirements of Applicable Law;
  - (vi) promptly provide CMHC with all information reasonably requested by it from time to time at reasonable intervals in connection with this Agreement concerning its financial condition, the Properties and the Subject Units and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of CMHC to inspect and take extracts from its financial and other records, including records stored in computer data banks and computer software systems regarding the Properties and the Subject Units, and to discuss its financial condition with its senior officers and its auditors;
  - (vii) maintain documents, vouchers, records and accounts that pertain to the Properties and the Subject Units for not less than seven (7) years following the date of receipt or production of such documents, vouchers, records and accounts and maintain books, records and accounts in accordance with GAAP;

- (viii) keep all property necessary for its business in good working order and condition, normal wear and tear excepted, except to the extent that failure to do so does not individually or in the aggregate constitute and could not reasonably be expected to become a Material Adverse Change;
- (ix) comply with the provisions of the Construction Lien Act, including retaining any Holdbacks required thereby, and in the event that any Encumbrance is registered under the Construction Lien Act against any Property (or notice of such Encumbrance is provided to CMHC), the applicable Credit Party shall cause such Encumbrance to be vacated or discharged within ten (10) days of the earlier of: (i) date of registration thereof or the date any Credit Party has received written notice thereof, or (ii) the date that such Credit Party has been provided written notice thereof by CMHC, with any payment thereunder being made from financial resources other than the Loans (and, for the avoidance of doubt, no Drawdowns will be permitted under the Loan Facilities until such Encumbrance is vacated or discharged to the satisfaction of CMHC);
- (x) pay or discharge, or cause to be paid or discharged, before the same will become delinquent (i) all taxes imposed upon it or upon its income or profits or in respect of its business or any Property and file all tax returns in respect thereof, (ii) all lawful claims for labour, materials and supplies, (iii) all required payments under any of its Debt, and (iv) all other obligations; provided, however that it will not be required to pay or discharge or to cause to be paid or discharged any such amount so long as the validity or amount thereof is being contested in good faith by appropriate proceedings and an appropriate financial reserve in accordance with GAAP and satisfactory to CMHC has been established and so long as CMHC is satisfied that the security is not in jeopardy;
- (xi) provide evidence satisfactory to CMHC annually of the payment of all taxes assessed and levied in relation to the Properties, as soon as available and in any event within thirty (30) days of the confirmation that all of the current year's taxes have been paid;
- (xii) diligently and efficiently manage and operate the Repair Program to meet its financial obligations on a sustainable and permanent manner on a long-term basis and to maintain the Properties in a satisfactory state of repair, in each case in accordance with (i) prudent industry practice; (ii) all Material Licences; (iii) in the case of the Repair Properties, the Material Repair Program Documents, the Action Plan, the Repair Program Budget, the Repair Schedule and the Plans and Specifications; and (iv) all insurance policies issued in respect of the Properties and the Repair Program, in all material respects;
- (xiii) provide a copy of any advance request (together with supporting documentation) made pursuant to any Co-Investment Agreement or otherwise in respect of any contribution from any funding source for the Repair Program;
- (xiv) from time to time, when requested by CMHC, provide to CMHC evidence of its full compliance with its representations and warranties in Section 12;
- (xv) maintain in place appropriate insurance for its business and assets as required by CMHC from time to time, including with respect to the Repair Program and the Properties, that meets at least the Insurance Requirements and is consistent with the recommendations of the Insurance Consultant opinion prepared as described in Section 8(a)(xix), except where the failure to have such policies of insurance in place would not constitute and could not reasonably be expected to become a Material Adverse Change, and promptly provide CMHC with copies of any

certificates of insurance issued to it from time to time and not previously provided to CMHC in accordance with this Agreement;

- (xvi) ensure that, as at December 31, 2027 (as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to Section 13(a)(ii) and (c) in respect of the 2027 fiscal year), the aggregate outstanding principal amount of all Loans will not cause the CMHC funding proportion of the aggregate principal amount of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, to exceed the Maximum CMHC Funding Proportion;
  - (xvii) ensure that either (I) all of the Subject Units are occupied or available for occupancy and will be occupied or available for occupancy throughout the Repair Program Execution; or (II) if all of the Subject Units are not occupied or available for occupancy or will not be occupied or available for occupancy throughout the Repair Program Execution, this is solely due to the Subject Units being temporarily vacant as a result of repairs or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by the Borrower so that any relocated tenant is not materially adversely impacted by the Repair Program Execution; and
  - (xviii) if at any time following the occurrence of a Ratings Trigger Event the Collateral Coverage Ratio is less than the Applicable Collateral Coverage Ratio and if required by CMHC in its sole and absolute discretion as notified by CMHC in writing to the Credit Parties (each such notice, a "**Collateral Coverage Notice**"), grant security in respect of one or more Post-Closing Designated Properties (and certain other related property relating thereto) in accordance with Section 10(a)(iv) and otherwise comply with the Post-Closing Mortgaged Property Requirements with respect to such Post-Closing Designated Property/ies, such that, no later than the 30<sup>th</sup> day following receipt by the Credit Parties of such Collateral Coverage Notice, the Collateral Coverage Ratio shall be equal to or greater than the Applicable Collateral Coverage Ratio (which shall be specified in the applicable Collateral Coverage Notice);
  - (xix) promptly notify CMHC of any event which could result in any cost overrun or material delay in the Repair Program Execution in respect of any of the Repair Properties;
  - (xx) promptly fund in full, to the satisfaction of CMHC, all costs overruns and change orders related to in the Repair Program, as and when they occur, or they may be indicated in any progress report delivered to CMHC pursuant to Section 13(a) or otherwise upon the CMHC's request.
- (b) **Special Covenants.** The Borrower covenants and agrees with CMHC that, except as otherwise permitted by the prior written consent of CMHC:
- (i) **Affordability:** for the duration of the Social Housing Covenant Period, the Borrower will ensure that the rents for 50% of the Subject Units which are occupied or available for occupancy in a fiscal year do not exceed 50% of the Median Market Rental Rate (the "**Portfolio Affordability Requirements**");
  - (ii) **Accessibility:** by December 31, 2027, and then for the duration of the remainder of the Social Housing Covenant Period, (A) a minimum of 20% of the Subject Units will meet or exceed the Accessibility Criteria (the "**Portfolio Accessibility Requirements**"); and

- (iii) **Energy Efficiency:** the Borrower will make upgrades and changes to the Repair Properties within the Portfolio in order to achieve, by December 31, 2027, and then for the duration of the remainder of the Social Housing Covenant Period, (A) a minimum of a 25% reduction in energy use across the Portfolio; and (B) a minimum of a 25% reduction in greenhouse gas emissions across the Portfolio, in each case as measured against the baseline energy use and greenhouse gas emissions for the Portfolio measured as of the period between August 2016 and August 2018 specified in the Energy Efficiency Report (collectively, the “**Portfolio Energy Efficiency Requirements**”).
  
- (c) **Notices.** Each Credit Party covenants and agrees with CMHC, while this Agreement is in effect, to promptly notify CMHC on becoming aware of:
  - (i) in the case of the Borrower, any Dispositions of Subject Units or acquisitions of Housing Units, as applicable, no later than 30 Business Days prior to the closing of any such Disposition or acquisition;
  - (ii) the occurrence of any litigation, dispute, arbitration or other proceeding the result of which if determined adversely would be a judgment or award against it that would result in a Material Adverse Change to it, and from time to time provide CMHC with all information requested by CMHC concerning the status of any such proceeding;
  - (iii) any Material Adverse Change or any matter that is likely to have a Material Adverse Change of which it becomes aware or ought to have been aware, using reasonable diligence;
  - (iv) any event which constitutes, or which, with notice, lapse of time, or both, would constitute a default or an Event of Default or a Ratings Trigger Event, of which it becomes aware or ought to have been aware, using reasonable diligence;
  - (v) any circumstance whereby the Drawdown Schedule will be materially altered, including material changes under any Co-Investment Agreement or other funding or contribution agreement in connection with the Repair Program or the Portfolio, delays in respect of the completion of the Repair Program and any circumstance where the costs of the Repair Program are expected to exceed those set forth the Repair Program Budget;
  - (vi) the occurrence of an event of Force Majeure, describing in reasonable detail the effects of such event on the Repair Program, the action which the Borrower intends to take to remedy such event and the estimated date when the event of Force Majeure will be remedied and will cease to impair the Repair Program;
  - (vii) the cessation of any event of Force Majeure;
  - (viii) any damage to or destruction of any Properties or other real or personal property that forms part of the Repair Program or the Collateral, which might give rise to an insurance claim, if the cost of any repairs to or replacement of assets of the relevant Credit Party constitutes or could reasonably be expected to become a Material Adverse Change;
  - (ix) any material instrument related to the Repair Program of which such Credit Party has notice or which is registered against title to the Repair Program, and provide to CMHC a true copy of such instrument;

- (x) any threatened expropriation or notice of expropriation with respect to the Properties or other real property of such Credit Party that constitutes or could reasonably be expected to become a Material Adverse Change, such notice to be delivered forthwith upon the such Credit Party becoming aware of such threatened expropriation or its receipt of notice of such proceedings and each Credit Party covenants and agrees that no such claim shall be compromised or settled without the prior written consent of CMHC; or
- (xi) any non-compliance with Environmental Laws relating to the Properties, the Subject Units or the Repair Program, and of any notice, investigation, non-routine inspection or material inquiry by any Governmental Authority in connection with any Environmental Laws relating to the Properties, the Subject Units or the Repair Program, except to the extent that non-compliance does not individually or in the aggregate constitute and could not reasonably be expected to become a Material Adverse Change,

and in the case of (i), no later than five (5) Business Days following the closing of any such Disposition or acquisition, the Borrower shall provide an updated Repair Properties List to CMHC, noting the Repair Properties, including all Subject Units, which have been removed or added to the Repair Properties List, and the Repair Properties List will be deemed to be amended, from time to time, upon delivery of an updated Repair Properties List to CMHC.

- (d) **Negative Covenants.** Each Credit Party covenants and agrees with CMHC, while this Agreement is in effect and except as otherwise permitted by the prior written consent of CMHC, that it shall not:
  - (i) take any action, or permit any action to be taken, constituting or likely to result in a breach of any provision in this Agreement;
  - (ii) make any Disposition, or permit any Disposition to be made, of any Property (or any portion thereof) other than in accordance with the terms hereof;
  - (iii) change its name without providing CMHC with at least thirty (30) days' prior written notice thereof;
  - (iv) make any change to its fiscal year end;
  - (v) consolidate, amalgamate or merge with any other Person; enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate structure; voluntarily liquidate, wind-up or dissolve itself, or permit any voluntary liquidation, winding-up or dissolution, in each case without the prior written consent of CMHC (which consent may be withheld in its sole and absolute discretion), and the Credit Parties agree to pay any fees and costs of CMHC in connection with any of the foregoing;
  - (vi) amend its organizational documents, or permit its organizational documents to be amended, in a manner that would be prejudicial to the interests of CMHC under the Loan Documents;
  - (vii) permit all or any portion of any Property to be owned by any other Person, except pursuant to a Disposition made in accordance with the terms hereof;
  - (viii) permit any Encumbrance to exist upon any Property or Collateral, except Permitted Encumbrances;



- (ix) without the prior written consent of CMHC (A) revise (or permit to be revised) the Plans and Specifications in any material respect; or (B) make (or permit to be made) any material modifications to the Repair Program that could cause the Repair Program not to be maintained and operated in accordance with the Plans and Specifications as approved by CMHC (and upon any such revision the Borrower shall forthwith provide a copy to CMHC);
  - (x) permit the Repair Program or the Portfolio to be owned, maintained or operated by or on behalf of any Person other than the Borrower;
  - (xi) without the prior written consent of CMHC, enter into any new Material Repair Program Document, or make or permit any material amendment, variation or alteration to, or consent to any assignment or transfer of, or waive or surrender any of its material rights or material entitlements under, any Material Repair Program Document;
  - (xii) amend or permit the amendment of the Repair Program Budget without the prior written consent of CMHC (regardless of whether such changes are within the initial contingency budget), and upon any revision of the Repair Program Budget, the Borrower will forthwith provide a copy to CMHC;
  - (xiii) revise or permit the revision of the Repair Schedule without the prior written consent of CMHC and only so long as the Borrower can demonstrate that it has contributed additional Borrower Contribution sufficient to cover any increased Repair Program Costs including any cost overruns arising in connection therewith;
  - (xiv) enter into or renew, amend, terminate, forfeit or cancel any Repair Contracts (or permit such actions) without CMHC's prior written approval, and for such purposes the Borrower shall provide drafts of all Repair Contracts and any amendments thereto to CMHC prior to their acceptance by the Borrower;
  - (xv) enter into or renew, amend, terminate, forfeit or cancel any Leases in respect of the Portfolio, unless such amendments, renewals, terminations, forfeitures or cancellations reflect in all material respects good business practice and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors and the leasing practice in the market at the relevant time;
  - (xvi) with respect to the Borrower only, incur any Debt which exceeds the Permitted Debt Level; or
  - (xvii) become a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada).
- (e) Sections 14(a)(iii), 14(a)(xiv), 14(b), 14(c)(i) to (iv), 14(c)(vi) to (xi), 14(d)(i) to (xi) and 14(d)(xv) to (xvii) shall survive and remain in full force and effect in accordance with their terms, notwithstanding the termination of this Agreement or the repayment, satisfaction or discharge of all obligations under any Loan Document until the termination of the Operating Agreement.

## 15 DEFAULT

Without limiting any other rights of CMHC under this Agreement, if any one or more of the following events (herein an "**Event of Default**") has occurred and is continuing:

- (a) use of the proceeds of the Loans received by the Borrower for purposes other than the purpose set out in Section 2(c), including use of the proceeds of the Loans for any purpose other than the purpose for which they were advanced;
- (b) fraud or intentional misrepresentation by any Credit Party;
- (c) gross negligence or criminal acts of any Credit Party resulting in the forfeiture, seizure or loss of any Property or any portion thereof;
- (d) misapplication or misappropriation of rents, insurance proceeds or condemnation awards received by any Credit Party;
- (e) any Credit Party fails to pay when due any amounts payable under the Loan Documents, and such failure remains un-remedied for three (3) Business Days;
- (f) any Credit Party breaches or fails to fulfill any one or more of its obligations under the Loan Documents, other than non-payment (which is addressed in paragraph (e) above), and has not remedied such breach or failure to the sole satisfaction of CMHC, within any cure period provided for herein or in the other Loan Documents, as applicable;
- (g) any fraud, misconduct, or false Integrity Declaration (or failure by any Credit Party to advise CMHC of any change in circumstances, subsequent to such Credit Party's submission to CMHC of the Integrity Declaration, which would thereafter prevent such Credit Party from confirming the truth and accuracy of the contents therein);
- (h) any representation or warranty made or deemed to have been made by any Credit Party in any Loan Document or in any certificate or ancillary document provided for in any Loan Document shall be false or inaccurate in any materially adverse respect;
- (i) if CMHC (in its sole and absolute discretion) considers that the Repair Program is not proceeding in a timely manner or if the Borrower otherwise discontinues or abandons the Repair Program (for a single period of twenty (20) days or more);
- (j) if CMHC (in its sole and absolute discretion) considers that the Portfolio Affordability Requirements, Portfolio Accessibility Requirements and Portfolio Energy Efficiency Requirements are not satisfied or that the Borrower is not making timely progress toward the satisfaction of the Portfolio Affordability Requirements, Portfolio Accessibility Requirements and Portfolio Energy Efficiency Requirements;
- (k) if substantial completion of the Repair Program has not been achieved by the Repair Program Completion Outside Date;
- (l) if CMHC (in its sole and absolute discretion) considers that a Material Adverse Change has occurred;
- (m) any Credit Party is unable to pay its debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, insolvent;
- (n) if proceedings are started by any person to dissolve, liquidate, or wind-up any Credit Party or to suspend any of its operations;
- (o) any secured creditor, encumbrancer or lienholder, or any trustee, receiver, receiver and manager, agent, bailiff or other similar official appointed by or acting for any secured creditor, encumbrancer or lienholder, takes possession of, or forecloses or retains, or sells or otherwise disposes of, or otherwise proceeds to enforce security over all or any

significant part of the assets of any Credit Party or gives notice of its intention to do any of the foregoing;

- (p) any Encumbrance securing an obligation of any Credit Party to CMHC shall, in whole or in part, cease to be a perfected as required pursuant to the Loan Documents;
- (q) any breach or default by any Credit Party under any Co-Investment Agreement or under any other CMHC loan or contribution program (or any related operating agreement); or
- (r) if any other event or circumstance occurs that CMHC (in its sole and absolute discretion) considers is likely to materially and adversely affect the ability of the Borrower to successfully proceed with the Repair Program or of any Credit Party to otherwise perform all or any of its obligations under the Loan Documents,

then, in such event, the ability of the Borrower to make further Drawdowns under the Loan Facilities shall immediately terminate and CMHC may at its option, by written notice to the Borrower, (i) terminate its commitments hereunder, and (ii) declare the Loans to be immediately due and payable in whole, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Credit Parties accrued hereunder and under the other Loan Documents, shall become due and payable immediately, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Credit Parties.

