

## **CAPITAL PROJECT CONTRIBUTION AGREEMENT**

(25 William Street)

This Agreement dated as of the \_\_\_\_\_ day of June, 2024.

### **BETWEEN:**

#### **THE CORPORATION OF THE CITY OF BRAMPTON**

(hereinafter called the "**City**")

**-AND-**

#### **HABITAT FOR HUMANITY GREATER TORONTO AREA**

(hereinafter called the "**Recipient**")

### **RECITALS:**

- A. Subsection 107(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes municipalities to make grants for any purpose that the Council (as hereinafter defined) considers to be in the interests of the municipality.
- B. The Council considers the delivery of affordable housing to be in the interests of the City.
- C. The City received funding from Canada Mortgage and Housing Corporation ("**CMHC**") on behalf of the Government of Canada pursuant to its housing accelerator fund (the "**HAF**"), for the purposes of creating more supply of housing at an accelerated pace.
- D. The Recipient is undertaking a development project for the construction of twelve (12) stacked townhouse units substantially as shown on the Site Plan attached at Schedule "A" (the "**Project**") located at the property municipally known as 25 William Street, Brampton, Ontario, and legally described as Part of Lots 22 & 23, Plan BR24, being Part 1 on Plan 43R-40818; BRAMPTON, being all of PIN 14128-0419 (the "**Project Lands**"). A copy of the Recipient's marketing plan for the Project is attached hereto at Schedule "B".
- E. At a meeting of Council on November 1, 2023, a motion by Council was carried whereby (among other things):
  - (a) a budget amendment was approved and a new capital project be established to provide capital funding to the Recipient for the Project, with funding to be transferred and utilized from the HAF;
  - (b) the City's Treasurer was authorized into a contribution agreement with the Recipient, subject to Council's approval, to provide funding to the Recipient for the Project;
  - (c) that the Recipient be requested to prioritize Brampton residents and families for access to the Affordable Housing Units (as hereinafter defined), and that the Recipient be requested to report back to the City on the success of prioritizing Brampton residents and families into the homes within Project; and
  - (d) that the City Funding (as hereinafter defined) provided to the Recipient for the Project, which is used for the Project, be returned to the City for use on other affordable housing projects.

- (e) The equivalent of the development charges that the Project would attract is determined by the City to be \$379,590, and the City will therefore allocate \$379,590 from the HAF towards the City's development charges reserve for investment in housing and community related infrastructure.

**NOW THEREFORE** this Agreement witnesses that in consideration of the mutual covenants and agreements therein and the sum of Two Dollars (\$2.00), from the Recipient to the City, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

## **1. INTERPRETATION**

1.1 In this Agreement, unless the context requires otherwise, the following words and expressions have the following meanings:

- (a) **"Advance Request"** means a written request made by the Recipient for an advance of City Funding, in the form attached hereto as Schedule "D";
- (b) **"Advance Schedule"** means the schedule detailing when the City Funding will be advanced to the Recipient, as set forth in Schedule "C" hereto;
- (c) **"Affordable Housing Purchase Agreement"** means the agreement of purchase and sale entered into between the Recipient, as vendor, and an Affordable Purchaser, as purchaser to close on or prior to the Project Completion Date;
- (d) **"Affordable Housing Requirement"** means the requirement imposed by the City that each Affordable Housing Unit be sold by the Recipient to Affordable Purchasers for the duration of the Affordability Period, subject to the provisions of Section 7 hereof;
- (e) **"Affordable Housing Unit"** means a residential home or unit in the Project;
- (f) **"Affordable Purchaser"** means an individual purchaser of an Affordable Housing Unit, or collectively multiple individuals comprising a single-family unit or household that are purchasers of an Affordable Housing Unit, with a household income in or below Decile 6, subject to the following terms:
  - (i) an Affordable Purchaser must be an individual person or persons, and may not be a corporation or any other entity;
  - (ii) for the purposes of determining whether a person or household of persons is an Affordable Purchaser, their household income shall be based on their reported taxable income to the Canada Revenue Agency for the calendar tax year immediately preceding the date of their entering into of a purchase agreement with the Recipient for the purchase of an Affordable Housing Unit, as compared to the Deciles most recently published by the City;
  - (iii) is a Canadian citizen and/or a permanent resident of Canada under the *Immigration and Refugee Protection Act*, S.C. 2001, C. 27; and
  - (iv) qualifies under the Recipient's homeownership program for an Affordable Housing Unit.
- (g) **"Affordability Period"** has the meaning ascribed to it in Section 7.2 hereof;

- (h) **“Agreement”** means this Agreement and the attached schedules which embody the entire agreement between the Parties;
- (i) **“Applicable Laws”** means all statutes, laws, by-laws, regulations, ordinances, orders, policies, guidelines and requirements of applicable Governmental Authorities having jurisdiction in force from time to time;
- (j) **“Available Funds on Closing”** has the meaning ascribed to it in Section 7.7(a) hereof;
- (k) **“Brampton Resident”** means a person that is a resident of the City of Brampton, or works primarily within the City of Brampton for an employer that is located within the City of Brampton;
- (l) **“Brampton Residency Requirement”** means the requirement imposed by the City that one hundred percent (100%) of the Affordable Housing Units in the Project be sold to Affordable Purchasers that were Brampton Resident(s) at the time they entered into an agreement to purchase an Affordable Housing Unit from the Recipient, subject to the provisions of Section 8 hereof;
- (m) **“Business Day”** means Monday to Friday inclusive, other than a day that is observed as a statutory or civic holiday by the City;
- (n) **“Buy-Back Mechanism”** has the meaning ascribed to it in Section 7.2 hereof;
- (o) **“City Delay”** means, in relation to the Project and all City required permits and approvals in relation thereto, and delay of the City in issuing such permits and approvals beyond the current average and expected time of such permits and approvals, provided that any such delay does not relate to any extent to any act, omission or error by the Recipient or any of its authorized agents or employees;
- (p) **“City Funding”** has the meaning ascribed to it in Section 3.1 hereof;
- (q) **“Claims”** means any and all costs, losses, damages, expenses, injury and liability whatsoever which the City may suffer from claims, demands, suits, actions, or any other proceedings, including all legal fees and disbursements;
- (r) **“CMHC”** has the meaning ascribed to it in the Recitals hereof;
- (s) **“Commissioner”** means the Commissioner of Planning, Building and Growth Management of the City, or the Commissioner’s delegate;
- (t) **“Contractor”** means a contractor engaged by the Recipient (including the Recipient) for work relating to the Project, whether for construction or otherwise, and includes all subcontractors of any contractor engaged by the Recipient for work relating to the Project;
- (u) **“Council”** means the council of the City;
- (v) **“DC Allocation”** has the meaning ascribed to it in the Recitals hereof;
- (w) **“Decile”** or **“Deciles”** means the City’s affordability thresholds for income, as published or determined by the City from time to time, generally annually and based on household incomes from census data and adjusted for inflation;
- (x) **“Development and Sale Activities”** means those activities which are normally undertaken for the development, construction, repair, renovation, rehabilitation or

conversion and sale of buildings or units for residential purposes as new homes under the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31;

- (y) **“Effective Date”** means that date that this Agreement has been fully executed by all Parties;
- (z) **“EPA”** means the *Environmental Protection Act*, R.S.O. 1990, c.E.19;
- (aa) **“Event of Default”** has the meaning ascribed thereto in Section 15.1 hereof;
- (bb) **“Fair Market Value”** means the highest price that a willing purchaser would pay for an Affordable Housing Unit if sold in an arm’s length transaction and not subject to any affordability requirements set out herein;
- (cc) **“Force Majeure”** means a delay arising from strike, lockout, riot, insurrection, terrorism, war, fire, tempest, act of God, pandemic, epidemic, inclement weather, binding orders or regulations of applicable Governmental Authorities, courts or arbitrators or any other event beyond the control of the City or the Recipient, and which is not reasonably foreseeable at the time of this Agreement, which causes a delay in the fulfillment of either Party’s obligations under this Agreement notwithstanding its reasonable efforts and provided that any such non-availability or delay does not relate to any extent to any act or omission by either Party or any of its authorized agents or employees;
- (dd) **“GAAP”** mean, with respect to the Recipient, generally accepted accounting principles consistently followed through prior fiscal periods as given effect to in previous financial statements of the Recipient;
- (ee) **“Governmental Authority”** shall mean the City in which the Project Lands are located, together with any provincial, federal or other governmental authority or agency having jurisdiction over the Project Lands and **“Governmental Authorities”** means more than one (1) of them;
- (ff) **“Habitat Homeownership Program Terms”** means the Recipient’s then current affordable homeownership program with respect to the provision of the Affordable Housing Units to Affordable Purchasers during the Term, which shall include substantially those concepts outlined in Schedule “G” attached hereof, including without limitation, a Buy-Back Mechanism by the Recipient;
- (gg) **“HAF”** has the meaning ascribed to it in the Recitals hereof;
- (hh) **“Indemnified Parties”** means the City, CMHC, and the Government of Canada, and their respective officers, directors, elected officials, partners, agents, employees volunteers, insurers, advisors, consultants and servants, successors and assigns;
- (ii) **“Information”** has the meaning ascribed to it in Section 5.1(h) hereof;
- (jj) **“Market Purchaser”** has the meaning ascribed thereto in Section 7.7(a) hereof;
- (kk) **“Market Sale”** has the meaning ascribed thereto in Section 7.6 hereof;
- (ll) **“Material Change”** means an adverse change to the Project by the Recipient, which (i) reduces the number of Affordable Housing Units (ii) increases the timelines for the development of the Project by more than two (2) years from the dates set out herein and/or (iii) alters the planning approvals already granted by the City;

- (mm) **"MFIPPA"** means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56;
- (nn) **"Non-Resident Sale"** has the meaning ascribed to it in Section 8.2 hereof;
- (oo) **"Notice"** has the meaning ascribed to it in Section 21 hereof;
- (pp) **"Occupancy Date"** means the date on which an Affordable Purchaser is granted occupancy of their Affordable Housing Unit, pursuant to and in accordance with the Affordable Housing Purchase Agreement;
- (qq) **"OHSA"** means the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1;
- (rr) **"Party"** means the City or the Recipient and any reference to a Party includes its successors and permitted assigns; **"Parties"** means both the City and the Recipient;
- (ss) **"Permitted Use"** means the development and funding of the construction of the Affordable Housing Units in the Project or a use that the City is permitted to utilize the HAF pursuant to its agreement(s) with the Government of Canada and/or CMHC, as confirmed or approved by the City in writing from time to time;
- (tt) **"Person of Authority"** means any individual with the legislative power or control, to inspect, direct or otherwise enforce compliance with any Applicable Laws, including any Governmental Authority exercising its administrative and/or regulatory enforcement powers;
- (uu) **"Project"** has the meaning ascribed to it in the Recitals hereof;
- (vv) **"Project Completion"** means the full completion of all Development and Sales Activities for the Project, which shall be deemed to be the date that the last final closing for the sale of the Affordable Housing Units to an Affordable Purchaser occurs;
- (ww) **"Project Completion Date"** has the meaning ascribed to it in Section 6.2 hereof;
- (xx) **"Project Lands"** has the meaning set out above in the Recitals;
- (yy) **"Recipient's Records"** has the meaning ascribed to it in Section 13.1 hereof;
- (zz) **"Term"** has the meaning ascribed to it in Section 2.1 hereof; and
- (aaa) **"WSIA"** means the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, Sched. A.

