

RENTAL DEVELOPMENT PROGRAM

PROJECT DEVELOPMENT AND OPERATING AGREEMENT

THIS AGREEMENT made as of the [] day of [], 202[].

BETWEEN:

SASKATCHEWAN HOUSING CORPORATION,
a crown corporation having its head office at the City of Regina, in the
Province of Saskatchewan
("SHC")

- and -

[],
a body corporate incorporated pursuant to the laws of the
Province of Saskatchewan, having an office at the City of
◆, in the Province of Saskatchewan
(the "Sponsor")

WHEREAS the Rental Development Program was established to assist in the development of affordable rental housing for low- to moderate-income households in Saskatchewan;

AND WHEREAS SHC has agreed, subject to the terms and conditions contained in this Agreement, to provide the Sponsor with financial assistance to develop the rental housing project described in Article 2 of this Agreement;

NOW THEREFORE, the parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions: In this Agreement, the following words and phrases have the following meanings:

- (a) **"Affordable Housing Units"** means the [] units within the Project designated for rental to Eligible Households under this Agreement;
- (b) **"Agreement"** means this Project Development and Operating Agreement, including the attached Schedules A, B, C, D, and E [~~delete inapplicable schedules~~], which form part of this Agreement, and any amendments to the Agreement made in accordance with subsections 1.5 and 15.8 of this Agreement;

- (c) **“Capital Cost”** means the actual cost of all materials and services required to acquire, develop, design, construct or improve and finance the Project;
- (d) **“Capital Funding”** means the funding, from all sources, required to finance the Capital Cost, as described in Article 3.
- (e) **“Capital Replacement Reserve Plan”** means funds set aside to pay for the replacement of major structural elements, mechanical systems and other capital items relating to the Affordable Housing Units as approved by SHC from time to time.
- (f) **“Eligible Household”** means a household with a gross annual household income (calculated in the manner set forth in the attached Schedule B) equal to or less than the Saskatchewan Household Income Maximum, and no other principal place of residence in Canada;

OR

use definition below if support services will be provided]

“Eligible Household” means a household as identified in Schedule E with no other principal place of residence in Canada, and requiring services outlined in Schedule E to this Agreement;

- (g) **“Event of Default”** has the meaning given in subsection 12.1 of this Agreement;
- (h) **“Lands”** means the lands described as the project location in subsection 2.2;
- (i) **“Maximum Rent”** has the meaning given in subsection 6.2 of this Agreement;
- (j) **“Program”** means the Rental Development Program established to assist in the development of affordable rental housing for low-income households in Saskatchewan as described in the recitals to this Agreement;
- (k) **“Project”** means the rental housing project situated on the Lands, as described in subsection 2.2;
- (l) **“Project Commencement Date”** means the date on which, in the opinion of SHC, the first major commitment is made by the Sponsor to implement the Project.
- (m) **“Project Loan”** has the meaning given in subsection 4.1 of this Agreement;
- (n) **“Saskatchewan Household Income Maximums”** means the maximum, gross annual income that a household may have at the time of initial occupancy of an Affordable Housing Unit as set out in Schedule B to this Agreement and any subsequent amendments as established by SHC from time to time;
- (o) **“Security”** has the meaning given to that term in subsection 4.7 of this Agreement;

- (p) **“Substantial Completion”** is the date that construction of the Project has been substantially completed as evidenced by the issuance of a duly authorized Certificate of Substantial Performance in accordance with *The Builders’ Lien Act* (Saskatchewan) or other such documentation as agreed upon by SHC in respect of the Project;
 - (q) **“Substantial Performance”** has the meaning given to that term in subsection 41(6) of *The Builders’ Lien Act* (Saskatchewan); and
 - (r) **“Support Services”** means optional services that are not required by a tenant of an Affordable Housing Unit as a condition of occupancy.
- 1.1 Sections and Headings:** The division of this Agreement into articles, sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement.
- 1.2 Singular/Plural:** In this Agreement, unless there is something in the subject matter or context inconsistent with it:
- (a) words in the singular include the plural and shall be construed as if the plural had been used;
 - (b) words in the plural include the singular and shall be construed as if the singular had been used.
- 1.3 Conflict Between Documents:** With the exception of payment terms in an Event of Default set out in the Security, if there is a conflict between the provisions of this Agreement and the Security, the provisions of this Agreement shall prevail and, in such case the Sponsor shall not be required to comply with the inconsistent provisions of the Security. If the conflict relates to payment terms in an Event of Default, the payment terms set out in the Security will prevail.
- 1.4 Schedule Amendments:** Schedules A, B, C, D, and E [~~delete inapplicable schedules~~] attached to this Agreement may be amended or replaced from time to time by SHC at its sole discretion by SHC giving written notice to the Sponsor.

ARTICLE 2 – PROJECT PURPOSE AND PROJECT LOCATION

- 2.1 Project Purpose:** The purpose of the project is to [develop and construct or acquire and renovate - how many units – what type, for defined client group] (“the Client”) <under the SHIM /SHIM-Disability >, to include services as defined within this Agreement [or Schedule E of this Agreement] (the Project).
- 2.2 Land Description:** The Project is to be located on the land(s) described in Part A of Schedule A.

ARTICLE 3 – CAPITAL FUNDING

3.1 The capital cost for the Project is estimated at \$ <>, to be funded as follows:

Project Loan:	\$<>
Loan from Municipality:	\$<>
Private Lender Financing (Mortgage/Investment):	\$<>
Sponsor’s Cash Equity:	\$<>
Other <specify, i.e., land.>:	

3.2 Any increase in the capital cost for the Project or any shortfall in funding will be the sole responsibility of the Sponsor.

