

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the 1st day of April, 2024

B E T W E E N :

**His Majesty the King in right of Ontario as represented
by the Minister of Municipal Affairs and Housing**

(the “Province”)

- and -

[enter the full legal name of the Recipient above]

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions
Schedule “B” - Program Specific Information and Additional Provisions
Schedule “C” - Program
Schedule “D” - Eligible Expenditures and Ineligible Expenditures
Schedule “E” - Payment Schedule
Schedule “F” - Reports
Schedule “G” - Program Guidelines

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the provisions in Schedule “A” and the provisions of any other schedule, the following rules will apply:

- (a) the Parties will interpret any other schedule in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the other schedule in a way that is consistent with the provisions in Schedule “A”, Schedule “A” will prevail over the other schedule to the extent of the inconsistency.

3.0 COUNTERPARTS AND E-SIGNATURES

3.1 **One and the Same Agreement.** The Agreement may be executed and delivered in counterparts by electronic means, including by email transmission in PDF format, and the Parties may rely on such electronic execution as though it were an original hand-written signature.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Program and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Program;
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) (“**FIPPA**”) and that any information provided to the Province in connection with the Program or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act; and
- (d) the Province is bound by the *Financial Administration Act* (Ontario) (“**FAA**”) and, pursuant to subsection 11.3(2) of the FAA, payment by the Province of Funds under the Agreement will be subject to,

- (i) an appropriation, as that term is defined in subsection 1(1) of the FAA, to which that payment can be charged being available in the Program Year in which the payment becomes due; or
- (ii) the payment having been charged to an appropriation for a previous fiscal year.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by the Minister of Municipal
Affairs and Housing**

Date (dd-mmm-yyyy)

Signed: _____

Name: _____

Title: _____

[enter the full legal name of the Recipient]

Date (dd-mmm-yyyy)

Signed: _____

Name: _____

Title: _____

I have authority to bind the Recipient.

Date (dd-mmm-yyyy)

Signed: _____

Name: _____

Title: _____

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Allocation Notice" means the notice that the Recipient receives from the Province setting out the Recipient's Annual Funding Allocation for the respective Program Year;

"Annual Funding Allocation" means the amount of Funds that the Province allocates to the Recipient for a Program Year;

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Consultant" means any person the Recipient retains to do work related to this Agreement.

"Effective Date" means the date set out at the top of the Agreement.

"Eligible Expenditures" means the costs of the Program incurred by the Recipient and that are eligible for payment under the terms and conditions of the Agreement, and that are further described in section D2.0 of Schedule "D".

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funds" means the money the Province provides to the Recipient pursuant to the Agreement and includes any interest earned by placing the Funds in an interest-bearing account pursuant to section A4.4.

"Indemnified Parties" means His Majesty the King in right of Ontario, and includes His ministers, agents, appointees, and employees.

"Indigenous Communities" include First Nation, Métis, and Inuit communities or peoples of Canada.

"Investment Plan" means an investment plan identifying the Recipient's proposed use of Funds substantially in the form set out in Schedule "G".

"Loss" means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Program or any other part of the Agreement.

"Maximum Funds" means the maximum Funds set out in Schedule "B".

"Notice" means any communication given or required to be given pursuant to the Agreement.

"Notice Period" means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time pursuant to section A12.4.

"Parties" means the Province and the Recipient.

"Party" means either the Province or the Recipient.

"Performance Year" means:

- (a) in the case of the 2023 Performance Year, the period commencing on January 1, 2023 and ending on December 31, 2023;
- (b) in the case of the 2024 Performance Year, the period commencing on January 1, 2024 and ending on December 31, 2024; and

- (c) in the case of the 2025 Performance Year, the period commencing on January 1, 2025 and ending on December 31, 2025.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Program or with any other part of the Agreement.

“Program” means the program described in Schedule “C,” including any projects and activities undertaken by the Recipient in accordance with Schedule “C.”