## **16 REMEDIES**

The rights set out herein shall be without limitation, and shall be in addition to all other rights and remedies of CMHC otherwise available under any other provision of the Loan Documents, by operation of law, at equity or otherwise, all of which are hereby expressly preserved, all of which rights shall be cumulative. Furthermore, each of the Credit Parties acknowledges and agrees that:

- (a) the Program and the Loans made to the Borrower in support of the Repair Program are intended to further the public interest by achieving certain social outcomes which are of fundamental importance to the federal government of Canada and its agencies, including CMHC;
- (b) CMHC would not have made the Loans to the Borrower without receiving the commitment of the Credit Parties to comply with the covenants set forth in this Agreement (including the special covenants set out under Section 14(b));
- (c) in the event of default under this Agreement, CMHC, the Program, other affordable housing providers, the broader affordable housing sector and the public interest will sustain harm, the extent of which cannot be pre-determined or remedied through compensation;
- (d) without restricting or limiting the remedies CMHC may otherwise have upon a breach of this Agreement, CMHC may seek relief by other available legal and equitable remedies, including, without limitation, damages, disgorgement of profits and/or remedies of seizure, injunction and specific performance notwithstanding the termination of this Agreement; and
- (e) all costs and expenses, including the fees of appraisers, advisors, consultants and lawyers, associated with enforcing CMHC's rights under the Loan Documents shall be at the cost of the Credit Parties.

## **17 INDEMNIFICATION**

- (a) Each of the Credit Parties irrevocably and unconditionally agrees, jointly and severally, to indemnify and hold harmless CMHC, and any of its officers, directors, employees,

controlling persons, members and representatives, and any of its successors (each of the foregoing, an “**Indemnified Person**”) from and against any and all losses, claims, damages, liabilities, fees, costs and expenses (including fees and disbursements of legal counsel, accounting advisors, receivers and other advisors, together with any interest that may accrue) in connection with:

- (i) enforcement of rights and remedies of CMHC in respect of any Credit Party under the Loan Documents, the PPSA or at law; and
- (ii) the failure of any Credit Party to comply with all Environmental Laws and any losses suffered by such Indemnified Person for, in connection with, or as a direct or indirect result of, the presence of any Hazardous Material situated in, on or under or migrating from or to the Properties, or as a direct or indirect result of, any legal or administrative proceedings with respect to the presence of any Hazardous Material in, on or under, migrating from or to the Properties (for the avoidance of doubt, including, without limitation the buildings on the Properties), or the discharge, emission, leak, spill, radiation or disposal by any Credit Party of any Hazardous Material into or upon the Properties (for the avoidance of doubt, including, without limitation, the buildings on the Properties), the atmosphere, or any watercourse or body of water; including the costs (including legal and professional fees on a full indemnity basis) of defending and/or counterclaiming or claiming against third parties in respect of any action or matter and any cost, liability or damage arising out of a settlement entered into by any Indemnified Person of any such action or matter,

whether individual, joint and several, or otherwise, to which any such Indemnified Person may become subject arising out of or in connection with this Agreement, any other Loan Document or any actual or threatened claims, actions, suits, inquiries, litigation, investigation or proceeding (any such claims, actions, suits, inquiries, litigation, investigation or proceeding, a “**Proceeding**”) relating to any of the foregoing, regardless of whether any such Indemnified Person is a party thereto, provided that none of CMHC or any Credit Party, any other Indemnified Person, any of such Person’s respective affiliates, or the respective directors, officers, employees, advisors, and agents of any of the foregoing, shall be liable for any indirect, special, punitive or consequential damages in connection with this Agreement or any other Loan Document; and provided further that, that the foregoing shall not apply to indemnity obligations with respect to damages of such type suffered by a third party and for which an Indemnified Person may be or become liable. This indemnity is independent of and in addition to any right CMHC may have to seek recovery of costs in any litigation that may result in respect of this Agreement or any other Loan Document, and shall form part of the obligations secured. The indemnity obligations contained in this Section 17 shall survive and remain in full force and effect in accordance with their terms, notwithstanding the termination of this Agreement or the repayment, satisfaction or discharge of all obligations under any Loan Document.

- (b) Each of the Credit Parties also agrees, jointly and severally, to pay (or, at the discretion of such Indemnified Person, reimburse) each such Indemnified Person promptly upon demand for any reasonable fees of legal counsel, court costs, fees of expert witnesses, and other reasonable fees, costs or expenses incurred in connection with investigating or defending any of the foregoing or in connection with the enforcement of any provision of this Agreement, provided that the indemnity will not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or related expenses to the extent that they are found in a court of competent jurisdiction to have resulted from the gross negligence or wilful misconduct of such Indemnified Person.
- (c) Each of the Credit Parties will not, without the prior written consent of each applicable Indemnified Person, effect any settlement of any pending or threatened Proceedings in

respect of which indemnity could have been sought hereunder by such Indemnified Person unless such settlement (i) includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such Proceedings, (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person, and (iii) includes customary confidentiality and non-disparagement agreements.

- (d) Any costs incurred by CMHC under this Agreement shall, from the date of such costs being incurred by CMHC through to the date such costs are repaid by the Credit Parties, be deemed advanced to the Credit Parties and shall form part of the obligations secured by this Agreement.

## 18 FUNDING AND RIGHT TO TERMINATE

- (a) Notwithstanding any provision to the contrary, CMHC may terminate the Available Commitment by written notice to the Borrower if CMHC, in its sole and absolute discretion, considers that (i) fraud, misconduct or misrepresentation by any Credit Party or a representative of any Credit Party has occurred; or (ii) any Credit Party has made a false Integrity Declaration or any Credit Party has failed to advise CMHC of any change in circumstances, subsequent to the submission by such Credit Party to CMHC of its Integrity Declaration, which would thereafter prevent any Credit Party from confirming the truth and accuracy of the contents therein.
- (b) CMHC may terminate the Available Commitment by written notice (such notice, the “**Notice of Termination**”) to the Borrower for any reason if funding for the Program is no longer available due to no or insufficient appropriations by the Government of Canada. In such event, CMHC will advance funding for the invoices relating to the Repair Program Costs expended by the Borrower or invoiced to the Borrower for Completed Work up to the date of the Notice of Termination.

## 19 COMMON TERMS

The following provisions apply to this Agreement and the other Loan Documents and are referred to in the Loan Documents as the “**Common Terms**”:

- (a) **Interpretation.** Any reference in this Agreement to gender includes all genders and words importing the singular include the plural and vice versa (and definitions of terms herein apply equally to the singular and plural forms of the terms so defined). The division of this Agreement into Sections, Exhibits and Schedules and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation of this Agreement. The Schedules are considered to be part of this Agreement.
- (b) **Currency.** Unless otherwise provided, all dollar amounts are in Canadian currency.
- (c) **Accounting Terms.** Accounting terms used in connection with this Agreement are to be interpreted in accordance with accounting principles generally accepted in Canada, including those set out in the CPA Canada Handbook at the relevant time in effect from time to time in Canada applied in a consistent manner.
- (d) **Limitations.** Neither the preparation and execution of the Loan Documents nor the perfection of the security interests created under the Security Documents or the advance of any monies by CMHC shall bind CMHC to make any advance or loan or further advance or loan, or extend any time for payment of any indebtedness or liability of any Credit Party

to CMHC. The eligibility of the Borrower for the Loans does not constitute an assurance that it will be approved for CMHC loan insurance, or other forms of CMHC or federal assistance.

- (e) **Successors and Assignment.** This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns. CMHC may assign all or part of its rights and obligations under this Agreement to any Person. The rights and obligations of the Credit Parties under this Agreement may not be assigned without the prior written consent of CMHC.
- (f) **Set-Off.** CMHC is authorized, but not obligated, at any time, to apply any amount, whether or not then due, which CMHC otherwise owes any Credit Party, towards satisfaction of the obligations of such Credit Party due to CMHC under this Agreement or any other Loan Document. In any claims by CMHC against any of the Credit Parties, such Credit Party may not assert any set-off or counterclaim that it may have against CMHC.
- (g) **Notices.** Any notice, direction, demand or other communication given under this Agreement shall, except as otherwise permitted, be in writing and given by delivering it (personally or by courier) or sending it by electronic means addressed to the relevant party at the address set out on the signature pages of this Agreement. Any such communication is deemed to have been validly and effectively given if delivered or transmitted by electronic means on the day of such delivery or transmission if such day is a Business Day and delivery or transmission was made prior to 4:00 pm (Ottawa time) and otherwise on the next Business Day. 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.
- (h) **Statutory Notice.** Notwithstanding the Notice provision of these Common Terms, if any statute in force in Ontario relating to the enforcement of the Security Documents requires notice to be given in a manner different from that set forth herein, notice given in the manner prescribed by such statute shall be effectively made under the relevant Security Document.
- (i) **Amendments and Waivers.** No amendment or waiver of any provision of this Agreement will be effective unless it is in writing signed by the Credit Parties and CMHC. No failure or delay, on the part of CMHC, in exercising any right or power hereunder or under any Loan Document shall operate as a waiver thereof.
- (j) **Rights Cumulative.** CMHC's rights and remedies set out in the Loan Documents and in any other agreement held by CMHC from any Credit Party are cumulative and no right or remedy contained in the Loan Documents is intended to be exclusive but each will be in addition to every other right or remedy now or hereafter existing at law, in equity or by statute, or pursuant to any other agreement between any Credit Party and CMHC that may be in effect from time to time.
- (k) **Severability.** If any term, covenant, obligation or provision in this Agreement is or becomes prohibited or unenforceable in any jurisdiction, such prohibition or unenforceability shall not invalidate or render unenforceable the provision concerned in any other jurisdiction nor invalidate, affect or impair any of the remaining terms, covenants, obligations or provisions of this Agreement.
- (l) **Further Assurances.** Each of the Credit Parties covenants and agrees with CMHC that it will, forthwith at any time and from time to time at the request of CMHC and at its own cost, execute and deliver to CMHC all such financing statements, schedules, assignments, instruments, deeds and documents and do all such further acts and things which CMHC may require for the purpose of carrying into effect the purposes of this Agreement or to better evidence and perfect the security interest, assignment and mortgage and charge

granted, including in connection with any changes to Applicable Laws (whether arising as a result of statutory amendments, court decisions or otherwise) which requires the execution and delivery of different forms of documentation. After the occurrence of an Event of Default and for so long as such Event of Default is continuing, each of the Credit Parties irrevocably constitutes and appoints CMHC, or any receiver appointed by the court or CMHC, its true and lawful attorney (such power of attorney, being coupled with an interest, shall not be revoked by the dissolution, surrender of charter, winding-up, bankruptcy or insolvency of that party), with full power of substitution, to do any of the foregoing in its name whenever and wherever CMHC or any such receiver may consider it to be necessary or expedient. For the avoidance of doubt, the Credit Parties will bear the reasonable or invoiced out-of-pocket fees, costs and expenses incurred by CMHC in connection with this Section 19(l) on a joint and several basis.

- (m) **No Partnership.** Nothing herein contained shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between any Credit Party and CMHC; it being understood and agreed that none of the provisions herein contained or any acts of CMHC or any Credit Party, shall be deemed to create any relationship between CMHC and such Credit Party other than the relationship of lender and borrower or guarantor, as applicable. Each of the Credit Parties shall rely on its own independent experts in connection with the Repair Program.
- (n) **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The courts of such jurisdiction shall exclusively hear any dispute related to the validity, interpretation or performance of this Agreement.
- (o) **Conflict.** To the extent of any conflict, ambiguity or inconsistency between the provisions of this Agreement and the provisions of the other Loan Documents, the provisions of this Agreement shall prevail to the extent of such conflict, ambiguity or inconsistency.
- (p) **Communications and Privacy.**
  - (i) Each Credit Party agrees that, if it intends to make reference to CMHC and/or the Government of Canada or the Loans, it must obtain the written consent of CMHC in advance of any communications, including communication with the public, public information products, news releases signage advertising or other activities.
  - (ii) CMHC and each Credit Party agree that where there is a request or proposal to make public any information one party has provided to the other pursuant to this Agreement the party receiving the request or proposing to make the information public will give the other party at least one month's notice to the extent possible under access to information legislation. Information the disclosure of which is prevented by federal or provincial privacy legislation will not be made public.
- (q) **No Merger.** This Agreement shall not operate by way of merger of any of the obligations hereunder.
- (r) **Entire Agreement.** This Agreement, the Loan Documents and any other written agreement delivered pursuant to or referred to in this Agreement constitute the whole and entire agreement between the parties in respect of the Loans and supersedes all prior understandings, whether written or oral, between CMHC and the Credit Parties with respect thereto. There are no verbal agreements, undertakings or representations in connection with the Loans.

- (s) **Time.** Time is of the essence in all provisions of this Agreement.
- (t) **Conflict of Interest.** Each of the Credit Parties 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 or could arise. In the event that a conflict of interest, real or perceived, cannot be resolved to the satisfaction of CMHC, CMHC shall have the right to immediately terminate this Agreement by written notice to the Borrower.
- (u) **Official Languages.** In areas of significant demand, and in accordance with Ontario's *French Language Services Act*, each Credit Party agrees to provide all information and services pertaining to the Repair Program in both French and English. Each Credit Party will use the criteria for information and services in the *Official Languages Regulations* made pursuant to Canada's *Official Languages Act* as a guideline to determine "significant demand". Representatives of local French language groups will be or will have been consulted.
- (v) **No benefit.** No member of the House of Commons or of the Senate of Canada or of the Legislature of Ontario shall be admitted to any share or part of this Agreement, or to any benefit arising therefrom.
- (w) **Accountability Framework.** CMHC and each Credit Party agree that governments must be mutually accountable to the public for the use of public funds and for the achievement of housing outcomes and report these outcomes in an open, transparent, effective and timely manner.
- (x) **Early Warning.** The Guarantor will advise CMHC in writing if the aggregate amount of the Guarantor's debt servicing cost has exceeded the amount that is \$50,000,000 (fifty million dollars) less than its annual debt and financial obligation limit as determined pursuant to O. Reg 403/02 to the Municipal Act, 2001 based on the most recent notification from the Ministry of Municipal Affairs and Housing.
- (y) **Confidentiality and Announcements.** CMHC and each Credit Party agree to comply with the terms set out in Schedule J.
- (z) **Counterparts and Electronic Delivery.** This Agreement may be executed in any number of separate counterparts and all such signed counterparts will together constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a party may send a copy of its signature on the execution page hereof to the other parties by means of recorded electronic transmission (including in PDF form) and such transmission shall constitute valid delivery of an executed copy of this Agreement to the receiving party.
- (aa) **Return by Borrower of Mistaken Payments.** If either of the Credit Parties receives at any time from CMHC any payment in connection with this Agreement which was made as a result of a mistake or error on the part of CMHC or in respect of payments which were not due to either of the Credit Parties under this Agreement at such time (each, a "**Mistaken Payment**"), the relevant Credit Party/ies shall pay in full the amount of any such Mistaken Payment to CMHC on demand, together with interest thereon for each day from and including the date such Mistaken Payment was received by the relevant Credit Party/ies, at a fluctuating rate *per annum* equal to the interbank rate for overnight funds which is applicable to such Mistaken Payment in accordance with market practice. A certificate of CMHC submitted to either of the Credit Parties with respect to any Mistaken Payment owing under this Section shall be *prima facie* evidence thereof, absent manifest error. The parties hereto agree that a Mistaken Payment shall not pay, prepay, repay, discharge or otherwise satisfy any obligations owed by either of the Credit Parties, except, in each case,



to the extent such Mistaken Payment is, and solely with respect to the amount of such Mistaken Payment that is, comprised of funds received by CMHC from any Credit Party for the purpose of making such Mistaken Payment. To the extent permitted by applicable law, neither of the Credit Parties shall assert any right or claim to a Mistaken Payment, and each of the Credit Parties hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by CMHC for the return of any Mistaken Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

*(Signature pages follow)*

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement.

