

**SAMPLE AFFORDABLE HOUSING PARTNERSHIP PROGRAM
OPERATING AGREEMENT
("Agreement")**

THIS AGREEMENT made effective as of the _____ day of _____, 2023.

BETWEEN:

ALBERTA SOCIAL HOUSING CORPORATION

A corporation formed under the laws of the Province of Alberta
("ASHC")

- and -

[INSERT NAME OF THE PROVINCIAL CONTRIBUTION RECIPIENT]

("Recipient")

WHEREAS:

- A. ASHC has established the Affordable Housing Partnership Program (AHPP), in alignment with the Government of Alberta's objectives to improve and expand affordable housing, is intended to support individuals and families living in Core Housing Need who may have barriers to accessing Adequate, safe and Suitable housing accommodations;
- B. The Recipient is a [management body or Society or Organization] formed pursuant to [Ministerial Order No. H: ###/## and the *Alberta Housing Act* RSA 2000, c A-25 (the "Act") (if it is an HMB) OR established pursuant to Alberta Statute if the recipient is a Society or Organization], and as amended from time to time, and has entered into an agreement with ASHC to receive a contribution to a housing Project;
- C. ASHC provided a Provincial Contribution to [brief Project scope description] in [enter name of the city/town], [expand on the Project scope] (the "Project"), and more specifically set out in **Schedule "A"**;
- D. Pursuant to the *Bilateral Agreement* under the *2017 National Housing Strategy* ("NHS") made between Canada Mortgage and Housing Corporation ("CMHC") and the Government of Alberta effective April 1, 2018, to March 31, 2028, ASHC may contribute funding for residential accommodation in order to reduce housing need in support of NHS targets, where Household is within income thresholds as set by ASHC; and
- E. ASHC and the Recipient wish to enter into this Agreement to set out the terms and conditions upon which the Recipient will manage and administer the Project for the purpose of providing Adequate, safe, and Suitable housing accommodation;

NOW THEREFORE in consideration of the mutual covenants contained in this Agreement, the receipt and sufficiency of which are acknowledged by the Parties, ASHC and the Recipient agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions

For the purpose of this agreement, the following definitions apply:

- (a) **“Adequate”** means housing that is not in need of material repair and is not lacking the Services and facilities necessary for a basic standard of accommodation, which includes heat, water, sewer or a septic system, a stove and a refrigerator, but does not include electricity;
- (b) **“Affordable Housing”** means housing that is Adequate and that has rents or payments below Median Market Rent in the community or area in which the Housing Unit is located;
- (c) **“Affordable Housing Accommodation”** means a housing accommodation designated by the Minister as an Affordable Housing Accommodation under clause 31.1(1) of the *Alberta Housing Act*;
- (d) **“Affordable Housing Provider”** means the owner or operator of an Affordable Housing Accommodation;
- (e) **“Applicable Law”** means all current laws, statutes, codes, ordinances, orders, rules, regulations, and by-laws in force in Alberta;
- (f) **“Business Day”** means a day of the week that does not include Saturday, Sunday, statutory holidays, and the Government of Alberta’s Christmas closure;
- (g) **“Business Hours”** means the hours of operation of a Business Day, which is 8:15 a.m. to 4:30 p.m.;
- (h) **“Capital Contribution”** means a type of Provincial Contribution in the form of land and buildings such as the transfer of ownership or a long-term lease of an ASHC-owned asset;
- (i) **“Capital Grant Agreement”** refers to an agreement between the ASHC and the Recipient in which ASHC agrees to contribute a Capital Contribution towards the cost of the Project.
- (j) **“Core Housing Need”** means a Household is in Core Housing Need if: (a) it is unable to acquire or maintain Adequate or Suitable accommodation without paying more than 30% of its total annual income for accommodation, and (b) it has a total annual income below the income thresholds for the municipality where the Affordable Housing is located and for which the household makes application;
- (k) **“Eligible Tenant”** means Households that meet the criteria required that is set out for each of the Rental Bands;
- (l) **“Grant Security Agreement”** means the agreement granting ASHC an option to purchase the Project lands if the Recipient breaches this Agreement, the Capital Grant Agreement, or the terms of the Grant Security Agreement, a copy of which is included in **Schedule “C”**;
- (m) **“Gross Income”** means the total Gross Income, including self-employment income, from

all sources, of all those residing in a Housing Unit who are 22 years of age or older, provided that ASHC may, from time to time, amend the meaning of this term, such amendment to take effect from the date communicated to the Recipient. Line 15000 on a Canada Revenue Agency issued Notice of Assessment (or its equivalent as amended by the Government of Canada from time to time) can be used as a measure of Gross Annual Income;

