

THIS AGREEMENT OF PURCHASE AND SALE made as of the * day of *, 202* (the “**Effective Date**”).

BETWEEN:

THE CORPORATION OF THE CITY OF CAMBRIDGE

(the "**Vendor**")

- and -

*

(the "**Purchaser**")

WHEREAS the Purchaser submitted the Purchaser’s Application (as hereinafter defined) to purchase the Property for the purposes of developing the Project Lands for the Project (as hereinafter defined);

AND WHEREAS the Vendor chose the Purchaser as the proponent to purchase the Property based on the Purchaser’s Application;

AND WHEREAS the Vendor and the Purchaser (each, a "**Party**", and collectively, the "**Parties**") have agreed to enter into this Agreement to set forth the terms and conditions pursuant to which the Purchaser agrees to purchase, and the Vendor agrees to sell, the Property (as hereinafter defined).

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this agreement and the sum of TEN DOLLARS (\$10.00) paid by each of the Parties to the other and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby agree and declare as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

"**Adjustment Date**" means 11:59 p.m. on the day immediately preceding the Closing Date;

"**Adjustments**" means the adjustments to the Purchase Price provided for and determined pursuant to Section 3.3;

"**Affiliate**" has the meaning ascribed thereto in *Canada Business Corporations Act*, R.S.C., 1985, as amended from time to time;

"**Agreement**" means this agreement of purchase and sale and the schedules attached hereto, as amended from time to time, and "**Article**" and "**Section**" mean and refer to the specified article or section of this Agreement;

"**Balance**" has the meaning ascribed thereto in Section 3.2(b);

"Business Day" means any day other than a Saturday, Sunday or statutory or civic holiday in Toronto, Ontario;

"Closing" means the closing and consummation of the transactions contemplated hereby, including, without limitation, the payment of the Purchase Price and the delivery of the Closing Documents, on the Closing Date;

"Closing Date" means that date that is 30 days following the Due Diligence Date, or such other date as may be agreed to in writing by the Parties;

"Closing Documents" means the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 5.2, and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendor pursuant to Section 5.3;

"Confidential Information" has the meaning ascribed thereto in Section 2.4(a);

"DC Act" has the meaning ascribed thereto in Section 2.7(a).

"Deposit" has the meaning ascribed thereto in Section 3.1(b);

"DRA" has the meaning ascribed thereto in Section 5.5;

"Due Diligence Date" means 5:00 p.m. on the date that is * days following the Effective Date.

"First Deposit" has the meaning ascribed thereto in Section 3.1(a);

"HST/GST" has the meaning ascribed thereto in Section 3.4;

"HST/GST Undertaking and Indemnity" means an undertaking and indemnity relating to HST, substantially in the form attached hereto as Schedule C;

"Notice" has the meaning ascribed thereto in Section 8.16.

"Notice of the Option to Purchase" has the meaning ascribed thereto in Section 2.7(c)(iii);

"Permitted Encumbrances" means the encumbrances listed in Schedule B attached hereto;

"Person" means an individual, partnership, corporation, trust, unincorporated organization, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual;

"Prime Rate" on a particular date, means the mean, rounded to the nearest hundredth of a percentage point, of the annual rates of interest announced by each of the Royal Bank of Canada, The Bank of Nova Scotia, the Canadian Imperial Bank of Commerce, the Bank of Montreal and The Toronto-Dominion Bank to be its prime or reference rate of interest in effect on that date for determining interest rates on Canadian dollar commercial loans by that bank in Canada;

"Project" has the meaning ascribed thereto in Section 2.7(a);

"Property" means, collectively, the lands and premises more particularly described in Schedule A attached hereto;

"**Purchase Price**" means * DOLLARS (\$*), exclusive of any applicable taxes;

"**Purchaser's Application**" means the application in the form attached hereto as Schedule F submitted by the Purchaser to the Vendor to purchase the Property and develop the Property for the Project;

"**Purchaser's Solicitors**" means * or such other firm or firms of solicitors or agents as are retained by the Purchaser from time to time and Notice of which is provided to the Vendor;

"**Release**" has the meaning ascribed thereto in Section 2.3(c);

"**Restrictive Covenant**" has the meaning ascribed thereto in Section 2.7(c)(i);

"**Satisfaction Notice**" has the meaning ascribed thereto in Section 4.2(a);

"**Section 118 Restriction**" has the meaning ascribed thereto in Section 2.7(c)(ii);

"**Supplemental Agreement**" means a supplemental agreement relating to the Project, substantially in the form attached hereto as E;

"**Tax Act**" means the *Excise Tax Act* (Canada), as amended from time to time; and

"**Vendor's Solicitors**" means WeirFoulds LLP, Attention: Patrick Nugent/Alexandra Di Iorio, or such other firm or firms of solicitors or agents as are retained by the Vendor from time to time and Notice of which is provided to the Purchaser.

1.2 Schedules

The following schedules attached hereto form part of this Agreement:

Schedule A	-	Legal Description
Schedule B	-	Permitted Encumbrances
Schedule C	-	Form of HST Undertaking and Indemnity
Schedule D	-	Release
Schedule E	-	Form of Supplemental Agreement
Schedule F	-	Purchaser's Application

ARTICLE 2 AGREEMENT OF PURCHASE AND SALE

2.1 Purchase and Sale of Property

The Vendor hereby agrees to sell, transfer and assign the Property to the Purchaser, subject to the Permitted Encumbrances, and the Purchaser hereby agrees to purchase, acquire and assume the Property from the Vendor for the Purchase Price, on and subject to the terms and conditions of this Agreement.

2.2 Binding Agreement

The agreement of the Vendor and the Purchaser set forth in Section 2.1 creates and constitutes a binding agreement of purchase and sale for the Property in accordance with the provisions of this Agreement.

2.3 Acknowledgement of Purchaser as to Condition of Property

Notwithstanding the foregoing or anything contained herein or elsewhere, the Purchaser acknowledges and agrees that, except as otherwise provided in this Agreement (including, without limitation, the representations and warranties of the Vendor contained in Section 4.5, the Purchaser's right to terminate this Agreement as provided in Section 4.2 and the Closing Documents):

- (a) in entering into this Agreement, the Purchaser has relied and will continue to rely entirely and solely upon its own inspections and investigations with respect to the Property, including without limitation, the physical and environmental condition of the Property and the review of the documentation made available to the Purchaser pursuant to this Agreement, and the Purchaser acknowledges it is not relying on any information furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor in connection therewith and the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights the Purchaser might have against the Vendor pursuant to any representation or warranty, express or implied, of any kind or type, relating to the Property (save and except for the representations and warranties set out in this Agreement, if any). Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in or created by any statutes, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including, but not limited to, claims regarding defects, whether or not discoverable, product liability claims, or similar claims, and to all other extent or later created or conceived of strict liability or strict liability type claims and rights;
- (b) the Property is being purchased and assumed by the Purchaser on an "as is, where is" basis as of the Closing Date, in the condition or state as and in which it exists as of the Closing Date, and without any express or implied agreement, representation or warranty of any kind whatsoever as to, without limitation: (i) title; (ii) profitability; (iii) latent defects (iv) the structural integrity or any other aspect of the physical condition of the buildings and structures on the Property; (v) the conformity of the buildings and structures to any plans or specifications for the Property (including, but not limited to, any plans and specifications that may have been or which may be provided to the Purchaser); (vi) the conformity of the Property to past, current or future applicable zoning or building code requirements or other applicable law; (vii) the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the lands, or the buildings and structures situated on or as part of the Property; (viii) the sufficiency of any drainage; (ix) whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area; (x) the existence or non-existence of underground storage tanks; (xi) the availability of public utilities and services for the Property; (xii) the development potential and economic feasibility of the Property and the fitness or suitability of the Property for development or for occupancy or any intended use (including matters relating to health and safety); (xiii) the environmental condition of the Property or the presence of toxic wastes, hazardous materials or contaminants in, on or about the Property; or (xiv) the accuracy, currency or completeness of any information or documentation,

including without limitation, and any environmental reports supplied or to be supplied in connection with the Property being sold pursuant to this Agreement;

- (c) The Vendor shall have no obligations or responsibility to the Purchaser after Closing with respect to any environmental matter relating to the condition of the Property. The Purchaser shall execute and deliver to the Vendor on the Closing Date a form of release (the “**Release**”) set out in Schedule E attached hereto reflecting the foregoing and otherwise satisfactory to the Purchaser and the Vendor, each acting reasonably; and
- (d) this Section 2.3 shall survive and not merge on Closing.

2.4 Confidentiality

- (a) The Purchaser agrees that until Closing (and in the event this Agreement is terminated for any reason, also from and after such termination), the Purchaser will keep in strict confidence: (i) all information, documents and materials relating to the Vendor and the Property which the Purchaser has obtained either through its own due diligence or from the Vendor or any of its agents or representatives; and (ii) the terms of this Agreement (collectively, the “**Confidential Information**”). The Purchaser may disclose Confidential Information to its representatives, agents, consultants, advisors and the Purchaser’s Solicitors for the purposes of conducting due diligence with respect to the Property and completing the transaction contemplated hereby, provided that, in each instance, the Purchaser shall instruct all such recipients of Confidential Information to comply with the provisions of this Section 2.4, and the Purchaser will be responsible and liable for any failure by any such Person to comply with the provisions of this Section 2.4.
- (b) If the transaction contemplated hereby is not completed for any reason, the Purchaser shall keep in strict confidence all Confidential Information and shall promptly, upon request: (i) return to the Vendor or destroy all documents and materials relating to the Vendor or the Property which have been provided to the Purchaser by or on behalf of the Vendor, whether pursuant to this Agreement or prior to the date hereof, including all copies thereof; (ii) destroy all materials prepared by the Purchaser or any of its representatives, consultants, agents, advisors or the Purchaser’s Solicitors based in whole or in part on such Confidential Information or documentation; and (iii) provide to the Vendor a certificate of a senior officer of the Purchaser certifying that the Purchaser has complied with its obligations under clauses (i) and (ii) of this Section 2.4(b).
- (c) Neither Party may issue any press release or other public announcement or release information with respect to this Agreement or the transaction contemplated hereby to the press or the public unless the same has been mutually approved by the Parties or, such disclosure is, in the good faith opinion of the Purchaser or the Vendor, as the case may be, on the basis of legal advice, required in order to comply with any applicable laws or the rules, orders or regulations of any stock exchange and then only after prior consultation with the other Party.
- (d) This Section 2.4 shall survive Closing or the termination of this Agreement.

2.5 Searches and Examination

The Vendor will permit the Purchaser, its agents and representatives access to the Property prior to the Due Diligence Date, at reasonable times, to carry out, at the Purchaser's sole expense and risk, such tests, investigations and inspections of the Property as the Purchaser deems necessary, provided that:

- (a) such tests, inspections and investigations will not interfere with the operation of the Property and any occupants thereof;
- (b) the Purchaser shall provide at least two Business Days' Notice to the Vendor of any such tests, inspections and/or investigations, and shall carry out all such tests, inspections and/or investigations in the company of a representative of the Vendor, if the Vendor so requires;
- (c) the Purchaser shall keep the Property free and clear of all construction liens or other liens arising out of any of its tests, investigations and/or inspections or those of its representatives, agents or consultants;
- (d) any damage to the Property caused by such tests, investigations and/or inspections shall be promptly repaired and the Property fully restored by the Purchaser, at its sole cost and expense, and the Purchaser will indemnify and save the Vendor and its officers, directors, shareholders, Affiliates, employees, representatives, invitees, agents, contractors and any other occupants harmless from all losses, costs, claims (including, without limitation, liens), third party actions, damages and expenses (including, without limitation, reasonable legal fees and court costs on a full indemnity basis) which any such Persons may suffer as a result of any such tests, investigations and/or inspections and/or access to the Property by the Purchaser or its representatives, agents or consultants prior to the Closing Date. This Section 2.5(d) shall survive Closing or the termination of this Agreement;
- (e) the Deposit shall be held as partial security for the indemnity contained in Section 2.5(d) and the Vendor shall be entitled to deduct from the Deposit the amount of any losses, costs, claims, third party actions, damages and/or expenses which the Vendor may suffer as a result of breach of this Section 2.5; and
- (f) the Purchaser shall deliver copies of all final results of its tests, investigations and inspections to the Vendor within two Business Days of receipt of same and, in the event that this Agreement is terminated, the Purchaser shall, at the Purchaser's sole cost and expense, obtain and deliver to the Vendor reliance letters addressed to the Vendor with respect to any reports it received regarding the Property.