**CANADA MORTGAGE AND HOUSING CORPORATION**

By:

\_\_\_\_\_  
Name:

Title:

By:

\_\_\_\_\_  
Name:

Title:

Address:

700 Montreal Road

Ottawa, ON K1A 0P7

Email: nhs-contracting@CMHC.ca

*We have authority to bind CMHC.*

**LONDON & MIDDLESEX COMMUNITY HOUSING  
INC.**

By:

---

Authorized Signing Officer

Name:

Address:

Email:

---

Authorized Signing Officer

Name:

Address:

Email:

*I/We have the authority to bind the Borrower.*

The undersigned acknowledges and confirms its agreement with the foregoing terms and conditions, as guarantor, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**THE CORPORATION OF THE CITY OF LONDON**

**By:**

\_\_\_\_\_  
Name:

Title:

Address:

Email:

\_\_\_\_\_  
Name:

Title:

Address:

Email:

*I have authority to bind the Guarantor.*

## SCHEDULE A DEFINITIONS

For the purpose of this Agreement, the following terms and phrases shall have the following meanings:

**“Accessibility Criteria”** means the accessibility requirements as set forth in CMHC’s minimum accessibility requirements published from time to time.

**“Action Plan”** means a plan for the Repair Program which (i) includes detailed information as to how the Borrower will meet the Portfolio Affordability Requirements, Portfolio Accessibility Requirements and Portfolio Energy Efficiency Requirements pursuant to the terms of this Agreement and such other information as CMHC deems necessary and (ii) attaches the Plans and Specifications, the Repair Program Budget and the Repair Schedule (as such plan may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion), and the Action Plan as at the date hereof is attached hereto as Schedule F.

**“Annual Progress Report”** has the meaning set out in Section 13(a)(ii)(B).

**“Applicable Collateral Coverage Ratio”** means, as of any date of determination, the Collateral Coverage Ratio specified in the Collateral Coverage Notice most recently delivered to the Credit Parties by CMHC.

**“Applicable Laws”** means, with respect to any Person, property, transaction or event, all present or future applicable laws, statutes, regulations, rules, orders, codes, treaties, conventions, judgments, awards, determinations and decrees of any governmental, regulatory, fiscal or monetary body or court of competent jurisdiction in any applicable jurisdiction (and, for avoidance of doubt, Applicable Laws includes Environmental Laws).

**“Available Commitment”** has the meaning set out in Section 2(a).

**“Borrower”** has the meaning set out in the preamble.

**“Borrower Contribution”** means, at any time and from time to time, the aggregate of (a) the Net Asset Value of the Repair Properties; (b) any monetary contribution to the Repair Program by the Borrower; and (c) any non-monetary contribution to the Repair Program by the Borrower, as CMHC shall in its sole and absolute discretion consent to being included in the calculation of **“Borrower Contribution”**.

**“Business Day”** means a day on which CMHC is open for business in Ottawa, Ontario excluding Saturday, Sunday and any other day which shall be a holiday or a day on which banking institutions are closed in the Province of Ontario.

**“CCQ”** means the Civil Code of Quebec, and, where applicable, the regulations promulgated thereunder.

**“Closing Date”** has the meaning ascribed thereto in Section 8(a).

**“Co-Investment Agreements”** means the agreements, commitments or other arrangements between the Borrower, on the one hand, and the Guarantor or any other Person, on the other hand, where such Person has agreed to invest, contribute (whether monetarily or otherwise) or provide funding with respect to the Repair Program, and **“Co-Investment Agreement”** means any of them.

**“Collateral”** means all property (whether real or personal and whether now owned or hereafter acquired) in respect of which any Encumbrance has been granted (or purported to have been granted) pursuant to any Security Document.

**“Collateral Coverage Notice”** has the meaning set out in Section 14(a)(xviii).

**“Collateral Coverage Ratio”** means, as of any date of determination, the ratio of (i) the most recent Net Asset Value of the Mortgaged Properties to (ii) the Available Commitment as of such date of determination.

**“Common Terms”** has the meaning ascribed thereto in Section 19.

**“Completed Work”** shall mean work completed and in place in connection with the Repair Program.

**“Completion Report”** means, in respect of any Drawdown Notice delivered hereunder, a report satisfactory to CMHC in its sole and absolute discretion showing the actual Repair Program Costs expended by the Borrower or invoiced to the Borrower for Completed Work that will be funded with the proceeds of the corresponding Drawdown, including a summary and line-by-line itemization, and attached to such Drawdown Notice as Appendix A thereto.

**“Construction Lien Act”** means *Construction Act*, R.S.O. 1990, c. C.30, and any amendments or successor legislation thereto.

**“Consultant Contracts”** means the contracts entered into by or on behalf of the Borrower with Consultants in respect of the Repair Program.

**“Consultants”** means, as applicable, the architect and any geotechnical, environmental and other engineers for the Repair Program.

**“Costs to Complete”** means, as at the date of calculation, that amount established by CMHC, which is the aggregate of (without duplication):

- (a) the amount of all Repair Program Costs not then actually incurred for Completed Work (by payment by the Borrower or invoiced to the Borrower); and
- (b) the amount of all Repair Program Costs then actually incurred for Completed Work (as evidenced by an invoice to the Borrower), to the extent not paid in full;

as of such date.

**“Credit Parties”** means the Borrower and the Guarantor, and **“Credit Party”** means any one of them.

**“DBRS Morningstar”** means DBRS Limited and its successors.

**“Debt”** means, with respect to any Person, all obligations that, in accordance with GAAP, would then be classified as a liability of such Person, provided, however, that there will not be included for the purpose of this definition any obligation that is on account of (A) reserves for deferred income taxes or general contingencies, (B) minority interests in subsidiaries, (C) trade accounts payable and accrued liabilities (including contract loans and income taxes payable) incurred in the ordinary course of business, or (D) deposits made by tenants pursuant to the terms of their related Leases.

**“Debt Service Coverage Ratio”** means, as of the date of determination, the ratio of the Borrower’s annual net operating income (determined in accordance with GAAP) from the Repair Properties to the cash required annually by the Borrower to cover the repayment of all interest and principal on outstanding indebtedness relating to the Repair Properties, for the Borrower’s most recently ended four full fiscal quarters for which internal annual or quarterly financial statements are available.

**“Designated Properties”** means (a) such real properties (if any) of the Credit Parties as shall have been agreed to in writing by CMHC in its sole and absolute discretion in consultation with the Credit Parties following the delivery of a Collateral Coverage Notice and (b) all structures and improvements on such real properties from time to time, and **“Designated Property”** means any one of them.

**“Disposition”** means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, licence or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb **“Dispose”** has a corresponding meaning.

**“Drawdown”** has the meaning set out in Section 3(a).

**“Drawdown Date”** has the meaning set out in Section 3(e).

**“Drawdown Notice”** has the meaning set out in Section 3(c).

**“Drawdown Schedule”** means the schedule of when advances will be requested in connection with this Agreement and, as required by CMHC, any Co-Investment Agreement and the annual Loan commitment amounts described therein, which shall be appended hereto as Schedule E (as such schedule may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion).

**“Encumbrance”** or **“Encumbrances”** means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, title retention agreement or arrangement, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of any of such Person’s property, or any consignment by way of security or capital lease of property by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation (and including, for the avoidance of doubt and without limitation, any financing statement under the PPSA, any registration or recording on title to any real property and any other statement, registration, recording, notice or other filing under any statute governing notice of security interests in real or personal property).

**“Energy Efficiency Report”** means the report entitled “Equest Modelling Results”, together with the reliance letter dated September 28, 2020 and addressed to CMHC, which report is prepared by Efficiency Engineering (a Kontrol Energy Company) using designated energy simulation software satisfactory to CMHC and details the analysis of the energy consumption and greenhouse gas (**“GHG”**) emission performance of the Repair Properties prior to execution of the Repair Program and the analysis of energy consumption and GHG emission performance of the Repair Properties following the completion of the execution of the Repair Program.

**“Environmental Laws”** means all requirements of the common law or of statutes, regulations, by-laws, ordinances, treaties, judgments and decrees, and (to the extent that they have the force of law) rules, policies, guidelines, orders, approvals, notices, permits, directives, and the like, of any Governmental Authority in the relevant jurisdiction relating to environmental or occupational health and safety matters (as they relate to exposure to a hazardous substance) and the assets and undertaking of such Person and the intended uses thereof in connection with such matters, including all such requirements relating to: (a) the protection, preservation or remediation of the natural environment (the air, land, surface water or groundwater); (b) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation; (c) consumer, occupational or public safety and health (as they relate to exposure to a hazardous substance); and (d) hazardous substances or conditions (matters that are prohibited, controlled or otherwise regulated, such as contaminants, pollutants, toxic substances, dangerous goods, wastes, hazardous wastes, liquid industrial wastes, hazardous substance, petroleum and other materials such as urea formaldehyde and polyurethane foam insulation, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs) or PCB-contaminated fluids or equipment, lead-based paint, explosives, radioactive substances, petroleum and associated products, above ground and underground storage tanks or surface impoundments).

**“Event of Default”** has the meaning set out in Section 15.

**“Existing Repayable Loan”** has the meaning set out in Section 6(g).

**“Extended Maturity Date”** has the meaning set out in Section 6(g).

**“Extended Repayable Loans”** has the meaning set out in Section 6(g).

**“Extension”** has the meaning set out in Section 6(g).

**“Extension Offer”** has the meaning set out in Section 6(g).

**“Force Majeure”** means any of the following events which prevents or materially impairs the operation of the Repair Program and is not caused by and is beyond the reasonable control of the Borrower: acts of God, floods, earthquakes, tidal waves, hurricanes, windstorms, severe weather conditions, lightning, fire, wars (whether declared or not), riots, insurrections, rebellions, civil commotions, sabotage, partial or entire failure of utilities, strikes, walkouts or other labour disruptions, delays in transportation, accidents, shortages of and inability to procure labour, materials and supplies (after all reasonable efforts have been made by the Borrower to obtain replacement for such labour, materials and supplies); orders, legislation, regulations and directives of any Governmental Authorities; or epidemics, pandemics, or other national or regional emergencies (including, without limitation, any localized or widespread occurrence of an infectious virus, disease, pathogen or other harmful agent). For greater certainty, lack of funds, the state of the apartment rental market in the relevant jurisdiction or any wilful or negligent act or omission on the part of the Borrower (or any of them) does not constitute Force Majeure.

**“Forgivable Loan”** means the aggregate of all advances actually made under the Forgivable Loan Facility.

**“Forgivable Loan Commitment Amounts”** has the meaning set out in Section 2(a)(ii).

**“Forgivable Loan Facility”** has the meaning set out in Section 2(a)(ii).

**“GAAP”** means those accounting principles that are from time to time approved by the Chartered Professional Accountants of Canada, or any successor institute, including Canadian Public Sector Accounting Standards.

**“Governmental Authority”** means the government of Canada or any other nation, or of any political subdivision thereof, whether provincial, territorial, state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including any supranational bodies and including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency.

**“Guarantor”** has the meaning set out in the preamble.

**“Hard Costs”** means any amounts expended or to be expended for work, services or materials done, performed, placed or furnished in connection with the Repair Program, all as more particularly set out in the Repair Program Budget (and, for the avoidance of doubt, Hard Costs shall not include amounts payable pursuant to the terms of the Consultant Contracts).

**“Hazardous Materials”** means any contaminant, pollutant, waste or substance that is likely to cause immediately or at some future time harm or degradation to the surrounding environment or risk to human health; and without restricting the generality of the foregoing, including any pollutants, contaminants, waste, hazardous waste or dangerous goods that are regulated by any Environmental Laws or that are designated, classified, listed or defined as hazardous, toxic, radioactive or dangerous or as a contaminant, pollutant or waste by any Environmental Laws.

**“Holdback”** means any amount required to be retained by or on behalf of any Credit Party in respect of the value of work, services and materials actually done, performed, placed or furnished on or in the Properties, in accordance with the Construction Lien Act.



**“Housing Unit”** means:

- (a) a dwelling unit, including a bed, in respect of a Property in the Portfolio that is shelter accommodation; or
- (b) a self-contained residential dwelling unit intended for human habitation as housing accommodation, in respect of a Property in the Portfolio that is affordable rental housing, shelter housing, transitional housing, supportive housing, community housing, mixed use market and affordable rental housing or urban indigenous community housing.

**“Indemnified Person”** has the meaning set out in Section 17(a).

**“Insurance Consultant”** means an insurance consultant who is a Qualified Professional satisfactory to CMHC in its sole and absolute discretion.

**“Insurance Requirements”** means the insurance requirements of CMHC from time to time as applied by CMHC to the Repair Program and the Properties, which shall be at least the minimum insurance requirements as set forth in Schedule H (as such schedule may be amended, supplemented or replaced from time to time by CMHC in its sole and absolute discretion) with insurers licensed to carry on business in the jurisdiction of the Properties, with an A.M. Best Company, Inc. financial rating of not less than A– (unless CMHC in its sole and absolute discretion consents to another standard).

**“Interest Rate”** means the fixed rate of interest confirmed by CMHC pursuant to Section 4.

**“Integrity Declaration”** means the declaration made by each Credit Party and submitted to CMHC in connection with its application for the Loan Facilities, including any schedules attached thereto, with any amendments thereto as acknowledged by CMHC, as such declaration may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion.

**“Lease”** means any lease, sublease, agreement to lease, offer to lease, licence or right of occupation granted from time to time entitling the lessee, sublessee or grantee thereunder to use or occupy all or any part of any Property.

**“Loans”** means, collectively, the Repayable Loans and the Forgivable Loan.

**“Loan Documents”** means (a) this Agreement, (b) the Security Documents, (c) any guarantee and/or indemnity granted by the Guarantor, and (d) all present and future agreements, documents, certificates and instruments delivered by the Credit Parties to CMHC pursuant to or in respect of this Agreement or the Security Documents, in each case as the same may at any time and from time to time be amended, restated, supplemented, otherwise modified or replaced, and **“Loan Document”** means any one of the Loan Documents.

**“Loan Facilities”** has the meaning set out in Section 2(a)(ii).

**“Material Adverse Change”** means any event or occurrence which, when considered individually or together with other events or occurrences, has a material adverse effect on (a) the business, assets, liabilities, operations, results of operations, condition (financial or other) or prospects of any of the Credit Parties; (b) the operation of the Repair Program in accordance with the terms hereof, including the satisfaction of the Portfolio Accessibility Requirements, the Portfolio Affordability Requirements and the Portfolio Energy Efficiency Requirements; (c) the ability of any of the Credit Parties to perform its obligations in all material respects; (d) the Net Asset Value of the Repair Properties or the Net Asset Value of the Designated Properties; (e) the value of any of the Collateral; (f) the enforceability of the Loan Documents; or (g) any Encumbrance securing any obligation of any Credit Party to CMHC. For the avoidance of doubt,

Material Adverse Change does not include a change in general economic conditions unless same in turn causes any of the foregoing events.

**“Material Licences”** means all licences, permits or approvals issued by any Governmental Authority to a Credit Party and which are at any time on or after the date of this Agreement necessary or material to the Repair Program or the breach or default of which would result in a Material Adverse Change.

**“Material Repair Program Documents”** means:

- (a) the Repair Program Budget;
- (b) the Plans and Specifications;
- (c) the Repair Schedule; and
- (d) all development agreements and other material contracts with respect to the Repair Program designated as Material Repair Program Documents by CMHC from time to time, provided that CMHC has notified the Borrower of such designation,

and **“Material Repair Program Document”** means any one of them.

**“Maximum CMHC Funding Proportion”** means **[58.52]**%<sup>1</sup> of the aggregate of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, tested as of December 31, 2027, as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to Section 13(a)(ii) and (c) in respect of the 2027 fiscal year.

**“Median Market Rental Rate”** means the median rental rate for the City of London rental market and relevant Housing Unit type within the Portfolio, as described in CMHC’s rental market survey or any successor publication published from time to time.

**“Minimum Borrower Contribution”** means an amount of Borrower Contribution that ensures that (x) the sum of (A) the Borrower Contribution; (B) the undrawn portion of the Loan Facilities; and (C) any other undrawn capital sources that CMHC may, in its sole and absolute discretion, approve, at all times exceeds (y) the Costs to Complete.

**“Minimum Unit Count”** has the meaning set out in Section 8(a)(xvii).

**“Mistaken Payment”** has the meaning ascribed thereto in Section 19(z).

**“Moody’s”** means Moody’s Investors Service, Inc. and its successors.

**“Mortgaged Properties”** means the Designated Properties in respect of which all of the Post-Closing Mortgaged Property Requirements have been satisfied, and **“Mortgaged Property”** means any one of the Mortgaged Properties.

**“Net Asset Value”** means, with respect to any Property, the net valuation of such Property as assessed by the Municipal Property Assessment Corporation.

**“Notice of Termination”** has the meaning set out in Section 18(b).

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<sup>1</sup> Note to Draft: May need to be adjusted once the funding schedule is settled.