- (n) **“Household”** means an individual who is applying for or occupying a Housing Unit, including the following, if any:
 - a. the spouse or adult interdependent partner of the applicant or occupant;
 - b. an individual, related by blood, adoption or marriage, or by virtue of an adult interdependent relationship, or who is known to have lived regularly as a member of the household as part of the family unit;
 - c. the dependents who are living with the applicant or occupant, including any dependents of whom the applicant or occupant has joint or sole custody;
 - d. an individual considered by the Affordable Housing Provider to be a member of the household
 - e. a live-in aide;
- (o) **“Housing Income Limits”** or **“HILS”** means the income thresholds published annually by the Government of Alberta which set out eligibility under their Affordable Housing programs and are based on applicant income and housing accommodation location, as such income thresholds are revised and published, from time to time, by the Government of Alberta (these income thresholds are currently published online at: <https://open.alberta.ca/publications/income-thresholds#summary>);
- (p) **“Housing Unit”** means a dwelling, suite, or residential unit, within the Project which the Recipient permits, or is intended, to be leased, rented, or otherwise occupied for residential accommodation by one Household. Commercial units or non-residential spaces do not count as a unit;
- (q) **“Median Market Rent”** or **“MMR”** means the rent for the specific Housing Unit type as determined by the most recent Canada Mortgage and Housing Corporation's annual Rental Market Survey (for Alberta urban communities with populations over 10,000), or Alberta's Apartment Vacancy and Rental Rate survey (for rural communities with populations between 1,000 and 10,000) for the municipality where the Project is located. If the municipality is not listed, then the MMR for the next census metropolitan area included in the survey applies;
- (r) **“Minimum Rent”** refers to when MMRs are 60% of MMR rates as defined by the CMHC *Rental Market Survey* for the community where the Project is located;
- (s) **“Minister”** refers to the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the *Alberta Housing Act*;
- (t) **“Mixed-Income Housing”** refers to housing developments or a portfolio of developments

with Housing Units with different rent rates to accommodate Households with different income levels, and includes a proportion of Housing Units at the rent rates of Affordable Housing;

- (u) **“Mixed-Use Development”** refers to any type of development that houses a range of Services in addition to housing, such as commercial and retail spaces;
- (v) **“Occupancy Permit”** means the written permission under a building permit which allows a building to be occupied after construction, alteration, or a change in occupancy of the building;
- (w) **“Parties”** means, collectively, ASHC and the Recipient and **“Party”** means any one of them;
- (x) **“Project”** means the [insert project details as outlined under Project Description in Schedule “A”], for which the Recipient has been approved by the ASHC, as detailed in **Schedule “A”** attached to and forming part of this Agreement;
- (y) **“Provincial Contribution”** means capital grant funds paid by ASHC to the Recipient under the Capital Grant Agreement up to the maximum amount set out in clause 3.1 of the Capital Grant Agreement, and includes any accrued interest on such capital grant funds that may be realized by the Recipient as a result of holding or investing any or all of such funds in an interest-bearing account or security; and may include a Capital Contribution in the form of land and buildings such as the transfer of ownership or a long-term lease of an ASHC-owned asset;
- (z) **“Rent Supplement Program”** or **“RSP”** refers to the Government of Alberta subsidy that helps make rental accommodation more affordable for individuals and families;
- (aa) **“Rental Band”** refers to the categories of rent that may be charged to a Tenant and are inclusive of Near Market and Market Rent, Minimum Rent, and Mid-Range Rent;
- (bb) **“Rental Range”** refers to the amount of rent that can be charged for each of the Rental Bands;
- (cc) **“Required Number of Housing Units”** refers to the number of Housing Units that must be allocated towards each of the Rental Bands;
- (dd) **“Tenant”** means the person or persons who entered into a Tenancy Agreement with the Affordable Housing Provider. It does not include other Household members that did not enter into the Tenancy Agreement;
- (ee) **“Tenancy Agreement”** means a contract of terms between the Affordable Housing Provider and Tenant, agreed on before the Tenant moves in;
- (ff) **“Services”** refers to the provision, operation, and maintenance of Suitable and Adequate Affordable Housing in the form of Housing Units in the Project, and Services as laid out but not limited to what is described in **Schedule “A”**;
- (gg) **“Social Housing Accommodation Regulation”** refers to the regulation of the *Alberta Housing Act* that provides direction regarding the application for social housing, setting of

rent, and the eligibility for social housing accommodation.

- (hh) **“Specialized Housing”** refers to Adequate, and Suitable rental housing provided to families, seniors, individuals, and targeted populations including but not limited to, Indigenous peoples and persons with disabilities, with Household Gross Income not exceeding HILS, and supportive housing; and,
- (ii) **“Suitable”** means housing that has enough bedrooms for the size (number of people) and makeup (gender, single/couple, etc.) of the Household and meets their needs, according to National Occupancy Standard requirements.