1.2 The following schedules are attached to form part of this Agreement:

|              |   |  |
|--------------|---|--|
| Schedule "A" | - | Site Plan                                      |
| Schedule "B" | - | Marketing Plan                                 |
| Schedule "C" | - | Advance Schedule                               |
| Schedule "D" | - | Advance Request Form                           |
| Schedule "E" | - | Project Certificate                            |
| Schedule "F" | - | City of Brampton Certificate of Insurance Form |

- 1.3 All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.
- 1.4 The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.
- 1.5 This Agreement shall be read with all changes of gender and number required by the context.
- 1.6 In the event of a conflict or an inconsistency between any of the following documents, such documents shall be interpreted in accordance with the order of priority set out below:
- (a) the sections of the main body of the Agreement; then
  - (b) the sections of any schedule to the Agreement.

## **2. TERM**

- 2.1 The Parties agree that the term of this Agreement commences as of the Effective Date and shall continue in force until the expiry of the Affordability Period upon which it shall be deemed to automatically terminate (the "**Term**"), unless this Agreement is terminated earlier in accordance with the provisions hereof.
- 2.2 Notwithstanding the foregoing, the following provisions are intended to continue beyond the termination of this Agreement and shall survive the termination of this Agreement:
- (a) any obligations hereunder of the Recipient to repay any City Funding to the City pursuant to Section 3.4 hereof; and
  - (b) Sections 10, 14, 16 (to the extent the City is required to exercise default remedies in relation to an Event of Default occurring during the Term or the repayment of any City Funding per Section 3.4 hereof) 17, and 19 hereof.
- 2.3 Following expiry of the Affordability Period, the Affordable Housing Requirement and the Brampton Residency Requirement shall cease to be applicable to the Affordable Housing Units.

## **3. FUNDING AND PERMITTED USE**

- 3.1 Subject to and in accordance with the provisions of this Agreement, the City agrees to provide to the Recipient, and the Recipient agrees to accept from the City, funding assistance in the total amount of up to **\$1,541,054.00** (the "**City Funding**"), as a grant, to be used by the Recipient solely for the purposes of the Permitted Use, all in accordance with the terms of this Agreement.
- 3.2 If the Recipient intends to use the City Funding for any purpose other than the Permitted Use, then it must first seek prior written approval of the City.
- 3.3 The Recipient shall use the City Funding in accordance with the terms of this Agreement and solely for the Permitted Use, and for no other use or purpose, unless otherwise agreed to by the City in writing pursuant to Section 3.2 hereof.
- 3.4 Within sixty (60) days following Project Completion any City Funding provided to the Recipient for the Project that has not been utilized towards the Permitted Use shall be returned by the Recipient to the City. The amount of the City Funding to be repaid (if any) shall be based on the estimated

final costs, as determined by the Recipient. In the event of any disagreement between the Parties with respect to the repayment of any City Funding, such matter shall be dealt with pursuant to the dispute resolution mechanism outlined in Section 19 hereof.

#### **4. PAYMENT OF CITY FUNDING**

- 4.1 The City shall pay the City Funding to the Recipient, upon the terms and subject to the conditions as set out in this Agreement and at such time or times as are set out in the Advance Schedule attached as Schedule "C" hereof. The maximum amount of City Funding payable to the Recipient pursuant to this Agreement is **\$1,541,054.00**.
- 4.2 In order to initiate an advance of the City Funding, the Recipient must complete and deliver an Advance Request to the Commissioner in the form provided in Schedule "D" attached hereto. Notwithstanding the forgoing, an Advance Request shall not be required for advance #1 outlined in the Advance Schedule,
- 4.3 The City shall pay the City Funding to the Recipient in accordance with the Advance Schedule attached as Schedule "C" hereto provided that:
- (a) the Recipient has satisfied the applicable conditions for advances of the City Funding as set out in Section 11.1 hereof;
  - (b) the statements in the Advance Request (if required) are true and complete; and
  - (c) at the time of each advance, the Recipient is not in default of its obligations under this Agreement.

#### **5. REPRESENTATIONS AND WARRANTIES**

- 5.1 The Recipient represents and warrants that:
- (a) it is a duly incorporated not-for-profit corporation under the laws of Ontario or Canada;
  - (b) the board of directors of the Recipient has authorized the Recipient to enter into this Agreement and such authorization has not been withdrawn;
  - (c) it has the requisite power, authority, and capacity to execute, deliver and perform its obligations under this agreement and this Agreement constitutes a legal, valid, and binding obligation of the Recipient;
  - (d) it shall not alter, supersede or cancel its articles of incorporation, letters patent or other constating documents in any way which would affect its ability to perform its obligations under this Agreement, or its status as a not-for-profit corporation, during the Term, without the prior written consent of the City;
  - (e) no member of Council or the governing body of any municipal agency, board or commission of the City is or shall be entitled to any share or part of any contract, agreement or commission made pursuant to this Agreement or to any benefit arising therefrom;
  - (f) there are no actions, suits or proceedings pending or to the knowledge of the Recipient threatened against or adversely affecting the Recipient in any court or before or by any federal, provincial, municipal or other applicable Governmental Authority, which might materially affect the financial condition of the Recipient or the title to the Project Lands;

- (g) it will not make a Material Change to the Project from the plans and specifications for the Project which have been or may be approved by the City or other appropriate approving Governmental Authority, unless such alteration or change is approved in writing by the City or is a change that is necessitated by the City's own approvals for the zoning, planning and/or development of the Project;
- (h) to the best of its knowledge and belief, all information, representations, statements and declarations (collectively referred to as the "**Information**") furnished or to be furnished by or on behalf of the Recipient to the City for purposes of, or in connection with, this Agreement or any other transaction contemplated by this Agreement is or will be true and accurate in all material respects on the date as of which the Information is given and not incomplete by omitting to state any material fact necessary to make the Information not misleading at such time in light of then-current circumstances;
- (i) there is no fact now known to the Recipient which could reasonably be expected to have, a material adverse effect on the Project, or the Recipient's ability to complete the Project;
- (j) all financial data, which has been or shall be furnished to the City by or on behalf of the Recipient in connection with this Agreement have been or will be prepared in accordance with GAAP and do or will fairly present the financial condition and the results of the operations of the Recipient, and all other information, certificates, schedules, reports and other papers and data furnished by the Recipient are or will be at the time they are so furnished, accurate and complete in all material respects;
- (k) the Recipient has sources of funding, either committed or reasonably expected and achievable, sufficient to complete the entirety of the Project; and
- (l) for the duration of the Term, the Recipient will make reasonable commercial efforts to (i) ensure the sale of the Affordable Units to Affordable Purchasers pursuant to the Affordable Housing Requirement, subject to the provisions of Section 7 hereof and (ii) prioritize Brampton residents and families for access to the Affordable Housing Units pursuant to the Brampton Residency Requirement, subject to the provisions of Section 8 hereof.

5.2 The Recipient agrees that the City shall be entitled to rely at all times during the Term on the representations and warranties set out in this section and as otherwise set out in this Agreement.

5.3 The representations, warranties, and covenants contained in this Agreement shall be considered to be relied upon by the City and shall not merge and shall survive the execution and delivery of this Agreement and notwithstanding any investigations made by or on behalf of the City shall survive and continue in full force and effect during the Term of this Agreement.

## 6. DEVELOPMENT OF THE PROJECT

6.1 The Recipient agrees to undertake and diligently complete the Project in accordance with the terms of this Agreement, approvals and requirements of the City and other approval authorities and all Applicable Laws.

6.2 The Recipient shall, subject to Force Majeure or City Delay, achieve Project Completion by December 31, 2026, or such later date as may be approved by the City in writing (the "**Project Completion Date**").

6.3 In addition to the Project Completion deadline set out in Section 6.2 hereof, the Recipient shall proceed diligently with all Development and Sale Activities with an aim to achieve the following Project milestones by the following dates:



| <b>Milestone</b>                      | <b>Estimated Achievement Date</b> |
|---------------------------------------|-----------------------------------|
| Occupancy of Affordable Housing Units | May 2026                          |
| Closing of Sales                      | August 2026                       |

- 6.4 In the event that Force Majeure or City Delay delays the Recipient in performing or observing its obligations or complying with the conditions under this Agreement which the Recipient is required to satisfy by a specified date or within a specified period of time, including without limitation the Project Completion Date or the milestone dates for the Project outlined in Section 6.3 hereof, then, in such event, the date or period of time by or within which the Recipient is to perform, observe or comply will be extended by a period of time equal to the duration of the delay caused by the Force Majeure or City Delay.
- 6.5 If the Project is not completed by the Project Completion Date, for reasons not due to the negligence of the Recipient or any of its Contractors or Force Majeure, the Recipient shall be permitted to unilaterally extend the Project Completion Date for a period not exceeding twelve (12) months in the aggregate on Notice to the City, from time to time, without being deemed to be in default of this Agreement, in order to permit the Recipient sufficient time to obtain the benefit of the City Funding and to complete its obligations herein with respect to the Project. In such event, the Recipient shall provide written updates to the City regarding the details and the projected new date of Project Completion.
- 6.6 In performing any work and construction on the Project, the Recipient shall:
- (a) proceed at its own expense with all due diligence to completion and cause all work to be completed in a good and professional manner;
  - (b) carry out the development and construction of the Project in a diligent manner prior to the Project Completion Date, subject to the extension of the Project Completion Date outlined in Section 6.5 hereof and in accordance with the plans and specifications for the Project which have been or may be approved by the City or other appropriate approving Governmental Authority;
  - (c) disclose to the City, without delay, any factor or event that the Recipient is aware of from time to time, which may compromise the Recipient's ability to carry out and complete the Project on or before the Project Completion Date and notify the City of the exercise of the extension outlined in Section 6.5 hereof;
  - (d) construct the Project with care and in such a manner so as not to give rise to environmental claims against the Project;
  - (e) to the extent required, pay all required fees and levies and post all required security for the Project with municipal authorities having jurisdiction;
  - (f) make and process all necessary applications for the Development and Sales Activities of the Project including, without limitation, preparation of surveys and zoning, rezoning, official plan amendment, site plan, land division committee and severance applications, to the extent not already submitted and/or approved by the City that are deemed by the City to be necessary to permit the carrying out of the Project in compliance with Applicable Laws; and
  - (g) obtain all necessary permits and agreements related to the Project at its own expense, and convey all lands and easements required to be conveyed to the City or other third parties

in accordance with Project approvals and requirements set by the City pursuant to such approvals.