3.3 SHC will not provide any ongoing operating funding to the Project.

ARTICLE 4 – PROJECT LOAN

4.1 Description of Loan: SHC establishes in favour of the Sponsor a demand loan in an aggregate amount not to exceed \$ (the “Project Loan”), to be used by the Sponsor to develop and construct or improve the Project, as set out in Article 2.

4.2 Forgiveness of Project Loan:

(a) Provided that an Event of Default has not occurred, SHC shall forgive the Project Loan annually over a period of years, in accordance with the loan forgiveness summary attached hereto as Schedule D, commencing on the first anniversary of the first day of the second month following the date that construction of the Project has achieved Substantial Completion. If the maximum aggregate amount of the Project Loan is not advanced to the Sponsor, then SHC shall recalculate the Project Loan forgiveness and provide a revised Project Loan forgiveness Schedule to the Sponsor.

(b) Upon the occurrence of an Event of Default, no further forgiveness of the Project Loan shall be granted by SHC unless such Event of Default has been cured to the satisfaction of SHC in a timely fashion and SHC has not otherwise demanded payment pursuant to subsection 4.4 of this Agreement.

4.3 Interest on Project Loan: From and after the occurrence of an Event of Default, the Sponsor shall pay interest on the principal amount from time to time outstanding under the Project Loan at a per annum rate equal to %.

4.4 Payment of Principal and Interest: Upon the occurrence of an Event of Default, the principal amount and interest from time to time outstanding under the Project Loan shall be repayable by the Sponsor to SHC **ON DEMAND**.

4.5 Interest Calculations: Interest on the Project Loan shall be calculated upon the daily outstanding balance of the Project Loan from (and including) the date of the occurrence of an Event of Default to (but excluding) the date the Project Loan is repaid in full or, at the sole discretion of SHC, the Event of Default has been cured to the satisfaction of SHC. The rate of interest per annum payable is expressed on the basis of a three hundred sixty-five or three hundred sixty-six-day year (365 or 366-day year), as applicable. The interest payable in respect of the Project Loan and in respect of any other amounts due under this Agreement shall be compounded semi-annually not in advance, and all interest shall be payable both before and after judgment on the amount outstanding from day to day until full payment is made.

4.6 Application of Payments: All payments received under this Agreement shall be applied:

- (a) first, to the payment of any costs, charges or expenses together with any interest with respect to such costs, charges or expenses payable under this Agreement, or under any Security relating to this Agreement;
- (b) second, to the payment of all interest payable under the Project Loan; and
- (c) third, to the repayment of the principal amount of the Project Loan.

4.7 Security: As security for the payment of all amounts required to be paid under this Agreement and the performance of all of the Sponsor's obligations under this Agreement, the Sponsor shall provide, at SHC's option, the following security in a form satisfactory to SHC (the "Security"):

- (a) a collateral mortgage charging the Lands with the principal amount of the Project Loan;
[Note: Include or delete items (b) and (c) as appropriate.]
- (b) a general security agreement charging all personal property located on the Lands;
- (c) a guarantee from ; and
- (d) such other security as SHC may from time to time reasonably require.

4.8 Conditions Precedent: Prior to SHC advancing any portion of the Project Loan, each of the conditions precedent listed below must be complied with or satisfied in form and substance acceptable to SHC and all documents delivered must be in form and substance acceptable to SHC:

- (a) The Sponsor shall have satisfied the ongoing conditions set out in Part B of Schedule A.
- (b) The Sponsor shall have provided documentation satisfactory to SHC to demonstrate that it has contributed, or will contribute, the minimum equity required in Article 3 representing the Sponsor's minimum share of the Capital Funding for the Project.

- (c) The Security required by SHC shall have been executed and delivered and all registrations, acknowledgements, postponements and discharges of encumbrances necessary shall have been completed in order to establish the intended priority of the Security against the Project. Nothing in this Agreement requires SHC to accept any requests received after the date of this Agreement to postpone its interests in the Project. This Agreement contains the entire commitments made by SHC with respect to the Project.
- (d) SHC shall have received the following from the Sponsor:
 - (i) a certified copy of the directors' resolution of the Sponsor approving the borrowing of the funds contemplated by this Agreement, the execution and delivery of this Agreement and the Security;
 - (ii) certificates of insurance policies maintained by the Sponsor evidencing the insurance required by this Agreement and the Security;
 - (iii) a copy of the Sponsor's Certificate of Incorporation, Articles of Incorporation, bylaws and other applicable constating documents in force;
 - (iv) a current Certificate of Status confirming that the Sponsor is registered as a corporation and remains in good standing; and
 - (v) such other documents as SHC may reasonably require.

4.9 Project Loan Advances:

- (a) Upon satisfaction of the conditions outlined in subsection 4.8 of this Agreement, the Project Loan shall be advanced to the Sponsor based on the construction progress of the Project. The Sponsor will submit periodic advance requests to SHC. Prior to SHC making each advance, the Sponsor must comply with each of the following conditions:
 - (i) To support each advance request, SHC will require a progress certificate and a capital budget variance report in a form acceptable to SHC, together with all necessary and appropriate supporting documentation and calculations, with respect to the amount of such advance.
 - (ii) SHC must be satisfied, in its sole discretion, that the financial position of the Sponsor is acceptable and has not suffered any adverse material change.
 - (iii) Each advance of the Project Loan will be subject to verification by SHC (by inspection or otherwise) as to the value of the work completed on the Project at the time of the advance request.