**“Offset Properties”** means any and all Designated Properties that are not Repair Properties, and **“Offset Property”** means any one of the Offset Properties.

**“Operating Agreement”** means an agreement entered into between the Credit Parties and CMHC with respect to, *inter alia*, the obligation of the Credit Parties to adhere to certain covenants relating to the Repair Program Execution and operation of the Repair Properties, as set out in more detail therein, during and after the expiration of the Term.

**“Permits”** means all permits, consents, orders, waivers, applications, authorizations, licences, certificates, approvals, registrations, franchises, rights, privileges and exemptions or the like issued or granted to any Credit Party by any Governmental Authority or by any third party to any Credit Party or with respect to any Property (including any Permits relating to Environmental Laws).

**“Permitted Debt Level”** means Debt which does not exceed 85% of the Net Asset Value of the Repair Properties at any given time.

**“Permitted Encumbrance”** means (i) in the case of any Repair Property that is not a Post-Closing Designated Property, the Encumbrances described in Schedule C and any other Encumbrance, provided that each Encumbrance would not individually or in the aggregate with other Encumbrances constitute, or could reasonably become, a Material Adverse Change and (ii) in the case of any Collateral, the Encumbrances described in Schedule C.

**“Person”** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof, and any other incorporated or unincorporated entity.

**“Plans and Specifications”** means the plans and specifications (including all structural, architectural, mechanical, electrical, landscape and interior design specifications) pertaining to the development and execution of the Repair Program prepared by or at the direction of the Borrower and approved by CMHC prior to the date hereof (as such plans and specifications may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion).

**“Portfolio”** means all of the Repair Properties and Subject Units considered together as a whole.

**“Portfolio Accessibility Requirements”** has the meaning set out in Section 14(b)(ii).

**“Portfolio Affordability Requirements”** has the meaning set out in Section 14(b)(i).

**“Portfolio Energy Efficiency Requirements”** has the meaning set out in Section 14(b)(iii).

**“Post-Closing Designated Properties”** means (a) such real properties (if any) of the Credit Parties as shall have been agreed to in writing by CMHC in its sole and absolute discretion in consultation with the Credit Parties following the delivery of a Collateral Coverage Notice and (b) all structures and improvements on such real properties from time to time, and **“Post-Closing Designated Property”** means any one of the Post-Closing Designated Properties.

**“Post-Closing Mortgaged Property Requirements”** means, with respect to any Post-Closing Designated Property:

- (a) all the requirement of Section 10(a)(iv) shall have been satisfied with respect to such Post-Closing Designated Property;
- (b) CMHC shall be satisfied with PPSA, insolvency and judgment searches against each Credit Party that owns such Post-Closing Designated Property in those jurisdictions as

CMHC shall make confirming that such Post-Closing Designated Property and all other Collateral relating thereto are not subject to any Encumbrances other than Permitted Encumbrances;

- (c) CMHC shall be satisfied with sub-searches confirming that no Encumbrances have been registered on title to such Post-Closing Designated Property other than Permitted Encumbrances;
- (d) CMHC shall be satisfied with the results of its diligence, including title, zoning, permitting and legal diligence in respect of such Post-Closing Designated Property and all other Collateral relating thereto;
- (e) CMHC shall have received evidence of the completion of, or of arrangements reasonably satisfactory to CMHC for the completion of, all other actions, recordings and filings of any documentation with respect to such Post-Closing Designated Property and all other Collateral relating thereto that CMHC may deem necessary in order to protect, perfect and maintain the security interests created by the Security Documents;
- (f) CMHC shall have received a legal opinion from counsel to the of the applicable Credit Party, addressed to CMHC, as to such matters as CMHC may require in connection with the granting of security in favour of CMHC in respect of such Post-Closing Designated Property and all other Collateral relating thereto and the entry by such Credit Party into the Loan Documents executed and delivered by it in connection therewith;
- (g) CMHC shall have received evidence that a lender's policy of title insurance in favour of CMHC satisfactory to it has been put in place with respect to such Post-Closing Designated Property;
- (h) CMHC shall have received either (i) evidence satisfactory to CMHC from an independent qualified environmental consultant satisfactory to CMHC that such Post-Closing Designated Property is not impacted by Hazardous Materials, provided that any reports prepared by such consultant shall be supported by reliance letters addressed to CMHC; or (ii) evidence that such Post-Closing Designated Property has been remediated/cleaned up of any Hazardous Materials and the results have been confirmed by an independent qualified environmental consultant satisfactory to CMHC or a record of site condition has been accepted by the applicable environmental and any relevant Governmental Authority, provided that any reports prepared by such consultant shall be supported by reliance letters addressed to CMHC, as determined (in CMHC's discretion) to be required in respect of the relevant Post-Closing Designated Property; and
- (i) CMHC shall have received evidence that the Credit Parties have in place appropriate insurance for its business and assets as required by CMHC from time to time, including with respect to such Post-Closing Designated Property and all other Collateral relating thereto, that meets at least the Insurance Requirements pursuant to the terms hereof, including (A) copies of all initial certificates of insurance; and (B) an opinion of an Insurance Consultant relating to such insurance, which has been prepared in accordance with the Insurance Requirements and is in form and substance satisfactory to CMHC in its sole and absolute discretion.

**"PPSA"** means the *Personal Property Security Act* (Ontario) and the regulations thereunder, as from time to time in effect; provided, however, that if the attachment, perfection or priority of any Encumbrance in favour of CMHC on any Collateral is governed by the personal property security laws of any jurisdiction in Canada other than the laws of the Province of Ontario, **"PPSA"** means those personal property security laws (including the CCQ) in such other jurisdiction in Canada for the purposes of the provisions hereof relating to such attachment, perfection or priority and for the definitions related to such provisions.

**“Principal Amortization Date”** means, in respect of any Loan, the first day of the month following the date of the final Drawdown under the Loan Facility under which such Loan was made.

**“Properties”** means collectively, the Repair Properties and the Offset Properties, and **“Property”** means any one of them.

**“Qualified Professional”** means a professional, satisfactory to CMHC, who is qualified in the relevant field in accordance with generally accepted industry practices, and may include an individual employed by a party hereto.

**“Ratings Agencies”** means, collectively, DBRS Morningstar, Moody's and S&P, and **“Ratings Agency”** means any one of them.

**“Ratings Trigger Event”** means, as of any date of determination, (a) any public announcement that the municipal credit rating of the Guarantor as determined by any Ratings Agency that provides a municipal credit rating for the Guarantor, whether as of the date hereof or in the future, has been down-graded by the relevant Ratings Agency below the Threshold Rating; or (b) any Ratings Agency that provides a municipal credit rating for the Guarantor, whether as of the date hereof or in the future, ceases to provide a municipal credit rating for the Guarantor.

**“Repair Contracts”** means all contracts, sub contracts and agreements entered into by or on behalf of the Borrower relating to the Repair Program Execution, including contracts, sub contracts and agreements relating to the supply of material or services to or for the Repair Program, and **“Repair Contract”** shall mean any of them.

**“Repair Program”** means capital expenditures and maintenance work in respect of the Housing Units on the Repair Properties and facilities ancillary thereto located on the Repair Properties, to preserve the useful life of the Portfolio and achieve, among other things, the Portfolio Affordability Requirements, the Portfolio Accessibility Requirements and the Portfolio Energy Efficiency Requirements in respect of the Portfolio.

**“Repair Program Budget”** means the budget of all Repair Program Costs (the aggregate amount of which shall not exceed \$68,583,856), which budget shall include a line-by-line itemization of Repair Program Costs (including contingency amounts) and specify the Net Asset Value of the Repair Properties, as prepared by the Borrower and approved by CMHC prior to the date hereof (as such budget may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion). The Repair Program Budget as at the date hereof is attached hereto as Schedule I.

**“Repair Program Completion Outside Date”** means December 31, 2027.

**“Repair Program Costs”** means the aggregate of all Hard Costs and all Soft Costs expended or to be expended to complete the Repair Program in accordance with the Plans and Specifications and Repair Schedule.

**“Repair Program Execution”** means the design and execution of the Repair Program in accordance with the Action Plan.

**“Repair Program Funding Account”** has the meaning ascribed thereto in Section 3(f).

**“Repair Program Loan Payment Account”** has the meaning ascribed thereto in Section 7(a).

**“Repair Properties”** means the real properties set forth on the Repair Properties List and all structures and improvements on such real properties from time to time, and **“Repair Property”** means any one of them.

**“Repair Properties List”** means Schedule D, as such list may be amended in accordance with Section 14(c) from time to time and/or otherwise amended, restated, supplemented, otherwise modified or replaced from time to time with the prior written consent of CMHC, acting in its sole and absolute discretion.

**“Repair Schedule”** means the repair and renewal schedule provided to, and approved by, CMHC prior to the date hereof (as such schedule may from time to time be amended, restated, supplemented, otherwise modified or replaced with the prior written consent of CMHC, acting in its sole and absolute discretion).

**“Repayable Loan”** means the aggregate of all advances actually made under each Repayable Loan Facility, and **“Repayable Loans”** means, collectively, all of the Repayable Loans.

**“Repayable Loan Commitment Amounts”** has the meaning set out in Section 2(a)(i).

**“Repayable Loan Facilities”** has the meaning set out in Section 2(a)(i).

**“S&P”** means S&P Global Ratings and its successors.

**“Security Documents”** means, collectively, the security agreements referred to in this Agreement (including, without limitation, Section 10) and any other security granted to CMHC as security for the Loans or any other obligations of the Credit Parties hereunder or under any of the other Loan Documents, in each case as the same may at any time and from time to time be amended, restated, supplemented, otherwise modified or replaced, and **“Security Document”** means any one of the Security Documents.

**“Social Housing Covenant Period”** means the period commencing on the date of the first Drawdown under the Loan Facilities and ending on the twentieth (20<sup>th</sup>) anniversary of the final Drawdown under the Loan Facilities.

**“Soft Costs”** means all amounts expended or to be expended in respect of the Repair Program other than Hard Costs and the cost of acquiring the Repair Properties (and, for the avoidance of doubt, Soft Costs include, without limitation, fees (excluding reimbursables for Hard Costs) payable to Consultants pursuant to the terms of any Consultant Contracts, taxes, surveys, construction insurance, bonding costs, legal fees, promotion of the Repair Program, financing, leasing, and pre-operating costs).

**“Subject Units”** has the meaning set out in Section 8(a)(xvii).

**“Term”** means, as applicable:

- (a) with respect to each Repayable Loan, ten (10) years commencing on the date of the first Drawdown under the applicable Repayable Loan Facility, subject to any extension pursuant to Section 6(g), provided that (i) if the first Drawdown is made on or before the 15<sup>th</sup> day of a month, the Term will commence on the first day of that month, and (ii) if the first advance is made after the 15<sup>th</sup> day of a month, the Term will commence on the first day of the following month; and
- (b) with respect to the Forgivable Loan, a period commencing on the date of the first Drawdown under the Forgivable Loan Facility, provided that (i) if such first Drawdown is made on or before the 15<sup>th</sup> day of a month, the Term will commence on the first day of that month, and (ii) if such first Drawdown is made after the 15<sup>th</sup> day of a month, the Term will commence on the first day of the following month, and ending on the date that is twenty (20) years after (x) the date of the final Drawdown under the Forgivable Loan Facility, if such date is on the first day of a month, or (y) the first day of the month following the date of the final Drawdown under the Forgivable Loan Facility, if the date of such final Drawdown is not on the first day of a month,

provided, however, that the Term may be extended or further extended, as the case may be, at the sole and absolute discretion of CMHC on such terms as the parties may mutually agree at the time of extension.

**“Threshold Ratings”** means:

- (a) as of any date of determination following the date hereof but prior to the occurrence of any public announcement as described in paragraph (b) following the date hereof:
  - (i) in the case of DBRS Morningstar: Not Applicable;
  - (ii) in the case of Moody’s: AAA; and
  - (iii) in the case of S&P: Not Applicable;
- (b) following any public announcement that either (i) the municipal credit rating of the Guarantor, as determined by any Ratings Agency, has either been down-graded by the relevant Ratings Agency or up-graded by the relevant Ratings Agency from time to time following the date hereof, the most recent then in effect credit ratings as determined by the applicable Rating Agency; or (ii) any Rating Agency that does not provide a municipal credit rating for the Guarantor as of the date hereof provides a municipal credit rating for the Guarantor following the date hereof, the most recent then in effect credit ratings as determined by the applicable Ratings Agency,

and **“Threshold Rating”** means any one of them.

**“Total Repayable Loan Commitment Amount”** has the meaning set out in Section 2(a)(i).

**“Total Forgivable Loan Commitment Amount”** has the meaning set out in Section 2(a)(ii).

**SCHEDULE B  
FORM OF DRAWDOWN NOTICE**

TO: Canada Mortgage and Housing Corporation (“**CMHC**”)  
FROM: London & Middlesex Community Housing Inc.(the “**Borrower**”)  
DATE: [•]

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- 1 This Drawdown Notice is delivered pursuant to the credit agreement made as of [•] between the Borrower and CMHC, as the same has been amended or modified to the date hereof (the “**Credit Agreement**”). All terms used in this Drawdown Notice that are defined in the Agreement have the same meanings herein.
- 2 The Borrower hereby requests the following Repayable Loan Drawdown:
  - (a) Drawdown Date:
  - (b) Amount:
- 3 The Borrower hereby requests the following contemporaneous Forgivable Loan Drawdown:
  - (a) Drawdown Date:
  - (b) Amount:
- 4 Evidence of the actual Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower for only the Completed Work that will be funded by the Repayable Loan Drawdown and Forgivable Loan Drawdown made pursuant to this Drawdown Notice, by way of the Quarterly Completion Report attached hereto for identification purposes as Appendix A. ***[As at December 31, 2027 (as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to Section 13(a)(ii) and (c) in respect of the 2027 fiscal year), the aggregate outstanding principal amount of all Loans will not cause the CMHC funding proportion of the aggregate principal amount of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, to exceed the Maximum CMHC Funding Proportion.]<sup>2</sup>***
- 5 The Debt Service Coverage Ratio as of the date hereof is no less than the minimum Debt Service Coverage Ratio of 1.0x.
- 6 The Minimum Unit Count is satisfied and as of the date hereof either (i) all of the Subject Units are occupied or available for occupancy; or (ii) if all of the Subject Units are not occupied or available for occupancy, this is solely due to the Subject Units being temporarily vacant as a result of repairs or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by us so that any relocated tenant is not materially adversely impacted by the Repair Program Execution.

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<sup>2</sup> Note to Schedule B: To be included only in the final Drawdown Notice in the final fiscal quarter of the final year of the Repair Program.



- 7 The Portfolio Affordability Requirements are satisfied as of the date hereof and will be satisfied on the Drawdown Date.
- 8 The Minimum Borrower Contribution for the Repair Program will have been invested by the Borrower as of the Drawdown Date.
- 9 The Borrower has received all governmental authorizations and third party approvals (or arrangements reasonably satisfactory to CMHC in lieu of such authorizations and approvals) required as of the date hereof and will be satisfied on the Drawdown Date from each relevant third party and applicable Governmental Authority that are contemplated hereby and/or that are necessary in connection with the Repair Program and/ or that may be required by Applicable Laws.
- 10 All of the representations and warranties of the Borrower contained in the Credit Agreement and the representations and warranties of the Credit Parties contained in the other Loan Documents are true and correct on as of the date hereof and will be satisfied on the Drawdown Date as though made on and as of the date hereof and on the Drawdown Date, as the case may be, subject to changes thereto:
- (a) given to CMHC by the Borrower and accepted in writing by CMHC; and
  - (b) expressly contemplated by the terms of the Credit Agreement and disclosed to CMHC in writing.
- 11 All of the conditions precedent to the Repayable Loan Drawdown and Forgivable Loan Drawdown requested hereby that have not been waived in writing by or on behalf of CMHC have been satisfied as of the date hereof and will be satisfied on the Drawdown Date.
- 12 No default or Event of Default or Ratings Trigger Event has occurred and is continuing on the date hereof or will have occurred and be continuing on the Drawdown Date, or will result from the Drawdown requested hereby.

