

Revision Date: April 8, 2004

PROVINCIAL CONTRIBUTION AGREEMENT

Affordable Housing Program: Community Rental Housing Funding Pilot Project Component

This Agreement made the day of 2004.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY
THE MINISTER OF PUBLIC INFRASTRUCTURE RENEWAL

(hereinafter called the “**Minister**”)

- and -

[INSERT NAME OF PROPONENT]

(hereinafter called the “**Proponent**”)

WHEREAS:

- A. In order to create a supply of **Affordable Housing**, Canada Mortgage and Housing Corporation (“**CMHC**”) and Her Majesty the Queen In Right of Ontario, as represented by the Minister of Municipal Affairs and Housing (“**MMAH**”) entered into a bi-lateral agreement dated May 30, 2002 (the “**CMHC - Ontario Affordable Housing Program Agreement**”).
- B. In order to implement Program A-1 of Schedule “A” of the **CMHC - Ontario Affordable Housing Program Agreement**, **MMAH** established the Affordable Housing Program - Community Rental Housing Funding (the “**Program**”).
- C. **MMAH** initiated a Pilot Project component under the **Program** for housing project(s) selected by the **Service Manager** to be included in the **Program** (the “**Pilot Projects**”).
- D. The **Minister** is responsible for the **CMHC - Ontario Affordable Housing Program Agreement** and is entering into this Agreement in order to administer the **Program**.
- E. The Service Manager has confirmed that the **Proponent** has responded to the

tender call (the “**Tender Call**”) of the **Service Manager** by submitting its tender dated (the “**Tender**”) to undertake **Development Activities** for the **Pilot Project(s)** in return for financial benefits from the **Service Manager**.

- F. The **Minister** has allocated **Program** funds for the **Pilot Project(s)** to be used by the **Proponent** in accordance with the terms and conditions of this Agreement.
- G. The **Proponent** wishes to enter into this Agreement in order to obtain **Program** funds from the **Minister** to enable it to carry out its proposal set out in the **Tender**.

NOW THEREFORE, the **Minister** and the **Proponent** agree with each other as follows:

1. INTERPRETATION

1.1 In the Agreement, including its Schedules, unless the context requires otherwise,

- “**Affordable Housing**” means **Housing** which meets the affordability and unit size requirements of the **Program** as set out in the **Pilot Project Instruction Guide** but does not include residential premises used as a nursing home, retirement home, shelter, crisis care facility or any other type of similar facility;
- “**Business Day**” means each Monday, Tuesday, Wednesday, Thursday and Friday except when any such day occurs on a statutory holiday observed in Ontario;
- “**Contributions by Others**” means cash or in-kind eligible contributions from the Government of Ontario, municipalities, the private sector, the voluntary sector, charities and individual donors used in accordance with the **Program**. It does not include contributions from any other Government of Canada sources, including, but not limited to the **CMHC - Ontario Social Housing Agreement** dated November 15, 1999, nor contributions which receive credit under any agreement with **CMHC** outside this Agreement nor equity contributions to the **Pilot Project** made by the **Proponent** to the extent required by subsection 2.1(b);
- “**Development Activities**” means those activities which are normally undertaken for the development, construction, repair, renovation or conversion of buildings for residential purposes and include, without limitation, preliminary activities such as the acquisition of land, the

preparation of plans and the making of all applications for municipal approvals;

- **“Force Majeure”** means a delay arising from strike, lockout, riot, insurrection, terrorism, war, fire, tempest, act of God, lack of material or supply of service at a reasonable cost, inclement weather, binding orders or regulations of governmental bodies, courts or arbitrators or any other event beyond the control of the **Parties** which causes a delay in the fulfillment of a **Party’s** obligations under this Agreement notwithstanding the reasonable efforts of such **Party** and provided that any such non-availability or delay does not relate to any extent to any act or omission by such **Party** or any of its authorized agents or employees;
- **“Housing”** means residential accommodation and facilities, common areas and services used directly with the residential accommodation. **“Housing”** does not include commercial or institutional premises, social or recreational services, and services or facilities related to mental or physical health care, education, corrections, food services, social support or public recreation;
- **“Interest Adjustment Date”** means the date on which the final payment is made by the **Minister** under section 2 of this Agreement;
- **“Parties”** means the **Minister** and the **Proponent** and **“Party”** means either of them, as the context may require;
- **“Permitted Encumbrances”** means the encumbrances encumbering the **Affordable Housing Units** listed in Schedule “C”;
- **“Pilot Project”** means **Affordable Housing** proposed or approved for the **Program** under this Agreement;
- **“Pilot Project Instruction Guide”** means the Pilot Project Instruction Guide issued by **MMAH** and attached to this Agreement as Schedule “A”;
- **“PIPEDA”** means the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, including any amendments thereto;
- **“PIPEDA Protected Information”** means any “Personal Information” or “Personal Health Information”, as defined under **PIPEDA**;