- (iv) Each advance of the Project Loan may be advanced on such other conditions as SHC may reasonably require including that all necessary builders' lien and other encumbrance searches are satisfactorily conducted prior to the release of funds.
- (b) SHC has the right to withhold all or a portion of a requested advance and may, in its sole and absolute discretion, terminate its commitment to make any advance under the Project Loan; declare the Project Loan to be immediately due and payable or take any other action against the Sponsor permitted under this Agreement or under the Security or at law or in equity, if:
 - (i) a builders' lien has been registered against the Project;
 - (ii) a stop work order has been issued;
 - (iii) the Sponsor is in breach of this Agreement;
 - (iv) there are insufficient funds in place to complete construction or improvement of the Project; or
 - (v) in the opinion of SHC, the construction or completion of the Project is materially delayed, suspended or terminated without the prior written approval of SHC; or
 - (vi) if SHC reasonably believes that the estimated cost to complete the Project is over-budget or otherwise exceeds the remaining Capital Funding available to complete the Project.

4.10 Termination of Sponsor's Obligations: Upon either the repayment of the Project Loan or forgiveness of the Project Loan in its entirety in accordance with the terms of this Agreement and provided further that there are no outstanding uncured Events of Default, the Sponsor shall have no further obligations under this Agreement except for those referred to in subsection 15.2 of this Agreement, which include obligations arising under Articles 8, 14 and 15 of this Agreement, which obligations shall survive the repayment or forgiveness of the Project Loan. Regarding Article 8, the rights and obligations which survive are in respect of the fiscal years or periods prior to the repayment or forgiveness of the Project Loan.

ARTICLE 5 – PROJECT CONSTRUCTION

5.1 Interpretation: For all purposes of this Agreement, neither the obligations of the Sponsor nor the rights of SHC under this Article 5 shall be compromised or affected by any contract or other arrangement between the Sponsor and SHC or between the Sponsor and any other party whereby SHC or such other party undertakes to carry out the development of the Project on behalf of the Sponsor.

5.2 Construction: The Sponsor shall:

- (a) obtain all necessary licenses and permits necessary for the construction or improvement of the Project from the authority having jurisdiction and provide copies to SHC, prior to commencing construction of the Project;
- (b) at its sole cost and expense maintain or cause to be maintained construction insurance coverage described in Article 10.
- (c) construct or improve the Project in a good and workmanlike manner and in accordance with the plans and specifications and capital budget approved by SHC;and
- (d) ensure that the Project is constructed or improved in compliance with all applicable building codes, regulations, ordinances and zoning requirements and provide SHC with evidence of such compliance as may be requested by SHC.

5.3 Construction Stop-Work Orders: SHC has the authority to issue a stop work order at any phase of the Project construction should it become aware of any material construction deficiency. In the event of issuance of a stop work order, SHC shall immediately contact the Sponsor and advise the Sponsor of any deficiencies and the Sponsor shall take appropriate action to remedy the deficiency. Prior to re-commencing construction, the Sponsor shall notify SHC and SHC shall have the option to re-inspect prior to the construction re-commencing.

5.4 Inspection of Project: SHC shall have the right to inspect the Project at any time during construction. To facilitate SHC's inspection, the Sponsor shall give SHC at least forty- eight (48) hours' notice when construction has reached each of the following stages of completion, to the extent such stages are applicable:

- (a) closing of the purchase of an existing building;
- (b) piles – while drilling, prior to pouring;
- (c) pouring of the concrete for the foundation;
- (d) installation of weeping tile, after rock cover, prior to backfill;
- (e) completion of rough framing;
- (f) installation of insulation and vapour barrier;
- (g) Substantial Completion; and
- (h) final inspection.

None of the inspections performed by SHC shall lessen or relieve the responsibility of the Sponsor or its consultants or contractors for constructing or improving the Project in accordance with the requirements of this Agreement. Accordingly, neither the Crown in right of Saskatchewan, SHC, the Minister responsible for SHC, nor any officer, director, employee, servant, contractor, subcontractor or agent of the Crown in Right of Saskatchewan or SHC shall be liable to the Sponsor or any consultant or contractor engaged by the Sponsor or subcontractor engaged by the Sponsor's contractor for any defect in any inspection, any failure to carry out an inspection, any departure from SHC's building standards, or any defect in the Project plans and specifications approved by SHC.

5.5 Builders' Liens: The Sponsor shall:

- (a) maintain and administer from each advance of the Project Loan a holdback, in accordance with *The Builders' Lien Act* (Saskatchewan); and
- (b) maintain the Project free from liens, including builders' liens and upon request provide evidence to SHC, in the form of statutory declarations, that all contractors, subcontractors and suppliers have been paid in full.

5.6 Post-Construction Deliverables: Following Substantial Completion of the construction or improvement of the Project, the Sponsor shall deliver to SHC the following documents within thirty (30) days, unless otherwise specified:

- (a) a report and particulars of any apprenticeship activity involved with the Project;
- (b) a Certificate of Substantial Performance of the work pursuant to *The Builders' Lien Act* (Saskatchewan);
- (c) a Workers' Compensation Board clearance certificate in respect of the general contractor;
- (d) an occupancy permit in respect of the Project;
- (e) current copy of the title to the Project, and such other documentation as may be required by SHC, to verify that there are no unacceptable encroachments and/or encumbrances against the Project; and
- (f) copies of any existing inspections conducted on the Project – may include furnace and or chimney inspections.
- (g) a Certificate from the Sponsor's prime consultant on the Project confirming that SHC's energy conservation requirements have been met; and
- (h) an audited statement verifying the Capital Cost of the Project and the Capital Funding, within one hundred eighty days (180 days) after Substantial Completion of the Project.