2.6 City as Vendor

- (a) Nothing in this Agreement derogates from or interferes with or fetters the exercise by the Vendor of all of its rights as a municipality, or imposes any obligations on the Vendor, in its role as a municipality, and the Vendor shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including planning rights and responsibilities. Nothing in this Agreement derogates from or interferes with or fetters the exercise by the Vendor's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the Vendor's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this Agreement.

- (b) No communication or dealing between the Purchaser and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the Vendor will be deemed to be a communication or dealing under the provisions of this Agreement between the Purchaser and Vendor as parties to this Agreement, or to affect the Vendor with notice of any such communication or dealings. It is intended and agreed that any communication or dealing between the Vendor and the Purchaser as parties to this Agreement will only be effective if delivered in accordance with the notice provisions set out in this Agreement.
- (c) In accordance with the condition contained in Section 4.1(b), the Purchaser and the Vendor hereby acknowledge, confirm and agree that if the city council of the Vendor does not approve the Agreement by the carrying of a motion, the Agreement, regardless of whether it has been fully executed by both the Purchaser and Vendor, shall be null and void and no damages will be deemed to have been suffered by the Purchaser.

2.7 Covenants of Purchaser

The Purchaser covenants, acknowledges and agrees that:

- (a) the Vendor has agreed to sell the Property to the Purchaser and the Vendor has chosen the Purchaser as the proponent to purchase the Property on the understanding that following Closing, the Purchaser shall develop the Property for an affordable housing project (the “**Project**”). In connection with the Project, the Purchaser shall construct on the Property * buildings which shall contain * affordable housing units in accordance with the Purchaser’s Application. The term “affordable housing unit” shall have the same meaning as the term ‘affordable residential unit’ in section 4.1 of *Development Charges Act, 1997*, S.O. 1997 (the “*DC Act*”), c. 27, as amended, which at the time of execution of this Agreement means:
 - (i) a residential unit intend for use as a rented residential premises that meets the following criteria:
 - 1. the rent is no greater than the lesser of,
 - i. the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Ministry of Municipal Affairs and Housing in accordance with subsection 4.1 (5) of the *DC Act*; and
 - ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.
 - 2. the tenant is dealing at arm’s length with the landlord.
- (b) In furtherance of the Project, the Purchaser shall enter into the Supplemental Agreement on Closing;
- (c) In order to ensure that the Property is developed in accordance with the Supplemental Agreement and to ensure that the Purchaser maintains the Property for the purposes of providing affordable housing following Closing in accordance with the terms of the

Supplemental Agreement, the Purchaser shall consent to the registration on title to the Property of:

- (i) a restrictive covenant providing for the use of the Project as affordable housing during the term of the Supplemental Agreement (the “**Restrictive Covenant**”);
 - (ii) a restriction under Section 118 of the *Land Titles Act* (Ontario) prohibiting the Purchaser to transfer or charge the Property post-closing without the prior written consent of the Vendor (the “**Section 118 Restriction**”); and
 - (iii) a notice of an option to repurchase the Property in the event that the Purchaser fails to carry out the Project or to maintain the Property as affordable housing following Closing (the “**Notice of the Option to Purchase**”);
- (d) This Section 2.7 shall survive and not merge on Closing.

ARTICLE 3 PURCHASE PRICE

3.1 Deposit

- (a) Within one Business Day following the execution of this Agreement by both Parties, the Purchaser shall pay the amount of * (\$*) by wire transfer to the Vendor’s Solicitors to be held by them in trust (the “**First Deposit**”).
- (b) Within one Business Day following the Purchaser’s delivery to the Vendor of the Satisfaction Notice, the Purchaser shall pay the amount of * (\$*) by wire transfer to the Vendor’s Solicitors to be held by them in trust (together with the First Deposit, collectively, the “**Deposit**”).
- (c) If the transactions contemplated by this Agreement are not completed for any reason except the default of the Purchaser, the Deposit, to the extent paid, (and less any deductions contemplated by Section 2.5) shall be thereupon returned to the Purchaser. If the transactions contemplated by this Agreement are not completed as a result of the default of the Purchaser, the Vendor shall be entitled to retain the Deposit, together with interest thereon, as liquidated damages and in full satisfaction of all rights and remedies of the Vendor at law or in equity as a result of such default, including the right to claim specific performance and/or damages, and the Purchaser hereby irrevocably authorizes and directs the Vendor’s Solicitors to immediately forward the Deposit to the Vendor in such circumstances, without any further documentation.

3.2 Payment of Purchase Price

The Purchase Price shall be satisfied by the Purchaser on the Closing Date as follows:

- (a) by the crediting of the Deposit, which shall be released by the Vendor’s Solicitors to the Vendor, or as the Vendor may direct in writing, on Closing; and
- (b) by payment to the Vendor, or as the Vendor may direct in writing, by wire transfer from a Schedule I Canadian chartered bank of the balance of the Purchase Price (the “**Balance**”) on Closing after deduction of the Deposit, subject to the Adjustments.

3.3 Adjustments

- (a) The adjustments (herein referred to as the "**Adjustments**") shall be such adjustments established by customary practice in the City of Cambridge for the purchase and sale of properties similar to the Property.
- (b) Adjustments shall be made as of the Adjustment Date. The Vendor shall be responsible for all expenses and entitled to all revenue accrued from the Property for that period ending on the Adjustment Date, and thereafter the Purchaser shall be responsible for all expenses and entitled to all revenue accruing from the Property.
- (c) If any item subject to adjustment cannot be determined on Closing, an estimate shall be made by the Vendor acting reasonably and on the best evidence available on the Adjustment Date for purposes of Closing and, subject to the following sentence, a final adjustment shall be made when the particular item can be determined. All claims for re-adjustments or omissions or errors thereto must be made within a 12 month period following Closing, failing which the adjustments made between the Parties to that date shall be final and binding and not be liable to be re-opened for any reason. The Parties agree to execute and deliver on the Closing Date an undertaking to readjust and pay the amount of any post-Closing Adjustments as may be owing pursuant to the provisions of this Agreement.
- (d) A draft statement of Adjustments shall be prepared by the Vendor and delivered to the Purchaser at least five Business Days prior to the Closing Date, and shall have annexed to it reasonable details of the calculations used by the Vendor to arrive at all debits and credits on such statement of Adjustments.
- (e) The provisions of this Section 3.3 shall survive Closing.

3.4 Harmonized Sales Tax

With respect to any harmonized sales tax ("**HST/GST**") payable pursuant to the Tax Act, the Parties covenant and agree as follows:

- (a) subject to Section 3.4(b), the Purchaser shall pay to the Vendor by wire transfer all HST/GST payable as a result of the transaction contemplated hereby in accordance with the Tax Act, and the Vendor shall remit such HST/GST to the appropriate governmental authority when and to the extent required by the Tax Act;
- (b) notwithstanding Section 3.4(a), the Vendor will not collect such HST/GST from the Purchaser if each of the Purchaser and all other parties that are acquiring a beneficial interest in the Property pursuant to this Agreement, if any, are registered under the Tax Act, and in that event the Purchaser and such other parties, if any, shall file returns and remit such HST/GST to the applicable governmental authority when and to the extent required by the Tax Act;
- (c) to the extent that Section 3.4(b) applies, the Purchaser and all other parties that are permitted to acquire a beneficial interest in the Property pursuant to this Agreement, if any, shall provide an HST/GST Undertaking and Indemnity to the Vendor on Closing confirming the HST/GST registration number(s) as applicable of the Purchaser and such

other parties, if any, under the Tax Act as well as further confirmation that such HST/GST registration number(s) remain in full force and effect;

- (d) the Purchaser and all other parties that are permitted to acquire a beneficial interest in the Property pursuant to this Agreement, if any, shall each indemnify the Vendor and hold the Vendor harmless (on a joint and several basis, if applicable) from any liability under the Tax Act arising because of a breach of the obligations of the Purchaser set out in this Section 3.4 or arising under the Tax Act, together with all losses, costs and expenses resulting from such breach; and
- (e) the provisions of this Section 3.4 shall survive Closing.

ARTICLE 4 CONDITIONS/REPRESENTATIONS AND WARRANTIES

4.1 Conditions for Vendor

The obligation of the Vendor to complete the agreement of purchase and sale constituted on the execution and delivery of this Agreement will be subject to the following condition:

- (a) on or before the Closing Date, the Purchaser shall have paid the Purchase Price and all other material terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser shall have been complied with or performed in all material respects;
- (b) the Vendor shall have obtained the approval of its city council committee to the transactions contemplated by this Agreement * (*) business days following the Due Diligence Date; and
- (c) on or before the Closing Date, the Vendor shall have obtained an upzoning of the Property in order to permit the development of the Project in a form satisfactory to the Vendor, in its sole discretion. Should any appeal to the upzoning arise, the Vendor will address those appeals so that it can obtain a final order bringing into effect the upzoning of the Property. The Purchaser agrees that so long as the Vendor is proffering a zoning by-law for approval that implements the development of the Project, the Purchaser will not appeal the zoning by-law to the Ontario Land Tribunal.

The conditions set forth in this Section 4.1 are inserted for the sole benefit of the Vendor, and may be waived in whole or in part by the Vendor by Notice to the Purchaser prior to the applicable date set forth above.

4.2 Conditions for Purchaser

The obligation of the Purchaser to complete the agreement of purchase and sale constituted on the execution and delivery of this Agreement will be subject to the following conditions precedent:

- (a) on or before the Due Diligence Date, the Purchaser shall have given Notice to the Vendor (the "**Satisfaction Notice**") that the Purchaser is satisfied in its sole discretion with the physical and environmental condition of the Property, title to the Property, the Permitted Encumbrances and all of its other due diligence tests, evaluations, inspections and investigations; and

- (b) on or before the Closing Date, all of the material terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor shall have been complied with or performed in all material respects.

The conditions set forth in this Section 4.2 are for the sole benefit of the Purchaser, and may be waived in whole or in part by the Purchaser by Notice to the Vendor prior to the applicable date set forth above.

4.3 Non-Satisfaction of Conditions

- (a) In the event any condition set forth in Sections 4.1 or 4.2 is not satisfied or waived as therein provided on or before the applicable date or time referred to therein, then this Agreement shall be terminated, and the Deposit together with all interest earned thereon, less any deductions contemplated by Section 2.5, shall forthwith be refunded to the Purchaser and the Parties shall be released from all of their liabilities and obligations under this Agreement (other than those obligations which are expressly stated to survive termination of this Agreement). Notwithstanding the foregoing, any condition set forth in Sections 4.1 and 4.2 that are to be satisfied on the Closing Date shall be deemed to have been satisfied provided Closing occurs.
- (b) The provisions of this Section 4.3 shall survive Closing or the termination of this Agreement.

