

LEASE AGREEMENT

This Agreement is dated as of the _____ day of _____, 201_.

BETWEEN:

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

(the “City”)

and

KAWARTHA LAKES HALIBURTON HOUSING CORPORATION

(the “Tenant”)

WHEREAS the Corporation of the City of Kawartha Lakes has agreed to build a municipal housing facility and office space at 68 Lindsay Street North, Lindsay, in the City of Kawartha Lakes;

AND WHEREAS the Kawartha Lakes Haliburton Housing Corporation wishes to lease from the City, and the City is willing to lease to the Tenant, the Housing Facilities located at the property known municipally as 68 Lindsay Street North, Lindsay, Ontario, for consideration and otherwise in accordance with the terms and conditions in this Lease Agreement;

NOW THEREFORE in consideration of the terms and conditions below and the sum of one dollar (\$1.00) paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the City and the Tenant agree as follows:

1.0 Interpretations

1.1 Definitions

The following words and phrases used in this Agreement shall have the following meanings:

“**Additional Rent**” means all sums of money or charges required to be paid by the Tenant under this Lease (except Basic Rent) whether or not designated “Additional Rent” or payable to the City;

“**Affordable Housing Units**” means for the purpose of a municipal housing project facilities, rental housing with a rental rate not exceeding 30% of the gross annual household income of the lowest 60% of rental households within the service area or is at or below the average rental rate within the service area, whichever is the lesser;

“**Agreement**” means this Lease Agreement;

“**Basic Rent**” means the amount payable by the Tenant to the City for lease of the Housing Facility in accordance with the terms set out in Section 6.2 of this Lease;

“**Building**” means the building located on the lands known as 68 Lindsay Street North, Lindsay, Ontario, defined herein as the Lands, including but not limited to the Housing Facility, the office building and including all current and future Building Systems and Common Areas;

“**Building Systems**” means the: (i) heating, ventilating and air conditioning and other climate control systems, other systems, services, installations and facilities installed or servicing the Building including, without limitation, elevators, sprinklers, drainage and sewage, electrical and other utilities, lighting, security and surveillance, refuse removal, and window washing; (ii) equipment, appliances or other apparatus forming part of or used in connection with the Building Systems including, without limitation, boilers, motors, generators, fans, pumps, pipes, conduits, valves, wiring, meters and controls, and the shafts and other structures housing any of them; and (iii) City owned or controlled telecommunications facilities, pathways, installations and equipment;

“**By Name List**” means the list maintained by the City of Kawartha Lakes indicating the names of known and active homeless individuals in its service area;

“**CMHC**” means Canada Mortgage and Housing Corporation;

“**Commencement Date**” means the date on which the construction of the Housing Facility is substantially completed, and the Landlord is granted an occupancy permit, or such other earlier or later date as may be mutually agreed upon in writing by the parties;

“**Common Areas**” means those portions of the Lands and Building designated by the City, from time to time, for use by the City and all tenants of the Building, including their agents, licencees, employees, customers, or invitees. The common areas include, without limitation, all entrances, lobbies, access and service corridors, stairways, walkways, public seating areas, public washrooms, parking areas, landscaped areas and passageways;

“**Housing Facility**” refers to the building containing the housing units located at the property known municipally as 68 Lindsay Street North, Lindsay, Ontario and as outlined in red and shown in the sketch attached as Schedule “A”;

“**HVAC**” means the heating, ventilation and air conditioning equipment;

“**Housing Units**” means collectively all housing units located in the Housing Facility and identified in Schedule “B” to this Lease, and Housing Unit has a corresponding meaning;

“Income” means all income, benefits and gains, of every kind and from every source including an imputed income from all assets or investments which do not produce interest income but are intended to appreciate in value or are given away, all of which must be declared by a household in its application for rental of an Affordable Housing Unit;

“Lands” means the lands legally described as set out in the Parcel Abstract of PIN 63216-0127 attached at Schedule “A” hereto, and municipally known as 68 Lindsay Street North, Lindsay, Ontario, on which the Building is located;

“Low-income household” means households eligible to be on or on the Waiting List and has a household income at or below the CMHC approved Household Income Limits, as defined by CMHC or its successor and as such definition is modified by CMHC or its successor;

“Lease Year” means each successive period of twelve calendar months during the Term determined from the Commencement Date forward;

“Leasehold Improvements” means the alterations or other modifications to the Housing Facility installed by the City for the Tenant;

“Parties” means the City and Tenant, and “Party” means one of them as the context provides;

“Property Taxes” means the aggregate of all taxes, rates, duties, levies, fees, assessments and other charges, imposed, levied or charged by any Governmental Authority against the City for or in respect of the Lands or Building from time to time;

“Rent” means Basic Rent and Additional Rent;

“Term” has the meaning given to it in Section 5.1 of this Lease; and

“Waiting List” means the City of Kawartha Lakes By Name List and the centralized waiting list for low-income housing or any successor waiting list.