- 5.7 Final Capital Cost Settlement:** If the Capital Cost of the Project is less than the final approved capital budget for the Project, then any surplus Capital Funding shall be returned proportionately to the Sponsor and SHC.

ARTICLE 6 - PROJECT RENTAL CONDITIONS

- 6.1 Eligible Households:** The Sponsor acknowledges and agrees that, for as long as any amount advanced under the Project Loan remains outstanding, the Affordable Housing Units may be rented only to Eligible Households, at rents at or below the Maximum Rent as stated in Schedule C.
- 6.2 Maximum Rent:** The rents set out in Schedule C attached to this Agreement are the maximum rents (the "Maximum Rent") that the Sponsor may charge to Eligible Households renting the Affordable Housing Units. For clarity:
- (a) The Maximum Rent shall be inclusive of any cost of services that are required by a tenant of an Affordable Housing Unit as a condition of occupancy. The Sponsor shall not, directly or indirectly, impose on any tenant of an Affordable Housing Unit, without the consent of SHC and the tenant, any mandatory charges in excess of the Maximum Rent.
 - (b) Support Services may be provided to tenants in connection with their occupancy of the Affordable Housing Units. However, the cost of Support Services must not be included in Maximum Rent.
- 6.3 Adjustment of Rent:** Upon not less than ninety (90) days' written notice, and not more than once annually, the Sponsor may apply to SHC to adjust the Maximum Rent. SHC may, at its sole discretion, approve the change in the Maximum Rent. Any change in the Maximum Rent shall be reflected in an amendment to Schedule C to this Agreement and shall specify the effective date of such adjusted Maximum Rent. Notwithstanding the foregoing, in no event shall the adjusted Maximum Rent exceed the maximum rents established from time to time by SHC for the Saskatchewan Household Income Maximums.
- 6.4 Selection of Tenants:** The Sponsor shall be responsible for selecting only Eligible Households as tenants of the Affordable Housing Units. Consideration should be given to selecting Eligible Households with the lowest gross annual household income. In order to determine the eligibility of prospective tenants and/or to enable SHC to audit and evaluate the Program, the Sponsor shall require all prospective tenants to complete an application form providing the following information:
- (a) number of persons in the household;
 - (b) age of each person in the household;
 - (c) number of dependents in the household;
 - (d) verification of household income; and
 - (e) such other information as SHC may reasonably require from time to time.

- 6.5 Human Rights Code:** SHC relies on section 48 of *The Saskatchewan Human Rights Code* to give preference to Eligible Households as described in this Agreement. Except as otherwise provided in this Agreement, the Sponsor shall not discriminate against any person on any basis prohibited by *The Saskatchewan Human Rights Code* or the *Canadian Charter of Rights and Freedoms*.

ARTICLE 7 - SPONSOR'S ANNUAL REPORTING OBLIGATIONS

- 7.1 Tenant Information:** The Sponsor shall provide SHC with any relevant tenant information prescribed by SHC from time to time (including the information described in subsection 6.4 of this Agreement and verification of the rent paid) for those tenants occupying Affordable Housing Units in the Project to enable SHC to audit and evaluate the effectiveness of the Program. The Sponsor shall collate and remit such information to SHC annually, in such format as may be prescribed by SHC from time to time.
- 7.2 Financial Reporting:** The Sponsor shall provide SHC with:
- (a) copies of the annual financial statements of the Sponsor, and accompanying auditors' report or review engagement report, within ninety (90) days after the end of each fiscal year of the Sponsor;
 - (b) an annual operating budget for the Project for the ensuing fiscal year, including an estimate of the amount to be set aside for the Capital Replacement Reserve Plan outlined by subsection 9.2(d) of this Agreement, at least sixty (60) days prior to the start of each fiscal year of the Sponsor;
 - (c) an annual project data report for the Project, in such format as may be prescribed by SHC from time to time; and
 - (d) any other financial information pertaining to the Sponsor which SHC may reasonably require.

The financial statements of the Sponsor shall include a separate schedule containing information accounting for all Project revenues and expenses. The financial statements and annual operating budget shall include such information and details as SHC may reasonably prescribe from time to time.

ARTICLE 8 – FINANCIAL ADMINISTRATION

- 8.1 Financial Administration:** The Sponsor shall keep proper books, records and accounts in respect of the Project in accordance with Canadian Generally Accepted Accounting Principles. The Sponsor shall cause the annual financial statements for the Project to be audited or reviewed by a Chartered Professional Accountant (CPA) chosen by the Sponsor and acceptable to SHC.
- 8.2 SHC Audit:** The Sponsor shall allow SHC, or its representatives, agents or employees, to inspect the books, records and accounts in respect of the Project at all times and to take extracts from such books, records and accounts. Furthermore, on the written request of SHC, the Sponsor shall furnish particulars of all transactions and produce original copies of invoices and receipts in respect of the transactions and operations related to the Project, as SHC may require.

- 8.3 Maintenance of Financial Records:** All documents, vouchers, records and accounts that pertain to the operation or administration of the Project shall remain in possession of the Sponsor in the municipality where the Project is situated for not less than seven (7) years or for such longer time as may be prescribed by law.