1.2 References

Except as otherwise specifically provided, reference in this Agreement to any contract, agreement or any other instrument shall be deemed to include references to the same as varied, amended, supplemented or replaced from time to time. References in this Agreement to any enactment, including any statute, law, by-law, regulation, ordinance or order, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

ARTICLE 2 - TERM OF AGREEMENT

2.1 Term

The term of this Agreement shall commence on date of issuance of the Occupancy Permit for a term of XX years continuously, from the date of issuance or such period as may be agreed to in writing by the ASHC and the Recipient (the **“Term”**). The Occupancy Permit must be submitted to ASHC under the terms and conditions of the Capital Grant Agreement.

ARTICLE 3 – MIXED MODEL REQUIREMENTS

3.1 Mixed-Income Project Rental Bands

The Recipient shall operate XX Housing Units in the Project as per **Schedule “A”**.

The Recipient shall comply with this section in respect of the Mixed-Income Housing Project Rental Bands:

Rental Band	Required Number of Housing Units	Rental Range	Eligible Tenant
Near Market and Market Rent	X	Greater than (>) 90% of (MMR)	No Gross Income limit No asset value limit
Minimum Rent	X	60% of MMR	Gross Income not exceeding the HILS AND Targeted towards the lowest income applicants first. See 3.2(d) for asset value limit
Mid-Range Rent	X	Greater than (>) 60% to less than (<) 90% of MMR	Gross Income of exceeding the HILS See 3.2(c) for asset value limit

- (a) The Affordable Housing Provider shall determine the rental rates and Household eligible income range to apply per Rental Band annually based on the MMR information published online in the Rental Market Report by the CMHC or the Government of Alberta's Apartment Vacancy and Rental Rate survey (for rural communities with populations between 1,000 and 10,000) and HILS information published online by the Government of Alberta for the community (or nearest comparable community) in which the Project is located.
- (b) Written permission must be received from ASHC if the Recipient wishes to change the Required Number of Housing Units in any given Rental Band as laid out in Article 3.1.
- (c) Notwithstanding 3.1(b), at no time shall the Project;
- a. Provide less than a minimum of 10% of Housing Units in Minimum Rent Rental Band.
 - b. More than 30 per cent of Housing Units in the Project in the Near Market and Market Rent Rental Band.
- (d) By virtue of this Agreement, the Minister will designate Minimum Rent and Mid-Range Housing Units in the Project as Affordable Housing Accommodation; this makes the Recipient a designated Affordable Housing Provider under the Act.

3.2 Tenant Eligibility and Selection

- (a) The Recipient shall use Gross Income to determine an applicant's eligibility to a Rental Band and determine the Household's rental rate.
 - a. The Recipient shall, as the first source of Tenants for the Project, give priority to the lowest income applicants for the Minimum Rent Housing Units whose incomes fall under the income thresholds for the size of accommodation (number of bedrooms) required to adequately house the lowest income applicant within the communities in which the Project is located.
 - b. The Recipient shall obtain the prior written approval of ASHC before any Housing Unit in the Minimum Rent or Mid-Range Rental Bands is assigned to a Household that exceeds the income and/or asset limits for eligibility.
- (b) Households paying more than 30% of their monthly income on the monthly cost of rent are eligible to apply for the RSP as delivered by existing RSP delivery providers.
- (c) For Minimum Rent Housing Units, eligible Households must have a total asset value as defined by the *Social Housing Accommodation Regulation*, within the limit prescribed in section 9.2(b). For Mid-Range Rent Housing Units, the total asset value limit is double the limit for Minimum Rent Housing Units.
- (d) If applicable, the Recipient shall, as the first source of Tenants for the Project, give priority to the [insert Target Population] whose incomes fall under the income and asset thresholds for the size of accommodation (number of bedrooms) required to adequately house the [insert Target Population] within the communities in which the Project is located.
 - a. The Recipient shall obtain the prior written approval of ASHC before any Housing Unit within the Project is leased or otherwise occupied by any individuals who are not of the target population.

3.3 Rental Rate Adjustments

The Recipient shall obtain evidence of each Households Gross Income at the time of application and at least once a year thereafter to confirm eligibility for residency in a Housing Unit. Asset limits do not apply to annual renewals after initial eligibility.

The Recipient may adjust the amount of rent to be paid by the Household, including adjusting the designated Rental Band, due to changes in such Household's Gross Income if the mix of Housing Units by Rental Band allows as per 3.1(b).

ARTICLE 4 - RENTAL AGREEMENTS AND TERMS

4.1 Applications for Tenancy

The Recipient shall require all prospective Tenants of Housing Units to submit applications for tenancy prior to entering into any Tenancy Agreement or arrangement in respect of a Housing Unit. Such application for tenancy shall be in a form acceptable to ASHC, shall contain any

provisions that ASHC may from time to time require to be included therein, and, unless otherwise directed by ASHC, shall include provisions substantially to the following effect:

- (a) The application for tenancy shall include a requirement that the applicant submit accurate income and Household information, including information regarding Household Gross Income, incomes of individual members of the Household, assets of the Household, and characteristics of the Household, and shall provide that any such information is subject to verification by the Recipient and/or ASHC;
- (b) The application for tenancy shall include a statement respecting the calculation of rent as contemplated under Article 3.1 hereof, and increases and decreases that may be made to same based upon changes in Gross Income.

