

**AGREEMENT TO PROVIDE TEMPORARY RENTAL ASSISTANCE
TO HOUSING PROVIDER WITH PROJECT OPERATING AGREEMENT
EXPIRING PRIOR TO APRIL 1, 2016**

THIS AGREEMENT made effective this ____ day of ____, ____ (“Effective Date”)

BETWEEN

CANADA MORTGAGE AND HOUSING CORPORATION (“CMHC”)

AND:

[INSERT HOUSING PROVIDER NAME] (the “Housing Provider”)

(each a “Party” and collectively the “Parties”)

RECITALS

- A. The Housing Provider was a recipient under an agreement with CMHC with respect to the operation of and financial assistance for a federally-administered social housing project under the *National Housing Act*, which terminated prior to April 1, 2016.
- B. The Housing Provider seeks financial assistance on an urgent basis in order to continue to provide affordable accommodation for low-income families and individuals.
- C. CMHC is prepared to provide one-time, temporary support to the Housing Provider for rental assistance to low-income households, consistent with CMHC’s abilities under Part VII of the *National Housing Act*, on the terms and conditions set out in this Agreement.

NOW THEREFORE in consideration of the payment of the Temporary Rental Assistance by CMHC to the Housing Provider and in consideration of the mutual covenants herein contained the Parties undertake and agree as follows:

1. DEFINITIONS

Except as defined elsewhere in this Agreement, terms used in this Agreement shall have the following meaning set out in Schedule A.

2. ELIGIBILITY, PAYMENT AND USE OF TEMPORARY RENTAL ASSISTANCE

- a. **Eligibility:** Temporary Rental Assistance under this Agreement is available to Housing Providers in receipt of a Commitment Letter that have agreed to provide affordable accommodation to Low-Income Households for federally-administered Projects that meet the criteria set out in Schedule C and that were

under a Project Operating Agreement between the Housing Provider and CMHC that naturally expired prior to April 1, 2016 under one of the following programs:

- Section 95 (Pre-86) non-profit, co-operative, urban Indigenous
- Section 95 (Post-85) non-profit, co-operative, urban Indigenous
- Section 95 (Post-85) ILM co-operatives
- Section 27 and 61 non-profit and co-operatives
- Section 26 non-profit
- Section 95 Rent Supplement (units currently leased from a private landlord and rented to those in need).

- b. **Payment:** As set out in the Commitment Letter, CMHC will pay the Temporary Rental Assistance to the Housing Provider in the maximum amount set out in Schedule B, in accordance with this Agreement and on the basis of the completed and executed attestation included as Schedule C to this Agreement which confirms the Housing Provider's eligibility to receive Temporary Rental Assistance. Payment of the Temporary Rental Assistance will be made provided the Housing Provider is not in default under this Agreement and provided CMHC is in receipt of a fully executed original copy of this Agreement from the Housing Provider not later than May 14, 2021. Payment will be as a one-time lump sum within forty-five (45) days of CMHC receiving a fully executed Agreement from the Housing Provider.
- c. **Use, Allocation and Reimbursement:** The Housing Provider will transfer the Temporary Rental Assistance under this Agreement to Assisted Household(s). This Temporary Rental Assistance will be allocated for each Assisted Household in an amount equal to the difference between the Occupancy Charge and the Rent-Geared-to-Income Housing Charge charged to that Assisted Household, calculated in a manner determined by the Housing Provider, in accordance with this Agreement. Notwithstanding any other provision in this Agreement, where the Housing Provider no longer meets the criteria outlined in Subsection 2.a. "Eligibility" of this Agreement, including where there are no eligible Low-Income Households to which the Temporary Rental Assistance may be applied in accordance with this Agreement, the Housing Provider will return such funds to CMHC. Use of Temporary Rental Assistance as security to secure other funding is not permitted under this Agreement.

3. RECONCILIATION AND SURPLUS

The Housing Provider will conduct a reconciliation process in accordance with its governing legislation, for all Temporary Rental Assistance received under this Agreement. Following such reconciliation process, where Temporary Rental Assistance received under this Agreement may exceed actual assistance required by the Assisted Households during the Term of this Agreement, the Housing Provider may retain any such surplus amount(s) to support any future rental assistance needs of the Housing Provider with respect to Low-Income Households.