4.4 Title Requisitions

The Parties acknowledge and agree that if, prior to the Due Diligence Date, the Purchaser delivers to the Vendor in writing any valid objection or requisition as to the title of the Property, for which any requisition or objection shall not be valid if in respect to a Permitted Encumbrance, which the Vendor is unable or unwilling to satisfy, remove or remedy, as the case may be, and which the Purchaser will not waive, then this Agreement shall be null and void, the Deposit and any accrued interest shall, subject to the terms of Section 2.5, be repaid to the Purchaser, and the Parties shall have no further obligations or liabilities hereunder save for those specified to survive termination. Save for any requisitions made by such date, the Purchaser shall be deemed to have accepted the state of the Vendor's title to, the zoning of and the state of compliance of the Property. Notwithstanding the foregoing, the Purchaser acknowledges and agrees that title to the Property will be subject to the Permitted Encumbrances and the Purchaser agrees to accept title to the Property subject thereto. The Vendor shall discharge or cause to be discharged, on or before Closing, at its sole cost and expense, all encumbrances affecting the Property other than the Permitted Encumbrances.

4.5 Vendor's Representations

The Vendor hereby represents and warrants to and in favour of the Purchaser that as of the Effective Date:

- (a) subject to the satisfaction of the condition set out in Section 4.1(a), the agreement of purchase and sale constituted on the execution and delivery of this Agreement and its obligations hereunder, and the documents and transactions contemplated herein, have been authorized by all requisite corporate proceedings and constitute legal, valid and binding obligations of it enforceable against it in accordance with their terms;
- (b) except as disclosed to the Purchaser in writing, to the knowledge of the Vendor, there is no litigation or proceeding, including appeals (other than real property tax appeals) and

applications for review, in progress and no litigation or claim threatened against or relating to the Vendor in respect of the Property; and

- (c) there are no options to purchase or rights of first refusal or other purchase rights with respect to the Property or any part thereof that have not expired or been waived.

4.6 Purchaser's Representations

The Purchaser hereby represents and warrants to and in favour of the Vendor that as of the Effective Date:

- (a) it is a corporation existing under the laws of the jurisdiction of its incorporation, and it has the necessary corporate authority, power and capacity to purchase the Property and to enter into this Agreement and to carry out the agreement of purchase and sale constituted on the execution and delivery of this Agreement and the documents and transactions contemplated herein on the terms and conditions herein contained;
- (b) the agreement of purchase and sale constituted on the execution and delivery of this Agreement and its obligations hereunder, and the documents and transactions contemplated herein, have been authorized by all requisite corporate proceedings and constitute legal, valid and binding obligations of it enforceable against it in accordance with their terms;
- (c) it is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
- (d) it is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada);
- (e) it is validly registered and at Closing will be validly registered as a registrant under Subdivision d of Division V of Part IX of the Tax Act for the purposes of HST/GST;
- (f) the Property is being transferred pursuant to this Agreement and is being purchased by the Purchaser as principal on its own account and is not being purchased as an agent, trustee or otherwise on behalf of or for another person; and
- (g) the Purchaser is not engaging in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of, any person, group, entity or nation which would contravene the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada). The Purchaser is not engaging in this transaction, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. None of the funds of the Purchaser have been or will be derived from any unlawful activity with the result that the investment of direct or indirect equity owners in the Purchaser is prohibited by law or that the transaction or this Agreement is or will be in violation of law.

4.7 Survival of Representations

- (a) Except as expressly stated otherwise, the representations, warranties and certifications of the Parties contained in this Agreement or in any Closing Documents will merge on Closing. The Purchaser acknowledges and agrees that any representation made to the knowledge of the Vendor shall be deemed to mean only the actual knowledge of * [Insert title of officer(s) with knowledge], without any further inquiry.

- (b) On Closing, each of the Parties shall execute and deliver to the other a certificate setting out the same representations and warranties that are set out in Section 4.5 or Section 4.6, as the case may be, except that such representations and warranties shall be made as of the Closing Date; provided that, with respect to the representation and warranty set forth in Sections 4.5(b), the Vendor shall be entitled to amend such representation and warranty, as necessary, to fully and accurately set out the status, as of the Closing Date, of the matters that are the subject of such representation and warranty, including such amendments as may be required to set out any circumstance, event, defect, dispute, matter, issue, agreement or document that has occurred, arisen or been created after the Effective Date or that has become known to the Purchaser after the Effective Date, which, in each such case, is not caused by the wrongful or negligent act of the Vendor. The Purchaser acknowledges and agrees that no change adverse to the Property or its value at any time after the Due Diligence Date, other than a change caused by the wrongful or negligent act of the Vendor, shall in any such case, entitle the Purchaser to terminate this Agreement, to an abatement of the Purchase Price, to a claim for breach of representation or warranty or to any other right or remedy whatsoever, the Purchaser agreeing to accept the risk of the foregoing.

ARTICLE 5 CLOSING DOCUMENTS

5.1 Closing Arrangements

Closing shall commence at 10:00 a.m. on the Closing Date at the office of the Vendor's Solicitors in Toronto or at such other time or place as the Parties mutually agree upon in writing, and shall continue until Closing is completed or this Agreement is validly terminated in accordance with the terms hereof.

5.2 Vendor's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor shall execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser the following:

- (a) a transfer/deed of land of the Vendor's interest in the Property in favour of the Purchaser;
- (b) a direction as to the payee or payees of the Purchase Price;
- (c) an undertaking by the Vendor to re-adjust the Adjustments in accordance with Section 3.3;
- (d) a certificate of a senior officer of the Vendor that the Vendor is not a non-resident pursuant to the terms of section 116 of the Income Tax Act of Canada;
- (e) a certificate of a senior officer of the Vendor certifying to his or her knowledge, without personal liability, that the representations and warranties of the Vendor contained in Section 4.5 are true and accurate in all material respects as of the Closing Date;
- (f) the Supplemental Agreement; and
- (g) all other documents which are required by this Agreement or which the Purchaser has reasonably requested on or before the Closing Date to give effect to this transaction.

All documentation shall be in form and substance acceptable to the Purchaser and the Vendor each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

5.3 Purchaser's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor's Solicitors the following:

- (a) the Balance of the Purchase Price;
- (b) an undertaking by the Purchaser to re-adjust the Adjustments in accordance with Section 3.3;
- (c) if required, an assumption of the Permitted Encumbrances and any specific assumptions of any of them to the extent specifically required thereunder;
- (d) a certificate of a senior officer of the Purchaser certifying to his or her knowledge, without personal liability, that the representations and warranties of the Purchaser contained in Section 4.6 are true and accurate in all material respects as of the Closing Date;
- (e) the HST Undertaking and Indemnity;
- (f) the Release;
- (g) the Supplemental Agreement;
- (h) the Restrictive Covenant;
- (i) the Section 118 Restriction;
- (j) the Notice of the Option to Purchase; and
- (k) all other documents which are required by this Agreement or which the Vendor has reasonably requested on or before the Closing Date to give effect to this transaction.

All documentation shall be in form and substance acceptable to the Purchaser and the Vendor each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

5.4 Registration and Other Costs

- (a) The Vendor shall be responsible for the costs of the Vendor's Solicitors in respect of this transaction, and the Purchaser shall be responsible for the costs of the Purchaser's Solicitors in respect of this transaction. The Purchaser shall be responsible for and pay, in addition to the Purchase Price, all fees and costs (other than the Vendor's costs as set out below) in respect of any land transfer taxes payable on the transfer of the Property, all registration taxes and fees payable in respect of registration by it of any documents on Closing (other than discharges of encumbrances which are required to be made by the Vendor under this Agreement, which shall be the responsibility of the Vendor) and all

federal and provincial sales and other taxes payable by a purchaser upon or in connection with the conveyance or transfer of the Property. If the Purchaser does not or cannot execute and deliver the HST/GST Undertaking and Indemnity, it shall pay to the Vendor HST/GST applicable to the Purchase Price.

- (b) The Purchaser shall indemnify and save harmless the Vendor, its Affiliates and their respective shareholders, directors, officers, employees and agents from all claims incurred, suffered or sustained as a result of a failure by the Purchaser:
 - (i) to pay any federal, provincial or other taxes payable by the Purchaser in connection with the conveyance or transfer of the Property, whether arising from a reassessment or otherwise, including any federal, provincial and other taxes, if applicable; or
 - (ii) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Property.
- (c) This Section 5.4 shall survive and not merge on Closing.

5.5 Escrow Closing and Registration

The Parties covenant and agree to cause their respective solicitors to enter into a document registration agreement (the "**DRA**") at least three Business Days prior to the Closing Date, to govern the electronic submission of the transfer/deed for the Property to the applicable Land Registry Office. The DRA shall also outline or establish the procedures and timing for completing all registrations electronically and provide for all Closing Documents and closing funds to be held in escrow pending the submission of the transfer/deed and all other registration documents to the applicable Land Registry Office and their acceptance by virtue of each registration document being assigned a registration number. The DRA shall also provide that if there is a problem with the Teraview electronic registration system which does not allow the Parties to electronically register all registration documents on Closing, the Closing Date shall be extended until the next day when such system is accessible and operating for the Land Registry Office applicable to the Property.

ARTICLE 6 OPERATION UNTIL CLOSING

6.1 Operation Before Closing

From the date of execution of this Agreement by both Parties until Closing, the Vendor shall operate the Property in a similar manner to that by which the Vendor operated the Property prior to the Effective Date, provided that the Vendor shall have no obligation to expend any money with respect to non-routine repairs and maintenance. The Vendor shall not enter into any contract or lease in connection with the Property which cannot be terminated prior to Closing.

**ARTICLE 7
GENERAL**

7.1 Gender and Number

Words importing the singular include the plural and vice versa. Words importing gender include all genders.

7.2 Captions and Table of Contents

The captions, headings and table of contents contained herein are for reference only and in no way affect this Agreement or its interpretation.

7.3 Obligations as Covenants

Each agreement and obligation of a Party in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

7.4 Applicable Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to principles of conflicts of law that would impose a law of another jurisdiction. The Parties irrevocably and unconditionally submit to the exclusive jurisdiction and venue (and waive any claim of forum non conveniens) of the courts of the Province of Ontario.

7.5 Currency

All reference to currency in this Agreement is reference to Canadian dollars.

7.6 Invalidity

If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any Person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any Person or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

7.7 Amendment of Agreement

No supplement, modification, waiver or termination (other than an automatic termination pursuant to the terms of this Agreement) of this Agreement will be binding unless executed in writing by the Parties.

7.8 Time

Time shall be of the essence of this Agreement. If anything is required to be done under this Agreement on a day which is not a Business Day, the same shall be done on the next following Business Day. Where in this Agreement a number of days is prescribed, the number shall be computed by excluding the first day and including the last day. All references to time in this Agreement mean Toronto time.

7.9 Further Assurances

Each of the Parties shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

7.10 Entire Agreement

This Agreement and any agreements, instruments and/or other documents herein contemplated to be entered into between, by or including the Parties constitute the entire agreement between the Parties pertaining to the agreement of purchase and sale provided for herein and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the Parties in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the Schedules hereto.

7.11 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar), nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

7.12 Solicitors as Agents and Tender

Any Notice required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors on behalf of the Purchaser, and by the Vendor's Solicitors on behalf of the Vendor, and any tender of Closing Documents and the Balance may be made upon the Vendor's Solicitors and the Purchaser's Solicitors, as the case may be. The Parties acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitors for the Party tendering have completed all steps required by Teraview in order to complete this transaction that can be performed or undertaken by the tendering Party's solicitors without the co-operation or participation of the other Party's solicitors, and specifically when the tendering Party's solicitors have electronically "signed" the transfer/deed and any other Closing Document, if any, to be electronically registered for completeness and granted access to the other Party's solicitors to same, but without the necessity of the tendering Party's solicitors actually releasing such documents to the other Party's solicitors for registration.