**LONDON & MIDDLESEX COMMUNITY HOUSING  
INC.**

By:

\_\_\_\_\_  
Authorized Signing Officer

Name:

Address:

Email:

*I have authority to bind the Borrower.*

**Appendix A**

**Quarterly Completion Report**

*[Quarterly Completion Report to be attached for identification purposes.]*

**SCHEDULE C**  
**PERMITTED ENCUMBRANCES**

- 1 Encumbrances in favour of CMHC;
- 2 Encumbrances for taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- 3 undetermined or inchoate encumbrances, liens, rights of distress and charges incidental to construction, maintenance or current operations that have not at such time been filed or exercised and of which CMHC has been given notice, or that relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- 4 reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially and adversely impair the use of the affected land for the development, Repair Program Execution and operation of the Repair Program;
- 5 permits, reservations, covenants, servitudes, right of access or user licences, easements, rights of way and rights in the nature of easements (including licences, easements, rights of way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone, telecommunication, television and telegraph conduits, poles, wires and cables) that do not materially and adversely impair the use of the affected land for the development, the Repair Program Execution and operation of the Repair Program;
- 6 title defects, irregularities or other matters relating to title that are of a minor nature and that do not materially and adversely impair the use of the affected land for the development, the Repair Program Execution and operation of the Repair Program;
- 7 the right reserved to or vested in any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person or by any statutory provision to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- 8 the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
- 9 security given to a public utility or any Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of its business;
- 10 the Encumbrance created by a judgment of a court of competent jurisdiction or Encumbrance (including claims pursuant to the applicable Construction Lien Act ("**Construction Claim Encumbrances**")) filed and/ or created against a Credit Party, as long as the judgment is being contested diligently and in good faith by appropriate proceedings by such Credit Party and does not constitute and could not reasonably be expected to cause, individually or in aggregate with other Construction Claim Encumbrances, a Material Adverse Change;

- 11 encroachments by the Repair Program or structures thereon over neighbouring lands (including public streets) and minor encroachments by neighbouring lands or structures thereon over the Portfolio, so long as, in the former case, there are written agreements permitting such encroachments and they have been complied with;
- 12 subdivision, development, servicing and site plan agreements, undertakings and agreements made pursuant to applicable planning and development legislation, entered into with or made in favour of any Governmental Authority, or public or private utility relating to the development, the Repair Program Execution and operation of the Repair Program, provided that they have been complied with;
- 13 Leases relating to the Portfolio that have been entered into in accordance with this Agreement;
- 14 all municipal by-laws and regulations and other municipal land use instruments, including official plans, zoning and building by-laws, restrictive covenants and other land use limitations, public or private, and other restrictions as to the use of the Portfolio;
- 15 (A) Encumbrances in respect of which CMHC has received such releases, discharges, financing change statements, payout letters or other documents evidencing the termination thereof as may be satisfactory to CMHC in its sole and absolute discretion and (B) if agreed to by CMHC in its sole and absolute discretion, Encumbrances in respect of which CMHC has received such subordination agreements or intercreditor agreements evidencing the subordination thereof, or such estoppels, "no interest" letters, comfort letters or other confirmations that such Encumbrances do not relate to any Collateral, as may be satisfactory to CMHC in its sole and absolute discretion; and
- 16 such other Encumbrances as are agreed to in writing by CMHC.

**SCHEDULE D  
REPAIR PROPERTIES LIST**

Asset Type	Asset Grouping Description	Inventory	Total # Units	Total # Existing "Modified"	# of Bedrooms					Total Unit Est. SQFT	% of Unit SQFT	Total Building SQFT (Est.)		
					Bach	1	2	3	4				5	
Real Property	<b>Muti-Res</b>	202 McNay St.	251	46		250	1				118,585	75%	158,078	
		345 Wharnccliffe Rd. N	145	3		144	1				68,171	70%	97,250	
		349 Wharnccliffe Rd. N	145	7		144	1				68,171	70%	97,250	
		30 Baseline Rd. W	251	26		250	1				117,640	75%	157,500	
		85 Walnut St.	232	30		231	1				108,708	72%	151,307	
		241 Simcoe St.	217	5		216	1				106,175	73%	146,364	
		170 Kent St.	212	7		211	1				102,075	70%	145,460	
		580 Dundas St.	151	9		125	25	1			58,642	74%	79,000	
		<b>Multi-Res Total</b>	<b>1604</b>	<b>133</b>		<b>125</b>	<b>1471</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>748,166</b>		<b>1,032,209</b>	
		<b>TownHouse Complexes</b>	Allan Rush	100	1				86	14				93,931
			245-345 Marconi Blvd.	51	2				37	10	4			56,048
			961-1183 Huron	110	1			67	43					104,640
			160-422 Boullee St.	136	3				100	22	14			147,800
			370 Pond Mills Rd.	81	0			15	50	16				88,902
		<b>Townhouse Total</b>	<b>478</b>	<b>7</b>		<b>0</b>	<b>0</b>	<b>82</b>	<b>316</b>	<b>62</b>	<b>18</b>			<b>491,321</b>
		<b>REAL PROPERTY TOTAL</b>		<b>2082</b>	<b>140</b>	<b>125</b>	<b>1471</b>	<b>90</b>	<b>316</b>	<b>62</b>	<b>18</b>			<b>1,523,530</b>

**SCHEDULE E  
DRAWDOWN SCHEDULE**

<b>Cash Flow</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>TOTAL</b>
Planned Project Est. Cost	\$2,201,656	\$8,154,777	\$8,490,482	\$10,366,790	\$6,195,963	\$2,569,150	\$-	\$37,978,818
Additional Contingency	\$308,182	\$308,182	\$308,182	\$308,182	\$308,182	\$308,182	\$308,182	\$2,157,272
<b>TOTAL</b>	<b>\$2,509,838</b>	<b>\$8,462,959</b>	<b>\$8,798,664</b>	<b>\$10,674,971</b>	<b>\$6,504,145</b>	<b>\$2,877,331</b>	<b>\$308,182</b>	<b>\$40,136,090</b>

[●NTD: CMHC to obtain updated Schedule prior to closing.]

**SCHEDULE F  
ACTION PLAN**

**SCHEDULE G  
ANNUAL PROGRESS REPORTS**

<b>TO:</b> Canada Mortgage and Housing Corporation (“ <b>CMHC</b> ”)	<b>Borrower:</b> London & Middlesex Community Housing Inc. (the “ <b>Borrower</b> ”)
--	--

I, \_\_\_\_\_, the \_\_\_\_\_ of London & Middlesex Community Housing Inc., hereby certify as of \_\_\_\_\_:

- 1 I am familiar with and have examined the provisions of the credit agreement made as of [●] between London & Middlesex Community Housing Inc., as borrower, and CMHC, as lender, as amended to the date hereof (the “**Credit Agreement**”) and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of London & Middlesex Community Housing Inc. Terms defined in the Credit Agreement have the same meanings when used in this certificate.
  
- 2 The representations and warranties contained in the Credit Agreement are true and accurate in all material respects as of the date hereof.
  
- 3 No event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, an Event of Default.
  
- 4 The number of Subject Units is \_\_\_\_\_, so the Minimum Unit Count is satisfied, and as of the date hereof either (i) all of the Subject Units are occupied or available for occupancy and will be occupied or available for occupancy throughout the Repair Program Execution; or (ii) if all of the Subject Units are not occupied or available for occupancy or will not be occupied or available for occupancy throughout the Repair Program Execution, this is solely due to the Subject Units being temporarily vacant as a result of repair or renewal thereof and a tenant placement plan satisfactory to CMHC has been made by the Borrower so that any relocated tenant is not materially adversely impacted by the Repair Program Execution.
  
- 5 There are \_\_\_\_\_ Subject Units which are occupied or available for occupancy in the applicable fiscal year. For \_\_\_\_\_% of such Units, the average % of the Median Market Rental Rate of the rents thereof in respect of the applicable fiscal year is \_\_\_\_\_%.
  
- 6 The number of Repair Properties in respect of the applicable fiscal year in which access to all of the Subject Units and the common areas is barrier free and will meet or exceed the criteria identified in the Accessibility Criteria is \_\_\_\_\_. Consequently, the overall conversion count of the Subject Units that have become units that meet the Portfolio Accessibility Requirements in respect of the applicable fiscal year is \_\_\_\_\_.
  
- 7 The total amount of Repair Program Costs that have been expended by the Borrower (or that have been invoiced to the Borrower) in respect of Completed Work in the fiscal year is \$ \_\_\_\_\_ and cumulatively since the date of the Credit Agreement is \$ \_\_\_\_\_.
  
- 8 ***[I have reviewed the current Action Plan, Plans and Specifications, Repair Program Budget, Repair Schedule, the Repair Properties List and the Drawdown Schedule, including any amendments, supplements or replacements that have been made since the date of the Credit Agreement in accordance with the terms thereof,] OR [I have reviewed an updated [Action Plan], [Plans and Specifications], [Repair Program Budget], [Repair Schedule], [Repair Properties List] [and/or] [Drawdown Schedule], which has been mutually agreed and***



**approved by CMHC, is/are attached hereto as Appendix A,<sup>3</sup> and I confirm that they remain accurate as of the date hereof.**

- 9 ***[As at December 31, 2027 (as evidenced by the delivery of the annual financial reports and financial statements provided to CMHC pursuant to Section 13(a)(ii) and (c) in respect of the 2027 fiscal year), the aggregate outstanding principal amount of all Loans will not cause the CMHC funding proportion of the aggregate principal amount of all funding by CMHC, the Guarantor and other funding sources (pursuant to any Co-Investment Agreements or otherwise) of Repair Program Costs that the Borrower has expended or that have been invoiced to the Borrower in respect of only Completed Work under the Repair Program, to exceed the Maximum CMHC Funding Proportion.]<sup>4</sup>***
- 10 Any and all funds received from CMHC previously as advances under the Credit Agreement have been expended or are being held in trust solely for the purpose for which they were advanced and in accordance with the terms of the Credit Agreement.
- 11 The Quarterly Completion Reports delivered in connection with the Drawdown Notices delivered in this calendar year are true and accurate in all material respects.
- 12 All of the statements contained in this certificate are true, complete and accurate in all material respects as of the date hereof.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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<sup>3</sup> Note to Schedule G: Appropriate language to be selected at the time of delivery of the certificate.

<sup>4</sup> Note to Schedule G: To be included only in the final Annual Progress Report in the final year of the Repair Program.

**Appendix A**

**[Action Plan[and/or] [Repair Properties List] [and/or]]**

**[Drawdown Schedule]**

**SCHEDULE H  
INSURANCE REQUIREMENTS**

1 Scope Of Work – Insurance Consultant.

- (a) The Insurance Consultant should conduct an in-depth review of the project, including key document(s) in order to assess the risk and recommend adequate coverage for insurance. This may include, but is not limited to a review of:
  - (i) Project plans and specifications, construction schedule, project budget, professional reports (Geo-technical/Soil test report, environment assessment report etc.);
  - (ii) Construction contracts including sub-trades (as applicable), contractor/sub-contractor profile, claims history; and
  - (iii) Any other documentation, as required.
- (b) The Insurance Consultant should review CMHC's insurance requirements, as provided to them by the Borrower. This document outlines the types of insurance and riders that are required by CMHC.
- (c) The Insurance Consultant is expected to submit a report commenting on any key risks and recommending adequate insurance coverage (\$ policy limits) for the policies outlined in the CMHC insurance requirements, as provided to them by the Borrower. Any additional coverage types or riders that the Insurance Consultant deems applicable to the project should also be considered and included within the recommendation, along with a brief rationale.
- (d) The Insurance Consultant will engage with the Borrower and the insurance broker to ensure that the requirements are clearly communicated, request and review certificates of insurance, resolve issues (if any) and confirm that all recommended coverage is in place.
- (e) The Insurance Consultant will submit a report to CMHC and the same should comply with the below requirements:
  - (i) prepared and signed by an Insurance Consultant holding a Certificate in Risk Management (CRM) designation and/or Construction Risk and Insurance Specialist (CRIS) designation, and be in good standing with its governing body;
  - (ii) addressed to and delivered directly to CMHC, along with evidence of the Insurance Consultant's professional liability (errors and omissions) insurance;
  - (iii) include a summary confirming that the recommended coverage outlined in the report is sufficient for the size, location, and scope of the project being assessed;
  - (iv) include details of all applicable insurances, including but not limited to:
    - (A) limit(s) of insurance;
    - (B) policy period;
    - (C) named insured(s);
    - (D) insurer/ policy number;

- (E) coverages included;
- (F) deductible(s);
- (G) cancellation notice period; and
- (H) as applicable only with respect to any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, name CMHC as mortgagee and first loss payee or additional insured, as applicable;

(v) include copies of the certificate(s) of insurance.

2 Insurance During Repair Program. From the date hereof until completion of the Repair Program (unless otherwise specified below), the Credit Parties shall maintain or cause to be maintained with insurance companies acceptable to CMHC:

- (a) all risks builder's (including coverage against the perils of earthquake, flood, testing and commissioning Hard and Soft Costs) coverage written on the latest edition of the CCDC approved form for the full replacement cost of each Repair Property or, as applicable, each Mortgaged Property, excluding land costs. Such insurance shall:
  - (i) only in the case of Repair Properties, include a soft cost endorsement in an amount of not less than 25% of total Soft Costs;
  - (ii) name the Credit Parties as first named insured thereunder and name all others required to be named under any of the Material Repair Program Documents, including architects, engineers, consultants, contractors, sub-contractors and trades of every tier as additional insureds;
  - (iii) as applicable only with respect to the insurance associated with any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, name CMHC as mortgagee and first loss payee or additional insured, as applicable, and have attached the standard Insurance Bureau of Canada mortgage clause;
  - (iv) in the case of boiler and machinery insurance, have limits of not less than the replacement value of the equipment forming part of the work (and the insurance coverage shall not be less than the insurance provided by a comprehensive boiler and machinery policy);
  - (v) contain a waiver by the insurer or insurers of all rights of subrogation or indemnity or any other claim to which such insurer or insurers might otherwise be entitled against CMHC; and
  - (vi) otherwise be in such form as CMHC shall require or as required under any of the Material Repair Program Documents;
- (b) wrap-up liability insurance written on the latest edition of the CCDC approved form with a minimum combined single limit of liability of not less than \$25,000,000 per occurrence. Such insurance shall:
  - (i) name the Credit Parties as first named insured and CMHC as an additional insured and name all others required to be named under any of the Material Repair

Program Documents, including architects, engineers, consultants, contractors, sub-contractors and trades of every tier as additional insureds;

- (ii) contain a waiver by the insurer of all rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled against CMHC and others to whom the Credit Parties have granted such waivers under any of the Material Repair Program Documents;
  - (iii) contain a cross-liability clause and a severability of interests clause; and
  - (iv) otherwise be in such form as CMHC shall require or as required under any of the Material Repair Program Documents.
- (c) Commercial Automobile Insurance with limits of not less than \$5,000,000 combined single limit per accident for bodily injury (including death), statutory accident benefits and property damage per occurrence.
- (d) Worker's compensation coverage for all employees engaged in the Repair Program in accordance with the statutory requirement of the province or territory in which the Repair Program is being executed.
- (e) Contractor's environmental liability insurance with a limit of not less than \$5,000,000 inclusive, providing coverage for, but not limited to bodily injury (including death) and property damage arising out of pollution conditions caused while working at the sites of other, sudden and gradual pollution, on-site and off-site clean-up costs and completed operations. Only in the case of any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, CMHC is to be added as an additional insured and policy shall contain a cross liability clause. If the policy is written on a claims-made basis, coverage must be in place for a period of at least 24 months after the completion or termination of the agreement.
- (f) Contractor's equipment insurance coverage covering equipment used by the Credit Parties for the performance of the work, coverage is to be on a replacement cost basis or shall be in a form acceptable to CMHC.
- (g) Errors and omissions liability (also known as Professional Liability) insurance and maintain it in force throughout the duration of the agreement, in an amount usual for a contract of this nature but for not less than \$2,000,000 per loss and in the annual aggregate, inclusive of defence costs; if the policy is written on a claims made basis, coverage must be in place for a period of at least 24 months after the completion or termination of the agreement.

3 Operating Insurance. So long as any amounts are due under this Agreement or the Operating Agreement is in force the Credit Parties shall, in relation to each Repair Property, maintain or cause to be maintained all risks insurance on a 100% replacement cost basis, mechanical breakdown, business interruption 12 month indemnity period, general liability insurance and such other insurance in form and in such amounts and with such deductibles as are customary in the case of owners of properties similar to each Repair Property and in any event as are acceptable to CMHC. As applicable only with respect to the insurance associated with any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, CMHC shall be named as first mortgagee and first loss payee or additional insured, as applicable, under such policies.

4 Other Conditions

- (a) All insurance required to be maintained by the Credit Parties in respect of any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, pursuant to Sections 1 to 3 above, shall provide that no cancellation or termination thereof, for any reason whatsoever, shall take effect unless the insurer concerned has given CMHC not less than 30 days prior written notice of such proposed action.
- (b) The Credit Parties shall provide written notice to CMHC forthwith upon learning that an insurer described in this Schedule intends to cancel, or intends to make or has made a material change to, any insurance referred to in this schedule.
- (c) The Credit Parties will provide, at CMHC's request, detailed certificates of insurance or a certified copy of the insurance policy for all policies required hereunder to be purchased and maintained by the Credit Parties in a form acceptable to CMHC.
- (d) It shall be the sole responsibility of the Credit Parties to decide whether or not any other insurance coverage, in addition to the Insurance Requirements stipulated herein, is necessary for its own protection or to fulfill its obligations.
- (e) CMHC shall be entitled to require the Credit Parties to maintain coverage of such other risks and perils as CMHC may from time to time consider advisable or desirable and in respect of which insurance coverage may be available.