ARTICLE 9 - MANAGEMENT OF THE PROJECT

- 9.1 No Ongoing Financial Assistance:** The Sponsor shall be responsible for all costs and expenses associated with owning, operating, maintaining and repairing the Project, including the Affordable Housing Units. SHC shall have no obligation to provide any future or ongoing funding to the Sponsor for the Project.
- 9.2 Sponsor's Management Covenants:** For as long as any amount advanced under the Project Loan remains outstanding, the Sponsor shall, at its sole cost and expense:
- (a) manage and maintain the Project, including the Affordable Housing Units within the Project, in good and substantial repair in accordance with good industry standards; without limiting the generality of the foregoing, the Sponsor shall provide for the regular cleaning, maintenance, repair, modernization, improvement and regeneration of the Project;
 - (b) maintain adequate supervisory and janitorial staff to ensure compliance with the Sponsor's obligations set out in this Agreement;
 - (c) pay all financing charges and other expenses related to the Project, including, without limitation, realty taxes, water and sewer charges, electrical and power charges, heating charges and insurance premiums as they become due and any other expenses which are necessary to maintain or operate the Project;
 - (d) develop, implement and maintain a long-term Capital Replacement Reserve Plan for the Project consistent with good industry standards, as reviewed and approved by SHC from time to time;
 - (e) maintain its corporate existence in good standing, and keep in good standing all licenses, approvals, consents and authorizations necessary to enable the Sponsor to own and operate the Project;
 - (f) promptly notify SHC in writing of any material adverse change in the Project or the Sponsor, financial or otherwise;
 - (g) promptly notify SHC in writing if any material litigation, arbitration, action, suit or other proceeding is commenced or, to the knowledge of any officer or director of the Sponsor, is threatened or anticipated; and
 - (h) maintain the Project in good standing, free and clear of all encumbrances, including all builders' liens, except encumbrances permitted by SHC and confirmed by SHC in writing.

- 9.3 Compliance with Laws:** The Sponsor shall ensure that it and the Project complies with all present and future laws, orders, rules, regulations and requirements of all federal, provincial and local governments, boards or any other body exercising jurisdiction in respect of the Project together with the requirements of any insurers providing insurance coverage for the Project. For greater certainty, the Sponsor shall abide by the provisions of *The Residential Tenancies Act, 2006*, SS 2006, c R-22.0001 (Saskatchewan) unless otherwise exempt from this legislation.
- 9.4 Damage or Destruction:** If the Project is damaged or destroyed, the Sponsor shall at its sole cost and expense promptly repair or rebuild the Project so that the Project is suitable for occupancy, unless otherwise directed by SHC.
- 9.5 SHC Inspection Rights:** The Sponsor shall, upon not less than forty-eight (48) hours' prior written notice, permit SHC to enter and view the Project and will, at the request of SHC, give written notice to the tenants of the Affordable Housing Units, of SHC's intention to enter and inspect the units to view the state of repair.
- 9.6 Negative Covenants:** For so long as any portion of the Project Loan remains outstanding, the Sponsor shall not, without the prior written consent of SHC:
- (a) transfer, assign, sublease, sell, mortgage, charge or otherwise dispose of the Project or any interest in the Project;
 - (b) increase the mortgage registered on the Project's title;
 - (c) cause or permit any third party interest to be registered against the Project;
 - (d) reduce the number or size of Affordable Housing Units within the Project;
 - (e) enter into any transaction (including by way of restructuring, reorganization, consolidation, amalgamation, merger, liquidation, transfer, sale or otherwise) whereby all or a material portion of the Project would become the property of any other person or, in the case of any such amalgamation, consolidation or merger, of a continuing entity resulting from such amalgamation, consolidation or merger; or
 - (f) enter into or continue agreements or arrangements which, in any way, in the opinion of SHC, will divert assets or revenues of the Project in such a manner or such result as will prejudice, derogate from, or reduce the effectiveness of the Security or the operation of the Project.

ARTICLE 10 - INSURANCE

10.1 **Construction Insurance:** During the construction of the Project, the Sponsor shall:

- (a) At its sole cost and expense carry and maintain or cause to be carried and maintained:
 - (i) builder's all risk insurance on a replacement cost basis in the joint names of the Sponsor and its contractors with loss payable to all subcontractors as their interests may appear and to SHC as mortgagee;
 - (ii) all risk boiler and machinery/equipment breakdown insurance covering all boilers or other pressure vessels, machinery and equipment located in, on or about the Project and insurance against loss of occupancy or use arising from any such breakdown in an amount equal to the full replacement cost of such machinery; and
 - (iii) commercial general liability (CGL) insurance covering all operations of the contractor and subcontractors in an amount of not less than five million dollars (\$5,000,000) inclusive limit for any one occurrence, which shall include coverage for: bodily injury or property damage (including loss of use), owners' products and completed operations, intentional acts to protect persons or property, personal injury, advertising liability, employers' liability, blanket contractual liability coverage, provision of cross liability, severability of interests and non-owned automobile liability form; and pollution liability coverage on at least a sudden and accidental basis.
- (b) The Sponsor will name SHC or cause SHC to be named as an "additional insured" on the certificates of insurance including on any contractor or sub-contractor's CGL policy as applicable.
- (c) The Sponsor shall arrange for all aforementioned insurance to be effective from the Project Commencement Date until ten (10) calendar days after the date of Substantial Performance of the Project; or until the commencement of use or occupancy of the Project, whichever is later.

10.2 **Policies:** The Sponsor shall maintain policies of insurance as are customary and prudent for a development such as the Project together with such policies as are specifically required by the terms of this Agreement.