4. PROJECT MANAGEMENT, LEASING, VACANCIES AND SALE

- a. *Project Management:* The Housing Provider shall:
- i. Adopt duly approved formal, consistent and reasonable procedures for the administration of the Temporary Rental Assistance in accordance with this Agreement and make them known to all Assisted Households, including but not limited to procedures with respect to, the selection of Low-Income Households and the determination of calculations or adjustments relating to the Temporary Rental Assistance;

- ii. Document the income and household composition of each Low-Income Household by obtaining declarations and taking reasonable steps to obtain verification of the said income and composition of the Low-Income Household;
 - iii. Set the Rent-Geared-to-Income Housing Charge level between twenty-five per cent (25%) and thirty per cent (30%) of the Household's Gross Income. Where Temporary Rental Assistance is insufficient to apply the Rent-Geared-to-Income Housing Charge level between twenty-five per cent (25%) to thirty per cent (30%), the Housing Provider may, in its discretion, set the level higher than thirty per cent (30%);
 - iv. Set the Occupancy Charge at the same level for comparable non-assisted households and Assisted Households;
 - v. Make available to the Assisted Household the same facilities and privileges available to its other tenants or members, except as required to comply with this Agreement. The Housing Provider shall not discriminate against the Assisted Household on the basis that it is paying a Rent-Geared-to-Income Housing Charge;
 - vi. Furnish efficient management of the Assisted Housing Units and maintain the Project in a good state of repair and cleanliness and fit for occupancy; and
 - vii. Comply with all applicable laws of the province or territory where the Project is located, including but not limited to, federal or provincial human rights legislation, as applicable and as amended from time to time. The Housing Provider shall comply with health and safety standards including any housing standards established by law.
- b. *Leasing and Occupancy of Assisted Housing Units:* The Housing Provider shall:
- i. Ensure that all eligibility criteria set out in Schedule C continue to be met;
 - ii. Ensure that the Assisted Housing Unit only be occupied by the Assisted Household named in the lease or occupancy agreement;
 - iii. Ensure that each Assisted Household:
 - i. has a lease or occupancy agreement in place with the Housing Provider for at least as long as the Assisted Household will receive any Temporary Rental Assistance under this Agreement;
 - ii. signs a consent to share with CMHC or its authorized representatives, any and all information received under or in connection with the Temporary Rental Assistance under this Agreement, subject to applicable legislation on access to information and privacy; and
 - iii. is made aware of the federal investment that has enabled the Temporary Rental Assistance.
- c. *Sale, Lease and Consent:* In the event of any sale, transfer, lease (except any lease on the basis of an individual rental unit to tenants or members) or in the event of the proposed disposition of all or part of the Project, the Housing Provider undertakes to inform CMHC or its representative in writing at least sixty (60) days prior to the intended transaction. Should the Project be sold or leased to another entity, CMHC may, at its sole discretion, provide written consent to the assignment of this Agreement to such entity.

5. ACCOUNTABILITY AND EVALUATION

- a. *Accountability:* CMHC, CMHC's auditors and representatives, and the Auditor General of Canada may inspect and audit all books, documents, invoices, records and accounts pertaining to the operation and the administration of the Project and may request copies of same from the Housing Provider. The Housing Provider shall retain in its possession for not less than seven (7) years all such books, documents, invoices, records and accounts. The Housing Provider will permit CMHC or its representative to inspect the Assisted

Housing Units and the Project upon forty-eight (48) hours' notice, or a mutually agreed upon time if the notice is less than forty-eight (48) hours.

- b. *Reporting and Evaluation*: The Housing Provider may be asked to provide reasonable reporting on the use of Temporary Rental Assistance under this Agreement, and agrees to provide information supporting this reporting as may be requested by CMHC or its representative. Such reporting may be used by CMHC to evaluate the effectiveness of the Temporary Rental Assistance and any evaluation results may be made public.

6. CONFLICT OF INTEREST

The Housing Provider shall ensure that its directors, employees, agents and representatives avoid actual or potential conflicts of interest during the Term of this Agreement. Should an actual or potential conflict of interest arise, the Housing Provider shall ensure that its directors, employees, agents and representatives take appropriate steps to resolve the conflict or potential conflict.

7. TERMINATION AND BREACH

- a. Where the Housing Provider commits a breach of any provision of this Agreement, or where Temporary Rental Assistance under this Agreement is used for a purpose other than permitted under this Agreement, and the Housing Provider fails to take remedial action as requested by CMHC within thirty (30) days of having received written notice thereof, then CMHC may, at its option:
 - i. Reduce, suspend or demand payment of Temporary Rental Assistance under this Agreement, in whole or in part, until the requested remedial action is taken;
 - ii. Terminate this Agreement upon further thirty (30) days' written notice.
- b. CMHC, may at its option, terminate this Agreement immediately in the case of:
 - i. Fraud, gross negligence, misappropriation of funds or gross misconduct on the part of the Housing Provider;
 - ii. Insolvency or bankruptcy of the Housing Provider or the appointment of a receiver to manage any of the assets of the Housing Provider shall constitute a breach of this Agreement.
- c. CMHC may terminate this Agreement upon thirty (30) days' written notice where the Housing Provider ceases to meet the criteria outlined in Subsection 2.a. "Eligibility" of this Agreement, criteria set out in this Agreement, or disposes of or discontinues the provision of all of its Assisted Households.
- d. The Housing Provider may terminate this Agreement prior to the end of the Term by providing thirty (30) days' written notice thereof.