4.2 Tenancy Agreements

The Recipient shall enter into a written Tenancy Agreement with all Tenants renting or otherwise occupying each Housing Unit to the following effect:

- (a) All Tenants occupying a Housing Unit shall be party to the Tenancy Agreement except for their dependents (if any);
- (b) The Tenancy Agreement shall prohibit any assignment of the Tenancy Agreement by the Tenants without the prior written consent of the Recipient;
- (c) All Tenants permitted to occupy the Housing Unit shall be listed in the Tenancy Agreement and there shall be a prohibition on occupation by any other persons without the prior written consent of the Recipient;
- (d) The Tenancy Agreement shall be for a fixed term not exceeding 12 months;
- (e) The individual Tenants entering a Tenancy Agreement shall certify that accurate income and Household information has been supplied to the Recipient in its tenancy application, including information regarding Household Gross Income, incomes of individual members of the Household, assets of the Household, and characteristics of the Household, and shall provide that any such information is subject to verification by the Recipient and/or ASHC;
- (f) The Tenancy Agreement shall provide for the amount and calculation of rent as contemplated under Article 3.2 hereof, and increases and decreases that may be made to same based upon changes in Gross Income; provided that the foregoing shall at all times be subject to compliance with the *Residential Tenancies Act (Alberta)*.

ARTICLE 5 - COMPLIANCE WITH APPLICABLE LAW

5.1 Compliance with Applicable Law

Throughout the Term, the Recipient shall observe, obey and comply with all Applicable Laws. Without limiting the generality of the foregoing, the Recipient acknowledge that the *Alberta Human Rights Act* and *Residential Tenancies Act (Alberta)* apply to the performance of its obligations

hereunder, including, without limitation, the leasing of Housing Units. The Recipient agrees to abide by the requirements of all such Applicable Laws in its performance of this Agreement.

ARTICLE 6 - PROJECT MANAGEMENT

6.1 Covenants of The Recipient

The Recipient covenants and agrees that it shall:

- (a) faithfully and honestly perform its duties and responsibilities hereunder;
- (b) perform all the Services required under this Agreement in a careful, honest and professional manner in accordance with the highest standards of professional conduct, and in compliance in all respects with this Agreement;
- (c) while performing its obligations hereunder, the Recipient shall supervise and direct the management and operation of the Project in a cost-efficient, prudent and business-like manner, with the standard of care, skill and diligence normally provided by a property manager experienced in the performance of Services similar to those contemplated herein, and in compliance with the terms of any other agreement applicable to the operation of the Project;
- (d) use its best efforts to ensure that the Housing Units within the Project are at all times fully leased to Suitable Tenants in accordance with this Agreement, and in doing so, shall comply with:
 - (i) the criteria and procedures established by ASHC pursuant to Article 3, with respect to the selection of Tenants for the Housing Units and setting of rental rates for Housing Units; and
 - (ii) the requirements established by ASHC pursuant to Article 4, with respect to tenancy applications and Tenancy Agreements.
- (e) immediately notify ASHC of any issues or potential issues, including, but not limited to, notices, demands, assessments, penalties, or any actual or threatened legal proceedings or claims, that could negatively impact the Project, ASHC or the Recipient; and
- (f) submit to ASHC for ASHC's approval:
 - (i) decisions where ASHC has approval right within this Agreement; and
 - (ii) any changes to the Project, which could have an adverse impact to the Project, ASHC, or the community surrounding the Project; and
- (g) comply with all Applicable Laws.

6.2 Exclusive Services

The Recipient agrees that it will not, save with the prior written approval of ASHC, which shall not be unreasonably refused, enter into any contract or other arrangement for the supervision or

management of all or part of the Project by any person or organization other than its own employees.

6.3 Use for Affordable Housing Purposes

Throughout the Term, unless otherwise consented to by ASHC in writing, the Recipient shall ensure that the Project is only used for the rental of Housing Units to Tenants for Affordable Housing purposes in accordance with all requirements set out in this Agreement, including, without limitation, Articles 3 and 4 hereof.

6.4 Standard of Repair

The Recipient shall ensure efficient management of the Project and shall maintain the Project in a clean and satisfactory state of repair. Without limiting the generality of the foregoing, all Housing Units within the Project shall be maintained in a condition so as to provide Adequate housing accommodation to its Tenants and shall be in such a condition as to meets the requirements of enactments and bylaws applicable to the construction and operation of the Project.

No capital maintenance and repair (“**CMR**”) costs will be provided from ASHC. ASHC is not liable for any CMR costs. The Recipient is fully responsible for CMR costs.