## **7. THE AFFORDABILITY PERIOD**

- 7.1 The Recipient shall initially enter into agreements of purchase and sale with Affordable Purchasers for the purchase and sale of the Affordable Housing Units to be completed on or prior to Project Completion.
- 7.2 The Recipient will commit to maintain as many of the units in the Project as it deemed is reasonable as Affordable Housing Units over the long term, through repurchasing the units and reselling same as Affordable Housing Units to Affordable Purchasers (the “**Buy-Back Mechanism**”) for a period of not less than twenty-five (25) years, commencing on the first Occupancy Date of the Affordable Housing Units (the “**Affordability Period**”) in order to satisfy the Affordable Housing Requirement and in accordance with the Habitat Homeownership Program Terms. The Recipient covenants and agrees that it shall use its reasonable commercial efforts to enforce its rights under the Habitat Homeownership Program Terms in order to comply with the Affordable Housing Requirement, subject to and in accordance with the terms of this Agreement, and subject to Sections 7.6 and 7.7 below.
- 7.3 The Recipient shall monitor the occupancy of each Affordable Housing Unit and be responsible for ensuring that the Affordable Housing Units are owner-occupied during the Affordability Period and are not rented on the secondary rental market, pursuant to its reporting requirements outlined in Section 12.4 hereof.
- 7.4 During the Affordability Period, the Parties acknowledge and agree that each purchaser of an Affordable Housing Unit must qualify as an “Affordable Purchaser” at the time the Affordable Housing Purchase Agreement is entered into with the Recipient, provided such purchaser shall not be required to requalify at the Occupancy Date or final closing of the Affordable Housing Unit.
- 7.5 During the Affordability Period, upon resale of any Affordable Housing Unit, each subsequent purchaser shall be required to qualify as an “Affordable Purchaser” pursuant to the then current affordable housing standards in effect at the time of such resale and subject to the occurrence of a Market Sale.
- 7.6 During the Affordability Period and pursuant to the Habitat Ownership Program Terms, in the event that the Recipient determines, in its sole and unfettered discretion, that it is not commercially viable to exercise the Buy-Back Mechanism for an Affordable Housing Unit, the Recipient shall, within fifteen (15) Business Days of such decision, provide Notice to the Commissioner of Planning at the City of its intention to allow the sale of such Affordable Housing Unit on the market for Fair Market Value (a “**Market Sale**”). The Commissioner shall respond to the Notice advising of an intended Market Sale within ten (10) days of receipt of Notice from the Recipient to confirm if the City has approved or denied the Market Sale. The failure of the City to respond within the ten (10) day period outlined aforesaid shall be considered deemed consent to the Market Sale and shall permit the Recipient to proceed with same. For clarity, in the event that the a Market Sale is approved pursuant to the foregoing, such sale shall (i) not require the Recipient to comply with the Affordable Housing Requirement

and the Brampton Residency Requirement, and (ii) not require the Recipient to provide notice of a Non-Resident Sale pursuant to Section 8.2 hereof.

7.7 Upon a Market Sale, subject to and in accordance with the Habitat Ownership Program Terms, the following shall occur:

- (a) the Recipient shall assist, provided that the Recipient shall not be required to incur any costs or fees in the provision of such assistance, each Affordable Purchaser, as seller of the Affordable Housing Unit in the marketing of the unit with a view to achieving a sale at Fair Market Value from a third party purchaser (the “**Market Purchaser**”). The Market Sale shall be completed as a transaction between the owner of the Affordable Housing Unit and the Market Purchaser. Any funds received by the Recipient from the Market Sale pursuant to the Habitat Homeownership Program Terms are hereinafter referred to as the “**Available Funds on Closing**”;
- (b) the Available Funds on Closing shall be distributed, at the option of the Commissioner, either:
  - (i) entirely to the Recipient to be re-invested in the Affordable Housing Units in the Project or within the City of Brampton; or
  - (ii) to the City and the Recipient, as follows (A) to the City in the amount equal to the portion of the City Funding attributed to the specific Affordable Housing Unit, until fully paid, which portion of repayment shall be determined by the Recipient, acting reasonably, and evidence of such amounts submitted to the City along with the repayment and (B) any excess Available Funds on Closing to be distributed to the Recipient.

7.8 From the Effective Date and throughout the Term, the Recipient will assign a representative of the Recipient to act as a liaison with City staff for the purposes of this Agreement.

## **8. BRAMPTON RESIDENCY REQUIREMENT**

- 8.1 Throughout the Affordability Period, the Recipient shall comply with and satisfy the Brampton Residency Requirement, including for any resale of an Affordable Housing Unit pursuant to the Buy-Back Mechanism, subject to Sections 8.1 and 8.2 below.
- 8.2 Notwithstanding Section 8.1, in the event that the Recipient determines, acting reasonably, that it is not commercially viable to sell an Affordable Housing Unit to a Brampton Resident, the Recipient shall, within fifteen (15) Business Days of such decision, provide Notice to the Commissioner of Planning at the City of its intention to allow the sale of such Affordable Housing Unit to a person that is not a Brampton Resident (a “**Non-Resident Sale**”). The Commissioner shall respond to the Notice advising of an intended Non-Resident Sale within ten (10) days of receipt of Notice from the Recipient to confirm if the City has approved or denied the Non-Resident Sale. The failure of the City to respond within the ten (10) day period outlined aforesaid shall be considered deemed consent to the Non-Resident Sale and shall permit the Recipient to proceed with same.
- 8.3 Notwithstanding Section 8.1 hereof, the Parties acknowledge that sales for the Project have already commenced as of the Effective Date, and the City hereby permits the Recipient to

make sales of a portion of the Affordable Units, during the first and initial sale of the Affordable Units only, to up to four (4) Affordable Purchasers that are not Brampton Residents.

## **9. INSURANCE**

- 9.1 The Recipient shall obtain and maintain property, building, business and liability insurance (as applicable) on the Project, and on all lands and business operations that are owned or operated by the Recipient, in form and amount as would be maintained by a prudent land and business owner in similar circumstances, and in a form and amount that that is satisfactory to the City.
- 9.2 Without limiting the above, the Recipient shall maintain commercial general liability insurance on the following terms:
- (a) Commercial general liability insurance in respect of the obligations and operations of the Recipient against claims for bodily injury, including personal injury and death, and property damage or loss, indemnifying and protecting the Recipient, its respective employees, servants, volunteers and agents to the inclusive limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence, or such higher limit as the City from time to time may require.
  - (b) Such insurance shall remain in full force and effect at all times throughout the Term of this Agreement, which insurance shall be provided by a financially sound and reputable insurance company licensed to underwrite insurance in the Province of Ontario.
  - (c) Such insurance shall specifically state by its wording or by endorsement that the City, the Government of Canada and CMHC are each included as an additional insured under the policy with respect to the operations of the Recipient, and the obligations of the Recipient as outlined in this Agreement.
- 9.3 Within ten (10) Business Days of entering into this Agreement, the Recipient shall deliver to the City a City of Brampton Certificate of Insurance Form, in the form attached to this Agreement as Schedule "F", evidencing the required insurance, completed and signed by an authorized representative of the insurer.

## **10. REQUIREMENTS UNDER THE WSIA, OHSA AND EPA**

- 10.1 The Recipient shall comply and cause all of its Contractors to comply with all applicable provisions and requirements of the WSIA and OHSA and the obligations outlined in this Section 10.
- 10.2 At any time during the Term of this Agreement, the Recipient shall, when reasonably requested by the City, provide reasonable evidence of compliance by its Contractors with respect to the WSIA and OHSA, and failure to provide satisfactory evidence shall result in payment being held by the City until satisfactory evidence has been received by the City.
- 10.3 The Recipient shall be responsible for construction safety at the Project and for compliance with the rules, regulations, and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the work.
- 10.4 The Recipient's or the Recipient's prime Contractor shall be designated as "constructor" under the OHSA on the Project and thereby assume all liabilities and obligations imposed on a "constructor" by the OHSA.
- 10.5 Without limiting the foregoing, the Recipient acknowledges that it is aware of the provisions of the OHSA and the EPA, policies and guidelines thereunder and agrees to comply with, and cause to

be complied with, the provisions thereof as such statutes, regulations, policies and guidelines including but not limited to, all of the obligations of the constructor and employer under the OHSA and regulations, as applicable, in respect of the Project and any obligation to obtain any approval or permit required under the EPA, policies and guidelines thereunder in respect of the Project and further agrees to handle and dispose of all materials in accordance with such legislation.

- 10.6 The Recipient shall do, cause to be done or refrain from doing any act or thing as directed by a Person of Authority if at any time the Person of Authority considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of the OHSA, the EPA. If the Recipient fails to comply with said direction, the provisions with respect to an Event of Default outlined in Sections 15 and 16 hereof shall apply.
- 10.7 Notwithstanding the foregoing, the act or failure to act by the City shall not in any way derogate from the responsibility of the Recipient under the Project and this Agreement, including the obligation under this Section 10, subject to Section 18.4 hereof.
- 10.8 The Recipient shall indemnify and hold harmless the Indemnified Parties, from and against any and all Claims which the Indemnified Parties may become liable or suffer, arising as a result of any violation or alleged violation of the OHSA, WSIA or EPA in relation to the Project Lands or the operations, actions or omissions of the Recipient.
- 10.9 The Recipient shall ensure that any contractor engaged for the Project comply with the foregoing conditions.

## **11. CONDITIONS**

- 11.1 Without limiting anything contained in Section 4 (Payment of City Funding) of this Agreement, the obligation of the City to advance the City Funding under this Agreement shall, unless waived in writing by the City or not required for a particular advance, be subject to the following conditions:
  - (a) there not being any current Event of Default that has not been cured;
  - (b) there not being any liens, notices of non-compliance or other like title registrations relating to violations or non-compliance on title to the Project Lands, and there not being any work orders or violations issued against the Project Lands by any applicable Governmental Authority;
  - (c) the Recipient having paid all realty taxes for the Project Lands;
  - (d) the Recipient having provided proof of insurance in accordance with Section 9 for the Project;
  - (e) with respect to advance #1 outlined in the Advance Schedule, the following additional conditions must be satisfied:
    - (i) the Recipient providing the City with an up to date and comprehensive development schedule including the construction start date and the estimated Project Completion Date; and
    - (ii) the Recipient providing the City with copies of its article of incorporation and a certified board resolution authorizing the execution of this Agreement;
  - (f) with respect to any advance of City Funding, except for advance #1 outlined in the Advance Schedule, the Recipient having provided proof of achievement of the applicable milestone as set forth in the Advance Schedule, as acceptable to the City;

- (g) the Commissioner has not become aware that the Recipient is in default of any other material agreements relating to the Project, including financing agreements and agreements with the City; and
  - (h) until Project Completion, nothing shall have occurred which, the Commissioner has become aware of and determines, acting reasonably, will cause a Material Change to the Project.
- 11.2 The making of an advance or advances prior to the fulfillment of one or more of the conditions set forth herein shall not constitute a waiver by the City of any such condition, and the City reserves the right to require the fulfillment of the applicable foregoing conditions prior to the making of any subsequent advance.
- 11.3 All conditions to the obligation of the City to make any advance are solely for the benefit of the City, its successors and assigns, any and all of which may be freely waived in whole or in part by the City at any time the City deems it advisable to do so, and no other person shall have standing to require satisfaction of any condition and no other person shall be deemed to be a beneficiary of any such condition.
- 12. REPORTING AND ACCOUNTABILITY FRAMEWORK**
- 12.1 **Annual Collaborative Review.** From the Effective Date until Project Completion, the Recipient and the City shall, on an annual basis during the month of October, collaboratively review the progress of the Project, and the status and use of the City Funding.
- 12.2 **Proof of Funding Sufficient for Completion.** Until Project Completion, the Recipient shall provide to the City, at least once annually and at any time on the City's request, documentation demonstrating that the Recipient has funds committed, or reasonably expected and achievable sources of funding, sufficient to complete the entirety of the Project, satisfactory to the City, acting reasonably.
- 12.3 **Bi-Annual Progress Report.** Until Project Completion, the Recipient shall be required to submit to the City a bi-annual progress report on or before the tenth (10<sup>th</sup>) Business Day following the last day of March and October in each year, in the form acceptable to the City, which report shall contain and/or be accompanied by information or documentation required by the City, such as, but not limited to, the following:
  - (a) a detailed ledger of the use of all advances of the City Funding, demonstrating that all such funds were used or allocated in compliance with the Permitted Use;
  - (b) project schedules and documentation required to evidence completion or fulfillment of Development and Sale Activities;
  - (c) original high resolution digital photographic updates of the Project;
  - (d) if requested by the City, budget updates;
  - (e) any further information or documentation regarding the progress of Development and Sale Activities and the completion of the Project as may be required or directed by the City from time to time; and
  - (f) an officer's certificate, substantially in the form attached hereto as Schedule "E" providing a cumulative list of applicants and an update on the Affordable Purchasers who have entered into Affordable Housing Purchase Agreements for Affordable Housing Units, which list will designate which families are currently Brampton residents, as well as those purchasers

whose agreements of purchase and sale have been terminated due to default and/or who have requested a mutual release and termination of his Affordable Housing Purchase Agreement.