7.13 Merger

Except as otherwise expressly set out herein, this Agreement shall merge with the closing of the transaction contemplated herein.

7.14 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the Parties and their respective successors and assigns and shall enure to the benefit of and be enforceable by the Parties and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

7.15 Assignment

The Purchaser shall not assign its rights and/or obligations hereunder or direct title to the Property to any other Person without the prior written consent of the Vendor, which consent may be withheld by the Vendor in its sole, absolute and unreviewable discretion. A change of voting control of the Purchaser will be deemed to be an assignment of this Agreement and subject to the restrictions in this Section 7.15.

7.16 Notice

Any notice, demand, approval, consent, information, agreement, instrument, document, offer, request or other communication (a "**Notice**") to be given under or in connection with this Agreement shall be in writing and shall be given by personal delivery or by facsimile or email transmission, addressed or sent as set out below or to such other address as may from time to time be the subject of a Notice:

(a) Vendor:

- City Clerk

Email: ●

Facsimile: ●

with a copy to:

- Manager Realty Services

Email: ●

Facsimile: ●

(b) Purchaser:

-

Attention: ●

Email: ●

Facsimile: ●

with a copy to:

-

Attention: ●

Email: ●

Facsimile: ●

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. If the Notice is delivered or transmitted after 5:00 p.m., or if the day is not a Business Day, then the Notice shall be deemed to have been given and received on the next Business Day. Notwithstanding the foregoing, Notice by email shall not be an effective form of Notice unless the Party sending such Notice requests, and the other Party receiving such Notice provides, a reply email confirming receipt.

7.17 Planning Act (Ontario)

This Agreement and the transactions contemplated herein are subject to compliance by the Vendor, with Section 50 of the *Planning Act* (Ontario).

7.18 Effect of Termination of Agreement

Notwithstanding the termination of this Agreement for any reason, the following provisions shall survive and shall remain in full force and effect: Sections 2.3, 2.4, 2.5(d), 2.5(e), 2.7, 3.3, 3.4, 4.3, 4.7(a), 5.4, 7.19 and 7.20. For greater certainty, it is confirmed that termination of this Agreement does not, for the purposes of this Section, include the Closing of the transactions contemplated by this Agreement.

7.19 No Registration of Agreement

The Purchaser shall not register this Agreement or any notice of this Agreement on title to the Property.

7.20 Commissions

Each of the Parties shall be responsible for its own fees and costs (including legal fees and real estate commissions) incurred in connection with the transaction of purchase and sale contemplated hereby, this Agreement and the documentation contemplated herein.

7.21 Counterparts and Electronic Transmission

This Agreement may be executed in counterparts and delivered by electronic transmission.

7.22 Irrevocable Date

The Transaction contemplated by this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 p.m. on the * day of *, 20*, after which time if not accepted in writing, this Agreement shall be null and void and any deposit or other consideration shall be returned to the Purchaser without interest or deduction.

IN WITNESS WHEREOF the Parties have executed duly this Agreement as of the Effective Date.

THE CORPORATION OF THE CITY OF CAMBRIDGE

Date _____

Per: _____
Name:
Title:

Per: _____
Name:
Title:

*Authorized by By-law No. **

Date _____

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Confirmation of Acceptance

Final acceptance by all parties this * day of *, 202*.

SCHEDULE A

LEGAL DESCRIPTION

Municipally known as *

PIN *

SCHEDULE B

PERMITTED ENCUMBRANCES

GENERAL ENCUMBRANCES

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals.
2. All applicable municipal, provincial or federal statutes, bylaws, regulations or ordinances (including, without limitation, all building and zoning bylaws and regulations) and any subdivision agreements, site plan control agreements, servicing agreements, utility agreements, airport zoning regulations and other similar agreements with government authorities or private or public utilities affecting the development or use of the Property, it being acknowledged that the Vendor shall not be responsible for providing evidence of compliance.
3. Facility, cost sharing, servicing, reciprocal operating/easement or other similar agreements.
4. Any defects, encroachments, easements, rights of way, or other facts or title imperfections as are revealed by the surveys (if any) provided to the Purchaser or would be revealed by an up-to-date survey of the Property
5. Restrictive covenants, private deed restrictions and other land use control agreements with which the Property complies, it being acknowledged that the Vendor shall not be responsible for providing evidence of compliance.
6. Any easements or rights-of-way in favour of any governmental authority or any private or public utility.
7. Any inchoate statutory liens, charges or similar liabilities and/or rights which may exist from time to time (including, without limitation, liens for real estate or other taxes not yet due and payable and any and all statutory rights of expropriation), of which the Vendor does not have notice.
8. Any work orders, open permits, notices of violation, deficiency notices or other matters of non-compliance in respect of any work whether performed by or on behalf of the Vendor, or any former tenant or that were the responsibility of the Vendor or any former tenant.
9. Encumbrances respecting encroachments by the Property over neighbouring lands and/or permitted under agreements with the owners of such other lands and encroachments over the Property by improvements, structures, or fixtures of abutting land owners.
10. Such minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use and enjoyment of the Property or any part thereof, as the same is now being used, or materially impair the value thereof.
11. The exceptions contained in subsection 44(1) of the *Land Titles Act* save and except for subsections (5), (6), (11) and (14).

SPECIFIC ENCUMBRANCES

SCHEDULE C

FORM OF HST UNDERTAKING AND INDEMNITY

TO: _____ (the "**Vendor**")

RE: Agreement of Purchase and Sale dated as of _____, (the "**APS**") between the Vendor and _____ (the "**Purchaser**") in respect of the property legally described _____ (the "**Property**").

All capitalized terms used but not otherwise defined herein, shall have the meanings ascribed to them in the APS. This Undertaking and Indemnity is being delivered pursuant to Section 3.4(c) of the APS.

The undersigned hereby declares, certifies and agrees as follows:

1. it is purchasing the Property as principal for its own account and same is not being purchased by the Purchaser as an agent, trustee or otherwise on behalf of or for another person;
2. it is registered under Subdivision d of Division V or Part IX of the *Excise Tax Act* (Canada) (the "**Act**") for the collection and remittance of harmonized sales tax ("**HST**"); its registration number is _____ and such registration is in good standing and has not been revoked;
3. it shall be liable for, shall self-assess and shall remit to the appropriate government authority all HST which is payable under the Act in connection with the transfer of the Property, all in accordance with the Act; and
4. it shall indemnify and save harmless the Vendor from and against all HST, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the undersigned to comply with the provisions of this Undertaking and Indemnity and/or the Act (as it relates to the payment of HST in respect of the Property).

This Undertaking and Indemnity shall survive Closing, shall be binding on the undersigned and its successors and assigns, and shall enure to the benefit of the Vendor and its successors and assigns.

DATED

*

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE D

RELEASE

SCHEDULE E

SUPPLEMENTAL AGREEMENT

AFFORDABLE HOUSING AGREEMENT made as of [INSERT] day of [MONTH], 2024.

B E T W E E N:

THE CORPORATION OF THE CITY OF CAMBRIDGE

(the “**City**”)

OF THE FIRST PART

- and -

[INSERT FULL LEGAL NAME OF OWNER]

(the “**Owner**”)

OF THE SECOND PART

WHEREAS:

- A. Section 110 of the *Municipal Act*, 2011, S.O. 2001, c. 25 authorizes municipalities to enter into agreements with private and non-profit sector entities for the provision of municipal capital facilities and to provide financial and other form of assistance to such entities including in the form of selling property.
- B. Ontario Regulation 603/06 prescribes municipal housing project facilities, which includes affordable housing, as a class of municipal capital facilities for the purposes of Section 110(1) of the *Municipal Act*.
- C. On [INSERT DATE] the City passed By-law [INSERT NUMBER], a by-law to govern the provision of municipal housing project facilities, pursuant to Section 110 of the *Municipal Act*.
- D. At its meeting held on [INSERT DATE], Council of the City, by way of Council Resolution Number [INSERT NUMBER] and By-law [INSERT NUMBER] approved the City entering into a [INSERT NAME OF AGREEMENT] with the Owner and/or any entity related to or affiliated with the foregoing, to permit the sale of the Project Lands to the Owner on the understanding and agreement that the Owner would use the Project Lands only for Affordable Rental Housing (the “**Program**”).
- E. The Project (defined herein) constitutes a municipal housing project facility for the purposes of the *Municipal Act*.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein and subject to the terms and conditions set out in this Agreement, the Parties agree as follows:

1. INTERPRETATION

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

- (a) “**Access Plan**” means a documented process established by the Owner and approved by the City or its Designate which shall specify how tenants are to be selected and how information about such process is disseminated to the public;
- (b) “**Affordability Period**” means the [INSERT NUMBER (#) OF YEARS] period following the date of the First Occupancy of an Affordable Housing Unit in the Project;
- (c) “**Affordable Housing**” means a Housing development that only contains one or more residential unit(s) intended for use as a rented residential premises that meets the following criteria:
 - (i) the rent is no greater than the lesser of,
 - 1) the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Ministry of Municipal Affairs and Housing in accordance with subsection 4.1 (5) of the DC Act; and
 - 2) the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.
 - (ii) the tenant is dealing at arm’s length with the landlord.
- (d) “**Affordable Housing Unit**” means one residential unit of Affordable Housing located within the Project on the Project Lands;
- (e) “**Agreement**” means this Agreement and the attached Schedules which embody the entire agreement between the Parties;
- (f) “**Applicable Laws**” means all statutes, laws, by-laws, regulations, ordinances, orders, policies, guidelines and requirements of governmental or other public authorities having jurisdiction in force from time to time;
- (g) “**Arm’s Length**” means arm’s length as defined under s. 251(1) of the *Income Tax Act*, R.S.C. 1985 (5th Supp.) c. 1, as amended;
- (h) “**Assignee**” has the meaning ascribed to it in Section 17.2.

- (i) “**Building**” means the building erected or to be erected on the Project Lands, within which the Project is being constructed;
- (j) “**Business Day**” means Monday to Friday inclusive, other than a day that is observed as a statutory or civic holiday by the City;
- (k) “**City**” means The Corporation of the City of Cambridge;
- (l) “**City Council**” means the Council that governs the City;
- (m) “**Claims**” has the meaning ascribed to it in Section 9.1;
- (n) “**Contractor**” has the meaning ascribed to it in Section 4.6(c) below;
- (o) “**Contributions by Others**” means cash or in-kind eligible contributions from municipalities, the private sector, the voluntary sector, charities and individual donors;
- (p) “**DC Act**” means the *Development Charges Act, 1997*, S.O. 1997, c. 27;
- (q) “**Designate**” means such entity or person that the City may appoint in order to perform the City’s obligations under this Agreement;
- (r) “**Development Schedule**” means the Owner’s schedule for the development of the Project attached hereto as Schedule “G”;
- (s) “**First Occupancy**” means the first day of the month immediately following the month in which an Affordable Housing Unit was rented for the first rental period following Substantial Completion;
- (t) “**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, pandemic, epidemic, inclement weather, binding orders or regulations of governmental bodies, courts or arbitrators or any other event beyond the control of the City or the Owner which causes a delay in the fulfillment of either Party’s obligations under this Agreement notwithstanding its reasonable efforts and provided that any such non-availability or delay does not relate to any extent to any act or omission by either Party or any of its authorized agents or employees;
- (u) “**Household Income**” means total household income from all sources of all persons who reside in an Affordable Housing Unit or who will reside in an Affordable Housing Unit if it is rented to them as defined in the City’s or its Designate’s eligibility and income verification guide for the Program;
- (v) “**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;