6.5 Remedies related to Management Issues

In the event that ASHC, acting reasonably, determines that the Project is being managed in an improper, irregular or improvident manner or without due regard for the health, safety and welfare of the Tenants occupying the Project, then ASHC may direct the Recipient to take such action as is appropriate to rectify such deficiency, which may include, without limitation, the engagement of a third party professional management. If the Recipient refuses to act on the recommendation, ASHC may, in addition to any other rights contained in this Agreement, require repayment of all or part of the Capital Contribution and/or revoke designation as an Affordable Housing Provider and/or Affordable Housing Accommodation.

6.7 Legal Actions

The Recipient, or its authorized agent, is responsible for but in any event at the expense of the Recipient, any and all legal actions or proceedings to collect charges or other income of the Project or to lawfully evict Tenants or other persons in possession under, or lawfully cancel, modify or terminate, any lease, licence agreement or admission agreement for the breach thereof or default thereunder by the Tenant or licensee.

ARTICLE 7 - REPORTING, AUDITS, AND INSPECTIONS

7.1 Reporting

The Recipient shall provide ASHC with reporting information regarding the Project, including a true copy of the Occupancy Permit, current Tenants, and financial statements in a format and submission method acceptable by ASHC. The Recipient consents to publishing of aggregated and anonymized reporting information by ASHC regarding the characteristics of the Project and its Tenants.

Upon the request of ASHC, the Recipient shall provide ASHC with any information, reports, or documentation that ASHC may require for the purpose of performing statistical analysis or

preparing statistical reports in respect of the Project, and the Recipient further consents to the use of and publishing of such information by ASHC for statistical and reporting purposes.

7.2 Record Retention

Subject to ASHC's right to require information or documentation to be returned or destroyed pursuant to Article 7 hereof, throughout the Term and for a period of 7 years following the expiry or termination of this Agreement, the Recipient shall maintain within Canada:

- (a) complete and accurate financial books, records and accounts in respect of the Project; and
- (b) all other documents, records, and accounts otherwise relating to the Project and the performance of the Recipient's obligations hereunder.

7.3 Right to Audit

Throughout the Term and for a period of 7 years thereafter, the Recipient shall permit ASHC or ASHC's representative, authorized in writing, to examine, during regular Business Hours, the books, records and documents relating to the Project and the performance of the Recipient's obligations hereunder.

7.4 Inspections

Throughout the Term the Recipient shall, upon request of ASHC, arrange for ASHC or its representative to have access to the Project (including, without limitation, any Housing Units within the Project, subject to the *Residential Tenancies Act (Alberta)* in order that ASHC may verify the Recipient's compliance with this Agreement.

ARTICLE 8 - INSURANCE

8.1 The Recipient Insurance

- (a) The Recipient shall, at its own expense and without limiting its liabilities herein, insure its operations under a contract of general liability insurance, in accordance with the *Insurance Act (Alberta)*, in an amount not less than \$5,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss of use thereof. Such insurance must include Tenant's legal liability in an amount not less than \$1,000,000 per occurrence.
- (b) The Recipient must obtain and maintain "all risks" property insurance, on a replacement cost basis, covering the Project that the Recipient is obligated to insure.
- (c) The Recipient shall maintain automobile liability insurance on all vehicles owned or licensed in the name of the Recipient and used in the performance of the Services under this Agreement in an amount not less than \$2,000,000. Where such risk exists, the policy must be endorsed with the appropriate SEF 6 Permission to Carry Passengers.
- (d) Any insurance, except automobile liability insurance, called for under this agreement must be endorsed to provide to ASHC 30 days advance written notice of cancellation, including for non-payment of premium.

- (e) Evidence of all required insurance, in the form of a detailed certificate of insurance, acceptable to ASHC, must be promptly provided to ASHC at inception of the Agreement, annually thereafter and at any other time requested by ASHC. Upon ASHC's request, the Recipient must provide ASHC with certified copies of all required insurance policies.
- (f) The Recipient must ensure that all its subcontractors obtain and maintain the type of coverage and limits of insurance required in this Agreement as applicable to the subcontractor's operations.
- (g) ASHC may, at its sole discretion and on reasonable notice to the Recipient, amend insurance coverages and amounts in this Agreement, and the Recipient shall promptly comply with such requirements.

ARTICLE 9 - DEFAULT AND TERMINATION

9.1 Default

In the event that the Recipient commits a breach of any term or condition of this Agreement, ASHC shall have the right to recover all or part of the Provincial Contribution to the Project as per **Schedule "B"**; and/or to revoke designation of the Project as Affordable Housing Accommodation, and/or designation of the Recipient as an Affordable Housing Provider.