The obligations outlined in this Section 12.2 hereof shall terminate on the Project Completion Date.

- 12.4 **Final Closing Certificate:** The Recipient shall submit to the City, within thirty (30) days of Project Completion Date, an updated copy of the certificate in Schedule "E" outlining the Affordable Purchasers who have closed on the Affordable Housing Units and indicating those who are Brampton residents.
- 12.5 **Reporting during the Affordability Period.** Following the Project Completion Date, for the remainder of the Affordability Period, the Recipient shall submit to the City, on or before the tenth (10th) Business Day following the last day of October in each year, an officer's report from the Recipient containing (i) a list of any sales of the Affordable Housing Units and/or a Market Sale, including copies of the Transfer/Deed of Land for the Affordable Housing Units (ii) the details of any new Affordable Purchasers, including whether they are a Brampton resident; (iii) confirmation that, for each Affordable Housing Unit which has not otherwise been subject to a Market Sale, the owners of such Affordable Housing Unit are living in same as their principal place of residence, which confirmation the Recipient may obtain by having owners provide an annual statutory declaration confirming same, in form and content as determined by the Recipient; and (iv) confirmation of whether the Recipient is in compliance with the Brampton Residency Requirement.
- 12.6 **Discretion.** The Recipient acknowledges and agrees that:
- (a) the City may, acting reasonably, change the deadline for submission of reports, with sixty (60) days prior Notice to the Recipient;
  - (b) the City may, acting reasonably, request additional reports from the Recipient from those listed in this Agreement;
  - (c) subject to Section 20, the City may make any report received from the Recipient public, in whole or in part; and
  - (d) without limiting the reporting obligations found within this Agreement, the Recipient will cooperate with City and provide such additional information in respect of the Recipient's obligations under this Agreement as the City may reasonably require from time to time.

### 13. INSPECTIONS, AUDITS AND RECORDS

- 13.1 The Recipient shall maintain full and complete records in respect of this Agreement, including all financial and other records necessary to demonstrate compliance with this Agreement, including a full and current list of Affordable Housing Units (the "**Recipient's Records**").
- 13.2 The Recipient acknowledges that all information that is in the custody or control of the City, including all records submitted to or created by the City are subject to the access provisions of MFIPPA.
- 13.3 The City shall have access to the Project and the Recipient's Records at all times in order to verify that the Recipient is:
- (a) properly and diligently carrying out the Development and Sale Activities;
  - (b) using the City Funding strictly for the Permitted Use;

- (c) making sales to Affordable Purchasers in accordance with the terms hereof for the Affordable Housing Requirement;
  - (d) following the Project Completion Date, prioritizing Brampton residents pursuant to the Brampton Residency Requirement, subject to the provisions of Section 8 hereof;
  - (e) maintaining the insurance coverages in compliance with the requirements of this Agreement; and
  - (f) otherwise complying with the terms, conditions and obligations of this Agreement, and Applicable Laws.
- 13.4 The Recipient, when requested by the City upon forty-eight (48) hours' Notice to the Recipient, shall make or cause to be made available to the City and/or any of its duly authorized representatives, appointees or delegates, any or all of the Recipient's Records, to be inspected and/or audited, at all reasonable times both during the Term of this Agreement, it being understood by the Parties that the City shall be entitled to conduct such inspections and/or audits as the City requests from time to time, for the purpose of verifying the Recipient's compliance with this Agreement. The Recipient shall execute and deliver within forty-eight (48) hours of receipt from the City, any direction and/or authorization to a third party authorizing such third party to provide to the City, and/or any of its duly authorized representatives, appointees or delegates, all such information and records with respect to this Agreement that is requested by the City.
- 13.5 The Recipient agrees that the City shall be entitled to make copies of any or all of the Recipient's Records as it reasonably requests or requires from time to time.
- 13.6 Notwithstanding Section 13.4, the City and/or any of its duly authorized representatives, appointees or delegates, shall also have the right to conduct any review, audit or inspection of any and all of the Recipient's Records, without any prior Notice to the Recipient. It is the intent of the City to invoke this provision in circumstances of such a serious nature in the Commissioner's opinion as would warrant the immediate review, audit or inspection by the City of any and/or all of the Recipient's Records.
- 13.7 The Recipient shall fully co-operate with the City and/or any of its duly authorized representatives, appointees or delegates in respect to any inspections, audits, reviews and requests made by the City under this Section 13.
- 13.8 The Recipient will prepare and maintain its accounting records in accordance with GAAP and provide externally audited statements using the generally accepted auditing standards (GAAS) for Canada.
- 13.9 The Recipient shall retain and preserve all of the Recipient's Records related to this Agreement for a period of not less than seven (7) years from the termination of the Term of this Agreement. The Recipient shall not dispose of any records related to this Agreement before the termination of any such period without the prior written consent of the City, which consent may or may not be given in the Commissioner's sole discretion, subject to such conditions as the City deems advisable.
- 13.10 The obligations of the Recipient under this Section 13 shall survive the termination of this Agreement.
- 14. INDEMNITY**
- 14.1 The Indemnified Parties shall, both during and following the Term of this Agreement, not be liable to the Recipient or any other party in relation to City Funding.



- 14.2 To the extent the Recipient engages or retains any third party in respect of its obligations under this Agreement, the Recipient shall remain liable to the City for the fulfillment of its Obligations under this Agreement.
- 14.3 The Recipient agrees to indemnify and save harmless the Indemnified Parties against all claims, demands, actions, suits or other proceedings by any nature whatsoever arising from or as a consequence of or relating to (a) any breach by the Recipient of its obligations, or any representation by the Recipient under this Agreement; or (b) any act or failure on the part of the Recipient in connection with the City Funding or the Project whether or not the Indemnified Parties are named as a party.
- 14.4 It is understood and agreed that the Recipient will defend all Claims brought against the Indemnified Parties for which the Recipient is responsible under this Section 14 to indemnify the Indemnified Parties, with legal counsel reasonably acceptable to the City, and that in the event any of the Indemnified Parties choose to engage separate legal representation to defend any such Claims, it shall do so at its own expense.
- 14.5 Each of the Indemnified Parties that is not a Party to this Agreement is acknowledged by the Recipient to be a third-party beneficiary to this Agreement for the purposes of this Section 14, and entitled to enforce its rights as an Indemnified Party hereunder, including against the Recipient.
- 14.6 The provisions of this Section 14 shall survive the termination of this Agreement.

## **15. EVENTS OF DEFAULT**

- 15.1 Each of the following events shall constitute an event of default under this Agreement (each an “**Event of Default**”), subject to the cure period set out in Section 16.1 hereof:
- (a) subject to Force Majeure, the Recipient being in breach of its obligations outlined in in Sections 6, 9, 10, 12 and 13 hereof;
  - (b) the failure to use the City Funding for the Permitted Use in accordance with the terms of this Agreement;
  - (c) during the Affordability Period, the failure to comply with the provisions in Sections 7 and 8 regarding the Affordability Requirement and the Brampton Residency Requirements;
  - (d) there is a breach of any of the covenants, warranties or representations of the Recipient outlined in Section 5 hereof;
  - (e) the Recipient has made a Material Change to the Project, without obtaining the prior written approval of the City. Provided that if a Material Change is made to the Project due to a requirement by the City’s approvals for planning and zoning, such change shall not be considered a Material Change nor an Event of Default;
  - (f) the Recipient permits any amount which is due by it and which forms or is capable of forming a lien or charge upon the Project Lands or any part thereof to remain unpaid for a period longer than thirty (30) calendar days;
  - (g) the Recipient becomes bankrupt or insolvent or takes the benefit of any legislation now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise;
  - (h) a receiver or a receiver and manager is appointed for all or a portion of the Project and the receiver’s appointment is not vacated within thirty (30) calendar days;

- (i) any steps are taken or any action or proceedings are instituted by the Recipient or by any other party including, without limitation, any court or applicable Governmental Authority of competent jurisdiction for the dissolution, winding up or liquidation of the Recipient or its assets;
- (j) the Recipient is in breach of its obligations to indemnify any of the City Indemnified Parties in respect of any Claims, pursuant to Section 14 hereto;
- (k) any steps are taken or any action or proceedings are instituted by the Recipient to change the status of the Recipient from being a not-for-profit corporation;
- (l) without the City's consent, the Recipient transfers or seeks to sell or transfer any of its ownership interest in the Project Lands, except to an Affordable Purchaser and otherwise in accordance with the terms of this Agreement; or
- (m) one or more final judgments, writs of execution, garnishment or attachments or similar processes are issued or levied against the Project Lands or the Recipient and are not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within thirty (30) calendar days after their entry, commencement or levy.

## **16. REMEDIES**

- 16.1 The City shall provide Notice to the Recipient of any Event of Default and the Recipient shall have (i) the applicable thirty (30) calendar days after receipt of such Notice to cure the Events of Default in Sections 15.1(f), (g) and (h) and (ii) ninety (90) days after receipt of such Notice to cure for all other Events of Default besides those noted in Sections 15.1(f),(g) and (h), or such longer period as the City may permit. In the event that the City provides the Recipient with Notice of an Event of Default pursuant to this Agreement, the City may immediately suspend any further advances of the City Funding under this Agreement to the Recipient until such Event of Default is remedied.
- 16.2 Prior to Project Completion, where an Event of Default has occurred by the Recipient which has not been remedied within the applicable timeline set out in Sections 15.1 or 16.1 hereof, the City shall, in its sole discretion be entitled to:
- (a) amend the terms of payment of the advance of the City Funding set out in Section 4 hereof and in the Advance Schedule attached as Schedule "C" hereto;
  - (b) refuse to advance payments of City Funding until such Event of Default is remedied or the Material Change dispute settled between the Parties;
  - (c) withhold permits, approvals, consents or funding in favour of the Recipient in relation to the Project until such Event of Default is remedied;
  - (d) approve only partial payments of advances of the City Funding;
  - (e) demand and require immediate repayment of all or any amount of the City Funding paid by the City to the Recipient under this Agreement; and/or
  - (f) terminate this Agreement on Notice to the Recipient.
- 16.3 Provided that, notwithstanding the terms of Section 16.2 hereof to the contrary, in an Event of Default after the Occupancy Date until the expiry of the Affordability Period for the (i) Affordability Requirement outlined in Section 7 and/or (ii) Brampton Residency Requirement outlined in Section 8, only the portion of the City Funding that is applicable to the specific Affordable Housing Unit on which default has occurred may be required for repayment by the City.