- (w) “**Initial Income Limit**” means gross Household Income at or below the top of the 6th income decile for City of Cambridge renter households as determined annually by the City or its Designate;
- (x) “**Indemnified Parties**” has the meaning ascribed to it in Section 9.1;
- (y) “**Initial Occupancy**” means when a new tenant occupies an Affordable Housing Unit regardless of whether it was previously rented;
- (z) “**MFIPPA**” means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, C.M.56 and the regulations thereunder, including any amendments;
- (aa) “**Occupancy Date**” means the date on which occupancy of all Affordable Housing Units in the Project is permitted via an occupancy permit issued by the Chief Building Official pursuant to Section 11 of the *Building Code Act, 1992, S.O. 1992, c.23*;
- (bb) “**Owner**” means [INSERT FULL LEGAL NAME OF OWNER];
- (cc) “**Owner’s Application**” means the application pursuant to which the City chose the Owner as a proponent to purchase the Project Lands which is attached hereto as Schedule “F” and which was attached as Schedule F to the agreement of purchase and sale between the City and this Owner for the purchase of the Project Lands;
- (dd) “**Owner’s Records**” has the meaning ascribed to it in Section 8.1.
- (ee) “**Party**” means the City or the Owner under this Agreement and any reference to a Party includes its successors and permitted assigns; “**Parties**” means both the City and the Owner;
- (ff) “**Permitted Encumbrances**” means the encumbrances registered against or otherwise encumbering the Project as set out in Schedule “B”;
- (gg) “**Person of Authority**” means any individual with the legislative power or control, to inspect, direct or otherwise enforce compliance with any Applicable Laws, including any government authority exercising its administrative and/or regulatory enforcement powers;
- (hh) “**Project**” means the Owner’s proposed project, being the construction of a [INSERT] storey building on the Project Lands containing [INSERT] Affordable Housing Units, as further described in Schedule “A” attached hereto, and subsequently operated by the Owner in accordance with the terms and conditions of this Agreement;

- (ii) **“Project Lands”** means the lands upon which the Building, including the Project, will be constructed, as more particularly set out in Schedule “A” hereto;
 - (jj) **“Substantial Completion”** means the Project has achieved Substantial Performance as contemplated in the *Construction Act, R.S.O. 1990, C.30*; and
 - (kk) **“Term”** has the meaning ascribed to it in Section 2.1.
- 1.2 All references in this Agreement, including, without limitation, the Schedules hereto, to “rent” are deemed to include housing charges paid by tenants of the Affordable Housing Units and “rental” is deemed to have a corresponding meaning.
- 1.3 The following Schedules are attached to form part of this Agreement:
- | | | |
|--------------|---|------------------------------------------|
| Schedule “A” | - | Description of Project and Project Lands |
| Schedule “B” | - | Permitted Encumbrances |
| Schedule “C” | - | Owner’s First Occupancy Report |
| Schedule “D” | - | Owner’s Annual Occupancy Report |
| Schedule “E” | - | Right to Repurchase |
| Schedule “F” | - | Owner’s Application |
| Schedule “G” | - | Development Schedule |
| Schedule “H” | - | Development Charges Deferral Agreement |
- 1.4 All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.
- 1.5 The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.
- 1.6 This Agreement shall be read with all changes of gender and number required by the context.
- 1.7 This Agreement including the Schedules and all documents incorporated herein by reference constitutes the entire agreement between the Parties with respect to the subject matter and supersedes all previous understandings, agreements, negotiations and documents collateral, oral or otherwise, existing between the parties at the effective date of this Agreement, as first above written.

1.8 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.

2. TERM

2.1 The Parties agree that the term of this Agreement commences as of the date first above written and shall end on the expiry of the Affordability Period, unless this Agreement is terminated earlier in accordance with its provisions (the “**Term**”).

3. REPRESENTATIONS AND WARRANTIES

3.1 The Owner represents and warrants that:

- (a) it is duly incorporated under the laws of Ontario or Canada;
- (b) the Board of Directors of the Owner have authorized the Owner to enter into this Agreement and such authorization has not been withdrawn;
- (c) it shall not alter, supersede or cancel its articles of incorporation, letters patent or other constating documents in any way which would affect its ability to perform its obligations under this Agreement without the prior written consent of the City or its Designate;
- (d) no member of the City Council or the governing body of any municipal agency, board or commission of any such municipalities 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;
- (e) it will not alter the scope or the timing of the Project or permit or cause any material change to the Project from what is identified herein and in the Development Schedule unless such alteration or change is approved in writing by the City or its Designate.

3.2 The Owner agrees that the City and its Designate shall be entitled to rely at all times on the representations and warranties set out in this section and as otherwise set out in this Agreement.

4. DEVELOPMENT OF PROJECT

4.1 The Owner agrees to undertake the development of the Project in accordance with the provisions proposed in this Agreement and as identified in the Council Report, Resolution [INSERT], and By-law [INSERT] approved by City Council.

4.2 The Owner shall apply for a site plan application pursuant to Section 41 of the *Planning Act*, R.S.O. 1990, c. P. 13 for the Project forthwith and as part of the site plan approval process, the Owner agrees to implement the City’s comments regarding the design of the Project from a materiality, urban design and landscape architecture perspective. These Owner obligations exist outside of, and in addition to, any controls the City might

otherwise have as an approval authority with respect to any site plan application filed for the Project Lands.

- 4.3 The Owner shall, subject to Force Majeure, ensure Substantial Completion of the Project is reached in accordance with the Development Schedule or such later date as may be approved by the City or its Designate.
- 4.4 The Owner shall carry out the development of the Project as specified in the requirements of this Agreement and in accordance with the Owner's Application, the Development Schedule and with all Applicable Laws.
- 4.5 The City or its Designate shall have access to the Project at all times in order to verify that the Owner is carrying out the development of the Project in accordance with the terms and conditions of this Agreement and in accordance with all Applicable Laws. The Owner shall co-operate with any individual acting on the City's or its Designate's behalf in this respect by doing anything reasonably required to assist with any such inspections.
- 4.6 Following completion of the construction of the Project, the City's or its Designate's representatives shall have the right, at all reasonable times, upon prior notice to the Owner, to inspect the Project in order to confirm that the Owner is operating the Project in accordance with the provisions of this Agreement.
- 4.7 In performing any work and construction on the Project, the Owner shall:
 - (a) proceed at its own expense with all due diligence to completion and will cause all work to be done in a good and professional manner;
 - (b) do all acts and things required for the performance and completion of the Project in accordance with the plans and specifications for the Project which have or may be approved by the appropriate authority;
 - (c) enter into a construction contract for the Project with a construction contractor (the "**Contractor**"), together with all such other agreements or documents that may be necessary for the completion of the Project which clearly describe the Project to be built and the business relationship between the Owner and the Contractor;
 - (d) pay all required development charges and levies and post all required security for the Project with municipal authorities having jurisdiction except as may be exempted in this Agreement;
 - (e) make and process all necessary applications for the development of the Project including, but not limited to, preparation of surveys, site plan, land division committee and severance applications;
 - (f) obtain, in final form, the zoning necessary to permit the use of the Project in compliance with Applicable Laws to the extent any revisions to the zoning are necessary as a result of the site plan process; and

- (g) obtain all necessary permits at its own expense.
- 4.8 The Owner shall not at any time during the Term of this Agreement breach any contribution agreement that it has entered into with any entity relating to Contributions by Others respecting the Project, and shall not, through any breach on its part, cause such other entity to terminate a contribution agreement for cause. The Owner agrees that a breach by it of any such contribution agreement shall constitute a breach of this Agreement. The Owner shall provide the City or its Designate 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 City or its Designate.
- 4.9 The Owner shall, no later than six (6) months prior to the Occupancy Date, provide to the City or its Designate an Access Plan for review and approval.
- 4.10
- (a) Pursuant to Subsection 4.1(8) of the DC Act, the development of the Affordable Housing Units is exempt from development charges provided the Affordable Housing Units are maintained as Affordable Housing for a period of at least twenty-five (25) years. Accordingly, the City acknowledges, confirms and agrees that no development charges will be payable with respect to the development of the Affordable Housing Units that form part of the Project if such units remain as Affordable Housing for a period of at least twenty-five (25) years. The parties acknowledge that this Agreement is also an agreement under Subsection 4.1(9) of the DC Act and may be registered on title to the Project Lands in accordance with the requirements of the DC Act.
 - (b) In the event that any Affordable Housing Unit ceases to meet the definition of Affordable Housing prior to the expiry of the aforementioned twenty-five (25) year period, the exemption from development charges for that particular unit shall immediately terminate, and the Owner hereby covenants and agrees that the payment of development charges exempt under this Agreement for the particular unit which ceases to be an Affordable Housing Unit shall immediately become due and payable and the Owner shall make payment of such development charges immediately to the City plus any applicable interest.
 - (c) In accordance with the foregoing sections, the Owner covenants and agrees to enter into, on closing, the Development Charges Deferral Agreement attached hereto as Schedule "H".

5. POST-CLOSING

- 5.1 The Owner covenants and agrees:
- (a) to register, immediately following closing of the sale of the Project Lands to the Owner, on title to the Project Lands, a restriction providing for the use of the Project as Affordable Housing during the Term of this Agreement, and to prohibit the use of the Project other than for purposes of Affordable Housing;

- (b) to register, immediately following the closing of the sale of the Project Lands to the Owner, on title to the Project Lands, a restriction pursuant to Section 118 of the *Land Titles Act* (Ontario) restricting the transfer or charge of the Project Lands without the consent of the City or its Designate;
- (c) to register, immediately following the closing of the sale of the Project Lands to the Owner, on title to the Project Lands, a right to repurchase the Property substantially in the form attached hereto as Schedule “E” providing the City with the right to repurchase the Project Lands in the event the Owner fails to develop the Project Lands in accordance with the Development Schedule or otherwise defaults under the terms of this Agreement;
- (d) that should the Owner register the Project Lands or the Project as a condominium, the entire residential portion of the Building must be or continue to be operated as rental housing for the duration of the Agreement, and the restriction set out in Section 5.1(a) shall be registered against each Affordable Housing Unit;
- (e) to adhere to the Affordability Period requirements of the City or its Designate and to ensure the Project remains affordable during the Affordability Period in accordance with the definition of Affordable Housing;
- (f) to provide the City or its Designate with an Owner’s First Occupancy Report, in the form of the report attached as Schedule “C”; or in a form designated by the City or its Designate, not later than sixty (60) calendar days prior to the Occupancy Date;
- (g) upon the City’s or its Designate’s request, to provide annually the names and terms of the officers and directors, of the Owner; and
- (h) to be solely responsible, at its own cost and expense, to maintain and operate the Project in a good state of repair and fit for habitation to the standard of a prudent owner of similar premises.

6. OPERATION OF PROJECT

- 6.1 The Owner agrees to operate the Affordable Housing Units for Affordable Housing, in accordance with the Owner’s Access Plan, the requirements of this Agreement and all Applicable Laws, for the total number of years of the Affordability Period.
- 6.2 The Owner shall take such steps as are necessary to verify Household Income does not exceed the Initial Income Limit for each Affordable Housing Unit prior to that Affordable Housing Unit’s Initial Occupancy, determined in accordance with the City’s or its Designate’s eligibility and income verification guide for the Program and in a form acceptable to the City or its Designate.
- 6.3 The Owner shall ensure that no Affordable Housing Unit will be rented to the Owner or shareholder or director of the Owner, or any individual not at Arm’s Length to the Owner, shareholder or director of the Owner unless the Owner is a non-profit co-operative, as

defined in the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35, as amended, or is a not-for-profit corporation.