9.2 Terminate on Default

Notwithstanding any other provisions of this Agreement, ASHC may immediately terminate this Agreement on the occurrence of any of the following events:

- (a) if the Recipient fails to carry out any term of this Agreement, particularly Article 3.1, and Article 3.2 in regards to Rental Bands and Rental Range, Tenant eligibility and Tenant selection;
- (b) the bankruptcy or receivership of the Recipient;
- (c) if the Recipient fails to submit required reports or otherwise fails to remain in good standing with the Registrar of Corporations;
- (d) if the Recipient engages in activities outside those permitted in its bylaws;
- (e) if the Recipient fails to comply with any Applicable Laws; or
- (f) if the Recipient breaches any other provision of this Agreement or the Capital Grant Agreement, at any time during the Term.

9.3 Termination on Notice

At any time during the Term, either Party may terminate the Agreement by written notice to the other Party, such termination to be effective 90 days after the date notice is provided to the other Party. On such a termination, the Recipient shall not have recourse against the ASHC for any costs, liabilities or obligations arising as a result of termination. The ASHC has recourse to recover the Capital Contribution to the Recipient for the Project.

9.4 Continued Services

ASHC and the Recipient shall co-operate with each other in the event of a termination of this Agreement to ensure that tenancies within the Project are not compromised during any transition of management. The Recipient shall continue to make its Services available through any reasonable transition period.

9.5 On Termination

Upon termination of this Agreement, ASHC may demand that the Recipient repay any or all of the Provincial Contribution to the Project, on a *pro rated* basis, based on the length of time the Project was used for Affordable Housing Accommodation as a percentage of the Term of this Agreement, in accordance with the method set out in **Schedule "B"**. Failure of the Recipient to repay any amount determined by ASHC pursuant to this Agreement will be considered a default of this Agreement and will be a triggering event under the Grant Security Agreement between the parties, allowing ASHC to exercise its option to purchase the Project lands as provided for in that agreement.

ARTICLE 10 - INDEMNITY AND LIABILITY

10.1 Indemnity and Liability

The Recipient agrees to indemnify and hold harmless ASHC from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client full indemnity basis) for which the Recipient is legally responsible, including those arising out of negligence or willful acts by the Recipient or the Recipient's employees or agents. This hold harmless clause shall survive this Agreement.

ARTICLE 11 - NON-DISCLOSURE AND FOIP REQUIREMENTS

11.1 Non-disclosure of Information

- (a) Except as provided in this Article 11.1 and Article 11.2 below, all information, regardless of form, including personal information as defined in the *FOIP Act* ("**Personal Information**"), that is obtained, generated, provided or collected by the Recipient in the performance of its obligation hereunder ("**ASHC's Information**"), shall not be disclosed or published by the Recipient without the prior written consent of ASHC and shall only be used by the Recipient in the performance of this Agreement by ASHC; *provided that* the Recipient may disclose ASHC's Information to its employees, subcontractors or agents who have a need to know for the purpose of performing the Services under this Agreement, so long as the Recipient has a confidentiality agreement with the agent or subcontractor containing confidentiality provisions substantially similar and at least as strict as this Agreement.
- (b) Subject to Article 11.2(b) below, the Recipient's obligations in the above Article 11.1(a) do not apply to information or documents which:
 - (i) are or become publicly available through no act or omission of the Recipient;
 - (ii) are independently developed without benefit of ASHC's Information; or

- (iii) are received by or from a third party without restriction and without a breach of an obligation of confidentiality.
- (c) The Recipient shall retain ASHC's Information as confidential and shall make reasonable security arrangements against unauthorized access, use, disclosure, loss, destruction or alteration of ASHC's Information. The Recipient shall immediately advise ASHC of any unauthorized access, use, disclosure, loss or destruction of ASHC's Information, and shall provide ASHC any assistance reasonably required to rectify such a situation.
- (d) The Recipient shall return or deliver ASHC's Information to ASHC upon request of ASHC.
- (e) ASHC's Information may be disclosed to the extent required by law or court order, provided that ASHC is given reasonable notice and opportunity to seek to prevent or limit its disclosure.

11.2 Freedom of Information and Protection of Privacy

- (a) The Recipient acknowledges that this Agreement, including without limitation the name of the Recipient, fees payable, the Term, and details of the Services to be provided the Recipient may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act (Alberta)* (the “**FOIP Act**”). The Recipient further acknowledges that the FOIP Act applies to ASHC's Information collected, used or disclosed in the performance of the Recipient's obligations hereunder, and the Recipient shall adhere to the FOIP Act in its collection, use and disclosure of any Personal Information.
- (b) The Recipient shall not collect, use or disclose any Personal Information under this Agreement except as reasonably required to fulfill its obligations under this Agreement, or as otherwise expressly authorized in writing by ASHC.
- (c) Upon request of ASHC, the Recipient shall, at its expense, and within 5 Business Days, provide to ASHC any records that are requested under the access provisions of the FOIP Act that are in the custody or under the control of the Recipient. Should the Recipient receive an access request under the FOIP Act, the Recipient shall not respond to it, but shall immediately forward the access request to ASHC for further handling.
- (d) In performing its obligations hereunder the Recipient shall make every reasonable effort to ensure that Personal Information that is to be or is actually used to make a decision that directly affects an individual, is both complete and accurate. At ASHC's request, the Recipient must correct, within 5 Business Days of the request, Personal Information that the Recipient may have either collected or compiled about an individual pursuant to this Agreement.
- (e) The Recipient shall during the Term and at all times in which it has Personal Information in its custody or under its control:
 - (i) protect Personal Information against any unauthorized access, use, disclosure, loss, destruction or alteration;