2.0 Schedules

2.1 The Schedules to this Agreement are an integral part of this Agreement.

Schedules:

Schedule “A” - Sketch – Housing Facility

Schedule “B” – List of Housing Units

3.0 Contribution and Construction of the Project

3.1 The City shall construct the Housing Facility at its own expense.

3.2 In the performance of any work and construction on the Housing Facility the City shall:

- i. Proceed at its own expense with all due diligence to completion and will cause all work to be done in a good and professional manner;
- ii. Do all acts and things required for the performance and completion of the Project in accordance with all applicable building and zoning ordinances and all applicable laws, by-laws, orders, rules, regulations and other requirements of all federal, provincial and municipal authorities and in accordance with the plans and specifications which have or may be approved by the City;
- iii. Do all acts and things required to be done in the performance of the construction in compliance with the insurance requirements of this Agreement; and
- iv. Obtain all necessary permits, consents and approvals at its own expense.

3.3 If at any time prior to completion of the construction of the Housing Facility, the construction ceases and has not been resumed within ninety (90) days of ceasing, or if the City abandons the construction of the Housing Facility, the Tenant may, immediately upon written notice to the City, terminate this Agreement and all funds, financial resources and relief which have been received by or granted to the City up to the date of termination shall immediately be repaid.

4.0 Lease Grant

4.1 The City does, upon the Commencement Date, lease to the Tenant the Housing Facility as described herein to have and to hold during the Term, subject to the payment of Rent and all other covenants, conditions and agreements of the Tenant set out in this Lease.

4.2 The Tenant accepts the lease of the Housing Facility from the City and agrees to pay the Rent and perform all other covenants and obligations of the Tenant set out in this Lease.

4.3 Subject to the payment of Rent and the performance of all other obligations under this Lease, the Tenant shall be entitled to the peaceful and quiet enjoyment of the Housing Facility for the Term.

4.4 The rented areas of the Housing Facility shall be approximately 19,424 square footage. The area of the Housing Facility shall be subject to adjustment based on accurate measurement and certification by the City's architect, engineer or any other individual, firm or corporation designated by the City on or before the Commencement Date, failing which the rented areas shall be deemed to be the square footage set forth above.

5.0 Lease Term

5.1 Subject to any earlier termination of this Lease, as of and from the Commencement Date the Tenant shall have exclusive possession of the Housing Facility for a period of forty (40) years (the "**Term**").

- 5.2 The City is a municipality as defined by the *Planning Act*, RSO 1990 c P. 13. Pursuant to section 50(3)(c) and 50(5)(b) of the *Planning Act* municipalities are exempt from the requirement to obtain consent or approval for the acquisition or disposition of land.
- 5.3 Notwithstanding sub-section 5.2 above the City covenants and agrees, at its own expense, to comply with any and all provisions thereof and to apply for, expedite and pursue diligently any applications for, and to obtain, on or before the Commencement Date to the Tenant, any consents or approvals that may be required by reason of the provisions of the *Planning Act*.
- 5.4 In the event the City fails to obtain any such consents or approvals or does not, in the opinion of the Tenant, apply for, expedite and pursue diligently any such applications, the Tenant may do so on behalf of and in the name of the City.
- 5.5 In the event that the any such consents or approvals are not obtained on or before the Commencement Date the Tenant at its option any time thereafter may terminate this Lease by notice in writing to the City. Provided that, if at any time after the Commencement Date, the City or the Tenant on behalf of the City obtains such consents or approvals as may be required, the provisions of this Lease specifying the term shall be deemed to be effective as if such consents and approvals had been obtained on or before the Commencement Date and the right of the Tenant to terminate this Lease by notice in writing as provided in this Section shall expire.

6.0 Rent

- 6.1 From the Commencement Date and throughout the Term the Tenant shall sub-let the Housing Units and shall collect rent from the sub-tenants. The sublet of Housing Units by the Tenant shall comply with the terms and conditions set out in Section 16 of this Lease.
- 6.2 The Tenant shall pay to the City Basic Rent each Lease Year, with the obligation to pay commencing as of the Commencement Date and continuing throughout the Term of the Lease. The amount of the Basic Rent payable in each Lease Year shall be calculated and paid in accordance with the following terms:
- i. The Basic Rent shall be paid by the Tenant to the City quarterly, specifically on, March 31st, June 30th, September 30th and December 31st of each Lease Year of the Term. Payment shall be made at the office of the City, or at such other place designated in writing by the City, without any prior demand, deduction, abatement, set-off or compensation whatsoever. All payments of Rent shall be made electronically or by cheque to the City, as the City shall determine;
 - ii. The “Basic Rent” payable by the Tenant to the City each Lease Year shall be equal to the amount collected by the Tenant each Lease Year from the sub-tenants, minus the Tenant’s expenses. Basic Rent shall be based on the actual net proceeds received from the Tenant from the sub-tenants. For clarity, the Tenant shall be permitted to deduct its expenses, including but not limited to

operating costs, professional fees and day-to-day maintenance, from the rent received from the sub-tenants and the net amount received from the sub-tenants shall be the amount payable to the City for Basic Rent. The Basic Rent payable by the Tenant to the City may be estimated by the Tenant, with a final determination of the Basic Rent made in accordance with the provisions of Section 16 of this Lease. If the Tenant has overpaid its Basic Rent, the City shall credit any such excess paid against future amounts to be paid by the Tenant, except in the final Lease Year when the Landlord shall refund any excess paid. If any balance of the Basic Rent remains unpaid, the same shall be promptly remitted to the City within 30 days of the determination of the shortfall;