- 6.4 The Owner shall ensure that the Affordable Housing Unit offered for rent shall qualify as Affordable Housing.
- 6.5 The Owner shall provide the City or its Designate with an Owner's Annual Occupancy Report, in the form of the report attached as Schedule "D"; or in such other form as may be designated by the City or its Designate in addition to any other information or reports as may be requested by the City or its Designate, acting reasonably, throughout the Term of this Agreement;
- 6.6 In accordance with the restriction registered on title to the Project Lands pursuant to Section 5.1(b) above, the Owner shall not:
 - (a) offer, list, advertise, or hold out for sale or lease or otherwise offer for disposal the Project or any part of the Project without the prior written consent of the City or its Designate, which may, at the City's or its Designate's sole discretion, be withheld or given subject to such terms and conditions as the City or its Designate deem appropriate; or
 - (b) mortgage, charge or otherwise encumber the Project or any part of the Project or renew, alter or roll over any existing mortgage or charge or alter the terms of any mortgage or charge or encumbrance on the Project without the prior written consent of the City or its Designate which may, at the City's sole discretion, be withheld or given, and such other terms and conditions as the City or its Designate deems appropriate.
- 6.7 Notwithstanding Section 6.6 the Owner may:
 - (a) offer, list, advertise or hold out for lease individual Affordable Housing Units to tenants for a term of not greater than one (1) year; and
 - (b) dispose of chattels in the ordinary course of business, but must replace the chattels with equivalent chattels unless the chattels are furniture, office, maintenance or janitorial equipment.
- 6.8 **Tenant Provisions.** The Owner shall ensure that:
 - (a) each lease for an Affordable Housing Unit shall provide the following:
 - (i) for the disclosure to the City or its Designate, by the Owner, of the tenant's personal information including Household Income, has been consented to by the tenant;
 - (ii) that no Affordable Housing Unit may be sublet by the residential tenant under any circumstances;

- (iii) a statement identifying the Affordable Housing Unit as being developed under a municipal capital facility by-law for housing and therefore being eligible for certain exemptions from the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17.
 - (iv) a clear and conspicuous notice to the tenant of the date on which the rental Affordability Period for the Affordable Housing Unit ends, and that after such date there will be no further obligation to maintain the Affordable Housing Unit at an affordable rate.
- (b) the City or its Designate will be provided with access to all information obtained from the tenant concerning the Household Income and family composition of each Affordable Housing Unit, which information the City or its Designate may verify; and
 - (c) the Owner complies with the provisions of MFIPPA, in its collection and sharing of any personal information, collected and shared, in accordance with the terms of this Agreement.

7. ACCOUNTABILITY FRAMEWORK

- 7.1 During the period between the date of execution of this Agreement and the Occupancy Date of the Project, the Owner and the City, or its Designate, shall collaboratively review semi-annually the progress of the Project and Building.
- 7.2 During the period between the date of execution of this Agreement and the Occupancy Date, or for a further length of time as determined by the City or its Designate, the Owner shall be required to submit to the City or its Designate a quarterly progress report on or before the tenth (10th) Business Day following the last day of January, April, July, and October in each year, in the form acceptable to the City or its Designate, which report shall contain and/or be accompanied by information or documentation required by the City or its Designate, such as, but not limited to, the following:
 - (a) project schedules and documentation required to evidence completion or fulfillment of the development of the Project;
 - (b) original high resolution digital photographic updates of the Project to be posted on the City's or its Designate's internal and external website as deemed appropriate by the City or its Designate;
 - (c) if requested by the City or its Designate, budget updates;
 - (d) updates regarding Contributions by Others, if applicable; and
 - (e) any further information or documentation regarding the progress of the development of the Project and the completion of the Project as may be required or directed by the City or its Designate from time to time.

7.3 The Owner represents that it has not provided any false or misleading information to the City in connection with its obligations contained in this Agreement.

8. INSPECTIONS, AUDITS AND RECORDS

8.1 The Owner shall maintain full and complete records in respect of this Agreement, including all records necessary to demonstrate that the Project continues to be used for Affordable Housing and to otherwise demonstrate compliance with this Agreement, the ("**Owner's Records**").

8.2 The Owner acknowledges that all information that is in the custody or control of the City, or its Designate, including all records submitted to or created by the City or its Designate, are subject to the access provisions of MFIPPA.

8.3 The Owner, when requested by the City or its Designate upon forty-eight (48) hours' notice to the Owner, shall:

- (a) permit the City or its Designate access to the Affordable Housing Units; and
- (b) make or cause to be made available to the City or its Designate and/or any of their duly authorized representatives, appointees or delegates, any or all of the Owner's Records, to be inspected and/or audited, at all reasonable times both during the Term of this Agreement and subsequent to expiration or termination, it being understood by the Parties that the City or its Designate shall be entitled to conduct such inspections and/or audits as the City or its Designate requests from time to time;

for the purpose of the City or its Designate verifying that the Project continues to be used for Affordable Housing, that the Project continues to align with the Owner's Application (including the number, size or unit mix of Affordable Housing Units, and accessibility and energy efficiency/sustainability features committed to through the Owner's Application), and to otherwise demonstrate compliance with this Agreement. Within forty-eight (48) hours of the City's or its Designate's request, the Owner shall allow such access to the Affordable Housing Units by the City or its Designate and, where access is requested to the Owner's Records, execute and deliver any direction and/or authorization to a third party authorizing such third party to provide to the City or its Designate, and/or any of its duly authorized representatives, appointees or delegates, all such information and records with respect to this Agreement that is requested by the City or its Designate.

8.4 The Owner agrees that the City or its Designate shall be entitled to make copies of any or all of the Owner's Records as it reasonably requests or requires from time to time.

8.5 The City, its Designate and/or any of their duly authorized representatives, appointees or delegates, shall also have the right to conduct any review, audit or inspection of any and all of the Owner's Records, without any prior notice to the Owner. It is the intent of the City to invoke this provision in circumstances of such a serious nature in the City's or its Designate's opinion as would warrant the immediate review, audit or inspection by the City or its Designate of any and/or all of the Owner's Records.

- 8.6 The Owner shall fully co-operate with the City, its Designate and/or any of their duly authorized representatives, appointees or delegates in respect to any inspections, audits, reviews and requests made by the City or its Designate under this Section 8.
- 8.7 The Owner shall retain and preserve all of the Owner's Records related to this Agreement for a period of not less than seven (7) years after each such record has been received or created, as the case may be, or a period of not less than seven (7) years following the end of the Affordability Period or the date of any early termination of this Agreement, whichever is the latest. The Owner shall not dispose of any records related to this Agreement before the expiration of any such period without the prior written consent of the City or its Designate, which consent may or may not be given in the City's or its Designate's sole discretion, subject to such conditions as the City deems advisable.
- 8.8 The obligations of the Owner under this Section 8 shall survive the termination or expiration of this Agreement.

9. INDEMNITY

- 9.1 The Owner shall, both during and following the Term of this Agreement, indemnify and save harmless the City, its Designates and their officers, directors, Chair, City Council members, elected officials, partners, agents, employees and servants (collectively the "**Indemnified Parties**") from and against any and all costs, losses, damages, expenses, injury and liability whatsoever which the City or its Designate may suffer from claims, demands, suits, actions, or any other proceedings, including all legal fees and disbursements, (collectively, "**Claims**") made, brought or recovered against the Indemnified Parties based upon, occasioned by, or attributable to anything done or omitted to be done by the Owner, and its directors, officers, employees, agents, contractors, volunteers, or anyone for whom the Owner is responsible at law, for or in connection with or arising out of this Agreement.
- 9.2 It is understood and agreed that the Owner will defend all Claims brought against the Indemnified Parties for which the Owner is responsible under this section to indemnify the Indemnified Parties, and that in the event any of the Indemnified Parties choose to engage separate legal representation to defend any such Claims, it shall do so at its own expense.
- 9.3 The provisions of this Section 9 shall survive the termination or expiry of this Agreement.

10. EVENTS OF DEFAULT

- 10.1 Each of the following events shall constitute an event of default under this Agreement:
- (a) the Owner commits an event of default, act of default, or is otherwise in breach of its obligations under any other contribution agreement that it has entered into with any entity relating to Contributions by Others;
 - (b) the Owner fails to comply with any of its obligations under this Agreement;

- (c) there is a breach of any of the covenants, warranties or representations of the Owner contained in this Agreement;
- (d) the Owner has made changes to or has altered the scope or timing of the Project or has permitted or caused a material change to the Project, without obtaining the prior approval of the City or its Designate. For the purposes of this Agreement, a material change includes, but is not limited to, a change in the number, size or unit mix of the Affordable Housing Units, the duration of the Affordability Period, a change to the accessibility and energy efficiency/sustainability features committed to through the Owner's Application, and a delay in the Development Schedule in excess of six (6) months (subject to Force Majeure);
- (e) there is any breach by the Owner of the terms and conditions of any applicable agreement, by-law or lease relating to the Project;
- (f) the Owner is in default in making payment of any principal or interest under any mortgage or charge registered against title to the Project Lands or is in default in the observance or performance of any obligations or conditions relating to any such mortgage or charge beyond the grace period, if any, provided in such mortgage or charge;
- (g) the Owner permits any amount which is due by it and which forms or is capable of forming a lien or charge upon the Project Lands or any part thereof to remain unpaid;
- (h) the Owner becomes bankrupt or insolvent or takes the benefit of any legislation now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise;
- (i) a receiver or a receiver and manager is appointed for all or a portion of the Project and the receiver's appointment is not vacated within thirty (30) calendar days;
- (j) any steps are taken or any action or proceedings are instituted by the Owner 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 Owner or its assets;
- (k) the Owner is in breach of its obligations to indemnify any of the Indemnified Parties in respect of any Claims, pursuant to Section 9.1 hereto;
- (l) the Owner denies its obligations under this Agreement, or claims any of this Agreement or the registrations to be made pursuant to section 5.1 of this Agreement to be invalid or withdrawn in whole or in part; or this Agreement or the registrations made pursuant to Section 5.1 are invalidated by any act, regulation or action by any governmental authority having jurisdiction, or is determined to be invalid by a court or other judicial entity and such determination has not been stayed pending appeal; or

- (m) one or more final judgments, writs of execution, garnishment or attachments or similar processes are issued or levied against the Project Lands or the Owner and are not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within thirty (30) calendar days after their entry, commencement or levy.

11. REMEDIES

- 11.1 If the Owner commits an event of default under this Agreement, including without limitation, the Schedules, as determined by the City, then the City may terminate this Agreement upon thirty (30) calendar days' notice in writing to the Owner, or alternatively, the City may require the Owner to take remedial action to rectify the event of default, as the Commissioner directs.
- 11.2 Where the City has provided written notice of an event of default, specifying particulars, to the Owner, and the Owner does not remedy or commence remedying the event of default to the City's satisfaction, as determined by the City in its sole discretion, within thirty (30) calendar days from the date the notice is delivered to the Owner, or such longer period as determined by the City in its sole discretion, the City shall be entitled to terminate this Agreement, effective the end of the thirty (30) calendar day period and may enforce and pursue all rights and remedies available to the City under this Agreement or otherwise at law, including without limitation the right to repurchase the Project Lands pursuant to the repurchase agreement attached hereto as Schedule "E".
- 11.3 The City may without notice terminate this Agreement, effective immediately if:
 - (a) the Owner becomes bankrupt or insolvent or takes the benefit of any Act now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise; or
 - (b) a receiver or a receiver and manager is appointed for all or a portion of the Project and the receiver's appointment is not vacated within thirty (30) calendar days; or
 - (c) any steps are taken or any action or proceedings are instituted by the Owner 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 Owner or its assets.

12. CONFIDENTIALITY

- 12.1 The Owner, its officers, agents and employees shall treat all information which is obtained by the Owner through its performance of this Agreement, as confidential and shall not disclose same, unless required by law, other than in accordance with this Agreement, without the prior written approval of the City.
- 12.2 Notwithstanding Section 12.1, the Owner may disclose information to the grantor of a mortgage, its lawyers, accountants and other professionals, provided that such persons require the information in order to properly perform their duties.