- **“Substantial Completion”** means the substantial performance, within the meaning of the *Construction Lien Act*, of all contracts which the **Proponent** has entered into for **Development Activities** in connection with the **Project** under this Agreement;
- **“Tender”** means the tender or response to the procurement process submitted to the **Service Manager** pursuant to the **Tender Call**;
- **“Tender Call”** means the tender call or procurement process issued by the **Service Manager**;
- **“Unit”** means a self-contained residential dwelling including, without limiting the generality of the foregoing, (i) supportive rental **Housing** where service funding is secured from sources other than **CMHC** funds and the **Minister’s** funds provided under the **Affordable Housing Program - Community Rental Housing Funding, Pilot Project**; (ii) multi-bedroom units which are used for congregate living; and (iii) disabled/accessible units.

1.2 All references in this Agreement, including, without limitation, the Schedules hereto, to “rent” are deemed to include housing charges paid by members of non-profit housing co-operatives and “rental” is deemed to have a corresponding meaning.

1.3 The following Schedules are attached to and form part of this Agreement:

Schedule “A”	-	Pilot Project Instruction Guide
Schedule “B”	-	Rental Protocol
Schedule “C”	-	Permitted Encumbrances
Schedule “D-1”	-	Charge/Mortgage of Land
Schedule “D-2”	-	Assignment of Rents
Schedule “D-3”	-	Security Agreement
Schedule “E”	-	Project Owner’s Annual Report
Schedule “F”	-	Contributions by Others - Agreements
Schedule “G”	-	Alternate Security

1.4 In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of a Schedule, the provisions of this Agreement shall prevail.

1.5 All references in this Agreement to section numbers are references to sections of

this Agreement unless otherwise stated.

2. LOAN FOR AFFORDABLE HOUSING PURPOSES

2.1 (a) The **Minister** agrees to lend to the **Proponent** as a loan, upon the terms and subject to the conditions set out in this Agreement, the amount of ***** dollars (\$*****) for each **Unit** to be included in the **Development Activities** for **Affordable Housing** by the **Proponent** pursuant to the **Tender**, the total amount of such loan being ***** dollars (\$*****) (the “**Loan**”).

(b) The **Proponent** agrees to advance as its equity contribution to the **Pilot Project** the amount of ***** dollars (\$*****), on or before Occupancy is permitted in the **Project**, and provide written confirmation to the **Minister** that the equity contribution has been advanced.

2.2 The **Minister** shall disburse twenty-five per cent (25%) of the **Loan** on or before the ninetieth (90th) **Business Day** following the date on which this Agreement is signed by the **Parties**.

2.3 (a) In the case of new construction projects, the **Minister** shall disburse twenty-five per cent (25%) of the **Loan** on or before the fifteenth (15th) **Business Day** following the date on which the **Proponent** provides evidence satisfactory to the **Minister** that the payment certifier for the **Project** has confirmed that the structural framing for the entire building is complete.

(b) In the case of conversion and renovation projects, the **Minister** shall disburse twenty-five per cent (25%) of the **Loan** on or before the fifteenth (15th) **Business Day** following the date on which the **Proponent** provides evidence satisfactory to the **Minister** that the payment certifier for the **Project** has confirmed the following:

A. Where the building is within the scope of Part 9 of the Ontario Building Code, at the point of substantial completion of:

- (i) structural framing;
- (ii) insulation and vapour barriers; and
- (iii) ductwork and piping for heating and air-conditioning systems.

B. Where the building is within the scope of parts of the Ontario Building Code other than Part 9, at the point of the substantial completion of:

- (i) structural framing of the entire building;
- (ii) insulation and vapour barriers; and
- (iii) roughing-in of heating, ventilation, air-conditioning and air-contaminant extraction equipment.

2.4 Subject to section 2.5, the **Minister** shall disburse the remaining fifty per cent (50%) of the **Loan** upon the last of:

- (a) the fifteenth (15th) **Business Day** following the date on which the **Proponent** provides evidence satisfactory to the **Minister** that it has advanced its equity contribution to the **Project** required pursuant to subsection 2.1(b);
- (b) the fifteenth (15th) **Business Day** following the date on which the **Proponent** provides evidence satisfactory to the **Minister** that occupancy of all **Units** in the **Project** is permitted; and
- (c) the fifteenth (15th) **Business Day** following the date on which the **Proponent** provides evidence satisfactory to the **Minister** that the forty-fifth (45th) day following the date of **Substantial Completion** has passed.