- iii. The Basic Rent is not inclusive of HST and the Tenant shall pay HST, if applicable, on the same date as the quarterly payments of Basic Rent are due and such payment shall be made as Additional Rent. For the purpose of this Lease, HST means Harmonized Sales Tax payable pursuant to the Excise Tax Act (Canada) as amended from time to time; and
- iv. The terms governing the calculation of Rent is subject to adjustment in the event that the Housing Facility is modified or otherwise adjusted by the City in accordance with this Lease.

6.3 Within 60 days of the end of a Lease Year, the Tenant shall provide to the City an accounting of all rents received from sub-tenants and all of the expenses, including but not limited to operating costs and day-to-day maintenance, deducted from the Tenant's rental income. The accounting shall include, but not be limited to, copies of invoices for all payments of rent from the sub-tenants and receipts for the payment of all amounts deducted by the Tenant from the rental income received by the Tenant from the sub-tenants.

6.4 The City by notice in writing to the Tenant may dispute or request clarification on the accounting provided by the Tenant. If the Tenant deducted ineligible funds from the rental income received from the sub-tenants and from the Basic Rent paid to the City, then an amount equal to the amount of the ineligible deduction shall become due and payable to the City as part of the Basic Rent on the next payment date. Any such notice must be delivered by the City to the Tenant within thirty (30) business days from receipt by the City of the accounting, failing which the City shall be deemed to have agreed to the account provided by the Tenant.

6.5 Rent will be considered as annual and accruing from day-to-day and where it becomes necessary for any reason to calculate Rent for an irregular period of less than on full Lease Year, an appropriate apportionment and adjustment will be made.

6.6 There shall be no rent deposit or security deposit.

6.7 Any dispute between the Parties in regard to the payment of Rent shall be resolved in accordance with the Dispute Resolution provision of this Lease.

7.0 Taxes

7.1 The City shall pay all Property Taxes, when due and payable to the applicable Governmental Authority. The City may defer the payment of some or all of the Property Taxes where permitted by applicable law and provided that it pursues, in good faith, any appeal or other contest of the payment of said Property Taxes.

8.0 Utilities and HVAC

8.1 The City shall be solely responsible for and promptly pay all charges for water, gas, electricity, and other utilities used or consumed in the Housing Facility.

8.2 The City shall replace the electrical light fixtures, ballasts, tubes, starters, and controls in the Housing Facility and the Common Areas, at the City's expense. Costs relating to the use by the Tenant of electricity and other utility services in the Common Areas will be paid by the City.

8.3 The City shall operate, maintain and regulate the HVAC within or installed in the Housing Facility in order to maintain reasonable conditions of temperature and humidity within the Housing Facility.

9.0 Lands, Building and Common Areas

9.1 The Common Areas are provided by the City for the general use of all tenants, sub-tenants, their agents, employees, and other invitees.

9.2 The City shall operate and maintain the Common Areas in such manner as the City determines in its absolute discretion to be proper and necessary from time to time, and as would a prudent landlord of comparable Lands and Building having regard to the size, age and location.

9.3 The Lands and Building are at all times subject to the control and management of the City. Without limiting the generality of the foregoing, the City has authority for the management and operation of the Lands and Building, and for the establishment and enforcement of rules and regulations and general policies with respect to the operation of the Lands and Building. Without limiting the generality of the foregoing, the City may:

- i. construct, maintain and operate lighting facilities and heating;
- ii. provide supervision, traffic controls and policing services for the Lands, Building and Common Areas;
- iii. grant, modify and terminate easements and other agreements pertaining to the use and maintenance of all or any part of the Lands, Building or Common Areas;

- iv. obstruct or close off all or any part of the Lands, Building or Common Areas for maintenance, repair or construction, and for such reasonable periods of time as may be required;
- v. employ all personnel including supervisory personnel and managers necessary for the operation, maintenance and control of the Lands, Building and Common Areas;
- vi. designate the areas and entrances and the times in, through and at which loading and unloading of goods shall be carried out;
- vii. designate and specify the kind of container to be used for garbage and refuse and the manner and the times and places at which the same is to be placed for collection;
- viii. from time to time change the area, level, location, arrangement or use of the Lands, Building or Common Areas or any part thereof;
- ix. construct other Building on the Lands, or undertake other changes to the Lands, Building or Common Areas; and
- x. do and perform such other acts in and to the Lands, Building and Common Areas as the City determines to be advisable or necessary.