“Program Year” means:

- (a) in the case of the first Program Year, the period commencing on the Effective Date and ending on December 31, 2024; and
- (b) in the case of the second Program Year, the period commencing on January 1, 2025 and ending on December 31, 2025.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

“Revised Allocation Notice” means an Allocation Notice that the Province issues that alters an Allocation Notice that the Province previously issued.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Program;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, any requirement to obtain or maintain any approvals, permits, licenses, and authorizations, and any other orders, rules, and by-laws related to any aspect of the Program, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Program successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Program and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROGRAM

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient with Funds up to the Maximum Funds for the purpose of carrying out the Program;
- (b) provide the Funds to the Recipient in accordance with the payment schedule attached to the Agreement as Schedule “E”; and

- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 Limitation on Payment of Funds. Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient's council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof required pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Program; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient based upon the Province's assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 Use of Funds and Carry Out the Program. The Recipient will do all of the following:

- (a) carry out the Program in accordance with the Agreement;
- (b) use the Funds only for the purpose of carrying out the Program;
- (c) spend the Funds only in accordance with an approved Investment Plan;
- (d) not use the Funds to cover any cost that has been or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 Separate Interest-Bearing Account. The Recipient shall place the Funds in a separate, distinct, interest-bearing savings account in the name of the Recipient at a Canadian financial institution.

A4.5 Interest. If any interest is earned pursuant to section A4.4, those amounts shall be:

- (a) used by the Recipient only for the purposes of carrying out the Program and only for Eligible Expenditures in accordance with an approved

Investment Plan; and

- (b) treated in the same manner under the Agreement as other Funds, including with respect to the Recipient's obligations relating to saving, reporting on and repaying unspent Funds, and the Province's rights to demand repayment, deduct amounts, and take any other action with respect to Funds.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Program, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A4.7 **Saved Funds.** The Recipient may save any Funds that it receives in one Program Year for use in later Program Years. For greater certainty, saved Funds include Funds not committed and not spent, Funds committed but not spent, and any interest earned pursuant to section A4.4. Despite anything else in this Agreement, the Recipient will spend any Funds that it has saved by no later than March 31, 2026. In the event that the Recipient does not spend those saved Funds in accordance with the requirements set out in this section A4.7 or otherwise in accordance with the Agreement, those saved Funds will be returned to the Province.

A4.8 **Transfer of Funds.** The Recipient may transfer Funds provided under this Agreement to a third party for the purposes of carrying out a project or activity set out in the Recipient's approved Investment Plan provided the following conditions are met:

- (a) The project or activity is an Eligible Expenditure;
- (b) The third party is a municipality, municipal services corporation, municipal housing corporation, housing service manager or non-profit housing provider, or another entity that has been approved by the Province in writing to receive transferred Funds; and
- (c) The Recipient has entered into an agreement with the third party with respect to the Funds that is consistent with the terms and conditions of this Agreement and incorporates the relevant provisions of this Agreement. More specifically, but without limiting the generality of the foregoing, the Recipient agrees that all agreements with third parties shall include provisions to ensure:
 - (i) proper and accurate accounts and records with respect to the funded project or activity are kept and maintained as described in the Agreement including section A7.3;
 - (ii) compliance with all federal and provincial laws and regulations, all municipal by-laws, any requirement to obtain or maintain any

approvals, permits, licenses, and authorizations, and any other orders, rules, and by-laws related to the funded project or activity;

- (iii) that the Recipient can recover Funds provided to a third party upon a breach of the agreement by the third party; and
- (iv) the rights of the Province to audit the terms of any agreement, record and account pertaining to the funded project or activity are secured, pursuant to section A7.5.

A4.9 Third Party Agreements Provided by Recipient Upon Request. The Recipient shall provide to the Province, upon request, a copy of any agreement entered into with a third party pursuant to section A4.8.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 Acquisition. If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 Transfer or Disposal of Assets. The Recipient shall retain any assets purchased, rehabilitated or built with the Funds under this Agreement for a period of five years from the date that the project or work is completed. Within this five year period, the Recipient may ask for the Province's consent to transfer to a third party, or dispose of, any assets purchased, rehabilitated or built with the Funds. The Province may impose any reasonable conditions, in granting its consent, including requiring the Recipient to:

- (a) report to the Province any monies, including any capital gains, resulting from the transfer or disposal of the asset and use those monies only for Eligible Expenditures; or
- (b) return to the Province the Funds used to purchase, rehabilitate, or build the transferred or disposed of asset.