5 Proceeds of Insurance. With regard to the insurance described in Sections 1 to 3 above in respect of any Mortgaged Properties so long as any amounts are due under this Agreement or the Operating Agreement is in force, subject to the terms of any Permitted Encumbrances and Material Repair Program Documents having priority over the Encumbrances granted pursuant to the Security Documents, the following shall apply:

- (a) So long as no Default or Event of Default has occurred and is continuing, the proceeds of all such insurance (other than workers' compensation insurance, errors and omissions insurance and third party liability insurance which may be remitted to the Credit Parties without condition or further action by CMHC) shall be dealt with as follows:
  - (i) If the total amount of such proceeds equals or exceeds \$500,000, they shall be payable directly into an escrow account of CMHC as designated by CMHC (which account shall be subject to the security interest created by the Security Documents) to be disbursed by CMHC on a monthly basis against receipts payable in not more than 30 days for expenses incurred in repairing the damage or destruction or replacing property in respect of which the insurance is payable and otherwise in accordance with the customary disbursement procedures utilized by CMHC in such case, for release by CMHC to the Credit Parties to be applied by the Credit Parties in repairing the damage or destruction or replacing property in respect of which the insurance is payable upon receipt of:
    - (A) a certificate of an officer of the Credit Parties stating that the proceeds of such insurance together with other funds held or arranged by the Credit Parties are sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
    - (B) a letter of undertaking of the Credit Parties to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and

- (C) evidence satisfactory to CMHC that the proceeds of insurance together with the other funds held or arranged by the Credit Parties will be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
  - (ii) The proceeds of any business interruption insurance shall be payable to the Credit Parties to be applied on account of ongoing obligations of the Credit Parties under the Loan Documents or in respect of each Mortgaged Property as the same fall due from time to time.
  - (iii) The proceeds of all insurance held by CMHC shall, unless and until the same are applied or released to the Credit Parties as aforesaid, constitute continuing collateral security for the obligations of the Credit Parties under the Loan Documents (other than the Guarantee).
  - (iv) If the total amount of such proceeds is less than \$500,000, they shall be released to the Credit Parties subject to delivery of the documents set out in Sections 5(a)(i)(A), (B) and (C).
- (b) If an Event of Default has occurred and is continuing:
- (i) The proceeds of all insurance other than workers' compensation insurance, errors and omissions insurance and third party liability insurance shall be payable to CMHC to be applied by it, at its option, in reduction of the amounts outstanding under the Loan Documents or released by CMHC to the Credit Parties upon receipt of:
    - (A) an officer's certificate of each of the Credit Parties stating that the proceeds of such insurance together with other funds held or arranged by the Credit Parties are sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
    - (B) a letter of undertaking of the Credit Parties to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and
    - (C) evidence satisfactory to CMHC that the proceeds of insurance together with the other funds held or arranged by the Credit Parties will be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
  - (ii) The proceeds of any business interruption insurance shall be payable to CMHC to be held by CMHC as additional collateral security for the obligations of the Credit Parties under the Loan Documents (other than the Guarantee), to be applied on account of ongoing obligations of the Credit Parties under the Loan Documents or in respect of each Mortgaged Property as the same fall due from time to time and, to the extent of any surplus, firstly to arrears of such payments and thereafter, if CMHC has opted to release proceeds of insurance to the Credit Parties pursuant to and in accordance with Section 5(a)(i), then the balance of the proceeds of business interruption insurance shall be payable to the Credit Parties, failing which the balance, if any, remaining after application of such proceeds as aforesaid shall be paid to CMHC as partial prepayment of the Loan.

The proceeds of all insurance held by CMHC shall, unless and until the same are applied or released to the Credit Parties as aforesaid, constitute continuing collateral security for the obligations of the Credit Parties under the Loan Documents (other than the Guarantee)..



**SCHEDULE I  
REPAIR PROGRAM BUDGET**

See attached

**SCHEDULE J  
CONFIDENTIALITY AND ANNOUNCEMENTS**

**1 Confidentiality**

- (a) None of the terms or substance of the Loan Documents nor any discussion with CMHC in connection with the Loan Documents and the due diligence, shall be disclosed, directly or indirectly, by the Credit Parties to any other person or entity, except with CMHC's prior written consent and except as outlined in this Schedule J.
- (b) In order to allow the Credit Parties to seek other financing in the event that the Credit Parties do not already have such monies/support in place, this letter may be disclosed to any existing or potential investors of the Credit Parties (including other levels of government such as provinces, territories or municipalities and their respective entities) and to their respective officers, directors, employees, attorneys, agents, accountants, advisors, controlling persons and equity holders who are directly involved in the consideration of the Repair Program on a need to know and confidential basis, but the details of the Agreement are otherwise confidential.
- (c) The Credit Parties have been advised that as a Crown Corporation, CMHC is subject to federal legislation, including the *Access to Information Act* (Canada) and the *Privacy Act* (Canada) or other similar legislation. In certain specific circumstances, information submitted to CMHC may be required to be disclosed pursuant to federal legislation. In such cases, to the extent reasonably possible, CMHC will make efforts to advise the Credit Parties of the required disclosure prior to releasing the information. CMHC acknowledges that the Guarantor is a municipality and is subject to provincial legislation including the *Municipal Freedom of Information and Protection of Privacy Act*, the *Municipal Act*, or other similar legislation. In certain specific circumstances, information submitted to the Guarantor may be required to be disclosed pursuant to provincial legislation. In such cases, to the extent reasonably possible, the Guarantor will make efforts to advise CMHC of the required disclosure prior to releasing the information.
- (d) The Credit Parties agree that the information submitted to or collected by CMHC in connection with the Credit Parties' application to the Program and the transactions contemplated hereunder may be used or disclosed for the following purposes:
  - (i) to assess the Credit Parties eligibility for the funding requested under the Program;
  - (ii) to assess the Credit Parties application, including for prioritization of applications received;
  - (iii) to communicate to the Credit Parties possible opportunities under other National Housing Strategy programs;
  - (iv) to communicate to the Credit Parties possible collaboration opportunities with external parties;
  - (v) for information verification and due diligence purposes, including to detect and protect CMHC from errors and fraud;
  - (vi) for any purpose related to the provision of CMHC funding or mortgage loan insurance generally, where applicable;
  - (vii) for analytics, policy analysis, data analysis, auditing and research by CMHC;

- (viii) for evaluation and efficient administration of the Program and the National Housing Strategy; and
  - (ix) for use by CMHC and the Government of Canada for any purpose (ix) related to the *National Housing Act* (Canada).
- (e) CMHC and parties engaged on its behalf or collaborating with CMHC to administer the Program, where applicable, are authorized to process and store such information and disclose it, on a need to know basis, to the office of the Minister responsible for CMHC, the Government of Canada, and provinces, territories or municipalities that may invest in, or otherwise provide support for, the Credit Parties' Repair Program or otherwise collaborate with CMHC, for the purposes outlined in Section 1(d) of this Schedule J.
  - (f) If the Credit Parties receive the Loans, then CMHC, the Minister for CMHC, the Government of Canada and any other provinces, territories or municipalities that invest in, or otherwise provide support for, the Credit Parties' Repair Program shall have the right to publicize details of the Repair Program, the funding assistance and the name of the successful Credit Parties. The Credit Parties confirm their consent to the disclosure of this information.

## 2 **Announcements**

- (a) No announcement or public disclosure relating to the Loan Documents may be made prior to receiving written approval from CMHC.
- (b) If the Credit Parties plan to publish any reports and/or materials relating to the Repair Program or aspects of the Repair Program supported by the Loans, the Credit Parties shall
  - (i) notify CMHC in writing of any such publication at least fifteen (15) business days prior to such publication and
  - (ii) if so requested by CMHC in writing, acknowledge CMHC's financial support of the Repair Program or aspects of the Repair Program in such publication in the following manner:
 

“This project received financing from Canada Mortgage and Housing Corporation (CMHC); however, the views expressed are the personal views of the author and CMHC accepts no responsibility for them / Ce projet est financé en partie par la Société canadienne d' hypothèques et de logement (SCHL), cependant, les opinions exprimées sont les opinions personnelles de l' auteur et la SCHL n' accepte aucune responsabilité pour ces opinions.”
- (c) If requested by CMHC, the Credit Parties shall publicly acknowledge the making of the Loans in a manner acceptable to CMHC, acting reasonably, which may include the erection of one or more signs at the Repair Properties with the name and logo of CMHC and/or the federal government in a form approved by CMHC.
- (d) If requested by CMHC, the Credit Parties agree to participate in surveys and other research approaches such as case studies conducted by CMHC or its agents, in respect of the Repair Program, the Program and Canada's National Housing Strategy.
- (e) CMHC acknowledges that the Guarantor has notified and advised CMHC of its intention to place the Credit Agreement, the Guarantee, the Operating Agreement and the Certificate of Officer on the public Council agenda attached to a public report regarding the Repair Program and the Loan Documents; the submission deadline for this public report is November 1, 2021 at 9 a.m. ET. CMHC acknowledges that the Guarantor is subject to open meeting requirements under the section 239 of the *Municipal Act*, 2001. CMHC will advise the Guarantor of any concerns.

**OPERATING AGREEMENT**

**THIS AGREEMENT** made as of [●], 2021.

**BETWEEN:**

**CANADA MORTGAGE AND HOUSING CORPORATION**

(hereinafter referred to as “**CMHC**”)

**OF THE FIRST PART;**

- and -

**LONDON & MIDDLESEX COMMUNITY HOUSING INC.**

(hereinafter referred to as the “**Borrower**”)

**OF THE SECOND PART;**

- and -

**THE CORPORATION OF THE CITY OF LONDON**

(hereinafter referred to as the “**Guarantor**”, with the Borrower and the Guarantor being referred to herein collectively as the “**Credit Parties**” and each of them being referred to herein as a “**Credit Party**”)

**OF THE THIRD PART.**

**WHEREAS** pursuant to Section 95 of the National Housing Act (the “**Act**”), CMHC may make a loan to any person to assist with the payment of capital costs of housing projects and determine the terms and conditions on which it makes such loan;

**AND WHEREAS** the Borrower is an eligible loan borrower under the National Housing Co-investment Fund (the “**Program**”), which is administered by CMHC as part of Canada’s National Housing Strategy, and the Borrower is taking one or more Loans from CMHC under the Program to assist with the financing of the Repair Program;

**AND WHEREAS** pursuant to the requirements of the Program, the Credit Parties have entered into a credit agreement with CMHC dated as of [●] (as amended, restated, modified or supplemented from time to time, the “**Loan Agreement**”);

**AND WHEREAS** pursuant to the requirements of the Program, the Credit Parties have entered into certain Co-Investment Agreements;

**AND WHEREAS** it is a condition of the Loans that, *inter alia*, the Repair Program be established, maintained and operated in compliance with the terms and conditions set forth herein and in the Loan Agreement, including certain affordability, energy efficiency and accessibility requirements;

**AND WHEREAS** the parties wish to enter into this Agreement regarding the operation of the Repair Program by the Credit Parties;

**NOW THEREFORE** in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**Article 1**  
**Definitions, Interpretation and Common Terms**

- 1.1 Except as otherwise set out herein, the terms defined in Schedule A of the Loan Agreement shall have the same meanings where used in this Agreement.
- 1.2 Except as otherwise set out herein, the Common Terms as set out in the Loan Agreement shall apply to this Agreement as if set out in full again here, with such changes as are appropriate to fit context.

**Article 2**  
**Confirmation of Recitals and Acknowledgement  
of Fundamental Purpose and Obligations**

- 2.1 The parties hereby confirm and acknowledge that the statements contained in the foregoing recitals are true and complete in all respects.
- 2.2 Each Credit Party is entering into this Agreement and the Loan Agreement to establish, maintain and operate the Repair Program as affordable rental housing which consists of a total of two thousand and eighty two (2,082) units within 13 buildings located in the City of London, of which the rents for a minimum of 50% of such units which are occupied or available for occupancy in a fiscal year will not exceed 50% of the Median Market Rental Rate, and facilities ancillary thereto for the Term (as defined below) of this Agreement and acknowledges that its fundamental purpose in doing so and in fully performing its obligations in compliance with the terms and conditions of this Agreement is to benefit the public interest by achieving long-term social outcomes which are of fundamental importance to the federal government of Canada and CMHC, including the following:
- (a) the repair and renewal of existing affordable Housing Units and facilities ancillary thereto;
  - (b) the maintenance of the affordability of the Housing Units within the Repair Program;
  - (c) the reduction of the energy consumption and greenhouse gas emissions of the Repair Properties; and
  - (d) the increased accessibility of Housing Units and common areas within the Repair Properties.
- 2.3 Each Credit Party acknowledges that the intention to bind the Credit Parties and the operation of the Repair Program to the fundamental purpose referred to in Section 2.2 arises out of the extraordinary nature of the Loan(s) made to the Borrower and other funding or support provided to the Credit Parties under the Co-investment Agreement as part of the Program.
- 2.4 Each Credit Party further acknowledges that CMHC would not have provided the Loan(s) had the Credit Parties not made a commitment to comply with the terms and conditions set forth herein for the duration of the Term.

**Article 3  
Term**

- 3.1 This Agreement shall become effective on the date hereof and, unless terminated earlier in accordance with Section 8, shall continue in force for the full Social Housing Covenant Period (the “**Term**”).

**Article 4  
Representations And Warranties**

- 4.1 The representations and warranties given by each Credit Party in Section 12 of the Loan Agreement are hereby incorporated by reference, are true and correct as of the date hereof and will be deemed to be repeated on each date of delivery to CMHC of an annual program criteria compliance report pursuant to Section 13(a)(ii) of the Loan Agreement (incorporated by reference pursuant to Article 6 hereof) for the duration of the Term.

**Article 5  
Covenants Regarding The Repair Program**

- 5.1 The covenants applicable to the Credit Parties set forth in Section 14 of the Loan Agreement are hereby incorporated by reference and shall apply *mutatis mutandis* for the duration of the Term.

**Article 6  
Reporting Covenants**

- 6.1 The reporting covenants set forth in Sections 13(a)(ii), 13(c), 13(d) and 13(e) of the Loan Agreement are hereby incorporated by reference and shall apply *mutatis mutandis* for the duration of the Term.

**Article 7  
Transfers**

- 7.1 The parties hereto acknowledge that no Credit Party may make any Disposition, or permit any Disposition to be made, of the Repair Program, the Repair Properties or any part thereof or interest therein, during the term of the Loan Agreement other than in compliance with the Loan Agreement. Furthermore, during the Term of this Agreement, no Credit Party shall make any Disposition, or permit any Disposition to be made, of the Repair Program, the Repair Properties or any part thereof or interest therein without first obtaining from the party to whom a Disposition is made (a “**Transferee**”) a written assumption agreement with CMHC (an “**Assumption Agreement**”), wherein such Transferee agrees with CMHC to be bound by Section 14(b) of the Loan Agreement (which is incorporated by reference herein pursuant to Section 5.1) and to be bound by such other terms, covenants and conditions as may be required by CMHC in its sole and absolute discretion, such Assumption Agreement to be in form and substance acceptable to CMHC in its sole and absolute discretion.
- 7.2 The decision to release any Credit Party from any obligations in connection with the Repair Program, the Repair Properties or any part thereof or interest therein in relation to any Disposition shall be in CMHC’s sole and absolute discretion.

**Article 8  
Termination**

- 8.1 Where CMHC is satisfied in its sole and absolute discretion that the Repair Program will not be proceeding under the Program, this Agreement may be terminated by written notice to the Credit Parties.

- 8.2 Furthermore, CMHC may, in its sole and absolute discretion, terminate this Agreement for any other reason upon notice in writing to the Credit Parties of no less than two (2) weeks, during which time the Credit Parties may make representations on such matters and their effect on the eligibility of the Credit Parties to receive financial assistance or other benefits from CMHC. CMHC may require the Credit Parties to enter into an agreement requiring the Credit Parties to rectify any matter which CMHC deems necessary for the Credit Parties to maintain their eligibility for financial assistance under the Program or other benefits from CMHC.

#### **Article 9 Indemnity**

- 9.1 The indemnity provisions set forth in Section 17 of the Loan Agreement are hereby incorporated by reference and shall apply *mutatis mutandis* for the duration of the Term and shall survive and remain in full force and effect in accordance with their terms, notwithstanding (a) the termination of this Agreement; and/or (b) the termination of the Loan Agreement and/or the repayment, satisfaction or discharge of any obligations of any Credit Party under the Loan Agreement or any other Loan Document.