10.0 Management & Maintenance

- 10.1 Commencing upon the Tenant's occupation of the Housing Facility the Tenant shall be responsible for the repair and maintenances of the interior of the Housing Units in good order and condition, including but not limited to lighting, painting, cleaning, appliances, and flooring.
- 10.2 If the Tenant fails, refuses or is unable to repair or make the necessary replacements to the Housing Units as required above, the City may make such repairs or replacements with the cost of the resulting repairs, replacements or alterations, if necessary, to be borne by the Tenant, who shall pay the same to the City as Additional Rent.
- 10.3 The expenses for this maintenance shall be paid for by the Tenant from the rent paid to the Tenant from the sub-tenants and shall be permitted as an eligible deduction from the total rents collected for the purposes of determining the amount of Basic Rent payable to the City.
- 10.4 Notwithstanding the above sub-sections to this Lease, the City shall, at its own cost, promptly make all needed repairs including, without limitation, major structural repairs, to the Common Areas, Building, Housing Facility and the exterior elements of the Housing Units such as windows and door, and the property in its entirety. This includes, without limitation, replacements and repairs to the ceiling and electrical, plumbing, climate control systems, machinery and equipment in and to the Housing Facility, all entrances, glass, partitions, doors and any and all other fixtures, equipment and appurtenances, that are part of the Housing Facility (reasonable wear and tear, and damage by fire, lightning, and tempest only excepted), to snow removal, grass cutting, fencing, shrubbery, landscaping, walkways, driveways, lighting and

the repair and maintenance of those components. All such repairs and replacements will be performed in a timely and good and workmanlike manner.

11.0 Tenant Alterations

11.1 The Tenant may during the Term, and at its own expense, at any time and from time to time, affix, install or erect partitions, counters or fixtures to or within any part of the Housing Facility, provided that the Tenant's right to do so shall be subject to the following conditions:

- i. Prior to undertaking such alterations, the Tenant shall submit plans to the City describing the proposed alterations, and obtain the written approval of the City to the same, such approval not to be unreasonably withheld;
- ii. All such alterations shall conform to all building by-laws, codes and other statutes, rules and regulations of applicable Governmental Authority affecting the Housing Facility, the Building and the Lands;
- iii. The alterations or improvements shall be completed in a good and workmanlike manner using, at all times, new materials; and
- iv. The alterations shall not in any manner weaken or otherwise compromise the structures of the Building or be likely to reduce the value of the Lands, Building or Housing Facility.

11.2 All alterations, decorations, additions and improvements made by Tenant, or made by the City on the Tenant's behalf, including the Leasehold Improvements (other than Tenant trade fixtures), shall become the property of City at the end of the Term without compensation to the Tenant. Such alterations, decorations, additions or improvements shall not be removed from the Housing Facility Housing Facility either during or at the expiration of the Term or sooner determination of the Lease, except only that:

- i. The Tenant may at the end of the Term, if not in default, remove its trade fixtures at its own cost;
- ii. The Tenant shall, at the end of the Term, at its own cost remove such of the Leasehold Improvements as the City may require to be removed; and
- iii. The Tenant may remove its trade fixtures during the Term in the normal course of its business, or if such trade fixtures have become excess for Tenant's purpose, or the Tenant is substituting similar trade fixtures; all of which is provided that the Tenant is not in default under this Lease.

The Tenant shall, in the case of every such removal, either during or at the end of the Term, make good any damage caused to the Housing Facility, Building and the Lands by the installation and removal of such alterations, decoration, addition or improvement. The provisions of this section shall survive the termination of this Lease.

12.0 Right to Enter

12.1 The City may, at all reasonable times during the Term and upon twenty-four hours (24) telephonic notice to the Tenant, and subject to the requirements set out in any Residential Lease entered into between the Tenant and the Sub-tenants, enter the Housing Facility to inspect their condition. Where an inspection discloses that maintenance or repair action is necessary, the City shall so advise the Tenant in writing, and forthwith undertake the same in a timely and good and workmanlike manner using new materials, unless the Tenant is required to make the repair pursuant to this Lease. It shall also be lawful for the City to enter the Housing Facility subject to the terms of any residential lease that the Tenant has entered into with a sub-tenant during the Term without notice if the City acting reasonably perceives there is an emergency and immediate entry to the Housing Facility is imperative.

13.0 Damage to the Housing Facility

13.1 The Tenant shall, forthwith, advise the City by notice in writing of any damage or required repair to the Housing Facility premises including, without limitation, any required repair to the plumbing or electrical equipment. Responsibility for any requisite repair shall be as otherwise described in this Lease.

14.0 Communication

14.1 Both the City and the Tenant shall cooperate in any communications initiative of either the City or the Tenant including, but not limited to, an official opening.

14.2 The Parties shall maintain regular and open communications in respect to the construction and operation of the Building and the administration of this Agreement.