A5.3 Transfer of Land. The Recipient shall retain any land purchased with the Funds under this Agreement for a period of five years from the date that the land is purchased by the Recipient. Within this five year period, the Recipient may ask for the Province's consent to transfer to a third party any land purchased with the Funds. The Province may impose any reasonable conditions, in granting its consent, including requiring the Recipient to:

- (a) report to the Province any monies, including any capital gains, resulting from the transfer of the land and use those monies only for Eligible Expenditures; or
- (b) return to the Province the Funds used to purchase the transferred land.

A5.4 **Use of Consultants.** The Province recognizes and acknowledges that the Recipient may engage one or more Consultants for the purposes of carrying out the Program and any related projects or work to which Funds are directed. The Recipient will have sole responsibility for hiring and terminating the employment of said Consultants. The Recipient further acknowledges and agrees that the Recipient will be responsible for all acts and actions of the Recipient's Consultants and that all such acts and actions will be treated as acts and actions of the Recipient for the purposes of this Agreement.

A5.5 **Trade Agreements.** If the Recipient is subject to any provincial or federal trade agreements to which the Province is a party, the Recipient will comply with the applicable requirements of such trade agreements.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions, has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Program, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Program and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Program with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Program with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 Province Includes. For the purposes of sections A7.4, A7.5 and A7.6, “Province” includes any auditor or representative the Province may identify.

A7.2 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address set out in Schedule “B”:
 - (i) all Reports in accordance with the timelines and content requirements set out in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time, including, but not limited to, any reports that may be required under Article B3.0 of Schedule “B”;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 Record Maintenance. The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Program in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any comparable accounting standards that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Program.

A7.4 Records Review. The Province may, at its own expense, upon twenty-four hours’ Notice to the Recipient and during normal business hours enter upon the Recipient’s premises to conduct an audit or investigation of the Recipient regarding the Recipient’s compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient’s representations and warranties;
- (b) the progress of the Program;
- (c) the Recipient’s allocation and expenditure of the Funds.

- A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or both of the following actions:
- (a) inspect and copy any records and documents referred to in section A7.3;
 - (b) remove any copies the Province makes pursuant to section A7.5(a).
- A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:
- (a) ensuring that the Province has access to the records and documents wherever they are located;
 - (b) assisting the Province to copy records and documents;
 - (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
 - (d) carrying out any other activities the Province requests.
- A7.7 **No Control of Records.** No provision of the Agreement will be construed to give the Province any control whatsoever over any of the Recipient's records.
- A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS AND SIGNAGE REQUIREMENTS

- A8.1 **Acknowledge Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Program-related publications, whether written, oral, or visual:
- (a) acknowledge the support of the Province for the Program, including any projects and activities for which Funds are used;
 - (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
 - (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.
- A8.2 **Publication By The Province.** The Recipient agrees the Province may, in addition to any obligations the Province may have under *FIPPA*, publicly release information under this Agreement, including the Agreement itself, in hard copy or in electronic form, on the internet or otherwise.

A8.3 **Signage.**

- (a) **Recognition of Funding Contribution.** The Parties agree that the Province and the Recipient may both have signage recognizing their funding contribution in respect of the Program.
- (b) **Funding Recognition.** Unless otherwise agreed to by the Province, where the Recipient directs Funds towards an infrastructure project and:
 - (i) the Funds contributed by the Province exceed \$250,000; or
 - (ii) the project has construction period of 90 days or more;

the Recipient will produce and install a sign to recognize the Funds contributed by the Province at each project site in accordance with, as applicable, the Province's current respective signage guidelines. Provincial sign design, content, and installation guidelines will be provided by the Province.

- (c) **Notice of Sign Installation.** The Recipient will inform the Province of sign installations, including providing the Province with photographs of the sign(s) once installation of the sign(s) has been completed.
- (d) **Timing of Erection of Sign.** If erected, signage recognizing the Province's contributions will be installed at project site(s) 30 days prior to the start of construction, be visible for the duration of construction, and remain in place until 30 days after construction is completed and the infrastructure is fully operational or opened for public use.
- (e) **Size of Sign.** If erected, signage recognizing the Province's contribution will be at least equivalent in size and prominence to project signage for contributions by other orders of government and will be installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.
- (f) **Responsibility of Recipient.** The Recipient is responsible for the production and installation of project signage, and for maintaining the signage in a good state of repair at all times, or as otherwise agreed upon.