- (ii) immediately advise ASHC of any actual or potential unauthorized access, use, disclosure, destruction or alteration of Personal Information and provide all reasonable assistance to ASHC to prevent or remedy the same; and
- (iii) provide ASHC with any information regarding the Recipient's security measures that ASHC may require to verify compliance with the FOIP Act.
- (f) Only in Canada may the Recipient store any records of Personal Information, which are disclosed to the Recipient under this Agreement, including records that are collected, used or stored on behalf of ASHC.
- (g) The Recipient shall act on any direction that ASHC may provide with regard to the use, collection, access, security, disclosure, alteration, loss or destruction of the Personal Information.

ARTICLE 12 - CONFLICT OF INTEREST, ETHICS AND COMPLIANCE

12.1 Conflict of Interest and Ethical Conduct

- (a) The Recipient shall ensure that there is not a conflict of interest or an apparent conflict of interest on the part of the Recipient or its members, directors, employees, subcontractors or agents in relation to the obligations the Recipient hereunder, and all Services to be provided by the Recipient shall be performed in accordance with high ethical standards, including without limitation the following:
 - (i) The Recipient and its members, directors, employees, subcontractors and agents shall not influence, or seek to influence, or otherwise take part in a decision of ASHC knowing that the decision might further their private interests;
 - (ii) where the Services involve providing advice, making recommendations to ASHC or exercising discretionary authority regarding a right, permission, privilege, status, contract or benefit, then such advice, recommendations or discretion must be provided, made or carried out impartially and without bias;
 - (iii) neither the Recipient nor its members, directors, employees, subcontractors or agents shall accept any collateral gift, payment, commission or other direct benefit arising from or connected to the performance of the obligations of the Recipient hereunder;
 - (iv) The Recipient and its members, directors, employees, subcontractors and agents shall not have any financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of the Recipient's obligations hereunder;
 - (v) The Recipient, upon request by ASHC, shall deliver copies of all written ethical standards, conflict of interest policies and codes of conduct established or observed by the Recipient in its business practices or in relation to its members, directors, employees, subcontractors or agents; and
 - (vi) The Recipient shall comply with, and ensure that, its members, directors, employees, subcontractors and agents comply with, the *Lobbyists Act* (Alberta), as amended from time to time.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

13.1 Communications Protocol

- (a) The Recipient agrees not to make any announcements about the Project under this Agreement without the prior written consent of ASHC.
- (b) The Recipient agrees that ASHC written approval is required before developing information kits, brochures, public reports, and website material recognizing and/or informing the public about the Project under this Agreement.
- (c) The Recipient agrees that ASHC's written approval is required for any official event in respect of the Project, such as ground breaking, openings, plaque unveiling, funding announcements or any similar event to which the public may be invited, and the Recipient shall provide ASHC with at least 8 weeks' notice of any such event, and further agrees that a representative of ASHC may attend such event.
- (d) The Recipient authorizes ASHC to use and publish information, in whole or part, from any reports provided by the Recipient under this Agreement.

13.2 Signage

ASHC shall be permitted to install and maintain signage on the Project throughout the Term to recognize the funding contribution from ASHC, in such form and at such locations as may be determined by ASHC.

13.3 Notices

Any notice, demand, or other communication (in this Article, a "**Notice**") required or permitted to be given or made hereunder shall be in writing and shall be sufficiently given or made if:

- (a) delivered in person during normal Business Hours on a Business Day and left with a receptionist or other responsible employee of the relevant party at the applicable address set forth below;
- (b) sent by any electronic means of sending messages, which produces a paper record ("**Transmission**") during normal Business Hours on a Business Day, in the case of Notice to ASHC, addressed to:

Alberta Social Housing Corporation
P. O. Box 927
Edmonton, Alberta T5J 2L8
Attention: Executive Director, Housing Operations
E-mail:

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

Recipient
Street Address
City, Alberta Postal Code

Attention: _____
E-mail: _____

Each Notice sent in accordance with this Article shall be deemed to have been received:

- (a) on the day it was personally delivered;
- (b) on the same day it was sent by Transmission or on the first Business Day thereafter if the day on which it was sent by Transmission was not a Business Day.

13.4 Canadian Funds

All payments required under this Agreement shall be paid in the lawful money of Canada.