15.0 Notice

15.1 Any notice required under this Agreement must be in writing and delivered by personal service or ordinary mail to:

The City at the following address:

**26 Francis Street
Lindsay, Ontario
K9V 5R8**

The Housing Providing at the following address:

**322 Kent Street West
P.O. Box 2600
Lindsay, Ontario
K9V 4S7**

16.0 Tenant's Obligations Re Sublet

16.1 The Tenant shall ensure that throughout the Term of this Lease:

- i. All Housing Units shall be Affordable Housing Units occupied by low-income households;
- ii. All Housing Units shall be provided only to applicants on the Waiting List, with the first priority to individuals on the By Name List, followed by individuals on the City Wait List, or the successor lists with a similar purpose;
- iii. Under no circumstances shall a Housing Unit be made available at a rental rate that is inconsistent with the definition of Affordable Housing Unit when the Housing Unit is initially rented to an eligible applicant;
- iv. Under no circumstances shall a Housing Unit be made available to applicants who own a residential property, as determined by the Tenant after making all reasonable inquiries;
- v. Housing Units shall not be rented to any individual not at arm's length to the Tenant or any of the Tenant's employees; and
- vi. All sub-tenants of all the Housing Units must enter into a written residential lease with the Tenant.

16.2 The Tenant shall sub-let all the Housing Units and permit their occupancy only in accordance with this Lease and, where applicable, the *Residential Tenancies Act*, 2006 S.O. 2006 c. 17, as amended.

16.3 All Housing Units shall be administered by the Tenant in accordance with the City's Housing Delivery Plan and the guidelines, directives, rules, orders and policies as may be issued from time to time by either the City, the Province of Ontario or CMHC (collectively the "Programs"). To the extent of any conflict between the requirement of the Programs the decisions of the City as to the priority or paramountcy of any requirement, guideline, directive, rule, order and policy shall be final and binding until such time as it notifies the Tenant that such inconsistency has been satisfactorily addressed.

16.4 Rent payable by the sub-tenant to the Tenant pursuant to the residential lease shall be determined in accordance with the following principals:

- i. Sub-tenants who are recipients of social assistance through Ontario Works Program or the Ontario Disability Support Program, or any successor program, will pay a rent amount equivalent to the maximum shelter allowance available through such social assistance program;
- ii. Sub-tenants in receipt of any other form of income shall pay a rent amount equivalent to 30% of their gross income from all sources;
- iii. The sub-tenants rent shall be inclusive of heat, hydro and water; and
- iv. Notwithstanding the foregoing, in no circumstances shall the rent charged by the Tenant to a sub-tenant exceed 80% of the average market rent for the area

as published in the CMHC Fall Market Rental Survey, or its successor publication from time to time.

17.0 Compliance with Laws

17.1 The Tenant shall comply with the requirements of all applicable federal, provincial and municipal statutes, laws, by-laws, rules, by-laws, regulations, ordinances and orders from time to time in force during the Term, including all lawful requirements of the local board of health, police and fire departments and municipal authorities and with every applicable regulation, order and requirement of the Insurers' Advisory Organization of Canada, or anybody having a similar function, or of any liability or fire insurance company by which the City and Tenant or either of them may be insured at any time during the Term.

17.2 The City shall be responsible for obtaining an occupancy permit, if required, at its own cost and expense, for the Housing Facility.

18.0 Tenant's Status

18.1 The Tenant shall maintain itself in good standing as an active corporation and in accordance with all applicable laws.

19.0 Registration on Title

19.1 All relevant documents, including this Lease, or notice thereof, may be registered on title by either Party.

19.2 In the event that the City is required to register additional securities on the property, such as a Charge/Mortgage or other indenture, the Tenant shall execute a postponement or other form of authorization if requested to do so by the City.

20.0 Construction Liens

20.1 During the term of this Lease the Tenant shall not permit any construction liens for work, labour, services or materials ordered by it to attach to the Lands.

20.2 If any lien attaches to the Lands as a result of the Tenant's actions, the Tenant shall, within twenty (20) days after having had notice of the claim for lien, procure its discharge by payment or by giving security or in such manner as is or may be required or permitted by law.

20.3 The City may, but is in no way obliged, to discharge and vacate any lien if it is not discharged or vacated by the Tenant and any amount paid by the City in so doing, shall be reimbursed to the City by the Tenant within fifteen (15) days after demand plus all costs and expenses incurred by the City in connection therewith.