#### **Article 10 Remedies**

- 10.1 The rights set out herein shall be without limitation, and shall be in addition to all other rights and remedies of CMHC otherwise available under any other provision of the Loan Documents, by operation of law, at equity or otherwise (including, without limitation, damages, disgorgement of profits and/or remedies of seizure, injunction and specific performance notwithstanding the termination of this Agreement), all of which are hereby expressly preserved, all of which rights shall be cumulative. Furthermore, each Credit Party acknowledges and agrees that:
- (a) in the event of default under this Agreement, CMHC, the Program, other affordable housing providers, the broader affordable housing sector and the public interest will sustain harm, the extent of which cannot be pre-determined or remedied through compensation; and
  - (b) all costs and expenses, including the fees of appraisers, advisors, consultants and lawyers, associated with enforcing CMHC's rights under the Loan Documents shall be at the cost of the Credit Parties.

#### **Article 11 Counterparts; Electronic Approvals**

- 11.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Delivery by facsimile, electronic mail or other electronic transmission of an executed counterpart of a signature page to this Agreement (including in PDF form) shall be effective as delivery of an original executed counterpart of this Agreement.

**[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**

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

**CANADA MORTGAGE AND HOUSING CORPORATION**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

Address: 700 Montreal Road, Ottawa, ON  
K1A 0P7

Email: [nhs-contracting@cmhc.ca](mailto:nhs-contracting@cmhc.ca)

*We have authority to bind CMHC.*

**LONDON & MIDDLESEX COMMUNITY HOUSING INC.**

By: \_\_\_\_\_

Authorized Signing Officer

Name:

Address:

Email:

*[I] / [We] have authority to bind the Borrower.*

**THE CORPORATION OF THE CITY OF LONDON**

By: \_\_\_\_\_

Authorized Signing Officer

Name:

Address:

Email:

*[I] / [We] have authority to bind the Guarantor.*



**Schedule A**  
**Repair Properties**

**GUARANTEE**

**THIS GUARANTEE** is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021

**BETWEEN**

**THE CORPORATION OF THE CITY OF LONDON**  
hereinafter referred to as the “**Guarantor**”

**OF THE FIRST PART**

- and –

**CANADA MORTGAGE AND HOUSING CORPORATION**  
hereinafter referred to as the “**Lender**”

**OF THE SECOND PART**

**WHEREAS** the Lender has agreed to make certain credit facilities available to London & Middlesex Community Housing Inc. (the “**Borrower**”) upon the terms and conditions contained in a credit agreement among the Borrower, the Guarantor and the Lender dated as of the date hereof (such credit agreement, as it may at any time or from time to time hereafter be amended, restated, supplemented, otherwise modified or replaced, the “**Loan Agreement**”);

**AND WHEREAS** as a condition precedent to any advance under the Loan Agreement, the Guarantor is required to provide the Lender with a Guarantee that provides a guarantee of all of the Guaranteed Obligations (as such term is defined below);

**AND WHEREAS** the Guarantor is a municipality and the sole shareholder of the Borrower and will from time to time directly benefit from the credit facilities provided to the Borrower under the Loan Agreement;

**NOW THEREFORE** in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Guarantor, agrees with the Lender as follows:

1. **Definitions.** In this Guarantee, including the recitals herein, capitalized terms used but not defined shall have the respective meanings ascribed to such terms in the Loan Agreement and the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:
  - (a) “**Guarantee**” means this Guarantee, as amended, restated, supplemented, otherwise modified or replaced from time to time;
  - (b) “**Guaranteed Obligations**” means, collectively (i) all debts and liabilities, present or future, direct or indirect, absolute or contingent, due or to become due, matured or not, at any time owing by the Borrower to the Lender under or in connection with the Loan Agreement and the other Loan Documents, including (without limitation) all future advances, re-advances, extensions, renewals or amendments of such debts or liabilities, all interest and fees and all legal and other costs, charges and expenses of the Lender relating thereto or under or in

connection with the Loan Agreement or any other Loan Document and (ii) all other present and future covenants, agreements, terms, conditions and other obligations (whether direct or indirect, absolute or contingent, due or to become due, matured or not) of whatever nature to be performed and observed by the Borrower under or in connection with the Loan Agreement and the other Loan Documents;

- (c) “**Indemnified Person**” has the meaning set out in Section 3;
- (d) “**Proceeding**” has the meaning set out in Section 3;
- (e) “**Section**” means a section or paragraph of this Guarantee; and
- (f) “**Security**” means any security held by the Lender as security for payment of the Borrower’s debts and obligations under the Loan Documents and includes, among other things, any and all guarantees (including this Guarantee).

## 2. **Guarantee.**

- (a) The Guarantor hereby unconditionally and irrevocably guarantees for the benefit of the Lender as a primary and independent obligation by way of a continuing guarantee, the due and punctual payment and performance of the Guaranteed Obligations.
- (b) The obligation of the Guarantor to pay the total amount of the Guaranteed Obligations and all other amounts payable by it to the Lender under this Guarantee (and to perform or cause the performance of all other Guaranteed Obligations) arises, and the Guarantor shall make such payments (and shall perform or cause the performance of such other Guaranteed Obligations), immediately after demand for same is made in writing to it by the Lender (and without any requirement of evidence that the Borrower has failed to pay or perform any or all of the Guaranteed Obligations). In addition, the Guarantor shall pay to the Lender, immediately after written demand therefor is made to the Borrower by the Lender, all costs, charges and expenses incurred by the Lender in collecting and enforcing this Guarantee, including legal fees and disbursements. The unpaid portion of all amounts payable by the Guarantor under this Guarantee shall bear interest from the date of demand therefor, both before and after judgment and default, at the rate or rates then applicable to the Guaranteed Obligations under, and calculated in the manner provided in, the Loan Agreement (including any adjustment to give effect to the provisions of the *Interest Act* (Canada)). The Guarantor hereby waives promptness, diligence, presentment, demand of payment, notice of acceptance and any other notice with respect to this Guarantee and the Guaranteed Obligations, except for demand pursuant to this Section 2(b)
- (c) To facilitate the performance of the obligations of the Guarantor under this Section 2 (but not as a condition to such performance), the Lender shall copy the Guarantor on any notice of any default given to the Borrower under the Loan Agreement; provided, for the avoidance of doubt, that, in the event of failure to give any such notice at such time, the amounts guaranteed hereunder and any other amounts payable by the Guarantor hereunder shall not be reduced or

otherwise prejudiced in any manner whatsoever by reason of any such failure (or any delay in giving any such notice) or for any other reason or by any other matter, act, omission, circumstance or other thing of any nature, kind or description, other than due payment and performance in full of all of the Guaranteed Obligations. Furthermore, to facilitate the performance of the obligations of the Guarantor under this Section 2 (but not as a condition to such performance), the Borrower shall notify the Guarantor if at any time any Guaranteed Obligation has not been fulfilled when and as due.

### 3. **Indemnities.**

- (a) The Guarantor irrevocably and unconditionally agrees to indemnify and hold harmless the Lender, and any of its officers, directors, employees, controlling persons, members and representatives, and any of its successors (each of the foregoing, an “**Indemnified Person**”) from and against any and all losses, claims, damages, liabilities, fees, costs and expenses (including fees and disbursements of legal counsel, accounting advisors, receivers and other advisors, together with any interest that may accrue) connected with or arising out of:
- (i) the preparation, execution and delivery of, preservation of rights under, or refinancing, renegotiation or restructuring of, the Loan Documents and the Lender’s rights and remedies thereunder and at law and any related amendment, waiver or consent;
  - (ii) the enforcement of rights and remedies of the Lender in respect of any Credit Party under the Loan Documents, the PPSA or at law;
  - (iii) any of the provisions of the Loan Agreement or any other Loan Document being or becoming void, voidable, unenforceable or invalid;
  - (iv) a default (whether or not constituting an Event of Default) by the Borrower under the Loan Agreement and any enforcement proceedings relating to the Loan Documents;
  - (v) any representation or warranty made or deemed to be made by the Borrower (or any of its officers) in or in connection with any of the Loan Documents or other instrument or document delivered thereunder, which was incorrect in any material respect when made or deemed made or delivered;
  - (vi) the failure by the Borrower to perform or observe any of its covenants, duties or obligations under any of the Loan Documents or other instrument or document delivered thereunder;
  - (vii) any proceedings brought against the Indemnified Person or in which the Indemnified Person otherwise participates due to its entering into or being a party to any of the Loan Documents, or by reason of its exercising or performing, or causing the exercising or performance of, any right, power or obligation under the Loan Documents;

- (viii) any loss suffered or incurred by an Indemnified Person as a result of the failure of Borrower to make a payment or a mandatory repayment in the manner and at the time specified in any of the Loan Documents; and
- (ix) the failure of any Credit Party to comply with all Environmental Laws and any losses suffered by such Indemnified Person for, in connection with, or as a direct or indirect result of, the presence of any Hazardous Material situated in, on or under or migrating from or to the Properties, or as a direct or indirect result of, any legal or administrative proceedings with respect to the presence of any Hazardous Material in, on or under, migrating from or to the Properties (for the avoidance of doubt, without limitation, any buildings), or the discharge, emission, leak, spill, radiation or disposal by any Credit Party of any Hazardous Material into or upon the Properties (for the avoidance of doubt, without limitation, any buildings), the atmosphere, or any watercourse or body of water; including the costs (including legal and professional fees on a full indemnity basis) of defending and/or counterclaiming or claiming against third parties in respect of any action or matter and any cost, liability or damage arising out of a settlement entered into by the Indemnified Person of any such action or matter,

whether individual, joint and several, or otherwise, to which any such Indemnified Person may become subject arising out of or in connection with this Guarantee, any other Loan Document or any actual or threatened claims, actions, suits, inquiries, litigation, investigation or proceeding (any such claims, actions, suits, inquiries, litigation, investigation or proceeding, a **"Proceeding"**) relating to any of the foregoing, regardless of whether any such Indemnified Person is a party thereto; provided that none of the Lender or any other Indemnified Person, the Guarantor, and any of such Person's respective affiliates, or the respective directors, officers, employees, advisors, and agents of any of the foregoing, shall be liable for any indirect, special, punitive or consequential damages in connection with this Guarantee or any other Loan Document; and provided further that, that the foregoing shall not apply to indemnify obligations with respect to damages of such type suffered by a third party and for which an indemnitee may be or become liable. This indemnity is independent of and in addition to any right the Lender may have to seek recovery of costs in any litigation that may result in respect of this Guarantee or any other Loan Document, and shall form part of the liability and obligations of the Guarantor hereunder. A certificate as to the amount of any loss submitted in good faith by the Lender to the Guarantor shall be conclusive and binding for all purposes, absent manifest error.

- (b) The Guarantor also agrees to pay (or, at the discretion of such Indemnified Person, reimburse) each such Indemnified Person promptly upon demand for any reasonable fees of legal counsel, court costs, fees of expert witnesses, and other reasonable fees, costs or expenses incurred in connection with investigating or defending any of the foregoing or in connection with the enforcement of any provision of this Guarantee, provided that the indemnity will not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or related expenses to the extent that they are found in a court of competent

jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnified Person.

- (c) The Guarantor will not, without the prior written consent of each applicable Indemnified Person, effect any settlement of any pending or threatened Proceedings in respect of which indemnity could have been sought hereunder by such Indemnified Person unless such settlement (i) includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such Proceedings, (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person, and (iii) includes customary confidentiality and non-disparagement agreements.
  - (d) The indemnity obligations contained in this Section 3 shall survive and remain in full force and effect in accordance with their terms, notwithstanding the termination of this Guarantee and/or the Loan Agreement and/or the repayment, satisfaction or discharge of all obligations under any Loan Document.
  - (e) The Guarantor acknowledges that neither its obligation to indemnify nor any actual indemnification by it of the Lender or any other Indemnified Person in respect of such Person's losses for legal fees and expenses shall in any way affect the confidentiality or privilege relating to any information communicated by such Person to its counsel.
4. **Governing Law.** This Guarantee is governed by and shall be construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein (without reference to the choice of law rules). The Guarantor agrees that any legal suit, action or proceeding arising out of this Guarantee may be instituted in the courts of Ontario sitting in Toronto, Ontario, and the Guarantor accepts and irrevocably submits to the non-exclusive jurisdiction of said courts and acknowledges their competence and agrees to be bound by any judgment thereof. The Guarantor irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Guarantee in any court referred to in this Section 4. The Guarantor waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Nothing in this Guarantee shall affect any right that the Lender may otherwise have to bring any action or proceeding against the Guarantor or its assets in the courts of any jurisdiction.
5. **Copy Received.** The Guarantor acknowledges having received and reviewed a copy of the Loan Agreement.
6. **Notices.** Any demand, notice or other communication to be given in connection with this Guarantee shall be given in accordance with the provisions of the Loan Agreement.
7. **No Setoff or Counterclaim.** The Guarantor will make all payments required to be made under this Guarantee without regard to any right of set-off or counterclaim that it has or may have against the Borrower or the Lender.

8. **Application of Moneys Received.** The Lender may in its sole discretion apply all moneys received from the Guarantor, the Borrower or any other Person (including under any Security that the Lender may from time to time hold) upon such part of the Guaranteed Obligations as the Lender considers appropriate.
9. **Exhausting Recourse.** The Lender need not seek or exhaust its recourse against the Borrower or any other Person or under any Security that the Lender may from time to time hold before being entitled to full payment and performance from the Guarantor under this Guarantee.
10. **Absolute Liability.** The Guarantor's liability and obligations under this Guarantee are absolute and unconditional. The liability and obligations of the Guarantor under this Guarantee will not be limited or otherwise affected, nor will the Lender be responsible or owe any duty (as a fiduciary or otherwise) to the Guarantor, nor will the Lender's rights under this Guarantee or otherwise be prejudiced, by any law, regulation, matter, act, omission, circumstance or other thing of any nature, kind or description which but for this provision might operate to affect such liability or obligations, including:
  - (a) any illegality or lack of validity or enforceability of the Loan Documents or any other agreement between the Borrower and the Lender relating to the advance of moneys to the Borrower or any other agreement or instrument relating thereto;
  - (b) any termination, invalidity, unenforceability or release by the Lender of any of its rights against the Borrower or against any other Person or of any Security;
  - (c) any increase, reduction, renewal, substitution or other change in, or discontinuance of the terms relating to the Borrower's indebtedness or the Guaranteed Obligations or to any credit extended by the Lender to the Borrower; any agreement to any proposal or scheme of arrangement concerning, or granting any extensions of time or any other indulgences or concessions to, the Borrower or any other Person; any taking or giving up of any Security; abstaining from taking, perfecting or registering any Security; allowing any Security to lapse (whether by failing to make or maintain any registration or otherwise); or any neglect or omission by the Lender in respect of, or in the course of, doing any of these things;
  - (d) accepting compositions from or granting any other amendment or waiver of or any consent to departure from the Loan Agreement or any other agreement between the Borrower, the Guarantor or the Lender relating to the advance of money to the Borrower or any other agreement or instrument relating thereto or granting releases or discharges to the Borrower or any other Person, or any other dealing with the Borrower or any other Person or with any Security that the Lender considers appropriate;
  - (e) any unenforceability, non-perfection or loss of or in respect of any Security held from time to time by the Lender from the Guarantor, the Borrower or any other Person, whether the unenforceability, non-perfection or loss is due to the means or timing of any registration, disposition or realization of any collateral that is the subject of that Security or otherwise due to the Lender's fault or any other reason or any irregularity or defect in the manner or procedure by which the Lender realizes on such Security;

- (f) any change in the Borrower's name or in the Borrower's articles, by-laws or other constating documents; or any reorganization or change in the status, function, control or ownership whether by way of amalgamation, merger, transfer, sale, lease or otherwise of the Borrower or the Borrower's business (in which case this Guarantee shall apply to the Guaranteed Obligations of the resulting entity or business and the term "Borrower" shall include such resulting Person and business);
- (g) any change in the Guarantor's financial condition or that of the Borrower or any other guarantor of the Guaranteed Obligations (including insolvency and bankruptcy);
- (h) if the Guarantor or the Borrower is a corporation, any change in effective control;
- (i) any bankruptcy, winding up, liquidating, dissolution, arrangement or insolvency of the Borrower, the Guarantor or any other Person, or any event, whether or not attributable to the Lender, that may be considered to have caused or accelerated the bankruptcy, winding up, liquidating, dissolution, arrangement or insolvency of the Borrower or any guarantor, or to have resulted in the initiation of any such proceedings;
- (j) the Lender's filing of any claim for payment with any administrator, provisional liquidator, conservator, trustee, receiver, custodian or other similar officer appointed for the Borrower or for all or substantially all of the Borrower's assets;
- (k) any incapacity, disability, or lack or limitation of status or of the power of the Borrower or of the Borrower's directors, managers, officers, partners or agents; the discovery that the Borrower is not or may not be a legal entity; or any irregularity, defect or informality in the incurring of any of the Guaranteed Obligations;
- (l) any equities between the Lender, the Guarantor or the Borrower or any defence or right of set-off, compensation, abatement, combination of accounts or cross-claim that the Guarantor or the Borrower may have or, to the extent permitted by applicable law, any other circumstances which might otherwise constitute a defence available to, or a discharge of, the Borrower in respect of the Guaranteed Obligations or of the Guarantor in respect of this Guarantee;
- (m) any contest by the Borrower, the Guarantor or any other Person as to the amount of the Guaranteed Obligations, the validity or enforceability of any term of the Loan Agreement or the priority of any Security;
- (n) the assignment of all or any part of the benefits of this Guarantee;
- (o) any non-disclosure to the Guarantor by the Lender, the Borrower or any other Person of any matter (whether now existing or arising hereafter) relating in any way to the Guaranteed Obligations or the liability of the Guarantor hereunder, including without limitation any material change in circumstances or any act or omission of the Lender referred to in this Section 10 or Section 17; and



- (p) any other circumstances which might otherwise constitute a defence available to, or a discharge of, the Guarantor, the Borrower or any other Person in respect of the Guaranteed Obligations or this Guarantee,

it being the intent of the Guarantor that liability to the Lender under this Guarantee shall be absolute and unconditional under any and all circumstances and shall not be discharged except by the indefeasible payment and performance in full of the Guaranteed Obligations. The Lender shall not be concerned to see or enquire into the powers of the Borrower or its directors, officers, managers or other agents, acting or purporting to act on its behalf, and moneys, advances, renewals or credits in fact borrowed or obtained from the Lender in professed exercise of such powers shall be deemed to form part of the Guaranteed Obligations, notwithstanding that such borrowing or obtaining of moneys, advances, renewals or credits shall be in excess of the powers of the Borrower or its directors, officers, managers or other agents, or be in any way irregular, defective or informal.