13.5 Non-Exclusive Remedy

No reference to or exercise of any specific right or remedy by ASHC shall prejudice or preclude ASHC from exercising any other right or remedy, whether allowed at law or in equity or expressly provided for in this Agreement, and no such right or remedy is exclusive or dependent upon any other such remedy and ASHC may from time to time exercise any one or more of such remedies independently or in combination.

13.6 Assignment

Neither Party shall assign or otherwise dispose of any of its rights, obligations, or interests in this Agreement, without the prior consent of the other party, which shall not be unreasonably withheld.

13.7 Laws of Alberta

This Agreement shall be governed in accordance with the laws of Alberta, and the Parties agree to the jurisdiction of the Courts of Alberta.

13.8 Authority

The Recipient represents and warrants that it has the authority to enter into this Agreement and that the Agreement does not contravene any law, regulation, or agreement binding or affecting the Recipient.

13.9 Singular and Plural

In this Agreement words in the singular include the plural and words in the plural include the singular.

13.10 Amendments

This Agreement may be amended when such amendments are reduced to writing and signed by authorized representatives of the Parties.

13.11 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and no understandings, representations or agreements, oral or otherwise, exist between the Parties with respect to the subject matter of this Agreement, except as expressly set out in this Agreement.

The Project is also governed, with respect to the Provincial Contribution, by a Capital Grant Agreement, and with respect to default under this Agreement or the Capital Grant Agreement by the Grant Security Agreement.

13.12 Unenforceable Terms

Each provision of this Agreement is distinct and severable and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.

13.13 Inurement

Subject to the other term of this Agreement, this Agreement shall be for the benefit of and binds successors and permitted assigns of the Parties.

13.14 Waiver

Any waiver by either Party of the strict performance of any term or condition of this Agreement will not constitute a waiver or abrogation of any other term or condition herein contained, nor will it be deemed a waiver or abrogation of any subsequent breach of the same or any other term or condition of this Agreement.

13.15 No Agency Partnership or Joint Venture

This Agreement is not intended to and does not:

- (a) constitute either Party as the agent of any other for any purpose, or otherwise create any relationship of agency, unless expressly agreed to by the Parties in writing;
- (b) constitute or create any joint venture; or
- (c) constitute or create any partnership;

and neither Party shall allege or assert for any purpose that this Agreement constitutes or creates a relationship of agency, joint venture or partnership.

13.16 Execution

This Agreement may be signed or executed in several counterparts, may be executed electronically, and may be delivered originally or by electronic transmission and each such counterpart, when so executed and delivered, will be deemed to be an original and all of which taken together will constitute one and the same Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

ALBERTA SOCIAL HOUSING
CORPORATION

RECIPIENT

Name, Executive Director
Housing Operations

Name, Title

Date

Date

SAMPLE

SCHEDULE "A"

THE PROJECT

Project Name:

Land Description(s):

Land Title LINC Code	Plan	Block	Lot	Median/Range/Township/Section/Quarter	Owned By

Building Description(s):

Building #	Street Address	City	Province	Postal Code	Building Size (square metres)	Located on Land (LINC Code)	Building Type
1							
2							
3							

Number of Housing Units

Building #	Number of Housing Units- Bachelor	Number of Housing Units- 1 Bedroom	Number of Housing Units - 2 Bedroom	Number of Housing Units - 3 Bedroom	Number of Housing Units - 4 Bedroom	(add columns as required)	TOTAL number of Housing Units
1							
2							
3							
TOTAL PROJECT HOUSING UNITS							

Building Type must be one of the following:

- Single Family Attached
- Single Family Detached
- Low-rise Apartment
- Midrise Apartment
- Highrise Apartment
- Non-Residential Other (specify)

SCHEDULE "B"

PROVINCIAL CONTRIBUTION REPAYMENT CALCULATION

For the purpose of compliance with Article 9 of this Agreement:

- a) Where the Recipient fails to expend any portion of the Provincial Contribution, a sum represented by the entire Provincial Contribution plus accrued interest that the Recipient may have earned on the Provincial Contribution;
- b) Where the Recipient expends less than the total of the Provincial Contribution, a sum represented by the difference between the amount expended and the Provincial Contribution plus accrued interest that the Recipient may have earned on the Provincial Contribution; or,
- c) Where the Recipient expends all of the Provincial Contribution on the Project, but where the usage to which the Project is put changes from that of Affordable Housing, a sum calculated by applying the following formula:

$$R = G \times \frac{(\text{Term} - \text{YD})}{\text{Term}}$$

Where:

R = amount to be repaid to ASHC

G = Total of the Provincial Contribution plus accrued interest that the Recipient may have earned on the Provincial Contribution

Term = Term of the Agreement as described in Article 2

YD = numerical year of default

"Year of default" means, for the purpose of applying the formula to determine the unused portion, the number between 1 and the Term representing the year after the date of issuance of the Occupancy Permit in which the default occurs.

SCHEDULE "C"

AFFORDABLE HOUSING GRANT SECURITY AGREEMENT

SAMPLE