8. CONFIDENTIALITY

- a. All personal information collected or received by the Housing Provider in the context of this Agreement for purposes of administering the Temporary Rental Assistance under this Agreement shall be considered confidential ("**Confidential Information**").
- b. The Housing Provider shall hold all Confidential Information in the strictest confidence, using efforts and a standard of care and employing such precautions as are necessary to prevent unauthorized use, access to

and disclosure of Confidential Information. The Housing Provider agrees to use the Confidential Information solely for the purposes of administering the Temporary Rental Assistance under this Agreement and not for any other purpose or for the benefit of any third party.

- c. The Housing Provider shall comply with all applicable legal requirements and, without limiting the generality of the foregoing, nothing in this Agreement shall be construed in a manner that would contravene the *Access to Information Act* (Canada) or the *Privacy Act* (Canada).
- d. Subject to applicable legislation on access to information and protection of privacy, the Housing Provider shall permit CMHC to (A) use any information submitted or provided in connection with the Project in CMHC's media releases, publications or other venues and events as deemed appropriate by CMHC, and (B) make public its financial assistance to the Project in a manner as determined by CMHC.

9. GENERAL

- a. **Appropriations:** Notwithstanding any other provisions of this Agreement, payment of the Temporary Rental Assistance under this Agreement is subject to the necessary appropriations from Parliament. No liability will attach to CMHC in the case of no or insufficient appropriations.
- b. **Relationship of the Parties and Indemnity:** Other than for the payment of Temporary Rental Assistance by CMHC under this Agreement, the full normal relationship between the Housing Provider and a tenant or member of the Housing Provider will exist between the Housing Provider and the Assisted Households. It is understood that CMHC will not be responsible to the Housing Provider for any breach or failure of an Assisted Household to observe any of the terms of its lease or occupancy agreement with the Housing Provider including the covenant to pay the Rent-Geared-to-Income Housing Charge and that the only financial responsibility of CMHC to the Housing Provider is to pay the Temporary Rental Assistance in accordance with this Agreement. Further, the Housing Provider agrees that CMHC is not a party to lease or occupancy agreements and that CMHC therefore has no obligations under such agreements to the Housing Provider, tenant or member. In the event of a claim made by the tenant or member under such agreements, the Housing Provider shall hold CMHC harmless from any liability of any nature and shall be solely responsible for any indemnifications owing under such agreements.
- c. **English Language:** The Parties hereto agree that this Agreement and all documents related thereto will be in the English language. Les Parties aux présentes conviennent que cette Entente ainsi que tous les documents qui s'y rapportent seront rédigés en anglais¹.
- d. **Entire Agreement:** This shall be the sole agreement between the parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements, whether written or oral, between the Parties with respect thereto. For greater certainty, the Housing Provider acknowledges that this Agreement does not affect or alter any other prior agreements that have existed or may exist between the Parties that is not with respect to the subject matter hereof, that there are no further amounts payable under the Project Operating Agreement by CMHC, and that receipt of this Temporary Rental Assistance does not entitle the Housing Provider to any other current or future funding by CMHC. The Agreement shall be interpreted as a whole and the intent of the whole rather than the interpretation of any particular part shall govern.

¹ Only applicable to agreements drafted in English with Recipients in QC. Due to CCQ requirements.

- e. **No Waiver:** Failure on the part of CMHC to assert any of its rights or vary any content under the Agreement or to abide by the processes described in this Agreement for any period of time shall not constitute a waiver of its rights under the Agreement nor a waiver of its right to do so in the future.
- f. **Assignment:** The Housing Provider will not, without the prior written consent of CMHC, assign this Agreement in whole or in part.
- g. **Remedies:** No specific remedy expressed in the Agreement is to be interpreted as limiting the rights and remedies which CMHC may be entitled to under any contract or otherwise in law.
- h. **Laws:** This Agreement is made under and will be governed by and construed in accordance with the laws of the province or territory in which the Project is located. The courts of such jurisdiction shall exclusively hear any dispute related to the validity, interpretation or performance of this Agreement. In all respects, the Housing Provider must also comply with the applicable legislation of the province or territory where the Project is located.
- i. **House of Commons:** No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising there from.
- j. **Survival of Terms:** The Parties' rights and obligations under this Agreement, which by their nature, extend beyond the expiration or termination of this Agreement, will survive any expiration or termination of this Agreement.
- k. **Amendments:** This Agreement may only be amended by the mutual written consent of the Parties. To be valid, any amendment to this Agreement shall be in writing and shall be signed by the Parties.
- l. **Severability:** In the event that any provision of the Agreement shall be held to be unenforceable by an authority of competent jurisdiction, the provision shall be severed from the Agreement and the Agreement shall be read so as to give effect, as nearly as possible, to the intent of the severed provision.
- m. **Counterparts:** This Agreement and any amendment, supplement or restatement of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument. The delivery of this Agreement in electronic form of any means, shall be deemed to be valid execution and delivery of this Agreement, subject to applicable provincial laws.
- n. **Binding Agreement:** This Agreement shall be binding upon and will enure to the benefit of the Parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF this Agreement has been signed by the Parties hereto by their duly authorized signing officers.