2.5 The **Minister** shall have the option of withholding from the amount to be disbursed under section 2.4 the amount of the cost of construction necessary to complete the construction of the **Project** and, in such case, the **Minister** shall disburse the amount so withheld following its receipt of satisfactory evidence that such construction is complete within the meaning of the *Construction Lien Act* and provided that the *Construction Lien Act* is complied with.

2.6 The **Proponent** shall use the full amount of the **Loan** and **Contributions by Others** for the purpose of its **Development Activities** in connection with the **Project**.

3. **PROVISION OF AFFORDABLE HOUSING**

3.1 The **Proponent** agrees to undertake its **Development Activities** in connection with the **Project** in accordance with the provisions relating to the development of the **Project** contained in the **Pilot Project Instruction Guide**.

3.2 The **Proponent** shall, subject to **Force Majeure**, achieve **Substantial Completion** in accordance with the **Pilot Project Instruction Guide**.

- 3.3 Without limiting the condition set out in section 5.1(b) below, the **Proponent** shall use its reasonable best efforts to discharge or cause the discharge of any registered construction liens so as to ensure that there are no construction liens registered against the **Project** on the date for the disbursement of the **Loan** under sections 2.3 and 2.4.
- 3.4 The **Proponent** shall not at any time during the term of this Agreement breach any contribution agreement that it has entered into with any entity governing a **Contribution by Others** respecting the **Project**, including any municipal capital facility agreement made pursuant to section 110 of the *Municipal Act, 2001* and shall not, through any breach on its part, cause such other entity to terminate a contribution agreement for cause. The **Proponent** agrees that a breach by it of any such contribution agreement shall constitute a breach of this Agreement. The **Proponent** shall provide the **Minister** with evidence of its good standing under any such contribution agreement within ten (10) **Business Days** following its receipt of a written request from the **Minister**.

4. OPERATION OF AFFORDABLE HOUSING

- 4.1 The **Proponent** acknowledges and agrees that the **Rental Protocol** set out in Schedule "B" applies to the **Project** by virtue of the contractual terms of this Agreement, notwithstanding that the **Rental Protocol** does not apply to the **Project** under the *Tenant Protection Act, 1997*, and its regulations.
- 4.2 The **Proponent** agrees to operate the **Units** in accordance with the rules set out in Schedule "B" of this Agreement.

5. CONDITIONS

- 5.1 The provision of funding by the **Minister** pursuant to sections 2.1(a), 2.2, 2.3 and 2.4 above is subject to the following conditions precedent, each of which is for the exclusive benefit of the **Minister**, and may be waived in full or in part by the **Minister** by written notice to the **Proponent**:
- (a) any contribution agreement referred to in section 3.4 remaining in force and the **Proponent** being in good standing thereunder;
 - (b) there being no Claim for Lien under the *Construction Lien Act* registered against the **Project**;

- (c) there being in existence no unregistered lien or statutory claim having priority against the **Project**;
- (d) the **Proponent's** title to the **Project** being encumbered by no registered encumbrances other than the **Permitted Encumbrances**;
- (e) the **Proponent** being in good standing under all of the **Permitted Encumbrances** and there being no work orders issued against the **Project** by any governmental entity, agency or official;
- (f) the **Proponent** having provided the **Minister** with the security documents required by section 7 and in accordance with the said section; and
- (g) all **Contributions by Others** due on or before a disbursement date hereunder having been fully advanced to the **Proponent** on or before such disbursement date and all other **Contributions by Others** having been secured by by-law, agreement or otherwise and agreements attached as Schedule "F".

5.2 If any of the conditions contained in section 5.1 have not been fulfilled on the date for the disbursement of the **Loan** by the **Minister** pursuant to section 2.2, 2.3 or 2.4 and are not waived by the **Minister** pursuant to said section 5.1, the **Minister** shall be under no obligation to make any advance of the **Loan** to the **Proponent** and the **Minister** shall thereupon have the right to terminate this Agreement and, in that event, neither party to this Agreement shall have any rights or obligations hereunder, save and except that the **Minister** may, notwithstanding such termination, bring an action against the **Proponent** for all losses, costs and expenses, including, without limitation, reasonable legal fees incurred by the **Minister** in connection with this Agreement where the non-performance or non-fulfillment of a condition is a result of a breach of a covenant by the **Proponent**.

6. TERMS OF THE LOAN

- 6.1 The **Loan** shall have a term of twenty (20) years *[or twenty-five (25) years]* commencing as of the **Interest Adjustment Date**.
- 6.2 Prior to the **Interest Adjustment Date**, interest shall accrue on the total of the amount or amounts advanced under this Agreement at the rate of eight per cent

(8%) per annum. The interest so calculated shall compound semi-annually, not in advance, until the **Interest Adjustment Date**.