10.3 **Form of Policies:** All such policies shall be in a form and amount acceptable to SHC, shall be written through an insurer licensed in Saskatchewan and shall provide thirty (30) days' advance written notice to SHC of cancellation or any material change. The policies shall show SHC as a mortgagee and shall be subject to a mortgage clause and a loss payable clause, each satisfactory to SHC.

- 10.4 Certificates of Insurance:** The Sponsor shall promptly provide to SHC copies of certificates of insurance issued by the respective insurers evidencing all the insurance coverage requirements in this Agreement along with evidence of renewals of each insurance policy thereof as soon as practically available. At SHC's request, the Sponsor shall promptly provide to SHC a certified copy of any insurance policy required by the terms of this Agreement.
- 10.5 Notice of Loss:** In the event of the occurrence of any partial or complete loss, damage or destruction to the Project, or other improvements or property on the Lands, the Sponsor shall give SHC prompt written notification, and shall, at its sole cost and expense, provide SHC with all necessary proofs of loss and do or cause to be done all such acts and things as may be necessary or advisable to obtain prompt payment of all insurance proceeds.
- 10.6 Application of Proceeds:** In the event of an insured property loss, the Sponsor shall consult with SHC and shall apply any insurance proceeds received either to the repair or replacement of the damaged assets or repayment of amounts owing under this Agreement, as directed by SHC, acting reasonably.

ARTICLE 11 - REPRESENTATIONS AND WARRANTIES

- 11.1 Representations of the Sponsor:** The Sponsor represents and warrants to SHC that:
- (a) the Sponsor is a valid and subsisting corporation in good standing under the laws of Saskatchewan and is duly qualified to carry on business in Saskatchewan;
 - (b) the Sponsor has all necessary power and authority to carry on its business, hold its properties and assets and to execute, deliver and perform its obligations under this Agreement;
 - (c) all materials or information submitted by the Sponsor to SHC in relation to the funding are complete and accurate in all material respects and, to the best knowledge of the Sponsor, there is no fact which the Sponsor has not disclosed to SHC in writing which materially and adversely affects or is reasonably likely to affect materially and adversely the Sponsor or its operations, properties, prospects, profits or condition (financial or otherwise) taken as a whole, or the ability of the Sponsor to perform its obligations under this Agreement;
 - (d) the financial statements, certificates and other information concerning the Sponsor's financial condition or the Project provided to SHC represent fairly the financial position of the Sponsor, in accordance with Canadian Generally Accepted Accounting Principles and there has been no material adverse change, since the date of such financial statements, certificates or other information;
 - (e) no litigation, arbitration or administrative proceeding is current, anticipated, pending or threatened so far as the Sponsor is aware, in respect of the Sponsor which, if determined adversely to the Sponsor, would have a material adverse effect on the Sponsor or the Project; and

- (f) there are no outstanding judgments, writs of execution, work orders, injunctions or administrative or regulatory directives against or affecting the Sponsor or the Project or any pending orders of that nature that might reasonably have a material adverse impact upon the Project.

ARTICLE 12 - EVENTS OF DEFAULT

12.1 Events of Default: The occurrence of any of the following events constitutes an "Event of Default":

- (a) if the Sponsor offers accommodation to ineligible households; without the prior written consent of SHC;
- (b) if the Sponsor fails to pay to SHC any amount of principal, interest, costs, charges or expenses or other amounts when due under this Agreement, the Security or under any prior or subsequent loan or other obligation to SHC or any other party including but not limited to contractors and subcontractors;
- (c) if the Sponsor defaults in the performance of any other term, condition or covenant contained in this Agreement or in the Security or under any prior or subsequent loan or other obligation to SHC;
- (d) if the Sponsor defaults in the performance of any term, condition or covenant of any mortgage or other encumbrance registered against the Project by SHC or by a third party;
- (e) if the Sponsor sells, conveys, transfers or enters into an agreement for sale or transfer of the Project, or if the Sponsor grants a mortgage against the Project or permits any encumbrance to be registered against the Project, without the prior written consent of SHC;
- (f) if any representation or warranty contained in the Sponsor's application under the Program, this Agreement, the Security, or any certificate or other document delivered pursuant to this Agreement, the Program or the Security is false or incorrect or lacking in any material facts so as to make it materially misleading;
- (g) if the report of the auditors or accountant on any annual or other financial statements delivered by the Sponsor shall be qualified in any way, which SHC acting reasonably deems to be materially adverse;
- (h) if the Sponsor becomes insolvent or bankrupt or subject to or takes advantage of any law relating to bankruptcy, insolvency or for the relief of debtors, or makes a general assignment for creditors or otherwise acknowledges its insolvency;
- (i) if any of the Security, at any time after being executed and delivered, for any reason (other than with the written consent of SHC) ceases to constitute a valid, binding and enforceable obligation of the Sponsor or other issuer of such Security, as the case may be;