[INSERT HOUSING PROVIDER NAME]

Name: [INSERT NAME]

Title: [INSERT TITLE]

Name: [INSERT NAME]

Title: [INSERT TITLE]

CANADA MORTGAGE AND HOUSING CORPORATION

Name: [INSERT NAME]

Title: [INSERT TITLE]

Name: [INSERT NAME]

Title: [INSERT TITLE]

[AGREEMENT TO PROVIDE TEMPORARY RENTAL ASSISTANCE TO HOUSING PROVIDER WITH PROJECT OPERATING AGREEMENT EXPIRING PRIOR TO APRIL 1 2016 BETWEEN HOUSING PROVIDER AND CMHC]

SCHEDULE A DEFINITIONS

"Agreement" shall mean this Agreement together with all schedules to it. In the event of a conflict between the Agreement and its schedules, the order of precedence shall be (1) the Agreement; and (2) the schedules to it.

"Assisted Household" shall mean a Low-Income Household who occupies an Assisted Housing Unit in the Project.

"Assisted Housing Unit(s)" shall mean a minimum of one (1) unit described as subsidized in the Project, which is occupied or will be occupied by a Low-Income Household.

"Commitment Letter" shall mean the Commitment Letter provided by CMHC to the Housing Provider dated [INSERT DATE] confirming CMHC's commitment to provide Temporary Rental Assistance on the basis of the completed and executed attestation (Schedule C) provided by the Housing Provider.

"Gross Household Income" shall mean the combined income, benefits and gains, of every kind and from every source, in a manner determined by the Housing Provider, in accordance with this Agreement.

"Household (s)" shall mean a person or a group of persons who occupy the same private dwelling and do not have a usual place of residence elsewhere in Canada (except for children in shared custody situations).

"Housing Provider" shall mean the housing provider that is a recipient of Temporary Rental Assistance under this Agreement who is eligible in accordance with Section 2 of this Agreement.

"Low-Income Household (s)" shall mean a Household under this Agreement which meets the following criteria:

- (i) the Occupancy Charge for the Household exceeds thirty percent (30%) of its Gross Household Income; and
- (ii) the Household is not in receipt of nor receiving funding from any municipal, provincial or federal government source or any other source for substantially the same purpose as the Temporary Rental Assistance.

"Occupancy Charge" shall mean the monthly housing charge paid by Households in the Project.

"Project" shall mean the social housing Project described in Schedule B to this Agreement.

"Project Operating Agreement" shall mean the operating agreement between CMHC and the Housing Provider with respect to the operation of the Project which terminated prior to April 1, 2016.

"Rent-Geared-to-Income Housing Charge" means the amount each Assisted Household is required to contribute towards the Occupancy Charge as determined by the Housing Provider and calculated in a manner determined by the Housing Provider, in accordance with this Agreement.

"Temporary Rental Assistance" shall mean the maximum amount set out in Schedule B and paid to the Housing Provider under this Agreement.

"Term" shall mean the duration of this Agreement commencing on the Effective Date and ending on March 31, 2022, or such earlier date as the Agreement may be terminated in accordance with its terms, including but not limited to Section 7 (Termination and Breach).

**SCHEDULE B
PROJECT DESCRIPTION**

- A. **PROJECT:** [As described in the Project Operating Agreement (INSERT Account Number)]
- B. **TEMPORARY RENTAL ASSISTANCE AMOUNT:** [INSERT]*
- C. **NUMBER OF ASSISTED HOUSEHOLDS:** [INSERT]*

*The Temporary Rental Assistance Amount in this Schedule B is calculated over a 12 month period based on the Number of Assisted Households identified in this Schedule B by CMHC, having in mind the rental assistance needs demonstrated in the completed and executed attestation included as Schedule C from the Housing Provider. The Temporary Rental Assistance Amount is determined by CMHC in its sole discretion and is subject to revision if determined by CMHC to have been incorrect. As set out in Subsection 2.b. of this Agreement, this is the maximum amount of Temporary Rental Assistance under this Agreement.

SAMPLE

SCHEDULE C
ENROLMENT FORM FROM [HOUSING PROVIDER]

The attached Enrolment Form constitutes Schedule C to this Agreement and confirms the Housing Provider's eligibility at the time of enrolment to receive the Temporary Rental Assistance under this Agreement.

SAMPLE