6.3 On the **Interest Adjustment Date**, the amount of interest accrued as calculated in section 6.2 shall be forgiven, provided that the **Proponent** has satisfied all requirements as set out in section 2 in this Agreement.

6.4 With effect from the **Interest Adjustment Date**, the interest rate applicable to the **Loan** shall be the higher of the current prime rate for a commercial first mortgage having a five (5) year term, plus two per cent (2%) or the interest rate applicable to the first mortgage registered against title to the property, plus two per cent (2%).

6.5 On each anniversary date of the **Interest Adjustment Date**, the **Proponent** shall pay the **Minister** the amount of interest, as calculated on the **Loan** amount according to the interest rate stipulated in Section 6.4, so accrued during the previous year; provided, however, if the **Proponent** has satisfied, as of such anniversary date, the requirements of the **Program** as set out in this Agreement, the amount of the interest so owing shall automatically be forgiven.

6.6 The **Loan** amount shall be fully forgiven on the last day of the month at the end of the term of the **Loan**, provided that the **Proponent** has fulfilled all the requirements of the **Program** as set out in this Agreement.

7. SECURITY

7.1 Prior to the **Minister** disbursing the **Loan** proceeds to the **Proponent** pursuant to section 2.2, the **Proponent** shall provide the **Minister** and the **Service Manager** with executed registerable security documents in the form attached hereto as Schedules "D-1", "D-2" and "D-3" (the "**Security**"), completed in accordance with this Agreement or such alternate form of security, on such terms and conditions as the **Minister** may require, attached hereto as Schedule "G".

7.2 The **Security** shall be collateral to this Agreement and any contribution agreement between the **Service Manager** and the **Proponent**. The **Minister** and the **Service Manager** shall be joint secured parties on all **Security** documents and shall share in any recoveries thereunder in proportion to their respective contributions to the total amount secured. The amount of all contributions from the **Minister** shall be included in the **Security** documents. Any cash contributions from the **Service Manager** may be included in the **Security** documents. The amount of any eligible

in-kind contributions from the **Service Manager** shall not be included in the **Security** documents.

- 7.3 Without limiting the **Proponent's** covenants and the remedies of the **Minister** and the **Service Manager** under their respective contribution agreements and the **Security**, the **Proponent** agrees that a breach of this Agreement or any contribution agreement with the **Service Manager** shall constitute a breach of the **Security** and a breach of the **Security** shall constitute a breach of this Agreement and any contribution agreement with the **Service Manager**.
- 7.4 The **Minister** acknowledges and agrees that notwithstanding that the **Security** provides that the principal and interest secured thereunder is payable on demand, the **Minister** shall have no right to demand payment thereunder except in accordance with the provisions of this Agreement relating to repayment. In the event of a conflict or inconsistency between the provisions of this Agreement and the **Security**, the provisions of this Agreement shall prevail with respect to contributions from the **Minister**.
- 7.5 The **Parties** agree, unless the **Minister** determines otherwise, that the **Security** shall rank immediately behind the priority of the first (1st) registered security document securing loans made to the **Proponent** for the **Development Activities** undertaken in connection with the **Project**.

8. ACCOUNTABILITY FRAMEWORK

- 8.1 (a) The **Proponent** shall submit to the **Service Manager** and the **Minister**, within ninety (90) days following the full completion of the **Development Activities** related to the **Project**, an audited statement respecting its expenditure of the funds provided to it pursuant to this Agreement.
- (b) Following the full completion of the **Development Activities** related to the **Project**, the **Proponent** shall annually submit to the **Service Manager** a completed information report in the form attached hereto as Schedule "E".
- (c) Without limiting the **Proponent's** obligations under section 8.1(b), the **Proponent**, if requested by the **Minister**, shall forthwith submit to the **Minister** the material required to be submitted to the **Service Manager** pursuant to the said section, in addition to any such material that the **Proponent** may have previously submitted to the **Service Manager**.

- 8.2 The **Proponent** represents that it has not provided any false or misleading information in the **Tender** and agrees that it shall not provide any false or misleading information to the **Minister** under this Agreement.
- 8.3 The **Proponent** shall, on forty-eight (48) hours prior written notice, give the **Minister** free access to the **Project** and to such staff, documents, books, records and accounts as may be determined by the **Minister**, for the purpose of verifying compliance with this Agreement.
- 8.4 The **Minister** may conduct an audit, investigation or inquiry in relation to the **Project** or any larger development or project of which the **Project** is a part and the **Proponent** shall co-operate with the **Minister** and provide free access to the **Project** and to such staff, documents, books, records and accounts as may be determined by the **Minister**.
- 8.5 The provisions of sections 8.1, 8.2, 8.3 and 8.4 shall continue to apply for a period of seven (7) years following the end of the period described in section 4.1 or the date of any early termination of this Agreement.