21.0 Insurance

21.1 At the Tenant's cost/expense (including the cost of any deductible amounts in connection with all insurance policies), the Tenant agrees to take out and keep in full force and effect during the Term, and in the names of the Tenant, the City and any mortgagee, chargee, or debenture holder that the City may advise, and as their respective interests may appear, the following insurance:

- i. All risks (including sewer damage, flood and earthquake) property insurance in an amount equal to the full replacement cost of property of every description and kind owned by the Tenant or for which the Tenant is legally responsible, and which is located on or about the Housing Facility, including, without limitation, anything in the nature of a leasehold improvement;
- ii. Five Million Dollars (\$5,000,000) (or such higher limit as the City reasonably requires from time to time) inclusive limits occurrence form commercial general liability insurance, without general aggregate limit. This insurance will (A) include owners' protective, products, completed operations, intentional acts to protect persons or property, personal injury, legal liability, employers' and blanket contractual liability coverages, provisions for cross liability, severability of interests and occurrence property damage, and (B) name City as an additional insured; this coverage shall include the business operations conducted by the Tenant and any other person on the Housing Facility;
- iii. Broad comprehensive boiler and machinery insurance on all objects owned or operated, presently or in the future, by Tenant or by others (other than City) on behalf of Tenant in the Housing Facility or relating to or serving the Housing Facility;
- iv. Business interruption insurance in such amount as will reimburse the Tenant for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Housing Facility as a result of such perils; and
- v. Any other form or forms of insurance as the City reasonably requires from time to time, in form, amounts and for insurance risks against which a prudent Tenant would protect itself.

21.2 All property insurance policies written on behalf of the Tenant shall contain, if reasonably available, a waiver of subrogation rights which the Tenant's insurers may have against the City and against those for whom the City is in law responsible, whether any such damage is caused by the act, omission or negligence of the City or those for whom the City is in law responsible. Tenant will cause each insurance policy to be primary, non-contributing with, and not excess of, any other insurance available to the City or any, as applicable, mortgagee, charge or debenture holder.

21.3 All policies of Insurance purchased by the Tenant shall be taken out with insurers qualified to do business in the Province of Ontario and that are acceptable to the City and shall be in a form satisfactory from time to time to the City. The Tenant agrees

that certificates of insurance or, if required by the City, certified copies of each insurance policy, will be delivered to the City as soon as practicable after placement of the required insurance and upon any renewal, extension or amendment of all or any part of the policies. All policies shall contain an undertaking by the insurers to notify the City and the mortgagee, if any, in writing not less than thirty (30) days or such other period of time as may be provided in such policies, prior to any material change, cancellation or termination thereof.

21.4 If any insurance upon the Lands, Building or Housing Facility, or any part thereof, shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage reduced in any way by the insurer by reason of the use and occupation of the Housing Facility, or any part thereof, by the Tenant or by any assignee or sub-tenant of the Tenant or by anyone permitted by the Tenant to be upon the Housing Facility, and if the Tenant fails to remedy the condition giving rise to the cancellation, threatened cancellation or reduction of coverage within thirty (30) days after notice thereof by the City, the City may enter upon Housing Facility and remedy the condition giving rise to such cancellation, threatened cancellation or reduction. The City shall not be liable for any damage or injury caused to any property of the Tenant or of others located on the Housing Facility as a result of such entry, whether caused by the negligence of the City, its agents, servants, employees or other persons for whom it is responsible in law.

22.0 City Assignment

22.1 The City may assign any or all of its rights under this Lease to another party including, without limitation, to a lender as security. In the event of any such assignment the City shall advise the Tenant in writing, and this Lease shall not be cancelled or modified as a consequence thereof but remain in effect for all purposes. The Tenant, if requested by the City, shall agree to become a party to any instrument relating to this Lease which may be required by or on behalf of any purchaser or mortgagee of the Lands or Building, from time to time, provided always that the rights of the Tenant under this Lease shall not be altered or varied by the terms of such instrument or document, except with the written consent of the Tenant.

23.0 Subordination

23.1 This Lease and all of the rights of the Tenant hereunder are and shall at all times be subject and subordinate to any and all Encumbrances now or hereafter in force against the Lands and Building. At the request of the City, the Tenant will subordinate this Lease and all of its rights hereunder, in such form or forms as the City may require, to any such Encumbrances and to all advances made or to be made upon the security, and will, if requested, attorn to the holder thereof. The City shall provide the Tenant with written confirmation from any mortgagee that no subordination by the Tenant shall have the effect of permitting the holder of any mortgage or other Encumbrance to disturb the occupation and possession by the Tenant of the Housing Facility, so long as the Tenant shall perform all of the terms,

covenants, conditions, agreements and provisos of this Lease, and so long as the Tenant executes, contemporaneously, a document of attornment required by such mortgagee or other encumbrancer.

23.2 The Tenant shall, at the request of the City or a mortgagee or any other person having an interest in the Lands or Building, execute promptly such instruments or certificates to carry out the intent of this subsection as requested by the City, provided that, in the case of a request for the Tenant to subordinate this Lease to any mortgage or other Encumbrance, the Tenant shall have received written confirmation from the subject mortgagee or other encumbrancer. If within five (5) days after the date of a request by the City to execute any such instruments or certificates the Tenant has not executed the same, the Tenant hereby irrevocably and unconditionally appoints the City as the Tenant's attorney with full power and authority to execute and deliver in the name of the Tenant any such instruments or certificates.