A9.0 **INDEMNITY**

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the gross negligence or wilful misconduct of the Indemnified Parties.

A9.2 **Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province, participate in or conduct the defence of any

proceeding against any Indemnified Parties and any negotiations for their settlement.

A9.3 **Province's Election.** The Province may elect to participate in or conduct the defence of any proceeding by providing Notice to the Recipient of such election without prejudice to any other rights or remedies of the Province under this Agreement, at law or in equity. Each Party participating in the defence will do so by actively participating with the other's counsel.

A9.4 **Settlement Authority.** The Recipient will not enter into a settlement of any proceeding against any Indemnified Parties unless the Recipient has obtained the prior written approval of the Province. If the Recipient is requested by the Province to participate in or conduct the defence of any proceeding, the Province will co-operate with and assist the Recipient to the fullest extent possible in the proceeding and any related settlement negotiations.

A9.5 **Recipient's Co-operation.** If the Province conducts the defence of any proceedings, the Recipient will co-operate with and assist the Province to the fullest extent possible in the proceedings and any related settlement negotiations.

A9.6 **Limitation of Liability.** The Recipient acknowledges and agrees that in no event will the Indemnified Parties be held liable for:

- (a) any bodily injury, death or property damage to the Recipient, its employees, agents or Consultants or for any Proceeding against the Recipient, its employees, agents or Consultants; or
- (b) any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit to the Recipient, its employees, agents or Consultants arising out of any or in any way related to the Program or this Agreement.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a program similar to the Program would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount set out in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under,

or otherwise in connection with, the Agreement;

- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) at least 30 days' written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either
 - (i) certificates of insurance that confirm the insurance coverage required by section A10.1;
 - (ii) other proof that confirms the insurance coverage required by section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Program or otherwise to the Agreement, or both.

A10.3 Recipient's Subcontractor Insurance. The Recipient will ensure that any subcontractors or Consultants retained to perform any part or parts of the Program will obtain and maintain all the necessary and appropriate insurance that a prudent person in the business of the subcontractor or Consultant would obtain and maintain.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) direct that the Recipient does not incur any costs under this Agreement without the Province's prior written consent;
- (b) cancel further instalments of Funds;
- (c) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and

- (d) determine the reasonable costs for the Recipient to wind down the Program, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(c); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default:

- (a) if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Program;
 - (ii) use or spend Funds;
 - (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii);
 - (iv) follow any directions that the Province provides under the Agreement; or
- (b) if the Recipient has provided false or misleading information to the Province.

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Program;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;

- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient the payment of an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Records Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) upon giving Notice to the Recipient, terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province.

A12.3 **Opportunity to Remedy.** If, pursuant to section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provides the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), (i) and (j).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 [INTENTIONALLY OMITTED]

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** Upon expiry of the Agreement, the Recipient will pay to the Province any unspent Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds, an amount equal to any Funds or any other amounts owing under the Agreement; or
- (b) the Recipient owes to the Province any Funds, an amount equal to any Funds, or any other amounts owing under the Agreement, whether or not the Province has demanded their payment;

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province at the address set out in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, or courier; and
- (c) addressed to the Province or the Recipient as set out in Schedule “B”, or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; and
- (b) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery or courier.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed and all other provisions

will continue in full force and effect unless similarly found void and/or unenforceable.

A19.0 WAIVER

A19.1 **Condonation not a waiver.** Failure or delay by the either Party to exercise any of its rights, powers or remedies under the Agreement will not constitute a waiver of those rights, powers or remedies and the obligations of the Parties with respect to such rights, powers or remedies will continue in full force and effect.