9. PUBLICITY

- 9.1 The **Proponent** acknowledges that it has been informed by the **Minister** that under the terms of the **CMHC - Ontario Affordable Housing Program Agreement** all publicity, including written materials and signs, respecting the **Project** must recognize the contributions of **CMHC**, the **Minister** and the **Service Manager**. The **Proponent** further acknowledges that it has been informed by the **Minister** that the **CMHC - Ontario Affordable Housing Program Agreement** requires the **Minister** to co-ordinate with **CMHC** and/or obtain **CMHC's** approval with respect to communications, signage and advertising matters. The **Proponent** agrees that it shall not do or omit to do any act which will cause the **Minister** to be in breach of the terms of the **CMHC - Ontario Affordable Housing Program Agreement** referred to in this section 9.1.
- 9.2 The **Proponent** shall not make any public announcement respecting the **Project**, insofar as it relates to the **Program**, or respecting its participation in the **Program** or respecting the **Program** in any other respect without obtaining the prior written consent of the **Minister**.

9.3 During the period of the **Development Activities** related to the **Project**, the **Proponent** shall erect a sign in front of the **Project**. The sign shall be in accordance with specifications issued by the **Minister**.

9.4 The **Proponent** acknowledges that any breach by it of sections 9.2 or 9.3 of this Agreement shall cause the **Minister** to be in breach of the **CMHC - Ontario Affordable Housing Program Agreement**.

10. REMEDIES

10.1 If,

- (a) the **Proponent** breaches any of the provisions of this Agreement, including, without limitation, the Schedules, or
- (b) the **Proponent** becomes bankrupt or insolvent or takes 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
- (c) a receiver or a receiver and manager is appointed for all or a portion of the **Project** and the receiver's appointment is not vacated within thirty (30) days, or
- (d) any steps are taken or any action or proceedings are instituted by the **Proponent** or by any other party including, without limitation, any court or governmental body of competent jurisdiction for the dissolution, winding up or liquidation of the **Proponent** or its assets,

the **Proponent** shall, subject to the provisions of this section 10, repay to the **Minister** the principal amount of the **Loan** advanced to the **Proponent**, together with accrued interest thereon calculated in accordance with section 6.2 or section 6.4, whichever is applicable, and, by way of bonus, three (3) months interest on the principal amount of the **Loan** advanced to the **Proponent**.

10.2 In the case of a default that can be corrected, the **Proponent** shall not be required to make any payment of principal and interest required pursuant to section 10.1

unless:

- (a) the **Minister** has delivered to it written notice of the **Proponent's** breach of the Agreement; and
- (b) the **Proponent** has not corrected the said breach within twenty (20) **Business Days** following its receipt of the said notice or such longer period as may be determined by the **Minister** in his sole and absolute discretion.

10.3 Nothing in this Agreement is to be construed as authorizing one **Party** to contract for or incur any obligation on behalf of the other or to act as agent for the other and nothing in this Agreement shall be construed to constitute the **Minister** and the **Proponent** as partners of each other. In particular, the **Minister** is in no way accountable for any related environmental or pollution matters. Furthermore, the **Proponent** acknowledges that **CMHC** is not a party to this Agreement or other agreement relating to the **Project** and is in no way accountable for any related environmental or pollution matters. The **Proponent** agrees to indemnify the **Minister** and **CMHC** and save them harmless, respectively, from all losses, costs, damages, expenses, injury and liability whatsoever which the **Minister** or **CMHC** may suffer as a result of claims of any sort whenever made arising out of the implementation of this Agreement, including any environmental or pollution claims, but,

- (a) in the case of the **Minister**, except as caused or contributed to by the **Minister** other than by entering into or fulfilling this Agreement, and
- (b) in the case of **CMHC**, except as caused or contributed to by **CMHC**.

10.4 All of the remedies in this Agreement and the **Security** are cumulative and are not alternative and the **Minister** shall not be precluded from availing himself simultaneously of some or all of the said remedies and any other remedies available in equity or at law.

10.5 Notwithstanding any of the terms of this Agreement or of the **Security**, including any provision that principal and interest shall become due and payable upon the occurrence of any event, the **Minister** shall have the option of waiving any or all of his remedies under this Agreement and the **Security**, but no waiver of a provision shall be deemed to constitute a waiver of any other provision (whether or not similar)

nor shall any waiver constitute a continuing waiver unless otherwise provided.