- 12.3 The Owner shall not, unless required by law, release information pertaining to tenants and applicants for tenancy at the Project to third parties without first obtaining the written consent of the affected tenant or applicant.
- 12.4 The collection, use and disclosure of information by the City and its Designate shall be governed by MFIPPA.

13. DISPUTE

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

14. NOTICE

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

In the case of Notice to the City to:

The Corporation of the City Of Cambridge
[INSERT ADDRESS]

Attention: [INSERT]
Fax: [INSERT]

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

[INSERT LEGAL NAME OF OWNER]
[INSERT ADDRESS]

Attention: [INSERT]
Fax: [INSERT]

Or at any such other address as the Party to whom such notice or other communication is to be given shall have advised the Party giving same in the manner provided in this section. Any such Notice given in accordance with the above requirements shall be deemed to have been given, if mailed, on the fifth calendar day following the date of such mailing or, if delivered, personally, or by pre-paid courier, or by e-mail on the day on which it was delivered so long as such delivery was prior to 5:00 p.m. on a Business Day (and, if after

5:00 p.m. or if any such day is not a Business Day, then it shall be deemed to have been delivered on the next Business Day), and if delivered by facsimile transmission, then it shall be deemed to have been delivered on the next Business Day. Either Party may from time to time by Notice change the address to which notices to it are to be given. Notwithstanding the foregoing, during any interruption or threatened interruption in postal services, any Notice shall be personally delivered, or delivered by courier or facsimile transmission.

15. STATUS OF PARTIES

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

16. CONFLICT OF INTEREST

- 16.1 Upon execution of this Agreement, the Owner shall have a policy in place which is satisfactory to the City to prevent conflicts of interest in the management of any funding provided to the Owner by the City under this Agreement including the provision of the Project Lands at discount to its market value. The Owner shall disclose to the City any existing or potential conflict of interest that may exist at the date of execution of this Agreement or during the term of this Agreement.

17. ASSIGNMENT

- 17.1 The Owner covenants and agrees that:
- (a) the Owner shall not transfer or convey its interest in all or any part of the Project without, subject to clause (c) herein, simultaneously assigning its interest in this Agreement to the transferee, which transferee shall enter into one or more agreements with the City, in a form satisfactory to the City, to assume all of the Owner's obligations under this Agreement. In the event of such transferee's default under the agreement(s), the Owner shall remain jointly and severally liable under this Agreement for any such default;
 - (b) for the purpose of this Agreement, a transfer of the beneficial interest in the shares of the Owner 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 percent (50%) of the voting shares of the Owner; and
 - (c) the Owner shall not assign the whole or any part of this Agreement without the prior written consent of the City, which may be withheld in the sole discretion of the City.

Such consent, if provided, shall be in the sole discretion of the City and subject to the terms and conditions that may be imposed by the City.

- 17.2 The City shall have the right to assign or otherwise transfer this Agreement in whole or in part to any one or more person, corporation or other entity (each an “Assignee”). Upon the assumption by an Assignee of the City’s obligations under this Agreement, the City shall be released from its obligations arising under the Agreement.

18. TIME OF THE ESSENCE

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

19. ENTIRE AGREEMENT

- 19.1 This Agreement and the Schedules attached hereto, form the entire agreement between the Parties with respect to the particular subject matter hereof and supersede any other understanding or agreement, collateral, oral or otherwise, existing between the Parties at the date of execution of this Agreement. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of the Agreement shall be deemed to or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless expressly provided.
- 19.2 Notwithstanding the provisions of Section 19.1, if there is a conflict between the provisions of any Schedule attached hereto and the provisions of any section of this Agreement, the provisions of this Agreement shall prevail.

20. FURTHER ASSURANCES

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

21. SUCCESSORS AND ASSIGNS

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

22. APPLICABLE LAW

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

22.2 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.

23. PARTIAL INVALIDITY

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

24. COUNTERPARTS

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

25. GUARANTORS

25.1 The Guarantors jointly and severally agree to unconditionally guarantee, in favour of the City, performance of the obligations of the Owner under this Agreement and to indemnify the City against any cost, loss, damage, expense or liability suffered by the City as a result of the Owner's failure to perform its obligations under this Agreement.

[Signing page follows]

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be duly executed by their respective authorized signing officers effective as of the date first written above.

THE CORPORATION OF THE CITY OF CAMBRIDGE

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[INSERT FULL LEGAL NAME OF OWNER]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

SCHEDULE "A"

DESCRIPTION OF PROJECT AND PROJECT LANDS

1.0 Description of Project Lands.

1.1 Municipal Address:

1.2 Legal Description:

2.0 General Description of Project.

SCHEDULE "B"

PERMITTED ENCUMBRANCES

SCHEDULE "C"

OWNER'S FIRST OCCUPANCY REPORT

[see attached]

SCHEDULE "D"

OWNER'S ANNUAL OCCUPANCY REPORT

[see attached]

SCHEDULE "E"

REPURCHASE AGREEMENT

[see attached]

SCHEDULE "F"

OWNER'S APPLICATION

[see attached]

SCHEDULE "G"

DEVELOPMENT SCHEDULE

[see attached]

SCHEDULE "H"

DEVELOPMENT CHARGES DEFFERAL AGREEMENT

THIS AGREEMENT made as of [INSERT] day of [MONTH], 2024.

BETWEEN:

[INSERT FULL LEGAL NAME OF OWNER]

(the "**Owner**")

and

THE CORPORATION OF THE CITY OF CAMBRIDGE

(the "**City**")

WHEREAS the *Development Charges Act, 1997*, S.O.1997, Chapter 27, as amended (the "**Act**") authorizes municipalities to pass a by-law for the imposition of development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies;

AND WHEREAS the Council of the City, pursuant to the Act, has enacted [INSERT NUMBER] (the "**By-law**"), which imposes development charges and provides for the payment of development charges;

AND WHEREAS the City may, pursuant to section 27 of the Act and subsection [INSERT SECTION] of the By-law, permit an owner of property to pay the applicable development charge at a date earlier or later than it would otherwise be payable, in accordance with the terms of an agreement entered into by the Owner and the City;

AND WHEREAS the Owner is the registered owner of the property known municipally, as of the date of this Agreement, as [INSERT MUNICIPAL ADDRESS] in the City of Cambridge, and more particularly described in Schedule "A" to this Agreement (the "**Property**");

AND WHEREAS the Owner proposes to develop the Property, in whole or in part, (the "**Development**"), and by Application Number [INSERT NUMBER] dated [INSERT DATE] (the "**Application**"), the Owner has applied to the City for a building permit pursuant to the *Building Code Act*, S.O. 1992 c.23, with Permit Number [INSERT NUMBER] (the "**Building Permit**");

AND WHEREAS the proposed Development will be used for the purposes of an affordable rental housing program (the "**Program**");

AND WHEREAS the Chief Financial Officer has been authorized by the Council of the City to enter into agreements to defer the payment of development charges payable under the City's Development Charges By-law for the construction of affordable rental housing buildings;

NOW THEREFORE, in consideration of the matters referred to, the Parties agree as follows:

1. **DEFINITIONS**

Definitions

In this Agreement and the recitals hereto unless something in the subject matter or context is inconsistent therewith:

- (a) **"Act"** has the meaning ascribed to it in the Recitals;
- (b) **"Affordable Housing"** means a Housing development that only contains one or more residential unit(s) intended for use as a rented residential premises that meets the following criteria:
 - (i) the rent is no greater than the lesser of,
 - 1) the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Ministry of Municipal Affairs and Housing in accordance with subsection 4.1 (5) of the Act; and
 - 2) the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.
 - (ii) the tenant is dealing at arm's length with the landlord.
- (c) **"Agreement"** means this agreement, including its attached schedules, and all amendments made to it;
- (d) **"Applicable Law"** means all present or future Law relating or applicable to a person, property, transaction, event or other matter, including any interpretation of Law by any governmental authority;
- (e) **"Application"** has the meaning ascribed to it in the Recitals;
- (f) **"By-law"** means the by-law as described in the Recitals, and for greater certainty means By-law [INSERT NUMBER], or any successor by-law enacted pursuant to the *Development Charges Act, 1997*;
- (g) **"Business Day"** means a day other than a Saturday, Sunday or any holiday observed by the City;
- (h) **"Building Code"** means any regulation governing the standards for the construction and demolition of buildings pursuant to the *Building Code Act, S.O. 1992 c.23*, as amended, including but not limited to Ontario Regulation 332/12, as amended;
- (i) **"Building Permit"** means the building permit(s) as described in the Recitals issued pursuant to *Building Code Act, S.O. 1992*, and includes all partial permits as may be issued pursuant to such building permit, including an excavation/shoring permit, foundation permit, structural permit, final permit, occupancy permit and any other permit;
- (j) **"Development"** has the meaning ascribed to it in the Recitals;

- (k) **"Development Charge"** has the meaning ascribed to it in Section 2;
 - (l) **"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;
 - (m) **"Law"** means all laws, (including the common law), by-laws, ordinances, rules, statutes, regulations, treaties, orders, judgments and decrees, and all official directives, rules, guidelines, notices, approvals, orders, policies and other requirements of any governmental authority whether or not they have force of law;
 - (n) **"Parties"** means the Owner and the City;
 - (o) **"Program"** has the meaning ascribed to it in the Recitals;
 - (p) **"Property"** has the meaning ascribed to it in the Recitals; and
 - (q) **"Supplemental Agreement"** means the agreement between the City and the Owner entered into as of [INSERT DATE] with respect to the Owner's Development of the Property and operation of the Program;
- (a)

2. **DEFERRAL OF DEVELOPMENT CHARGES PAYABLE**

The Owner acknowledges its obligation to pay a development charge in accordance with Sections 26, 26.1 and 26.2 of the Act. The Owner has requested that it be permitted, pursuant to Section 27 of the Act, to defer the payment of its development charges. The City agrees that, in respect of the building(s) authorized to be constructed under the Building Permit, the total development charge (the **"Development Charge"**) in the amount of \$[INSERT AMOUNT] ([INSERT AMOUNT] DOLLARS) is deferred in perpetuity, so long as all units in the building(s) continue to be used by the Owner for the purposes of Affordable Housing for a period of at least twenty-five (25) years, and operated as such in accordance with this Agreement and the Supplemental Agreement. If any units in the building(s) are no longer operated as Affordable Housing at any point prior to the expiry of the aforementioned twenty-five (25) year period, the Development Charge for that unit will become immediately due and payable. Schedule "B" to this agreement shows a breakdown of the development charge calculation, including the number of units by unit type and/or amount of non-residential gross floor area, for the Development. The amount of the Development Charge that will become due and payable in the event the deferral is terminated is not the amount set out in Schedule B, but will be calculated as set out in Subsection 3(4) of this Agreement.

3. **TERM OF DEFERRAL AND AMOUNT OF DEVELOPMENT CHARGES PAYABLE UPON END OF DEFERRAL**

- (1) The Development Charge as provided for under this Agreement shall be deferred in perpetuity, provided that (i) the proposed building(s) is used for the purposes of Affordable Housing for a period of at least twenty (25) years, and (ii) the Owner has performed all of its obligations under this Agreement and the Supplemental Agreement.
- (2) The deferral of the payment of the Development Charge as provided for under this Agreement applies solely to the proposed construction of the building(s) or structure(s) that are authorized by the Building Permit, as may be revised from time to time by the Chief Building Official and does not apply to any other building or structure on the Property.