- (j) if an order is made or an effective resolution is passed for the winding up, liquidation or dissolution of the Sponsor;
- (k) if any person takes possession of any property of the Sponsor (whether by appointment of a receiver, receiver and manager or otherwise) which is, in the opinion of SHC, a substantial part of the property of the Project, or if a distress or execution or any similar process be levied or enforced against such property;
- (l) if this Agreement or any provision of this Agreement shall, at any time after being executed and delivered by the Sponsor, for any reason (other than in accordance with their respective terms or the consent of SHC) cease to be in full force and effect or shall be declared to be null and void, or the validity or enforceability of this Agreement shall be denied or contested by the Sponsor;
- (m) if the Sponsor ceases to retain ownership on the Certificate of Title of the Lands or ceases to operate the Project;
- (n) if the Project is damaged or destroyed such that the Project is not suitable for occupancy and which damage cannot reasonably be repaired within ninety (90) days; or
- (o) if in the opinion of SHC, there is impropriety in the use and management of the Project or the Project Loan; or
- (p) the Sponsor fails to insure and keep insured the Project in accordance with Article 10 or SHC is removed as loss payee or additional insured on the Project's insurance policies; or
- (q) the Sponsor fails to maintain the Project in good standing, free and clear of all encumbrances, including but not limited to all builders' liens, property tax liens, and judgments that cannot be reasonably removed within forty-five (45) days from registration on the Project's certificate of title, except encumbrances permitted by SHC and confirmed by SHC in writing.

12.2 Remedies: Upon the occurrence of an Event of Default, SHC may, in its sole and absolute discretion, terminate its commitment to make any advance under the Project Loan or declare the Project Loan to be immediately due and payable or take any other action against the Sponsor permitted under this Agreement or under the Security or at law or in equity. All remedies available to SHC are cumulative and not exclusive, and may be taken at such time and in such manner as SHC may in its sole and absolute discretion deem appropriate, all without demand, notice or any other action whatsoever, all of which are expressly waived by the Sponsor to the fullest extent permitted by law. Notwithstanding the generality of the foregoing, in the case of an Event of Default mentioned in subsection 12.1(a), (e) or (f) of this Agreement, SHC shall provide the Sponsor with written notice of such Event of Default and the opportunity to cure such default within ten (10) days of receiving such notice, to the reasonable satisfaction of SHC, before declaring the Project Loan to be immediately due and payable.

ARTICLE 13 - SALE OF PROJECT AND PROJECT PREPAYMENT

- 13.1** The Sponsor acknowledges that providing affordable housing in Saskatchewan is the prime objective of SHC and that the Sponsor's representations to SHC that the Sponsor is willing and able to provide affordable housing to Eligible Households as contemplated by this Agreement while the Project Loan is outstanding, is the sole reason why SHC has agreed to enter into this Agreement with the Sponsor.
- 13.2** **Sale of the Project:** The Sponsor agrees that it shall not transfer, assign, sublease, sell or otherwise dispose of the Project, in whole or in part while the Project Loan is outstanding, without the prior written consent of SHC. Without limiting the generality of the foregoing, SHC, in its sole discretion, may consent to a proposed disposition where the prospective purchaser qualifies with SHC as an eligible housing organization according to the qualifying criteria established by SHC at the time of such proposed disposition; the prospective purchaser agrees to assume all the duties and obligations of the Sponsor pursuant to this Agreement; and the request to dispose of the Project to a prospective purchaser is communicated to SHC at least three (3) months prior to transfer of the title for any of the Lands to a new owner to allow sufficient opportunity for SHC to review the Sponsor's request as well as prepare and execute any documentation for any change in ownership of the Lands as may be applicable.
- 13.3** **Prepayments:** The Sponsor shall have no right to prepay the Project Loan prior to the tenth anniversary of the date of Substantial Completion. Accordingly, unless SHC otherwise agrees in writing, the full Project Loan advanced will be immediately repayable to SHC upon an unauthorized prepayment of all or any portion of the Project Loan by the Sponsor. After the tenth anniversary of the date of Substantial Completion, the Sponsor may at any time prepay all or a portion of the outstanding principal amount of the Project Loan together with accrued interest, if any, without notice or penalty.

ARTICLE 14 - CONFIDENTIALITY

- 14.1** **SHC Responsibility:** SHC shall be responsible for personal and confidential information under its control relating to the Project and the tenants and prospective tenants of the Affordable Housing Units, in accordance with the legal requirements and information security policies to which SHC must adhere.
- 14.2** **Sponsor Responsibility:** The Sponsor shall be responsible for personal and confidential information under its control relating to the Project and the tenants and prospective tenants of the Affordable Housing Units, in accordance with the legal requirements and information security policies to which the Sponsor must adhere, or, if such requirements and policies do not exist, as required by SHC from time to time.
- 14.3** **Sponsor Indemnity:** The Sponsor will indemnify and save harmless SHC from any actions, causes of action and liabilities of any form or kind (including third party claims) arising out of or relating to the breach of the Sponsor's obligations under subsection 14.2 of this Agreement.

ARTICLE 15 - MISCELLANEOUS

15.1 Authority: The Project Loan and the collateral mortgage described in subsection 4.7 of this Agreement are made pursuant to *The Saskatchewan Housing Corporation Act* (Saskatchewan).

15.2 Notice: Any notices, documents or other communication required or permitted to be given hereunder shall be in writing and shall be sufficiently delivered only by receipt of correspondence by prepaid registered mail, prepaid courier or personal delivery addressed to the party as follows:

If to the Sponsor:

☐

☐

☐

Attention: ☐

If to SHC:

Saskatchewan Housing Corporation
11th Floor, 1920 Broad Street
REGINA SK S4P 3V6
Attention: Director, Housing Development and Real Estate

Each party shall be entitled to specify a different address by giving proper written notice to the other.