11. NOTICE

11.1 Any notice or other communication required, desired or permitted to be given by this Agreement shall be in writing and shall be effectively given if:

- (a) delivered personally;
- (b) sent by prepaid courier service; or
- (c) sent by facsimile communication, and confirmed by mailing the original documents so sent by prepaid mail on the same or following day, addressed as follows:

(i) in the case of notice to the **Minister**:

Ministry of Municipal Affairs and Housing
Attention: Director, AHP Delivery Branch
777 Bay Street, 2nd Floor
Toronto, ON M5G 2E5
Fax: (416) 585-7607

with a copy to the **Service Manager**:

[insert relevant information]

(ii) in the case of notice to the **Proponent**:

[insert relevant information]

with a copy to the **Service Manager**:

[insert relevant information]

or at such other address as the party to whom such notice or other communication is to be given shall have advised the party giving same in the manner provided in this section. Any notice or other communication delivered personally or by prepaid courier service shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a **Business Day** such

notice or other communication shall be deemed to have been given and received on the next following **Business Day**. Any notice or other communication transmitted by facsimile communication shall be deemed to have been given and received on the day of its transmission, provided that such day is a **Business Day** and such transmission is completed before 4:30 p.m. on such day, failing which such notice or other communication shall be deemed to have been given and received on the first (1st) **Business Day** after its transmission. If there has been a mail stoppage and if a party sends a notice or other communication by facsimile communication, such party shall be relieved from the obligation to mail the original document in accordance with this paragraph.

12. GENERAL

- 12.1 Any power, right or function of the **Minister**, contemplated by this Agreement, may be exercised by any employee or agent of the Ministry of Municipal Affairs and Housing or the Ministry of Public Infrastructure Renewal.
- 12.2 It is understood that the *Freedom of Information and Protection of Privacy Act* shall apply to all records submitted to or created by the **Minister** pursuant to this Agreement.
- 12.3 The **Proponent** represents and warrants that:
- (a) it shall preserve the **PIPEDA** compliance of all **PIPEDA Protected Information** transferred to it by the **Minister**;
 - (b) it shall ensure the **PIPEDA** compliance of all **PIPEDA Protected Information** it collects in the course of performing its contractual obligations; and
 - (c) it shall ensure the **PIPEDA** compliance of all **PIPEDA Protected Information** that it transfers to the **Minister**.
- 12.4 The disbursement of the principal amount of the **Loan**, which is comprised of **CMHC** and the **Minister's** funds, is subject to the necessary appropriations from the Federal Parliament and the Provincial Legislature, respectively. Neither the **Minister** nor **CMHC** shall have any liability in case there are no or insufficient appropriations for their respective portions of the **Loan** or the total appropriations available for **CMHC** undertakings or Provincial undertakings are insufficient, respectively, for all of **CMHC's** undertakings and Provincial undertakings.

12.5 No member of:

- (a) the House of Commons or Senate of Canada; or
- (b) the Legislative Assembly of Ontario; or
- (c) the Municipal Council or governing body of any Municipal Agency, Board or Commission, including municipalities designated as a **Service Manager**;

shall be admitted to any share or part of any contract, agreement or commission made pursuant to this Agreement or to any benefit arising therefrom, including, without limitation, any contract, agreement or commission arising from or related to the **Program**.

12.6 Time shall in all respects be of the essence in this Agreement, provided that the time for doing or completing any matter provided for under this Agreement may be extended or abridged by agreement in writing signed by the **Minister** and the **Proponent** or their respective solicitors on their behalf, who are hereby expressly appointed in this regard.

12.7 Any tender of documents or money hereunder may be made by the **Minister** or the **Proponent** or their respective solicitors.

12.8 This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the Province of Ontario. Any reference to a statute in this Agreement includes a reference to all regulations made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed and which has the effect of supplementing or superseding such statute or regulations.

12.9 The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.

12.10 The parties agree that there are no representations, warranties, covenants, agreements, collateral agreements or conditions affecting the property or this Agreement other than as expressed in writing in this Agreement.