A19.2 **Waiver.** Either Party may waive any of its rights, powers or remedies under the Agreement by providing Notice to the other Party. A waiver will apply only to the specific rights, powers or remedies identified in the Notice and the Party providing the waiver may attach terms and conditions to the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is or take any actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's heirs, executors, administrators, successors, and permitted assigns; and
- (b) the successors to His Majesty the King in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises more than one entity, each entity will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with His Majesty the King in right of Ontario or one of His agencies (a **"Failure"**);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds under this Agreement without liability, penalty or costs for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 **Survival.** The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, , sections A4.4, A4.5, A4.6, A4.7, A4.8 and A4.9, sections A5.2 and A5.3, section A7.1, section A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, section A12.1, sections A12.2(d), (e), (f), (g), (h), (i) and (j), Article A14.0, Article A15.0, Article A16.0, Article A18.0, section A21.2, Article A22.0, Article A24.0, Article A25.0, Article A27.0, and Article B3.0.

- END OF GENERAL TERMS AND CONDITIONS -

**SCHEDULE “B”
PROGRAM SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS**

| | |
|---|--|
| Maximum Funds | For each Program Year, the amount of the Recipient’s Annual Funding Allocation as set out in the Recipient’s Allocation Notice or in the Recipient’s Revised Allocation Notice if a Revised Allocation Notice has been issued pursuant to section B2.2. |
| Expiry Date | March 31, 2026 |
| Insurance | \$10,000,000 |
| Contact information for the purposes of Notice to the Province | <p>Position: Charlene Cressman, Director, Housing Supply Strategy Branch</p> <p>Address: 14th Floor, 777 Bay Street, Toronto ON M7A 2J3</p> <p>Email: charlene.cressman@ontario.ca</p> |
| Contact information for the purposes of Notice to the Recipient | <p>Position: _____</p> <p>Address: _____ _____</p> <p>Email: _____</p> |
| Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement | <p>Position: _____</p> <p>Address: _____ _____</p> <p>Email: _____</p> |

Additional Provisions:

B1.0 ELIGIBILITY

- B1.1 Eligibility Criteria.** To be eligible to receive an Annual Funding Allocation, the Recipient must have a provincially-assigned housing target to be met by the Recipient by 2031, and must have:
- (a) committed to achieve its housing target through a council-approved pledge or a written head of council commitment submitted to the Province; and
 - (b) provided feedback to the Province prioritizing the recommendations contained in the February 2022 report of the Housing Affordability Task Force.
- B1.2 Continued Eligibility.** The Recipient must continue to meet the eligibility criteria set in section B1.1 in each Program Year in order to be eligible to receive an Annual Funding Allocation for that Program Year. The Recipient's eligibility for a given Program Year will be assessed prior to the start of that Program Year.

B2.0 ANNUAL FUNDING ALLOCATION

- B2.1 Annual Funding Allocation.** For each Program Year in which the Recipient is eligible for the Program, the Recipient will receive an Allocation Notice from the Province. The Allocation Notice will set out the Recipient's Annual Funding Allocation for the Program Year, based on the Recipient's performance against its housing target in the relevant Performance Year, which will be calculated in accordance with the formula set out in Schedule "G".
- B2.2 Revised Allocation Notice.** If, after the Recipient has received an Allocation Notice for a given Program Year, the Province revises its assessment of the Recipient's performance against its housing target in the relevant Performance Year, the Province may issue a Revised Allocation Notice to the Recipient for that Program Year. In the event that the Province issues a Revised Allocation Notice for a given Program Year, the Revised Allocation Notice will revoke and replace the Allocation Notice for which the Revised Allocation Notice was issued.

B3.0 INDIGENOUS CONSULTATION

- B3.1 Notice to Province.** In carrying out the Program, the Recipient will consider if any proposed projects or work to which Funds are directed may have the potential to adversely impact the exercise of Aboriginal or treaty rights. In circumstances where any proposed projects or work to which Funds are directed have the potential to adversely impact the exercise of Aboriginal or

treaty rights, the Recipient will provide immediate Notice to the Province.