15.3 Publicity: The Sponsor agrees to co-operate with SHC, at the request of and as directed by SHC, in all publicity matters. The Sponsor agrees that:

- (a) SHC's approval to provide the Project Loan must remain confidential until such time as an official announcement of the funding is made. SHC will advise the Sponsor if and when an announcement can be made.
- (b) The Sponsor must not initiate any openings, public or media events without the written approval of SHC.
- (c) If the Sponsor plans any commencement or opening ceremonies, SHC would be pleased to assist the Sponsor in planning the event. The Sponsor must advise SHC at least six (6) weeks prior to the ceremony to allow the opportunity for participation by the federal, provincial, and municipal governments as applicable.
- (d) Any public statements made about the funding for the Project must acknowledge that funding was cost-shared by the federal, provincial, and municipal governments [☐ as applicable].

- (e) The Sponsor acknowledges SHC's right to publicize the Project in whatever form SHC deems best, including the nature of the involvement of SHC in the Project, and agrees to co-operate with SHC, at the request of and as directed by SHC, in all publicity matters.
 - (f) At SHC's sole discretion, a ceremony or ceremonies may be held for the initial ground breaking at or near the beginning of construction on the Project and, for the opening of the Project, at or near the time the construction on the Project has been substantially performed. SHC shall have control of the conduct of such ceremonies and may invite those persons and make use of such part of the Project for the ceremonies as SHC sees fit.
 - (g) Costs for all publicity matters shall be borne and payable by the Sponsor.
- 15.4 Reliance:** All covenants, agreements, indemnities, representations and warranties of the Sponsor made in this Agreement or in the Security or in any certificate or other document delivered pursuant to the Program, the provisions of this Agreement or the Security, shall be deemed to have been relied upon by SHC in providing the Project Loan.
- 15.5 Further Assurances:** The Sponsor, whether before or after default, shall do, execute, deliver or cause to be done, executed and delivered all such further acts, documents and things as SHC may require for the purposes of giving effect to this Agreement and the Security including, without limitation, for the purpose of exercising all powers, authorities and discretions hereby conferred upon or acquired by SHC.
- 15.6 Invalidity of Provisions:** Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.
- 15.7 Entire contract:** This Agreement constitutes the entire and exclusive agreement between the parties relating to the subject matter herein and supersedes all prior agreements, undertakings, representations and understandings, written or oral, between the parties or their representatives.
- 15.8 Amendment:** No amendment of this Agreement shall be binding unless executed by both parties in writing.
- 15.9 Waiver:** No waiver of any provision of this Agreement by SHC shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.
- 15.10 Independent Contractor:** The Sponsor shall be an independent contractor and neither it nor any of its employees shall be an agent or representative of SHC. Nothing in this Agreement shall create a partnership between SHC and the Sponsor.
- 15.11 Assignment:** The Sponsor may not assign or transfer all or any part of any of its rights or obligations in respect of the Project Loan, under this Agreement or under the Security without the prior written consent of SHC.

15.12 Survival: Terms and conditions of this Agreement which by their nature extend beyond the termination of this Agreement, including but not limited to Articles 8, 14 and 15, will survive any termination of this Agreement.

15.13 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan.

15.14 Enurement: This Agreement and the Security shall enure to the benefit of and be binding on the parties hereto, their respective successors and permitted assigns.

AGREED TO BY the Parties through their authorized signatories as of the day and year first written above.

SASKATCHEWAN HOUSING CORPORATION

Per: _____

(c/s)

Per: _____

◆ <NAME OF SPONSOR>

Per: _____

(c/s)

Per: _____

If the Sponsor signs this Agreement without affixing its corporate seal, the following Affidavit must be completed.

AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY

I, _____, of _____, in the Province of _____, make oath and say that:

1. I am an officer [or I and _____ are officers] of <Sponsor name> named in this Agreement.
2. I am [or I and _____ are] authorized by the corporation to execute this Agreement without affixing a corporate seal.

Sworn before me at _____,
in the Province of _____,
this _____ day of _____, 20____.

A Commissioner for Oaths
for _____ [Province]
My commission expires: _____.
- or - Being a Lawyer _____.

SCHEDULE A

PROJECT LOCATION AND ADDITIONAL LOAN CONDITIONS

A. Project Location(s)

The Project is to be located on the following property<ies>:

1. Civic Address: <>
<>, Saskatchewan

Legal Description: Surface Parcel # <>
Lot <>, Block <>, Plan <>, Ext. <>
2. Civic Address: <>
<>, Saskatchewan

Legal Description: Surface Parcel # <>
Lot <>, Block <>, Plan <>, Ext. <>

<insert project location(s) as applicable>

B. Additional Loan Conditions

<Insert CAL conditions being carried over into development & operating stage>

The Sponsor agrees to comply with the following funding conditions in addition to any other conditions contained in this Agreement:

1. The Sponsor must inform SHC of any changes to the Project financing. Any and all changes to the Project financing are subject to SHC approval.
2. The approved scope of work identified by SHC must commence not later than <Month, day, year> and be completed by <Month, day, year>, unless otherwise extended by SHC in writing.
3. The Sponsor must house the Client identified in subsection 2.1 for the term of this Agreement.
4. <Where applicable> The Sponsor must provide SHC with copies of service provision contracts for "hard-to-house" Clients.
5. The Sponsor must provide services to the Client as outlined below (the Services):
 - a. <Briefly describe services> or <as identified in Schedule E below>;
 - b. The Sponsor must apply to SHC for approval should the Client or Services provided to the Client require change during the life of this Agreement.

6. Rent levels are required to be appropriate and affordable to targeted clients based on their actual and known incomes or fall within the Saskatchewan Assistance Program Shelter Rates and other eligible benefits.

Sponsor's Initials: _____/ _____

TEMPLATE