- 12.11 This Agreement shall be read with all changes of gender and number required by the context.
- 12.12 (a) The **Proponent** shall not transfer or convey its interest in all or any part of the **Project** without, subject to subsections 12.12(b) and 12.12(c), simultaneously assigning its interest in this Agreement to the transferee, which transferee shall enter into one or more agreements with the **Minister**, in a form satisfactory to the **Minister**, to assume all of the **Proponent's** obligations under this Agreement and the **Security**.
- (b) The **Proponent** shall not assign its interest in this Agreement prior to the disbursement of funds under section 2.3 without the prior written consent of the **Minister**, which consent may be arbitrarily or unreasonably withheld.
- (c) The **Proponent** shall not assign its interest in this Agreement at any time following the disbursement of funds under section 2.3 unless the **Proponent** is in good standing under this Agreement and the **Security** and unless the assignee enters into one or more agreements with the **Minister**, in a form satisfactory to the **Minister**, under which the assignee assumes all of the **Proponent's** obligations under this Agreement and the **Security**.
- (d) For the purpose of this Agreement, a transfer of the beneficial interest in the shares of the **Proponent** shall be deemed to constitute an assignment if it results in a change in the party or parties who owns or own more than fifty per cent (50%) of the voting shares of the said corporation.
- 12.13 Each of the **Parties** shall, at any time and from time to time, upon not less than twenty (20) **Business Days** prior written notice by the other **Party**, execute and deliver to the other **Party** a statement in writing certifying that this Agreement is in good standing, unmodified and in full force and effect, or if there have been modifications that the same are in good standing and in full force and effect, as modified, and stating the modifications. Where applicable, the statement shall state the defaults, if any, known to the **Party** to whom such request has been made and the action taken or proposed to be taken by such requested **Party** with respect to same.
- 12.14 If more than one entity is a party to this Agreement as **Proponent**, all references to the **Proponent** shall include all of the said entities and this Agreement shall be

binding on each jointly and severally.

- 12.15 This Agreement shall enure to the benefit of and be binding upon the **Parties** hereto and their respective successors and assigns, provided that this paragraph shall in no way derogate from the provisions of section 12.12 restricting the **Proponent's** ability to assign this Agreement.

IN WITNESS WHEREOF this Agreement has been executed by the **Parties**.

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS
REPRESENTED BY THE MINISTER OF PUBLIC
INFRASTRUCTURE RENEWAL**

The Honourable David Caplan
Minister of Public Infrastructure Renewal

*[Insert name of **PROPONENT**]*

Per: _____
Name:
Title:

c/s

Per: _____
Name:
Title:

Revision Date: April 8, 2004

SCHEDULE "A"

**Service Manager Pilot Project Instruction Guide
for Community Rental Housing Funding**

SCHEDULE "B"

Rental Protocol

1. DEFINITIONS

1.1 In this Schedule "B", unless the context requires otherwise,

- "**Affordability Period**" means the *[insert "twenty (20) year period" or "twenty-five (25) year period" as established in the Tender Call]* following the date of the first (1st) occupancy of a **Unit** in the **Project**,
- "**Agreement**" means the Agreement to which this Schedule "B" is attached,
- "**Phase-out Period**" means the last five (5) year period of the "**Affordability Period**", and

when used in this Schedule "B", the term "rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to the **Proponent** or the **Proponent's** agent for the right to occupy a **Unit** and for any services and facilities and any privilege, accommodation or thing that the **Proponent** provides for the tenant in respect of the occupancy of the **Unit**, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing.

1.2 The definitions in the **Agreement** shall apply to this Schedule "B", in addition to the definitions contained in section 1.1 above.

1.3 All references to section numbers in this Schedule are references to sections of the Schedule and not sections of the Agreement, unless otherwise explicitly stated.

2. AFFORDABLE RENT

2.1 During the **Affordability Period**, the **Proponent** shall not charge rent for a **Unit** in the **Project** in excess of the affordable rent permitted under this Schedule "B" nor increase any rent charged for a **Unit** except as permitted in this Schedule "B".

3. INITIAL RENTS

3.1 The affordable rent for the first (1st) rental period for each **Unit** following completion of construction of the **Project** shall not exceed,

- (a) the average monthly market rent for **Units** of the same type, based on bedroom count, in the geographical area, as determined in the **CMHC Annual Rental Market Survey** most recently preceding each of the said first (1st) rental periods, plus
- (b) the optional charges, if any.

3.2 The optional charges referred to in section 3.1(b) mean any amount which the Proponent may charge,

- (a) on account of utility costs directly attributable to consumption by the occupants of a **Unit**, determined on the basis of separate **Unit** meters or on the basis of a method of pro rata calculation satisfactory to the **Minister**, or
- (b) on account of the use of one (1) or more parking spaces as requested by the tenant of a **Unit** and at a rate which is similar to the rate charged to residential tenants by landlords of similar buildings in the municipality.

[The following is one possible alternative if the rents for the first (1st) rental period are to be lower than the CMHC average rents. Another form of clause may be required to meet the particular rent requirements that are established.]