B3.2 Delegation of Procedural Aspects of Consultation. If the Province determines that consultation with Indigenous Communities is required on a project or work to which Funds are directed, the Recipient agrees that the Province may delegate certain procedural aspects of consultation to the Recipient, including:

- (a) providing notice of the project or work to the Indigenous Communities identified by the Province;
- (b) following up, as necessary, in an appropriate manner to ensure that the Indigenous Communities are aware of the opportunity to provide comments or concerns about the project or work;
- (c) answering questions from the Indigenous Communities about the project or work to the extent of the Recipient's ability;
- (d) providing the Indigenous Communities with reasonable opportunities to meet with appropriate representatives of the Recipient to discuss the project or work;
- (e) considering comments provided by the Indigenous Communities regarding the potential impact of the project or work on Aboriginal or treaty rights, and any potential accommodation or mitigation measures as appropriate.

B3.3 Report to Province. Where the Province has delegated the procedural aspects of consultation on a project or work to which Funds are directed to the Recipient, the Recipient will provide a report to the Province, within the timeframe directed by the Province acting reasonably, that includes:

- (a) a list of all Indigenous Communities notified by the Recipient of the project or work;
- (b) a summary of all communications between the Recipient and the Indigenous Communities regarding the project or work;
- (c) a summary of all comments or concerns that the Indigenous Communities have provided with respect to the project or work;
- (d) any other information that the Province may deem appropriate.

B3.4 Direction from Province. The Recipient agrees to comply with any direction from the Province with respect to consultation with Indigenous Communities, including by stopping or not commencing a project or work to which Funds are directed until any consultation requirements have been met.

SCHEDULE “C” PROGRAM

Background

The Building Faster Fund (“BFF”) rewards eligible municipalities that meet or exceed their provincially-assigned housing targets. BFF is designed to help municipalities pay for critical housing-enabling infrastructure and other related costs that support community growth.

The Recipient shall carry out the Program by using Funds for projects and activities described in its approved Investment Plan and only for Eligible Expenditures.

Investment Plan

- (1) The Recipient shall develop and submit to the Province for approval an Investment Plan for each Program Year in accordance with the timelines and substantially in the form set out in Schedule “G”.
- (2) The Investment Plan for each Program Year must be approved by the Recipient’s council or through delegated authority, as applicable.
- (3) The Investment Plan shall contain, among other things, the following information for the Program Year:
 - A description of each project or activity to be undertaken with the Funds, including an explanation of how the project or activity will support increasing housing supply, housing development, including issues of housing affordability, and address any identified risks to achieve housing targets;
 - Amounts of Eligible Expenditures planned for the Program Year for each project or activity; and
 - Other sources of funding being used toward each project or activity.
- (4) The Province will provide Notice of its decision with respect to the approval of the Investment Plan with any such amendments as the Province considers appropriate within a reasonable amount of time.
- (5) If, after approval by the Province of an Investment Plan for a Program Year, changes in operating and capital expenditures are required, the Recipient may, with prior approval of the Province, reallocate Funds to other Eligible Expenditures. Reallocations will only be permitted within the same expenditure category: capital expenditures for other capital expenditures and operating expenditures for other operating expenditures. No reallocations will be permitted between operating and capital expenditures. The Recipient shall provide Notice of the proposed reallocation(s) to the Ministry in the form of a revised Investment Plan with reallocations and changes clearly marked and submit to the Province for approval prior to December 31st of that Program Year. Reallocation requests

must be approved by the Recipient's council or through delegated authority, as appropriate.

SCHEDULE “D”
ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

D1.0 Definitions

D1.1 For the purposes of this Schedule “D”, the following terms have the meanings set out in this section:

“Affordable Housing” means a unit that meets the definition of an affordable residential unit set out in section 4.1 of the *Development Charges Act, 1997*, or is a unit also supported by stacking with funds provided through a provincially-funded affordable housing program (e.g., Homelessness Prevention Program).

“Attainable Housing” means a unit that meets the definition of attainable ownership housing set out by the Province through an attainable housing program or agreement with the Province, or meets the definition of an attainable residential unit as defined in section 4.1 of the *Development Charges Act, 1997*.

“Ineligible Expenditures” means the costs of the Program that are ineligible for contribution by the Province under the terms and conditions of the Agreement, and that are described in section 3.0 of this Schedule “D”.

“Modular” means a home that is built using one or more prefabricated components or modules. It is constructed partially or completely off-site in a manufacturing facility then transported to a property and assembled there, like building blocks.