- 16.4 All of the remedies in this Agreement are cumulative and are not alternative and the City shall not be precluded from availing itself simultaneously of some or all of the said remedies and any other remedies available in equity or at law.
- 16.5 Notwithstanding any of the terms in this Agreement, the City shall have the option of waiving any or all of its remedies under this Agreement at the sole discretion of the Commissioner, but no waiver of a provision shall be deemed to constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise provided.

## **17. PUBLICATION AND PUBLIC ACKNOWLEDGEMENT OF FUNDS**

- 17.1 Commencing on the Effective Date, the Recipient agrees that all press releases and media reports (both in print and electronic form), project specific websites or web pages, and signage erected at the Project Lands, referring to the Project shall recognize the contributions of the City and include an appropriate acknowledgement, in accordance with the guidelines or instructions provided by the City, acting reasonably, to the Recipient. The Recipient shall notify the City at least thirty-five (35) Business Days in advance of any press conferences, announcements and/or official ceremonies prior to the planned date of the event, and shall permit the City to participate in such communications, if requested.
- 17.2 The City, the Government of Canada and/or CMHC shall be entitled to communicate on their websites, publications, advertising, signs and press releases, its contribution of funding to the Project, the status and progress of the Project and the impacts and uses of the City Funding, provided that such information is not confidential or personally identifying of any purchasers, is in accordance with the MFIPPA and the Recipient has provided their written consent to the applicable information which the City, the Government of Canada or CMHC desire to make public pursuant to the foregoing.

## **18. NO LIMITATIONS OR FETTERING OF CITY DISCRETION**

- 18.1 Nothing in this Agreement limits or fetters the City in exercising its statutory jurisdiction under the Planning Act, R.S.O 1990, c. P.13, Municipal Act, 2001, SO 2001, c 25 or any other Applicable Law.
- 18.2 Nothing in this Agreement creates any binding obligation on the City to provide permits, consents, approvals or any other documentation or actions in favour of the Recipient or any other person, in relation to the Project or otherwise.
- 18.3 In the event the City decides to deny, oppose, or appeal any permit, consent or approval sought by the Recipient, in relation to the Project or otherwise, that such action by the City is not in any manner limited by reason of the City entering into this Agreement.
- 18.4 If, after the date of this Agreement, the adoption of or change to any Applicable Law, or any change in the interpretation or application thereof by any court or by any governmental authority, now or hereafter makes it unlawful or impossible for the City to make, fund or maintain the City Funding under this Agreement or to give effect to its obligations in respect of the City Funding, the City may, by written notice to the Recipient, declare its further obligations to provide funding under this Agreement to be terminated, whereupon the same shall forthwith terminate, provided that such event shall not in itself entitle the City to request or require repayment of any City Funding which had been previously advanced and used by the Recipient towards the Permitted Purpose . If any such change shall only affect a portion of the City's obligations under this Agreement which is, in the opinion of City Council in its sole, absolute and unfettered discretion, acting reasonably, severable from the remainder of this Agreement, so that the remainder of this Agreement may be continued in full force and effect without otherwise affecting any of the obligations of the City or

the Recipient's under this Agreement, the City shall solely declare its obligations under that portion so terminated.

## **19. DISPUTE**

- 19.1 The Parties agree that alternate dispute resolution processes such as mediation, appointment of a neutral third party evaluator or arbitration may be preferable to litigation as a way to resolve disputes that may arise under this Agreement and they agree to give good faith consideration to having resort to an alternate dispute resolution process before initiating legal or other proceedings to deal with any such disputes.
- 19.2 In the event the Parties agree to arbitration, the arbitration shall be governed by the provisions of the *Arbitration Act*, 1991, S.O. 1991 c.17.
- 19.3 Each Party shall be responsible for its own costs with respect to any alternative dispute resolution process.

## **20. CONFIDENTIALITY**

- 20.1 The Parties shall treat all personal information (as such term is defined in MFIPPA) which is obtained through this Agreement, as confidential and shall not disclose same without the prior written approval of the other Party, unless required by Applicable Laws. The City shall only use aggregate data when publicly referring to Affordable Purchasers and Affordable Housing Units, and shall not publicly identify any Affordable Purchasers by name or address, unless the Recipient otherwise consents to same or the City is required to do so by Applicable Laws.
- 20.2 Notwithstanding Section 20.1 hereof, the Recipient may disclose information to any holder of a mortgage over the Project Lands, and the Recipient's or such mortgagee's lawyers, accountants and other professionals, provided that such persons require the information in order to properly perform their duties.
- 20.3 The City shall at all times comply with MFIPPA.

## **21. NOTICE**

Any notice, demand, statement, request or other communication ("**Notice**") required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, delivered by courier, e-mail, or mailed by registered prepaid post.

In the case of Notice to the City to:

City of Brampton  
2 Wellington Street West, Brampton, ON L6Y 4R2  
Attention: Commissioner of Planning Building and Growth Management  
Email: Steve.Ganesh@brampton.ca

and, in the case of Notice to the Recipient to:

Habitat For Humanity Greater Toronto Area  
Address: 155 Bermondsey Road, Toronto, ON M4A 1X9  
Attention: CEO  
Email: info@habitatGTA.ca

Or at any such other address as the Party to whom such Notice or other communication is to be given shall have advised the Party giving same in the manner provided in this section. Any such

Notice given in accordance with the above requirements shall be deemed to have been given, if mailed, on the fifth (5<sup>th</sup>) calendar day following the date of such mailing or, if delivered, personally, or by pre-paid courier, or by e-mail on the day on which it was delivered so long as such delivery was prior to 5:00 p.m. on a Business Day (and, if after 5:00 p.m. or if any such day is not a Business Day, then it shall be deemed to have been delivered on the next Business Day). Either Party may from time to time by Notice change the address to which Notices to it are to be given. Notwithstanding the foregoing, during any interruption or threatened interruption in postal services, any Notice shall be personally delivered, or delivered by courier or e-mail transmission.

## **22. STATUS OF PARTIES**

- 22.1 The Recipient acknowledges and agrees that this Agreement is in no manner to be deemed or construed to be an agreement of or for employment. Specifically, the Parties do not intend by this Agreement that the Recipient or its employees, agents or Contractors be considered employees of the City for any purpose.
- 22.2 Nothing in this Agreement shall be construed as authorizing one Party to contract for or incur any obligation on behalf of the other or to act as agent for the other and nothing in this Agreement shall be construed to imply a partnership or joint venture between the Parties.

## **23. CONFLICT OF INTEREST**

The Recipient warrants and covenants with the City that the Recipient (including the Recipient's representatives) has not engaged and will not engage in any activity, where such activity creates a conflict of interest (actually or potentially in the sole opinion of the City) with the funding and activities pursuant to the Agreement. For greater clarity, a conflict of interest includes any circumstance where the Recipient, or any person who has the capacity to influence the Recipient's decisions, has outside commitments, relationships or financial interest that could, or could be seen to, interfere with the Recipient's objective, unbiased and impartial judgement relating to the Project, the Permitted Use, or any improper use of any funds provided to the Recipient under this Agreement. The Recipient will disclose to the City, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and comply with any terms and conditions that the City may prescribe as a result of the disclosure.

## **24. ASSIGNMENT**

The Recipient covenants and agrees that:

- (a) the Recipient shall not assign the whole or any part of this Agreement without the prior written consent of the City, which may be withheld in the sole discretion of the City. Such consent, if provided, shall be in the sole discretion of the City and subject to the terms and conditions that may be imposed by the City.
- (b) the Recipient shall not transfer or convey its interest in all or any part of the Project without, subject to clause (a) herein, simultaneously assigning its interest in this Agreement to the transferee, which transferee shall enter into one or more agreements with the City, in a form satisfactory to the City, to assume all of the Recipient's obligations under this Agreement. In the event of such transferee's default under the agreement(s), the Recipient shall remain jointly and severally liable under this Agreement for any such default;

**25. TIME OF THE ESSENCE**

Time shall be of the essence in this Agreement, provided that the time for doing or completing any matter provided for under this Agreement may be extended or abridged by agreement in writing signed by the City.

**26. ENTIRE AGREEMENT**

This Agreement and the Schedules attached hereto, form the entire agreement between the Parties with respect to the particular subject matter hereof and supersede any other understanding or agreement, collateral, oral or otherwise, existing between the Parties at the date of execution of this Agreement. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of the Agreement shall be deemed to or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless expressly provided.

**27. REGISTRATION**

This Agreement shall not be registered on title to the Project Lands without the prior written consent of both Parties hereto.

**28. FURTHER ASSURANCES**

The Recipient covenants and agrees that they will at their own expense from time to time and at all times hereafter, upon every reasonable request of the City, promptly make, do, execute and deliver or cause to be made, done, executed and delivered all such further acts, deeds or assurances as may be reasonably required for purposes of implementing the matters contemplated by this Agreement and establishing and protecting the rights, interests and remedies intended to be created as herein described.

**29. SUCCESSORS AND ASSIGNS**

This Agreement shall enure to the benefit of and be binding upon each of the Parties hereto and their respective successors or permitted assigns.

**30. APPLICABLE LAW**

30.1 This Agreement shall be governed by and be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract.

30.2 Any reference to a statute in this Agreement includes a reference to all regulations, policies and guidelines made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed and which has the effect of supplementing, replacing or superseding such statute or regulations.

**31. PARTIAL INVALIDITY**

Should any provision(s) of this Agreement be found to be void or unenforceable for any reason whatsoever, such provision(s) only shall be expunged and severed from the Agreement and the balance of the Agreement's provisions shall remain in full force and effect.

**32. COSTS**

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

**33. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed for all purposes to constitute one and the same instrument. The Parties hereby agree that hardcopy signatures transmitted and received via facsimile or other electronic means shall be treated as original signatures for all purposes of this Agreement.

**34. JOINT AND SEVERAL LIABILITY**

If more than one (1) entity is a party to this Agreement as the Recipient, all references to the Recipient shall include all of the entities and this Agreement shall be binding on each jointly and severally.

*[Signing page follows]*

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

**HABITAT FOR HUMANITY GREATER TORONTO  
AREA**

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

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

I/We have authority to bind the Corporation.