3.1 *The affordable rent for the first (1st) rental period for each **Unit** following completion of construction of the **Project** shall not exceed,*

- (a) ****** per cent (***%) of the average market rent for **Units** of the same type, based on bedroom count, in the geographical area, as determined in the **CMHC Annual Rental Market Survey** most recently preceding each of the said first (1st) rental periods, plus*
- (b) *the optional charges, if any.*

3.2 *The optional charges referred to in section 3.1(b) mean any amount which the **Proponent** may charge,*

(a) *on account of utility costs directly attributable to consumption by the occupants of a **Unit**, determined on the basis of separate **Unit** meters or on the basis of a method of pro rata calculation satisfactory to the **Minister**, or*

(b) *on account of the use of one (1) or more parking spaces as requested by the tenant of a **Unit** and at a rate which is similar to the rate charged to residential tenants by landlords of similar buildings in the municipality.*

4. **RENT INCREASES**

4.1 The **Proponent** may increase the rent charged under section 3.1(a) and 3.2(b) with respect to a **Unit** only if at least twelve (12) months have elapsed,

(a) since the day of the last rent increase respecting the **Unit**, if there has been an increase, or

(b) since the day the **Unit** was first rented for the first (1st) rental period following the completion of the **Development Activities** in connection with the **Project**.

4.2 Subject to section 4.3, the **Proponent** shall not increase the rent pursuant to section 4.1 during the **Affordability Period** by more than the then prevailing rent increase guideline established for each calendar year pursuant to the *Tenant Protection Act, 1997*. The **Proponent** acknowledges that the rent increase guideline of the *Tenant Protection Act, 1997*, does not apply to the **Project** pursuant to that Act and its regulations and agrees that the rent increase guideline applies by virtue of the contractual terms of the **Agreement** and this Schedule "B".

4.3 From the beginning of the eleventh (11th) year of the **Affordability Period** until the end of the **Affordability Period**, the **Proponent** may increase **Unit** rents pursuant to section 4.1 by zero decimal five-five per cent (0.55%), in addition to the increase permitted by section 4.2.

5. PHASE-OUT PERIOD

5.1 During the **Phase-out Period**, the **Proponent** shall not increase the rent charged to *in-situ* tenants of **Units** by more than the rent guideline increase permitted under section 4.2 and the additional increase permitted under section 4.3.

5.2 Upon a **Unit** becoming vacant during the **Phase-out Period**, the **Proponent** may rent the **Unit** to a new tenant at any rent agreed to by the **Proponent** and the new tenant.

6. AFTER PHASE-OUT PERIOD

6.1 After the end of the Phase-out Period, the **Proponent** shall be permitted to rent **Units** in the **Project** to new tenants at rents agreed to by the **Proponent** and the new tenants.

SCHEDULE "C"

Permitted Encumbrances

[This schedule in the executed Charge/Mortgage will contain the registration details of all registered documents which fit into the categories listed below.]

1. All mortgages and security collateral thereto totalling principal amounts which do not exceed the total costs of the **Development Activities** incurred in connection with the **Project**.
2. Such easements and restrictive covenants as do not prevent the **Project** from being constructed or used as **Affordable Housing**.
3. Municipal agreements relating to the **Development Activities** in connection with the **Project**.

Revision Date: April 8, 2004

SCHEDULES "D-1", "D-2", "D-3"

Security Documents

[attach relevant documents]

Revision Date: April 8, 2004

SCHEDULE "E"

Project Owner's Annual Report

Affordable Housing Program - Community Rental Housing Funding
Confirmation of Average Rent
For the Year Ended December 31, 20XX

A. Project Information

Contribution Agreement Number	NNNNNNNNNN
Contribution Agreement Expiry Date	DDMMYYYY

Project Name	
Property Address	

B. Average Market Rents

Unit Type	Average Market Rents	
	Base Year	Reporting Year
Bachelor		
One bedroom		
Two bedroom		
Three bedroom		
Four bedroom		
Others, Please specify		

C. Project Certification

I certify, to the best of my knowledge, that the information provided in Section B above is true and correct. I hereby authorize the **Minister** to review the rent roll from appropriate source(s) if deemed necessary.

Date: _____

Signed by *[please print name]*

I am *[please check on the appropriate line below]*

___ the Owner of the Project

___ the Chairperson of the Board of Directors of the Project

D. Auditors' Confirmation

We have performed the necessary review and tests on the records of the named property pertaining to the rent levels for the reporting period. Our results confirm the information as provided in Section B above is true and correct.

Confirmed by *[please print name]*

Date: _____

Name, Address and Telephone Number of Firm:
[insert relevant information]

Revision Date: April 8, 2004

SCHEDULE "F"

Contributions by Others - Agreements

[attach relevant agreements]

Revision Date: April 8, 2004

SCHEDULE "G"

Alternate Security

[attach relevant documents]