24.0 Statistics

24.1 The Housing Provider shall, for statistical purposes, supply information as required by the City from time-to-time provided such information is reasonably available to the Housing Provider, as determined by the City.

25.0 Dispute Resolution

25.1 Subject to subsection 25.2 hereof, the Parties shall utilize all reasonable efforts to resolve any dispute in regard to the respective rights, obligations and duties of the Parties, or any other matter arising out of or connected with this Lease (hereinafter "Dispute"), promptly and in a good faith manner by negotiation. If they are unable to resolve the Dispute within thirty (30) days from when the Dispute first arose either Party may, by notice in writing to the other Party, submit the matter to mediation. Immediately upon delivery of such notice, the Parties will make a reasonable, good faith effort to identify a mutually acceptable mediator. If the Parties cannot agree upon a mediator within a period of thirty (30) days or, having selected and met with the mediator cannot resolve the Dispute within ninety (90) days thereafter, either Party may by notice in writing to the other Party initiate a proceeding in a court of competent jurisdiction.

25.2 Notwithstanding subsection 25.1 neither Party is precluded from seeking from a court of competent jurisdiction interim relief, including injunctive relief, when the subject matter of the Dispute may require.

25.3 This dispute resolution provision shall not apply to any dispute, issue or controversy between the Parties, other than those matters specifically described in this Lease as being subject to this dispute resolution provision, or as the Parties may otherwise agree.

26.0 Default

26.1 In the event that:

- i. the Tenant fails to pay any Basic Rent, Additional Rent or other amounts due under this Lease on more than two (2) occasions during any Lease Year; or
- ii. the Tenant fails to cure, or takes steps satisfactory to the City to cure, any failure to observe or perform any other term or condition of this Lease to be observed or performed by the Tenant within ninety (90) days after receipt of a notice in writing from the City advising of said failure to observe or perform the applicable term or condition; or
- iii. the Tenant becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors, or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise, or a receiver or a receiver and manager is appointed for all or a portion of the Tenant's property, or any steps are taken or any action or proceedings are instituted by the Tenant or any other party including, without limitation, any court or Governmental Authority for the dissolution, winding-up or liquidation of the Tenant or its assets; or
- iv. the Tenant abandons the Housing Facility;

then the City, in addition to any other rights or remedies it has under this Lease or at law, may terminate this Lease and re-enter the Housing Facility or any part thereof, expelling all persons and removing all property from the Housing Facility, subject to the residential leases that the sub-tenants have entered into with the Tenant; all without the City being guilty of trespass or liable for any loss or damage which may be occasioned to the Tenant thereby. Upon such re-entry, the City shall be entitled to have again, repossess and enjoy the Housing Facility, subject to the residential leases entered into by the Tenant with the sub-tenants.

26.2 Notwithstanding any other provision of this Lease, and subject to the Dispute Resolution provision, the City may from time to time resort to any or all of the rights and remedies available to it in the event of any default by the Tenant, all of which rights and remedies are intended to be cumulative.

26.3 The City reserves the right, such right to be exercised at its sole discretion, to deal with the Housing Facility at the end of the Term, whether occurring by expiration of this Agreement, termination or otherwise, in any such manner it determines appropriate, including without limitation to demolish, replace or renew the Housing Facility, and with no further obligation or responsibility to the Tenant.

27.0 Access by the City

27.1 The City shall have the right upon twenty-four (24) hours telephonic notice to the Tenant to enter the Housing Facility to examine the same, to show them to prospective purchasers, lessees or mortgagees, and to make such repairs, alterations,

improvements or additions to the Housing Facility as the City may deem necessary or desirable. If the City seeks entry to a portion of the Housing Facility sub-let to sub-tenant then the City shall act in a manner which is compliant with the *Residential Tenancies Act*, or any replacement legislation. The City shall have the right to make changes and additions to the pipes, conduits and ducts in the Housing Facility, and to take all material into and upon the Housing Facility that may be required without the same constituting an eviction of the Tenant in whole or in part.

28.0 City Covenants

28.1 Provided that the Tenant has paid all Rent and other charges when due and payable under this Lease, and has complied with all other terms and conditions hereunder, the City covenants and agrees to the following:

- i. For quiet enjoyment;
- ii. For the maintenance and good repair of the Lands and the Common Areas as required by this Lease; and
- iii. Subject to the provisions of this Lease, the continuance in full force and effect during the Term of liability insurance on the Lands and Building with responsible insurance companies and in amounts carried by a prudent owner of comparable property.

29.0 Indemnity

29.1 Notwithstanding any other provision of this Lease, the Tenant shall indemnify, defend and save harmless the City, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue, including without limitation Rent, or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Tenant, its directors, officers, employees, agents, contractors and subcontractors, subtenants, or any of them, in connection with or in any way related to the delivery or performance of this Lease or any occurrence in, upon, or at the Housing Facility or the occupancy or use by the Tenant of the Housing Facility, Housing Units, or any part thereof, or occasioned wholly or in part by any act or omission of the Tenant or by anyone permitted to be on or at the Housing Facility or a Housing Unit by the Tenant.