(3) The deferral of the Development Charge granted under this agreement will terminate upon the occurrence of all of the units in the building(s) that have been allotted for Affordable Housing ceasing to be used for the purposes of Affordable Housing as required under this Agreement and the Supplemental Agreement prior to the date that is twenty-five (25) years from the date that the building(s) are substantially completed, or twenty-five (25) years from the date herein. Upon the occurrence of an Affordable Housing unit no longer being affordable, the deferral granted under this Agreement for that unit will immediately terminate, and the Owner hereby covenants and agrees that the payment of development charges deferred under this agreement for that unit shall immediately become due and payable and the Owner shall make payment of such charges immediately to the City in accordance with subsection 3(4) below.

(4) Where there is a change in the use of the Property and a building permit is issued, the amount of the development charges payable will be calculated on the basis of the prevailing provisions of the Act as if it were a new development, and collected according to the City's prevailing by-laws and policies as of the date on which the first building permit is issued for any such change in use. If no building permit is issued, the development charges shall be due and payable and collected as of the date that the use of the Property is no longer eligible as Affordable Housing, and shall be calculated as if it were a new development on the basis of the unit types described in Schedule B to this Agreement and in accordance with the prevailing provisions of the Act and any applicable development charge by-law.

4. COSTS

(1) Additional Costs and Expenses

Without limiting any of its covenants and obligations set out elsewhere in this Agreement, the Owner agrees to pay all costs and expenses in connection with:

- (a) the preparation or review of waivers, consents, postponements and amendments to this Agreement;
- (b) all costs and expenses incurred by the City as a result of the Owner's failure to perform or observe any of its obligations under this Agreement; and
- (c) without limiting the generality of the foregoing, the Owner agrees to pay all legal costs and expenses incurred by the City in the event that it takes any legal action to enforce the City's rights under this Agreement.

(2) Indemnification

In addition to any liability of the Owner to the City under any other provision of this Agreement, the Owner covenants to defend, indemnify and hold harmless the City and its officers, employees, agents and representatives from and against any and all actions, causes of action proceedings, claims, demands, and assessments in respect of required withholding losses, damages, liabilities, expenses and obligations of any kind that may at any time be incurred by, or asserted against, any of them by any third party, including any governmental authority, as a result of, or in connection with, or by reason of, the entering into of this Agreement or the transactions therein contemplated.

(3) Indemnification by Owner

In addition to any liability of the Owner to the City under any other provision of this Agreement, the Owner covenants to indemnify the City and hold the City harmless from and to reimburse the City for all costs, fees, expenses and liabilities incurred by the City or for which the City becomes obligated in connection with or arising out of the enforcement of this Agreement. A certificate of the City as to the amount of any such loss or expense shall be prima facie evidence as to the amount thereof, in the absence of manifest error.

5. THE DEVELOPMENT CHARGE

The Owner acknowledges and agrees that the Development Charge referred to herein applies only to development charges imposed pursuant to the By-law and does not necessarily constitute all development charges that may be applicable in respect of the Property, as there may be further development charges applicable in respect of other development permitted on the Property, and education development charges imposed by a Board of Education or the Region of Waterloo.

6. EFFECTIVE DATE OF AGREEMENT

This Agreement shall take effect on the date it is fully executed by the Owner and by the City.

7. COVENANTS

- (1) The Parties agree that all obligations or agreements contained in this Agreement shall be deemed to be covenants.
- (2) The Owner covenants that it shall pay all amounts owing (including interest, costs and other charges) under this Agreement.
- (3) The Owner covenants that, in the event that the Deferral provided hereunder is terminated pursuant to the provisions of this Agreement, it shall pay in full all amounts added to the municipal tax roll for the Property in respect of any unpaid development charges, including any additional fees or interest associated therewith.
- (4) The Owner covenants that it shall promptly notify the City of any proposed conveyance of all or part of the Property and shall not convey any part of the Property without the City's consent and approval, in accordance with the provisions of the Supplemental Agreement. In the event that such conveyance is approved by the City, the Owner further covenants that it will require any such subsequent owner of the Property to execute either an assignment of this Agreement, or a new agreement to preserve the deferral granted under this agreement, with the City being a party to such agreement.
- (5) If the Owner fails to notify the City in the circumstance described in subsection 7(4) above, the Owner hereby covenants and agrees that the development charges for the Development shall become immediately due and payable, and the Owner shall become fully responsible to pay immediately to the City all development charges for the Development. The entire development charge plus interest shall become due and payable by the Owner immediately and the Owner acknowledges and agrees that this Agreement shall be treated as an alternative payment agreement under section 27 of the Act. The amount of such development charges payable shall be calculated in accordance with subsection 3(4) of this Agreement, and interest shall accrue and be paid on such amount at a rate of [INSERT AVERAGE PRIME RATE OF INTEREST AT TIME OF AGREEMENT) plus 1% operating interest from the building permit issuance date until such date as payment is made in full. If the Owner fails to make such payment within 30 days from the Owner receiving notice of the default, then the City may add any unpaid development charges to the municipal tax roll for the Property, including any additional fees and interest associated therewith.
- (6) The Owner covenants that it shall promptly notify the Chief Financial Officer of the City of any change in its status as Affordable Housing for all or part of the Development.

8. TIME IS OF THE ESSENCE

The Owner agrees that time shall be of the essence and any dates or deadlines set out in this Agreement are to be strictly adhered to.

9. REPRESENTATIONS AND WARRANTIES

Representations and Warranties

The Owner represents and warrants that:

- (a) the Owner is not a party to any agreement under the terms of which the Owner is prohibited or restricted from entering into any of the Owner's obligations, liabilities, or restrictions under this Agreement;
- (b) to the best of the Owner's information and belief the Owner is not aware of any material facts or circumstances which have not been disclosed to the City; and

(c) the Owner acknowledges and agrees that they have been advised by the City to consult a lawyer before executing this Agreement . The Owner further acknowledges and agrees that it has either obtained independent legal advice from their own lawyer with respect to the terms of this Agreement prior to execution, or declined to seek such independent legal advice. Nevertheless, the Owner herein acknowledges that they have read this Agreement, understand the terms and conditions and the Owner’s rights and obligations under this Agreement and agree to be bound by same.

10. SURVIVAL AND REPETITION OF REPRESENTATIONS AND WARRANTIES

The representations, warranties and covenants contained in this Agreement shall be considered to be relied upon by the City and shall not merge and shall survive the execution and delivery of this Agreement and continue in full force and effect for the term of this Agreement.

11. FURTHER ASSURANCES

The Owner and the City shall promptly cure any default by it in the execution and delivery of this Agreement or any other agreements provided for in this Agreement.

12. AGREEMENT NOT WAIVER

This Agreement is made entirely for the convenience and benefit of the Owner and is in no way to be construed as a waiver or surrender of any rights or remedies that the City may have to recover the Development Charge by any lawful means from present and future owners of the Property or as taxes upon the Property.

13. OBLIGATIONS JOINT AND SEVERAL

The obligations and liabilities of the Owner, if more than one, under this Agreement shall be both joint and several.

14. NOTICE

(1) Notice

Any notice under this Agreement shall be deemed to have been given if delivered personally or by e-mail or mailed by registered mail to:

(i) to the City:

●

Attention: ●

Email: ●

Facsimile: ●

(ii) to the Owner:

●

Attention: ●

Email: ●

Facsimile: ●

or to such other address which the Parties to be notified shall have given written notice to the other Parties.

(2) Time

Any notice given or delivered pursuant to this paragraph shall be deemed to have been given and received on the day on which it was delivered (or if such day is not a Business

Day, on the next following Business Day) or three (3) days following the date of mailing, as the case may be.

(3) **Title of Staff Person**

The Owner acknowledges that the title and address for the staff person at City to which notice must be provided may change from time to time and that it is the responsibility for the Owner to obtain the correct information prior to any notice being provided to the City.

15. ENTIRE AGREEMENT

This Agreement contains the entire and only understanding between the Parties relating to the payment of development charges in respect of the proposed construction as authorized by the Building Permit, and supersedes all prior agreements, arrangements, promises, representations or other understandings, whether written or oral, between them related to any payment of development charges in respect of such permit.

16. AMENDMENT AND WAIVER

No provisions of this Agreement shall be amended or altered except by further written agreement between the City and the Owner. No covenant or condition in this Agreement shall be deemed waived or consented to by the City, unless such waiver or consent is in writing and signed by the authorized representative of the City. Any waiver granted by the City, shall be effective for the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the City under this Agreement, or instrument executed pursuant to this Agreement as a result of any other default or breach under this Agreement. No waiver of a provision of this Agreement shall operate as a waiver of any other provision or of the same provision on a future occasion.

17. SEVERABILITY

If any of the provisions of this Agreement or their application to any person or circumstance are to any extent illegal, invalid or unenforceable, the remainder of this Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained in it.

18. GOVERNING LAW

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada.

19. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and shall ensure to the benefit of the City and the Owner and their respective successors and assigns. The Owner may not assign or transfer its rights and obligations under this Agreement without the prior written consent of the City, and the City's consent may be arbitrarily withheld.

20. REGISTRATION ON TITLE

It is the intention of the Parties that this Agreement create an interest in the Property in favor of the City, to the extent of the deferred development charge identified herein. To this end, the Parties intend that notice of this Agreement, including its schedules, be registered on title to the Property. The Owner agrees to pay all costs associated with registration of notice of this Agreement. If notice of this Agreement is not accepted by the Registrar for registration, the parties agree that the site plan agreement in respect of site plan approval for the development, or such other development agreement as necessary, will make reference to this Agreement and its relevant particulars.

21. REMOVAL OF AGREEMENT FROM TITLE

Once the Owner has satisfied all provisions of this Agreement, the City shall not unreasonably withhold its consent to removal of the Notice concerning this Agreement from title at the Owner's expense.

22. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

The Owner acknowledges that the City is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, as amended, and that this Agreement and any information provided to the City in connection with the Development or in connection with this Agreement may be subject to disclosure in accordance with such Act.

23. INTERPRETATION

(1) Headings, Sections, Recitals, Schedules

The division of this Agreement into articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The term "this Agreement" refers to this Agreement in its entirety and not to any particular article, Section or other part of this Agreement.

(2) Gender and Number

If the context of this Agreement requires changes of gender and number, this Agreement shall be read such that words importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

(3) Non-Business Days

Whenever any payment is stated to be due, or any action is to be taken, on a day other than a Business Day, the payment or action will be made on the immediately preceding Business Day.

(4) Statutory References

Any reference in this Agreement to any Law, or to any section of or any definition in any Law, shall be deemed to be a reference to such Law or section or definition as amended, supplemented, substituted, replaced or re-enacted from time to time.

(5) Schedules

Schedule "A" (Legal Description of the Property) and Schedule "B" (Development Charges Calculation), as attached to this Agreement, forms part of this Agreement in the same manner and with the same effect as if it was included in the body hereof.

(6) Recitals

All of the recitals preceding Section 1 of this Agreement are true and correct.

(7) References to City Staff

Any reference to the title or position of a member of City staff in this Agreement shall include any change to the title or position or any successor title or position or any new title or position which assumes the responsibilities of the title or position referenced in the Agreement.

24. COUNTERPARTS

This Agreement may be executed in any number of counterparts (including counterparts delivered electronically) and all such counterparts taken together will be deemed to constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Parties have executed duly this Agreement as of the Effective Date.

THE CORPORATION OF THE CITY OF CAMBRIDGE

Date _____

Per: _____
Name:
Title:

Per: _____
Name:
Title:

*Authorized by By-law No. **

Date _____

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Confirmation of Acceptance

Final acceptance by all parties this * day of *, 202*.

SCHEDULE A

LEGAL DESCRIPTION

Municipally known as *

PIN *

SCHEDULE "B"
Development Charge Calculation

SCHEDULE F
PURCHASER'S APPLICATION