By-Law #  
\*\*\*\*\*

**THE CORPORATION OF  
THE CITY OF BRAMPTON**

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

**Name:**  
**Title:**

I have authority to bind the Corporation.

|   |  |
|---|--|
| By-Law #<br>*****   |  |
| Approved<br><br>as to<br><br>form.<br><br>Legal<br>Services<br>_____<br><br>X<br>_____<br>Legal Council | Approved<br><br>as to<br><br>content<br><br>Planning,<br>Building &<br>Growth<br>Management<br>_____<br><br>X<br>_____<br>Rajesh Gulati<br>Manager |



## SCHEDULE "A"

## Site Plan

**STATISTICS:**

LOT AREA:  
2933.08 sm / 0.293308 hectares  
GROSS AREA:  
2933.08 sm / 0.293308 hectares  
GROSS DENSITY: 38.65

NET AREA:  
1118 sm / 0.1118 hectares  
NET DENSITY: 101.41

LOT COVERAGE:  
GROSS - 14.4%  
NET - 37.87%  
\*BUILDING COVERAGE - 423.4 sm

OPEN LANDSCAPE AREA:  
1397.25 sm / 0.139725 hectares  
\*DOES NOT INCLUDE AREA BEYOND  
TREE PROTECTION HOARDING

PAVED AREA:  
639.3 sm

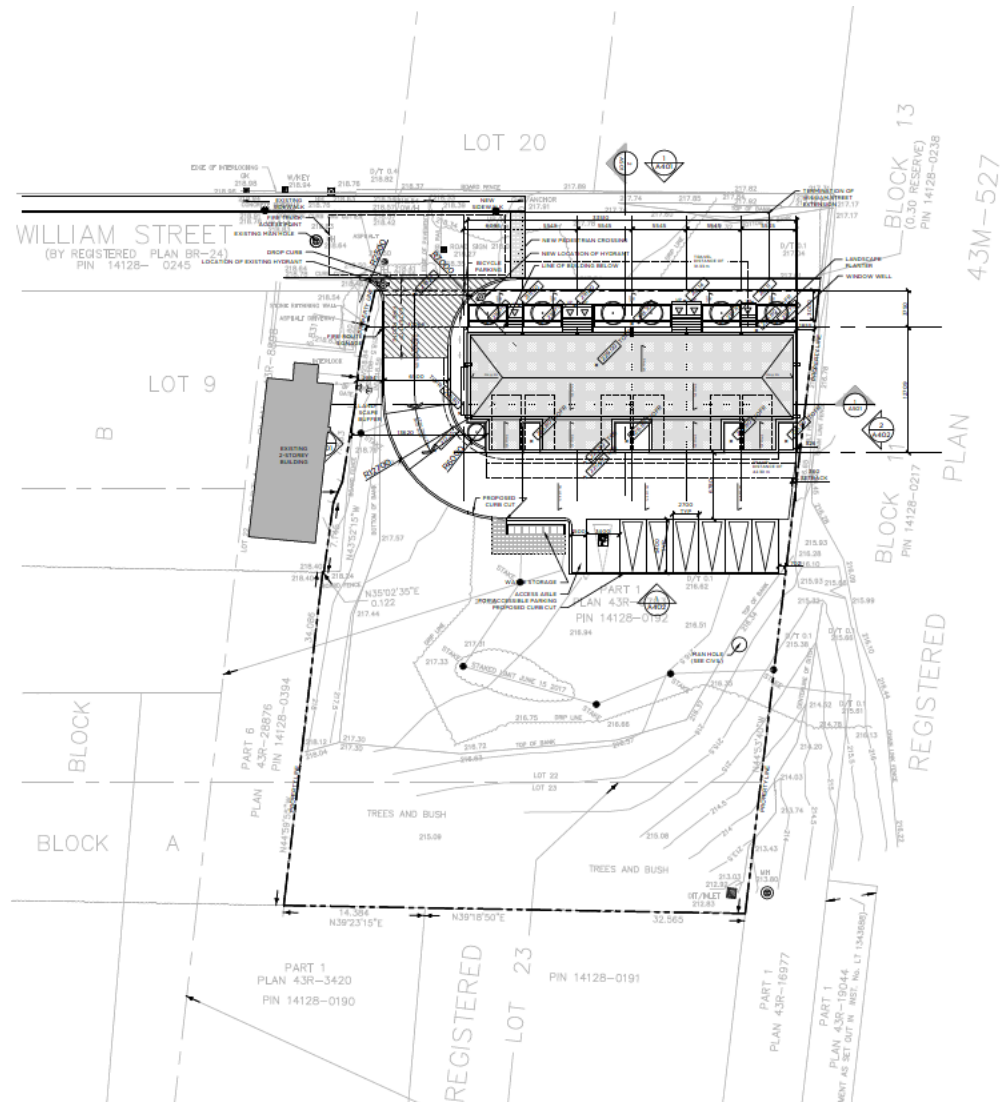
FSI: 38.65%

PARKING TOTAL 13:  
1 ACCESSIBLE  
12 RESIDENTIAL

**LEGEND:**

TOFR : TOP OF FINISHED ROOF

TOS : TOP OF STRUCTURE



This drawing is the property of the Architect and may not be reproduced or used without the express consent of the Architect. The Contractor is responsible for checking and verifying all levels and dimensions and shall report all discrepancies to the Architect and obtain clarification prior to commencing work.

ISSUED RECORD

|            |                  |
|------------|------------------|
| 2019-10-10 | 5.2% (5.1%-5.3%) |
| 2019-10-11 | 5.2% (5.1%-5.3%) |

## REVISION RECORD

—



18066

25 WILLIAM ST.  
BRAMPTON, ON

SITE  
PLAN  
—  
1:200

A100

**SCHEDULE "B"**

**Marketing Plan**

*(see attached)*



Brampton, Caledon,  
Durham Region, Toronto  
& York Region

In Partnership With



Marketing Plan for  
Affordable Habitat Opportunities at  
25 William Street and 1524 Countryside Drive

June 2024

## Objective

To outline the current marketing strategies employed to promote Habitat opportunities in Brampton and to detail the upcoming enhancements to these strategies. These efforts aim to support the completion of recruitment for 25 William Street and the initiation of recruitment for 1524 Countryside Drive.

## Background

In November 2023, Brampton Council approved \$6.1 million in funding from the federal Housing Accelerator Funds in support of two Habitat for Humanity GTA projects: a 12-home project at 25 William Street and a 15home project at 1524 Countryside Drive.

Both projects had experienced multiple delays and cost increases as a result of COVID and other factors. The 25 William Street project had been most delayed and recruitment for this project had been underway for well over 18 months prior to Council's decision to provide additional funding. Prior to Council's decision, the only government sources of funding for these two projects were from the federal government's Co-investment program and the Region of Peel. The Region of Peel had placed particular emphasis on ensuring that new homeowners be Region of Peel residents.

At the time of the Council's decision, 7 out of 12 families had been approved for the 25 William Street project. Among them, 3 families are Brampton residents, 3 are currently renting in Mississauga, and 1 is a renter in Toronto.

Brampton Council has subsequently requested that Brampton residents be prioritized and thus, recruitment efforts are now focused on channels that are most likely to reach Brampton residents who could potentially be interested in and qualify for these opportunities.

## Marketing Efforts to Date

The following strategies and marketing channels have been used by Habitat GTA in marketing efforts to date for our Habitat opportunities in Brampton.

### 2023 Strategies

#### Targeted Media Outreach

- [Habitat for Humanity partners with the BlackNorth to expand its affordable homeownership program | Toronto Caribbean Newspaper](#)
- [Habitat for Humanity GTA Recruiting Families for Affordable Housing in Brampton | Bramptonist](#)

## **Paid Social Ads Targeted to Residents of the City of Brampton**

- Social media plays a crucial role in generating leads and applications from potential partner families, with the majority learning about the opportunities and application process through these platforms. Throughout 2023, our campaigns in Brampton amassed a total of 747,000 impressions and 240,000 unique views. These social media ads were designed for and targeted to residents of Brampton.

## **Brampton Go Train Ads**

- Transit shelter posters promoting Habitat GTA's projects in Brampton were prominently featured on the platform of Brampton GO station, reaching thousands of daily commuters and significantly increasing awareness and applications.

## **Brampton Bus Ads**

- By targeting bus routes frequented by families meeting Habitat GTA's eligibility criteria, we maximized our impact and reach, drawing awareness to affordable home partnerships in the area.

## **Additional Strategies introduced in 2024**

### **Branded Site Signage**

- Significant site branding has been designed to drive awareness of new affordable homes coming to the community at 1524 Countryside Drive.

### **Paid Social Ads Targeted to Residents of the City of Brampton:**

- The design phase for new campaign ads for Habitat GTA's Brampton communities has been completed, with activation set for June 15th, 2024, and continuing until the completion of the partner family recruitment process. Targeted ads will circulate around Brampton, with a focus on Facebook/Instagram Lead Ads to capture contact information from prospective families.

### **Influencer Marketing**

- Habitat GTA is focused on targeting realtors, influencers, and community organizations local to Brampton to create content and leverage the power of collaboration. Some examples include Felicia Jones (Brampton realtor) and the Brampton Steelheads (new local sports team.)

### **Targeted Email Marketing**

- Habitat GTA maintains a growing list of interested partner family candidates who are strategically marketed to on a weekly basis, one of our most effective drivers of applications.

## Enhancements to Marketing Efforts Planned

Based on our experience in other markets, the ideas brought forward by new members of our team and inputs provided through City of Brampton staff, Habitat GTA plans on a number of further enhancements as we move forward with recruitment for these two projects.

### **Cross-Promotional Opportunities with City of Brampton**

- Utilize the social media audiences of Habitat GTA and the City of Brampton to promote our affordable home options for Brampton residents. The Habitat Team should share assets and/or links to posts focused on Brampton residents for resharing on City channels.
- Collaborate with the City of Brampton to feature a 100-word article in their digital newsletter, City Matters, promoting our affordable home options to Brampton residents.
- Work closely with the city-run Farmer's Market, which starts on June 15, to secure a booth for Habitat GTA. This will allow us to interact with the public on an occasional basis and promote our affordable home options.

### **Cross-Promotional Opportunities with Brampton-based Community Agencies and Employers**

- Collaborate with community organizations within the City of Brampton to tap into their databases of residents, further promoting our projects.
- Examples of organizations include:
  - o Roots Community Services
  - o Catholic Family Services Peel-Dufferin
  - o Brampton Caledon Community Living
  - o William Ostler Hospital (Brampton Civic site)
- Utilize public spaces to promote our projects through materials and live sessions, maximizing visibility and engagement within the community.

## Contact Info

For further information or to provide further suggestions to enhance Habitat GTA marketing efforts, please contact:

Sujan Inpanathan,  
Real Estate Marketing Manager  
[sujan.inpanathan@habitatgta.ca](mailto:sujan.inpanathan@habitatgta.ca)

**SCHEDULE "C"**

**ADVANCE SCHEDULE**

(25 William Street)

The maximum amount of City Funding that may be granted to the Recipient for the Project pursuant to the Agreement is one million five hundred forty-one thousand fifty-four dollars (\$1,541,054). All City Funding is being provided in respect of the Permitted Use.

**Table A**

| <b>Advance #</b> | <b>Milestone</b>  | <b>Funding</b> |
|------------------|---|----------------|
| <b>#1</b>        | Execution of this Agreement                                     | \$1,232,843.20 |
| <b>#2</b>        | Full completion and final inspection of the roof of the Project | \$308,210.80   |

Any advances of City Funding shall be conditional on the satisfaction by the Recipient of the applicable conditions outlined in Sections 4.3 and 11 of the Agreement and advance #2 shall be conditional on the submission of a completed Advance Request in the form set out in Schedule "D".