D2.0 Eligible Expenditures

D2.1 **Eligible Expenditures.** The Recipient may spend the Funds on soft costs (including planning, studies and permits), land costs, and hard costs (including costs of construction, labour and materials) in the following categories:

- i. Capital expenditures on housing-enabling core infrastructure, such as roads, bridges, water, wastewater, and stormwater facilities, and site servicing, including:
 - a. new construction, reconstruction, rehabilitation/repair or expansion of existing infrastructure to accommodate future residential development;
 - b. maintenance for the renewal, rehabilitation and replacement of existing infrastructure owned by the Recipient to preserve existing housing supply;
 - c. site servicing or preparation expenses to support the direct creation of more housing.

- ii. Operating or capital expenditures that support the creation of net new Affordable Housing units.
- iii. Operating or capital expenditures that support the creation of net new Attainable Housing units, including:
 - a. Construction of Modular housing units.
- iv. Capital expenditures for homelessness services centers, including:
 - a. Capital expenses for net new shelter space or municipal homelessness service hubs.

D2.2 Direct and Verifiable Costs Only. Eligible Expenditures shall only include all direct and incremental costs that are attributable to the development and implementation of the Program and are in the Province's sole and absolute discretion, properly and reasonably incurred. Any spent Funds reported by the Recipient must be actual, verifiable cash outlays that are documented through invoices, receipts or other records that are acceptable to the Province.

D2.3 Limitation on Operating Expenditures. Operating expenditures must be time-limited and cannot create operating funding obligations beyond the Expiry Date (e.g., the creation of new staff positions).

D3.0 Ineligible Expenditures. Unless a cost is considered an Eligible Expenditure pursuant to section D 2.0, such cost will be considered an Ineligible Expenditure. Without limiting the generality of the foregoing, the following costs are Ineligible Expenditures and are therefore ineligible to be paid from the Funds provided under this Agreement:

- i. Municipal staffing and administration costs;
- ii. Legal costs incurred by the Recipient;
- iii. Rolling stock (e.g., trucks, graders, etc.);
- iv. Movable/transitory assets (e.g., portable generators, etc.);
- v. Office and IT equipment and supplies (e.g. computers, servers, furniture, etc.);
- vi. Costs of developing and completing any application or reporting for a provincial funding program, including any Reports required under the Program;
- vii. All taxes, penalties, and duties;
- viii. Financing and/or borrowing costs;
- ix. Insurance costs;
- x. Non-cash items such as depreciation/amortization expenses for tangible capital and intangible assets, provisions for bad/doubtful accounts, etc.

SCHEDULE "E"
PAYMENT SCHEDULE

The following represents the schedule of payments of Funds for each Program Year:

| Program Year | Payment No. and Percentage of Recipient's Annual Funding Allocation | Payment Date |
|-----------------------|--|---|
| For each Program Year | Payment #1 70% | Within 30 Business Days of the Province's approval of the Investment Plan for that Program Year |
| | Payment #2 30% | Within 30 Business Days of the Province's approval of the Year End Report for that Program Year |

SCHEDULE "F" REPORTS

| Name of Report | Due Date |
|-----------------|---------------------------------|
| Investment Plan | In accordance with Schedule "G" |
| Year End Report | In accordance with Schedule "G" |

Report Due Dates

The reporting period is set out in Schedule "G".

Except as noted below, if the due date of any Report falls on a non-Business Day, the due date is deemed to be the next Business Day.

Submission of Reports

All reports are to be submitted through Transfer Payment Ontario (TPON) unless the Province notifies the Recipient otherwise.

Report Details

1. The Investment Plan shall be substantially in the form set out in Schedule "G". The Investment Plan shall include the required information as set out in Schedule "C" and Schedule "G".
2. The Year End Report shall be substantially in the form set out in Schedule "G". The Year End Report shall include the required information as set out in Schedule "G".

Performance Measures

- Delivery of all Reports within established timelines
- Ensuring all expenditures are in accordance with the Agreement
- Timely responses to requests from the Province

SCHEDULE "G"
PROGRAM GUIDELINES

The attached program guidelines form Schedule "G" to the Agreement.