11. **Statement Conclusive.** Any account settled or stated by or between the Lender and the Guarantor, or if any such account has not been settled or stated immediately before demand for payment under this Guarantee, any account stated by the Lender shall, in the absence of manifest mathematical error, be accepted by the Guarantor as *prima facie* evidence of the amount of the sums which are due by the Guarantor to the Lender or remains unpaid by the Guarantor to the Lender hereunder.

12. **The Lender's Priority.**

- (a) If any payment made to the Lender by the Borrower or any other Person is subsequently rescinded, rendered void or must otherwise be returned for any reason (including upon any insolvency, bankruptcy, arrangement or reorganization of the Borrower or otherwise), that will not affect the Guarantor's liability under this Guarantee and this Guarantee shall continue to be effective or be reinstated, as the case may be, all as though such payment had not been made. Until all of the Lender's claims against the Borrower in respect of the Guaranteed Obligations have been indefeasibly paid and performed in full, the Guarantor will have no right of subrogation in respect of payments made to the Lender, and the Guarantor will not require that the Lender (and the Lender will not be obligated to) assign to the Guarantor any Security held, or any other rights that the Lender may have, in connection with the Guaranteed Obligations, and the Guarantor will not assert any right of contribution against any Guarantor for any payment that the Guarantor makes under this Guarantee.

- (b) If the Borrower is in receivership or bankrupt, or (if the Borrower is a corporation) liquidated or wound up, or if the Borrower makes a bulk sale of any assets under applicable law, or if the Borrower proposes any composition or compromise with creditors or any scheme of arrangement, or in any similar proceedings, the Lender will have the right to rank for its full claims and will be entitled to all dividends and other payments until the Lender is paid in full, and the Guarantor will remain liable under this Guarantee and if any amount shall be paid to the Guarantor in connection with any such proceeding at any time when all of the Guaranteed Obligations have not been fully satisfied, such amount shall be held in trust for the benefit of the Lender and forthwith paid to the Lender to be credited against the Guaranteed Obligations.

- (c) If the Lender gives to any trustee in bankruptcy or receives a valuation of, or retains, any Security that the Lender holds for payment of the Guaranteed Obligations, that will not be considered, as between the Lender and the Guarantor, to be a purchase of such Security or payment, satisfaction or reduction of the Guaranteed Obligations.
13. **Withholding Taxes.** Unless otherwise required by applicable law, the Guarantor will make all payments under this Guarantee without deduction or withholding for any present or future taxes, charges or withholdings of any kind.
14. **Judgment Currency.** The Guarantor's liability to pay the Lender in a particular currency (the "**First Currency**") will not be discharged or satisfied by any tender or recovery under any judgment expressed in or converted into another currency (the "**Other Currency**") except to the extent the tender or recovery results in the Lender's effective receipt of the full amount of the First Currency so payable. Accordingly, the Guarantor will be liable to the Lender to recover in the Other Currency the amount (if any) by which that effective receipt falls short of the full amount of the First Currency so payable, without being affected by any judgment obtained for any other sums due.
15. **Consent to Disclose Information.** The Lender may from time to time give any credit or other information about the Guarantor to, or receive such information from, any credit bureau, reporting agency or other Person.
16. **Insolvency; Re-organization or other Events.** None of the Guaranteed Obligations will be limited, lessened or released, nor will this Guarantee be discharged, by the recovery of any judgment against the Borrower or any other Person (other than in respect of funds actually received by the Lender in indefeasible repayment of any of the Guaranteed Obligations), by any liquidation, dissolution, winding-up, merger or amalgamation of the Borrower, the Guarantor or any other Person, by any sale or disposition of all or substantially all of the assets of the Borrower, or by any receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or other proceedings affecting the Borrower, the Guarantor or any other Person. If at any time the Lender has the right to accelerate payment of moneys owed to it under the Loan Agreement, and such acceleration is prevented or delayed by reason of the insolvency, bankruptcy, arrangement or reorganization of the Borrower, any moratorium affecting the payment of the Guaranteed Obligations or for any other reason with respect to the Borrower, the Guarantor agrees that for the purposes of this Guarantee all such amounts with respect to the Guaranteed Obligations under the terms of any of the Loan Documents will be deemed to have been accelerated and the Guarantor will forthwith pay or cause to be paid to the Lender all such amounts without further notice or demand.
17. **Dealing with the Borrower and Others.** The obligations and liabilities of the Guarantor hereunder shall not be released, discharged, limited or in any way affected by anything done, suffered or permitted by the Lender in connection with the moneys advanced by the Lender to the Borrower or any Security thereof, including any loss of or in respect of any Security received by the Lender from the Borrower or others, any increase in liability of the Borrower to the Lender, or by any other matter, act, omission, circumstances or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Guaranteed Obligations. Without limiting the generality of the foregoing, it is agreed that the Lender may, without releasing, discharging, limiting or

otherwise affecting in whole or in part the Guarantor's obligations and liabilities under this Guarantee, (i) grant time, renewals, extensions, indulgences, releases or discharges to the Borrower, (ii) release, discharge, compromise or otherwise deal with or allow any creditor of the Borrower or the Guarantor or any other Person to deal with any and all collateral, mortgages or other Security given by the Borrower or any third party, (iii) do, or omit to do, anything to enforce the payment or performance of any of the Guaranteed Obligations or take or abstain from taking Security or collateral from the Borrower or any other Person or to perfect or abstain from perfecting any security interest, (iv) vary, increase, compromise, exchange, renew, discharge, release, subordinate, postpone, abandon or otherwise deal with any of the Borrower's indebtedness and obligations or any security interest, or (v) otherwise deal with the Borrower and all other Persons and Security as the Lender may see fit.

18. **Waiver.** No amendment or waiver of any provision of this Guarantee will be binding on the Lender unless consented to in writing and signed by the Lender. No waiver of any provision of this Guarantee will constitute a waiver of any other provision, nor will any waiver of any provision of this Guarantee constitute a continuing waiver unless otherwise expressly provided. Any waiver by the Lender of the strict performance or compliance with any provision herein contained will not be a waiver of any subsequent default. No waiver will be inferred from or implied by any failure to act or delay in acting by the Lender in respect of any default or by anything done or omitted to be done by the Guarantor. The rights and remedies of the Lender under this Guarantee are cumulative and not alternative and any single or partial exercise by the Lender of any right or remedy will not be deemed to be a waiver of or to affect or prejudice any other rights or remedies to which the Lender may be lawfully entitled. Such rights and remedies are in addition to and not in substitution for any rights or remedies provided by applicable law.
19. **Interest Act.** The Guarantor acknowledges that certain of the rates of interest applicable to the Guaranteed Obligations may be computed on the basis of a year of 360 days or 365 days, as the case may be, and paid for the actual number of days elapsed. For the purposes of the *Interest Act* (Canada), the yearly rate of interest to which any rate calculated on the basis of a period of time different from the actual number of days in the year (360 days, for example) is equivalent to the stated rate multiplied by the actual number of days in the year (365 or 366, as applicable) and divided by the number of days in the shorter period (360 days, in the example), and the parties hereto acknowledge that there is a material distinction between the nominal and effective rates of interest and that they are capable of making the calculations necessary to compare such rates and that the calculations herein are to be made using the nominal rate method and not on any basis that gives effect to the principle of deemed reinvestment of interest
20. **Miscellaneous:**
- (a) All monetary amounts in this Guarantee, unless otherwise specifically indicated, are stated in Canadian currency.
  - (b) The Guarantor may not assign any of its rights or benefits under this Guarantee, or delegate any of its duties or obligations, without the prior written consent of the Lender.

- (c) The Guarantor shall not exercise any rights which it may at any time have by reason of the performance of any of its obligations under this Guarantee to (i) be indemnified by the Borrower, (ii) claim contribution from any other guarantor of the debts, liabilities or obligations of the Borrower, or (iii) take the benefit of any rights of the Lender under any of the Loan Documents.
- (d) This Guarantee is in addition and without prejudice to and supplemental to all other guarantees and security interests held or which may hereafter be held by the Lender.
- (e) This Guarantee will be binding upon and enforceable against the Guarantor and its successors and permitted assigns, and will enure to the benefit of and be enforceable by the Lender and its successors and assigns.
- (f) The Guarantor will, from time to time hereafter and upon reasonable request of the Lender, promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things as may be required or necessary for purposes of giving effect to this Guarantee.
- (g) The Guarantor acknowledges and agrees that the Lender may demand payment in accordance with this Guarantee and commence proceedings against the Guarantor in respect of any claim pursuant to this Guarantee at any time after demand has been made while any of the Guaranteed Obligations remain unpaid, notwithstanding any limitation period under the *Limitations Act, 2002* (Ontario) or any other applicable law or regulation and, to the fullest extent permitted by applicable law, all limitation periods under such Act or other applicable law are hereby expressly excluded. For greater certainty, the Guarantor acknowledges that this Guarantee is a "business agreement" within the meaning of the *Limitations Act, 2002* (Ontario).
- (h) Time shall be of the essence of this Guarantee.
- (i) If any provision of this Guarantee is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable that provision will be severed from this Guarantee and the remaining provisions will continue in full force and effect, without limitation.
- (j) This Guarantee and all documents contemplated by or delivered under or in connection with this Guarantee may be executed and delivered by pdf, facsimile or other electronic format in any number of counterparts, and all counterparts will be construed together to be an original and will constitute one and the same instrument.

***[Signature page follows]***

CRM No.: 6280559

**THE CORPORATION OF THE CITY OF LONDON**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

*I/We have authority to bind the Guarantor.*

**CANADA MORTGAGE AND HOUSING CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Address:

700 Montreal Road

Ottawa, ON K1A 0P7

Email: [nhs-contracting@CMHC.ca](mailto:nhs-contracting@CMHC.ca)

*We have authority to bind CMHC.*

THE CORPORATION OF THE CITY OF LONDON

CERTIFICATE OF OFFICER

TO: Canada Mortgage and Housing Corporation (“**CMHC**”)

AND TO: Cohen Highley LLP

I, [**OFFICER NAME**], the [**OFFICER ROLE**] of The Corporation of the City of London (the “**Municipality**”), certify for and on behalf of the Municipality, intending that the same may be relied upon by you without further enquiry, as follows:

- 1 I have reviewed such books and records of the Municipality and such other documents and have made such inquiries and investigations as I consider necessary or advisable for the purpose of verifying the matters set out below. This certificate is being given in connection with the credit agreement dated \_\_\_\_\_ (the “**Loan Agreement**”) between the Municipality, London & Middlesex Community Housing Inc. and CMHC. Capitalized terms used in this certificate without definition have the meanings specified in the Loan Agreement.
- 2 The Municipality has not taken any steps to terminate or change its existence or amalgamate. The Municipality has not received any notice or other communication from any governmental authority or other person of (a) any proceeding to terminate its existence, or (b) any situation which, unless remedied, could result in such termination.
- 3 The Municipality (a) is not bankrupt, an insolvent person, in insolvent circumstances or on the eve of or in contemplation of insolvency, as applicable, within the meaning of the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) or similar laws affecting creditors’ rights generally (“**Insolvency Statutes**”); (b) will not become an insolvent person or be put in insolvent circumstances, as applicable, within the meaning of any Insolvency Statute by entering into, or immediately after completing the transactions contemplated by, the Loan Agreement; and (c) no acts or proceedings have been taken by or against the Municipality in connection with, the Municipality has not received any notices or other communications in respect of, and the Municipality is not in the course of, any dissolution, bankruptcy, receivership or reorganization.
- 4 Attached as Exhibit A is a true and complete copy of the by-law passed by The Municipal Council of The Corporation of the City of London (the “**Council**”) at its meeting held on [●] and constituting, inter alia, authority for the Municipality to enter into the Loan Agreement and the other Loan Documents to which it is a party, to execute and deliver the Loan Documents to which it is a party, and to otherwise to complete the transactions contemplated in the Loan Documents (the “**Transaction By-law**”).
- 5 The Transaction By-law was passed by the Council, is in full force and effect, and has not been amended. The Transaction By-Law is the only actions of the Council dealing with the transactions that are the subject matter of the Transaction By-Law.
- 6 The persons identified in Exhibit B occupy the position or positions set out opposite their respective names, and each such person is authorized to execute and deliver agreements on behalf of the Municipality. Exhibit B also includes the genuine signatures of each of the persons who have signed it. Attached as Exhibit C-1 is a true and complete copy of the bylaw appointing such persons to such positions (the “**Appointment By-Law**”). Attached as Exhibit C-2 is a true

and complete copy of the City of London Official Municipal Election Results declaring Mayor Holder elected for the office of Mayor. The Appointment By-Law was duly enacted and has not been amended. There are no other actions that have been taken by the Council in respect of (i) the Appointment By-Law and (ii) the City of London Official Municipal Election Results declaring Mr. Edwin Anthony Holder elected for the office of Mayor, and Mr. Holder continues to be the Mayor of the Municipality.

- 7 The execution and delivery of the Loan Agreement and the Loan Documents to which the Municipality is a party and the performance by the Municipality of its obligations thereunder do not and will not constitute or result in a violation or a breach of, or a default under (a) its governing legislation and any constating documents; (b) the Transaction By-Law; (c) any agreement to which it is a party; or (d) any judgment, order or decree binding on it.
- 8 The Municipality has complied with all laws, obtained all approvals and made all filings required in connection with the transactions contemplated under the Loan Agreement and the other Loan Documents that are necessary in connection with each Project and required under the Loan Documents to be obtained or made on or prior to the date hereof, including all co-investment commitments, government authorizations and third party approvals (or in lieu of such co-investment commitments, government authorizations and third party approvals, has made arrangements reasonably satisfactory to and confirmed in writing by CMHC).
- 9 This certificate may be executed in any number of separate counterparts and all such signed counterparts will together constitute one and the same certificate. To evidence his or her execution of this certificate, an officer may send a copy of his or her signature on the execution pages hereof to the addressees hereof by facsimile or other means of recorded electronic transmission (including in PDF form) and such transmission shall constitute valid delivery of an executed copy of this certificate to the recipient.

**[remainder of page intentionally left blank]**

DATED as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

By:

\_\_\_\_\_

**[OFFICER NAME]**

Address:

Email:



**Exhibit A**  
**Transaction By-Law**

**Exhibit B**  
**Incumbency**

<b>Name</b>	<b>Title</b>	<b>Signature</b>

**Exhibit C-1**

**Appointment By-Law: [Name of Officer]**

## **Exhibit C-2**

### **City of London Official Municipal Election Results**