**SCHEDULE "D"**

**ADVANCE REQUEST**

(25 William Street)

**TO:**           **THE CORPORATION OF THE CITY OF BRAMPTON** (the "**City**") and to the  
Commissioner of Planning, Building and Growth Management

**FROM:**       **HABITAT FOR HUMANITY GREATER TORONTO AREA** (the "**Recipient**")

**RE:**           **CAPITAL PROJECT CONTRIBUTION AGREEMENT** dated the \_\_\_\_ day of  
\_\_\_\_\_, 2024 (the "**Contribution Agreement**")

---

This Advance Request is submitted pursuant to Section 4.2 of the Contribution Agreement. Capitalized terms used in this Advance Request but not otherwise defined have the meanings given to them in the Contribution Agreement:

1. Request Specifics: The Borrower hereby requests the following advance of City Funding:
  - (a) Advance Schedule Milestone Achieved: \_\_\_\_\_
  - (b) Advance Date: \_\_\_\_\_
  - (c) Advance Amount: \_\_\_\_\_
2. Milestone Achievement: The following documentation is enclosed to provide evidence of the satisfaction/achievement of the Advance Schedule Milestone relating to this Advance Request:
  - (a) [NTD: Recipient to insert list of documents, and enclose copies]
  - (b) \_\_\_\_\_
3. Project Status and Completion: The Recipient has sources of funding, either committed or reasonably expected and achievable, sufficient to complete the entirety of the Project, which are outlined below:
  - (a) [NTD: Recipient to insert source of funding, status of funding, and expected amount]
  - (b) \_\_\_\_\_
4. Compliance with Agreement: The Recipient hereby declares that the Recipient is in compliance with all terms and requirements of Contribution Agreement, and all representations of the Recipient in the Contribution Agreement remain true and accurate as of the date hereof.

*[signature page follows]*



**IN WITNESS WHEREOF** the parties hereto have executed this Advance Request.

Dated: \_\_\_\_\_

**HABITAT FOR HUMANITY GREATER TORONTO  
AREA**

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

Title:

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

Title:

I/We have authority to bind the Corporation.

**SCHEDULE “E”**

**OFFICER’S CERTIFICATE FOR PROJECT**

(25 William Street)

**TO:**           **THE CORPORATION OF THE CITY OF BRAMPTON** (the “**City**”) and to the Commissioner of Planning, Building and Growth Management

**FROM:**       **HABITAT FOR HUMANITY GREATER TORONTO AREA** (the “**Recipient**”)

**RE:**           **CAPITAL PROJECT CONTRIBUTION AGREEMENT** between the City and the Recipient dated the \_\_\_\_ day of \_\_\_\_\_, 2024 (the “**Contribution Agreement**”)

---

This Certificate is submitted pursuant to and in accordance with the Contribution Agreement. Capitalized terms used in this Affordable Inventory Certificate but not otherwise defined have the meanings given to them in the Contribution Agreement.

I, \_\_\_\_\_, in my capacity as the \_\_\_\_\_ (officer title) of \_\_\_\_\_ and not in my personal capacity, hereby certify for and on behalf of the Recipient as follows, intending that same may be relied upon by the City without further inquiry:

1. **Affordable Housing Units:** The following is a true and accurate list of current Affordable Housing Units and the specifics of the Affordable Purchasers:

|     | Municipal Address | Affordable Purchasers | Decile of Purchaser(s)/ Owners | Estimated Closing Date | Purchaser(s) Residents of Brampton at time of signing of Purchase Agreement? (Y/N) |
|-----|-------------------|-----------------------|--------------------------------|------------------------|--|
| 1.  |                   |                       |                                |                        |  |
| 2.  |                   |                       |                                |                        |  |
| 3.  |                   |                       |                                |                        |  |
| 4.  |                   |                       |                                |                        |  |
| 5.  |                   |                       |                                |                        |  |
| 6.  |                   |                       |                                |                        |  |
| 7.  |                   |                       |                                |                        |  |
| 8.  |                   |                       |                                |                        |  |
| 9.  |                   |                       |                                |                        |  |
| 10. |                   |                       |                                |                        |  |
| 11. |                   |                       |                                |                        |  |

|     |  |  |  |  |  |
|-----|--|--|--|--|--|
| 12. |  |  |  |  |  |
|-----|--|--|--|--|--|

2. **Removed Applicants:** The following is a true and accurate list of all applicants to be Affordable Purchasers for the Affordable Housing Units who are no longer proceeding with the purchase of an Affordable Housing Unit due to (a) default of the applicant under the Habitat Homeownership Program Terms or (b) the request of the applicant to be released and terminate their purchase agreement and participation in the affordable ownership program:

|     | Municipal Address | Applicant Name | Decile of Purchaser(s)/ Owners | Reason for Termination | Purchaser(s) Residents of Brampton (Y/N) |
|-----|-------------------|----------------|--------------------------------|------------------------|--|
|     |                   |                |                                |                        |  |
| 2.  |                   |                |                                |                        |  |
| 3.  |                   |                |                                |                        |  |
| 4.  |                   |                |                                |                        |  |
| 5.  |                   |                |                                |                        |  |
| 6.  |                   |                |                                |                        |  |
| 7.  |                   |                |                                |                        |  |
| 8.  |                   |                |                                |                        |  |
| 9.  |                   |                |                                |                        |  |
| 10. |                   |                |                                |                        |  |
| 11. |                   |                |                                |                        |  |
| 12. |                   |                |                                |                        |  |

3. **Confirmation of Ownership and Residency:** Each of the Affordable Housing Units identified in paragraph 1 hereof is presently or will be owned by the Affordable Purchasers identified in paragraph and to the best of the undersigned's knowledge, will be occupied by the Affordable Purchasers as its primary place of residence.
4. **Compliance with Contribution Agreement:** At the date of this Affordable Inventory Certificate, the undersigned hereby certifies that it has made reasonable commercial efforts to be in compliance with its obligations under the Contribution Agreement to sell the Affordable Housing Units to Affordable Purchasers and to prioritize Brampton residents and families with respect to same. The undersigned hereby certifies that the Recipient is in compliance with all terms and requirements of Contribution Agreement, and all representations of the Recipient in the Contribution Agreement remain true and accurate as of the date hereof.

**DATED** as of the date first written above.

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

Title:

**SCHEDULE "F"**

**City of Brampton Certificate of Insurance Form**



# The Corporation of the City of Brampton

## *Certificate of Insurance*

Purchasing

NOTE: Insurance Company MUST have a minimum rating of: 'B+' (A.M.Best); 'Baa' (Moody's); or 'BBB' (Standard and Poor's)

**\*\* PROOF OF LIABILITY INSURANCE WILL BE ACCEPTED ONLY ON THIS FORM \*\***

This is to certify that the policies of insurance as described below have been issued by the undersigned to the insured named below and are in force at this time.

|                    |  |                              |             |
|--------------------|--|------------------------------|-------------|
| NAME OF INSURED    |  | TELEPHONE<br>(      )      - |             |
| ADDRESS OF INSURED |  | CITY                         | POSTAL CODE |

| TYPE OF INSURANCE  | INSURANCE COMPANY | POLICY NUMBER | EFFECTIVE (YR./MO./DAY) | EXPIRY DATE (YR./MO./DAY) | LIMITS OF LIABILITY<br>BODILY INJURY & PROPERTY DAMAGE - INCLUSIVE |
|--|-------------------|---------------|-------------------------|---------------------------|--|
| <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY |                   |               |                         |                           | <b>\$2,000,000</b><br>PER OCCURRENCE                               |
| <input type="checkbox"/> UMBRELLA                                |                   |               |                         |                           |  |
| <input type="checkbox"/> EXCESS                                  |                   |               |                         |                           |  |
| <input checked="" type="checkbox"/> PROFESSIONAL                 |                   |               |                         |                           | <b>\$2,000,000</b>   |

Commercial General Liability - Occurrence Basis, Including Personal Injury, Property Damage, Contractual Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Coverage, Products - Completed Operations, Contingent Employers Liability, Cross Liability Clause and Severability of Interest Clause.

Tenant's Legal Liability      Yes ☐      No ☐      Limit \_\_\_\_\_

|   |  |  |  |  |                    |
|---|--|--|--|--|--------------------|
| <input checked="" type="checkbox"/> MOTOR VEHICLE LIABILITY |  |  |  |  | <b>\$2,000,000</b> |
|---|--|--|--|--|--------------------|

**Motor Vehicle Liability - must cover all vehicles owned, or operated by, or on behalf of the insured.**

THE CORPORATION OF THE CITY OF BRAMPTON has been added as an additional insured under the Commercial General Liability, but only with respect to the liability arising out of the operations of the Named Insured.

Should any of the above described policies be cancelled or materially changed so as to effect the coverage stated above, thirty (30) days prior written notice by registered mail (OR notification in compliance with the Statutory Conditions of OAP 1 Sept. 1, 2010 ed.) will be given by the insurer(s) to :

The Corporation of the City of Brampton  
Attention: Purchasing Agent, Treasury Services  
2 Wellington Street West, Brampton, Ontario L6Y 4R2  
Phone: 905-874-2260 Fax: 905-874-2299

This certificate is executed and issued to the aforesaid Corporation of the City of Brampton, the day and date herein written below:

|                          |     |     |     |   |
|--------------------------|-----|-----|-----|---|
| DATE                     | YR. | MO. | DAY | NAME OF INSURANCE COMPANY (not broker)    |
| NAME OF INSURANCE BROKER |     |     |     | AUTHORIZED REPRESENTATIVE OR OFFICIAL BY: |

**\*\*\* THIS FORM MUST BE COMPLETED & SIGNED BY YOUR INSURANCE BROKER \*\*\***

## **SCHEDULE "G"**

### **Habitat Homeownership Program Terms**

In accordance with the request received, we have provided a summary of how Habitat's affordable home ownership program (the **AHO Program**) maintains long term affordability through a second charge registered in favour of Habitat that each eligible purchaser (each an **"Eligible Purchaser"** and collectively, the **"Eligible Purchasers"**) of an affordable housing unit (each a **"Unit"** and collectively the **"Units"**) in the Project will be required to register on title to their Units on final closing (the **"Habitat Second Charge"**).

The Habitat Second Charge includes a right of first refusal for Habitat to buy-back Units in certain circumstances (the **"Buy-Back Option"**) and also includes an Equity Cap (as hereinafter defined) on the sale of Units sold for fair market value.

#### **1. Agreement of Purchase and Sale for Units**

Each Eligible Purchaser will be required to enter into Habitat's standard form of agreement of purchase and sale (the **"Purchase Agreement"**) for affordable ownership Units in the Project. This form of Purchase Agreement for this Project has already been settled and sales for the Units have already commenced.