29.2 Further, the Tenant shall defend, indemnify and save harmless the City and its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to:

- i. Failure by the Tenant to pay any Rent or other amounts due under this Lease, or for the failure of the Tenant to perform any other obligation of the Tenant under this Lease; and
- ii. The Tenant's status with WSIB, and this indemnity shall be in addition to and not in lieu of any proof of WSIB status and compliance to be provided by the Tenant in accordance with this Lease and shall survive this Lease.

29.3 This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Tenant in accordance with this Lease and shall survive this Lease. Further, this indemnity is absolute and unconditional and shall not be released, discharged, mitigated, impaired or affected by:

- i. any extensions of time, indulgences or modifications by the City in respect of the performance of any of the obligations of the Tenant under this Lease;
- ii. any waiver by or failure of the City to enforce any of the provisions of this Lease, except only for a waiver in writing and only to the extent and otherwise within the terms of the waiver; and
- iii. any assignment or transfer otherwise of this Lease by the Tenant to any other party.

29.4 Without limiting the generality of the foregoing, the liability of the Tenant under this indemnity shall not be deemed to have been waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant in any receivership, bankruptcy, winding-up or other creditors proceeding, or the rejection or disclaimer of this Lease in any proceeding. The liability of the Tenant shall not be affected by any repossession of the Housing Facility by the City.

29.5 No action or proceeding brought or instituted under this indemnity and no recovery in pursuance hereof shall be a bar or defence to any further action or proceeding which may be brought by the City under this indemnity for any further default, or in the performance and observance by the Tenant of the provisions of this Lease.

29.6 This indemnity shall extend to and be binding upon the heirs, executors, administrators, successors and assignees of the Tenant and shall enure to the benefit of and may be enforced by the City, and its administrators, successors and assignees, and the holder of any mortgage to which this Lease is or may become subject.

30.0 General Provisions

30.1 Sections, Headings and Contra Proferentum

The division of this Lease into Articles, Sections and Paragraphs and the insertion of headings are for convenience of reference only and shall not affect the interpretation or construction of this Lease. Each Party acknowledges that it has reviewed and participated in determining the terms and conditions of this Lease and agree that any

rule of construction or doctrine of interpretation, including contra proferentum, construing or interpreting any ambiguity against the drafting party shall not apply.

30.2 *Gender*

In this Lease, words importing the use of either gender shall include both genders.

30.3 *Time of the Essence*

Time shall be of the essence of this Lease and of every part hereof, and no extension or variation to this Lease shall operate as a waiver of this provision.

30.4 *Applicable Law*

This Lease shall be construed, interpreted and enforced in accordance with the laws of Ontario, without reference to any principles of conflicts of laws. Subject to the Dispute Resolution provision, each Party irrevocably and unconditionally attorns to the exclusive jurisdiction of the City of Kawartha Lakes.

30.5 *Enurement*

This Lease shall enure to the benefit of and shall be binding on and enforceable by the Parties and, where the context so permits, their respective representatives and successor.

30.6 *Amendment*

This Lease may only be changed by a document in writing signed by both Parties.

30.7 *Waiver*

No waiver of any provision of this Lease, including waiver of a breach of this Lease, shall constitute a waiver of any other provision or breach of this Lease unless expressly provided otherwise. No waiver shall be binding unless executed in writing.

30.8 *Invalidity*

Any provision in this Lease which is held to be illegal or unenforceable shall be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions.

30.9 *Entire Agreement*

This Lease constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior or other agreements, understandings, negotiations and discussions, whether written or oral, between the Parties.

30.10 *Accord and Satisfaction*

No payment by the Tenant or receipt by the City of any lesser amount of any Rent owed by the Tenant shall prejudice the right of the City to recover the balance owing or to pursue any other remedy under this Lease.

30.11 *Counterparts*

This Lease may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and fully binding, and all such counterparts shall together constitute one and the same instrument.

30.12 *Transmission by Facsimile*

The Parties agree that this Lease may be transmitted by facsimile or such similar device, and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals, and each Party undertakes to provide the other Party with a copy of this Lease bearing original signatures forthwith upon demand.

[Signatures on next page]

IN WITNESS WHEREOF the City and Tenant have affixed their respective corporate hands and seals by a duly authorized signing officer(s) on the date first above written.

**The Corporation of the City of Kawartha
Lakes**

Per: _____

Title: _____

Per: _____

Title: _____

“We have authority to bind the Corporation”

**Kawartha Lakes Haliburton Housing
Corporation**

Per: _____

Title: _____

“I have authority to bind the Corporation”

SCHEDULE "A" – SKETCH

See attached.

SCHEDULE “B” – HOUSING UNITS

First Floor Housing Units are identified as:	Second Floor Housing Units are identified as:
101	201
102	202
103	203
104	204
105	205
106	206
107	207
108	208
109	209
110	210
111	211
112	212