The Purchase Agreement includes the standard provisions that are typical in condominium agreements of purchase and sale for non-affordable housing units (i.e. permitted adjustments, default provisions, lists of permitted encumbrances, details with respect to the *Ontario New Home Warranties Plan Act*, details regarding interest and deposits etc.). The Purchase Agreements also contain some unique provisions that are specific to Habitat projects, in light of the AHO Program, such as:

- (a) the breakdown of the purchase price outlines that a portion of the purchase price payable will be paid via a first charge, in form and with a first chargee that are approved by Habitat (the **"First Charge"**) with the remaining balance of the purchase price to be dealt with via the Habitat Second Charge. Eligible Purchasers are required to qualify for a First Charge, or they can be deemed in default of the Purchase Agreement and no longer qualify for the AHO Program;
- (b) as part of Eligible Purchaser's obligations under the Purchase Agreement, they are required to complete 500 volunteer hours with Habitat as part of their participation in the AHO Program. There is an acknowledgement attached to each Purchase Agreement whereby the Eligible Purchasers agree to complete such volunteer hours within specified timelines. The requirements to complete the volunteer hours do not merge, but survive closing, and Habitat is permitted under the Habitat Second Charge to retain the full amount of any Equity Gain (as hereinafter defined) in the Unit until such time as the volunteer hours are completed;
- (c) the Purchase Agreement contains acknowledgements from the Eligible Purchasers that they are (i) buying the Unit pursuant to an affordable housing program and are thereby required to maintain their eligibility under the AHO Program and (i) required to submit certain information to Habitat as part of the **"Information Reporting Requirements"**. Failure of an Eligible Purchaser to maintain eligibility under the AHO Program and/or satisfy the necessary Information Reporting Requirements constitutes a default under the Purchase Agreement, allowing Habitat to terminate the transaction; and
- (d) the Security Provisions that would form part of the Habitat Second Charge are attached as a schedule to each Purchase Agreement. This is to ensure that the Eligible Purchasers are advised upfront regarding the obligations and requirements of the AHO Program and can review with their lawyer regarding the Buy-Back Option and the Equity Cap during the statutory rescission period under the *Condominium Act*, 1998 (Ontario).

2. **The Habitat Second Charge and the AHO Program**

As part of the payment of the purchase price for their Unit and pursuant to the requirements of the AHO Program, all Eligible Purchasers will register on title to the Unit on closing the Habitat Second Charge in favour of Habitat. Attached to the Habitat Second Charge are the charge terms (hereinafter called the “**Security Provisions**”) by which the Habitat Second Charge is governed. Through Habitat’s position as second mortgagee of the Units via the Habitat Second Charge, Habitat secures its obligations to maintain and ensure long term affordability pursuant to its AHO Program.

We have attached a copy of the Security Provisions for this Project that would be a schedule to the Habitat Second Charge with this memorandum. The Security Provisions are a Habitat-specific document that are used in all mortgages that Habitat provides to purchasers of Units. The Security Provisions are fairly complex, but can essentially be broken down into three main components:

(a) **Obligation to Obtain First Charge**

The Eligible Purchaser is required to obtain the First Charge for a term of not less than 5 years, in form and content and with a chargee approved by Habitat. Habitat has partnerships with several lenders who provide favourable rates to Eligible Purchasers for the First Charge. The Eligible Purchasers shall be required to pay a monthly amount towards the balance of the principal amount of the First Charge (the “**First Charge Principal**”).

In the event that the financial circumstances of an Eligible Purchaser improve over time, Habitat may require, as determined in its sole discretion, that an Eligible Purchaser make additional monthly mortgage payments and/or a lump sum payment towards the balance owing of the First Charge Principal (the “**Additional Mortgage Payment**”). The amount of such contemplated Additional Mortgage Payment shall be calculated based on the monthly shelter costs determined by the gross household income (“**GHI**”) of the Eligible Purchasers. The GHI and monthly shelter costs are calculated on an annual basis by Habitat and the Eligible Purchasers are required to submit their GHI to Habitat annually as part of their obligations under the Habitat Second Charge and the AHO Program.

In the event that an Eligible Purchaser fully pays out the First Charge, then the Additional Mortgage Payment shall become a mandatory payment towards the balance of the Habitat Second Charge.

(b) **Details of the Habitat Second Charge**

The Security Provisions outline the details of the Habitat Second Charge. The principal amount of the Habitat Second Charge shall be the total of (a) the original purchase of the Unit less any deposits (the “**Purchase Price Amount**”) (b) the amount of any land transfer tax or closing costs paid/contributed by Habitat directly on behalf of the Eligible Purchaser (the “**Additional Amounts**”) and (c) an estimate of the appreciation value of the Unit, as determined by Habitat (the “**Appreciation Estimate**”).

As the Units are intended to remain affordable and the Habitat Second Charge may remain on title for 5+ years, the Habitat Second Charge is often registered with the principal balance noted as \$2,000,0000 to fully capture any appreciation in the ensuing years.

Notwithstanding the principal amount noted on title, on the discharge of the Habitat Second Charge, the Eligible Purchasers shall be required to pay back to Habitat only the Purchase Price Amount and the Additional Amounts – they shall not be required to pay the Appreciate Estimate. Instead, the Eligible Purchaser are required, on discharge, to pay to Habitat its portion of the Equity Gain (as hereinafter defined) or, if the Buy-Back Option is exercised by Habitat, allow Habitat to buy-back the Unit at the specified rate (as detailed below). The Appreciation Estimate included in the principal of the Habitat Second Charge is intended to secure the Equity Gain of the Unit over time.



The Habitat Second Charge is for an initial term of 5 years which may be renewed in accordance with Habitat's renewal process. The Habitat Second Charge shall bear no interest and there shall be no payments towards the principal balance of the Habitat Second Charge until such time as the First Charge is paid out, after which the Additional Mortgage Payment (outlined above) shall become a mandatory payment towards the balance of the Habitat Second Charge.

There is a list of events of default under the Habitat Second Charge, which include, without limitation, the Eligible Purchaser trying to transfer/sell/lease the Unit without first notifying Habitat, the Eligible Purchaser failing to use the Unit as their principal place of residence, the Eligible Purchaser providing false or misleading information regarding their GHI or failing to disclose same on an annual basis. The Eligible Purchasers shall have 30 days to cure an event of default, if default is not cured the Habitat Second Charge shall become immediately due and payable and Habitat may trigger the Buy-Back Option.

(c) Obligation to enter into the Equity Agreement

As part of the requirements for the AHO Program and in consideration of the grant of the Habitat Second Charge, the Eligible Purchaser agrees to enter into an equity agreement (the "**Equity Agreement**") with Habitat. The Habitat Second Charge details the obligations under the Equity Agreement, which is essentially broken down into two main components, the (1) Buy-Back Option and (2) Equity Gain.

**A. The Buy-Back Option**

The main mechanism by which Habitat maintains long term affordability is via the Buy-Back Option.

As part of the obligations under the Equity Agreement, in the event that an Eligible Purchaser wants to (a) sell, lease or transfer their Unit or (b) wants to discharge the Habitat Second Charge (for any reason whatsoever), they are first required to provide notice to Habitat to sell the Unit to Habitat first (the "**Buy-Back Option**") at a purchase price that is the lesser of (the "**Buy-Back Price**"):

- (a) the fair market value of the Unit at the time of the proposed sale of the Unit. "**Fair Market Value**" is defined as either the resale price of the Unit in an arm's length transaction or, if the transaction is not arm's length, the fair market value determined by Habitat; and
- (b) the original purchase price of the Unit under the Purchase Agreement, plus the Equity Cap.

For the purposes hereof, the term "**Equity Cap**" means a cap on the equity on the Unit calculated at 2% per annum of the First Charge Principal and any deposits paid by the Eligible Purchaser under the Purchase Agreement, compounded annually from the closing date for the transfer of the Unit to the Eligible Purchaser.

Notwithstanding the notice provision outlined above to trigger the Buy-Back Option, if an Eligible Purchaser is in default of their obligations under the Habitat Second Charge and fails to cure such default within the 30 day cure period outlined aforesaid, the Buy-Back Option is automatically triggered and can be exercised by Habitat, without the requirement of notice from the Eligible Purchaser.

From the date of notice, Habitat has 45 days to determine if it exercise its option to buy-back the Unit at a discounted price. If Habitat exercises the Buy-Back Option and elects to purchase the Unit, then on closing the Eligible Purchaser shall pay to Habitat the Buy-Back Price less

the amount outstanding of the Purchase Price Amount and the Additional Amount of the principal amount of the Habitat Second Charge. Any remaining amounts will be paid directly to the Eligible Purchaser, provided that the Eligible Purchaser shall not receive back an amount less than the First Charge Principal plus deposits they paid directly.

If Habitat exercises the Buy-Back Option then:

- (a) the closing date for the transfer of the Unit to Habitat will be on a date mutually agreed upon by the parties, but no later than 180 days following the exercise of the Buy-Back Option; and
- (b) the Equity Gain and the payments of any equity to Habitat will not be applicable, as Habitat will instead be taking back the Unit at a discounted rate from the Eligible Purchaser for the purposes of long term affordability.

The City is advised that it is Habitat's intention to exercise the Buy-Back Option in most circumstances, thereby ensuring long term affordability of the Units.

## **B. Equity Gain and Equity Cap**

If Habitat elects not to exercise the Buy-Back Option within the 45 day period outlined aforesaid, then the Eligible Purchaser is permitted to sell the Unit for Fair Market Value, provided that the Eligible Purchaser will be required to pay to Habitat from the proceeds received for the sale of the Unit all outstanding amounts of the Habitat Second Charge plus the applicable portion of the Equity Gain attributable to Habitat. The payment of a portion of the Equity Gain to Habitat is only applicable if Habitat elects not to exercise their Buy-Back Option.

The equity gain for a Unit is equal to the Fair Market Value less the original purchase price under the Purchase Agreement (the "**Equity Gain**"). Each of Habitat and the Eligible Purchaser are entitled to a portion of the Equity Gain:

- (a) the Eligible Purchaser's equity in the Unit is equal to the amount determined by dividing the First Charge Principal plus any deposits paid by the Eligible Purchaser under the Purchase Agreement by the original purchase price for the Unit under the Purchase Agreement and multiplying the resulting portion by the Equity Gain. Notwithstanding the calculation aforesaid, the Eligible Purchaser's equity will be capped at an amount not to exceed the Equity Cap; and
- (b) Habitat's equity is equal to the total Equity Gain less the Eligible Purchaser's equity outlined aforesaid, and capped (if required) at the Equity Cap.

Essentially, the Eligible Purchaser's equity is capped and shall never exceed the Equity Cap. In the event of a depreciation in value of the Unit, the Eligible Purchaser's equity is guaranteed to never be less than the principal amount of the First Charge plus deposits.

Any Equity Gain above the Equity Cap is to be provided to Habitat. While it is the intention of Habitat to always exercise the Buy-Back Option, if the Buy-Back Option is not exercised the proceeds Habitat will receive from the Equity Gain on the disposition of a Unit by an Eligible Purchaser will be used to ensure towards funding purchases of other affordable housing units and reinvestment in affordable housing projects, thereby achieving long-term affordability under Habitat's AHO Program.

Ultimately, the intention of Habitat is that, regardless of if Habitat exercises the Buy-Back Option or not, the Eligible Purchaser will walk away with roughly the same amount of money and Habitat will have be obtaining a unit for affordable housing or funds to be used towards the development of new units of affordable housing.

Notwithstanding the foregoing to the contrary, if the Habitat Second Charge is in default or the Eligible Purchaser has not yet completed their volunteer hours required under the Purchase Agreement, Habitat is entitled to the full amount of the Equity Gain.