



BOARD REPORT

REPORT No.: 2025-36

MEETING DATE: OCTOBER 16, 2025

SUBJECT: 2025 NON-PROFIT MORTGAGE EXPIRY AGREEMENT
TEMPLATE CHANGES

RECOMMENDATION

THAT with respect to Report No. 2025-36 (Corporate Services Division) we, The District of Thunder Bay Social Services Administration Board, approve the non-profit mortgage expiry agreement template changes provided within the Report.

REPORT SUMMARY

To recommend changes to the mortgage expiry agreement templates for the purpose of cost savings for non-profit housing service providers (NPHC) relating to financial reporting requirements as implemented by The District of Thunder Bay Social Services Administration Board.

BACKGROUND

Historically, NPHC have prepared annual special purpose financial statements in accordance with the financial reporting provisions of Section III of the Implementation Guidelines for Provincial Reformed and Other Housing Programs under the Housing Services Act, 2011.

This special purpose framework was a requirement of the organization's operating agreement, originally with Canada Mortgage and Housing Corporation (CMHC) and subsequently with The District of Thunder Bay Social Services Administration Board (TBDSSAB).

The special purpose financial statements were prepared in accordance with Canadian Accounting Standards for Not-for-Profit Organizations ("ASNPO") except that:

- Capital assets purchased from operations are expensed in the year the expenditure is incurred rather than being capitalized on the statement of financial position and amortized over their estimated useful lives;

- Capital assets purchased from the capital reserve fund are charged against the capital reserve fund, rather than being capitalized on the statement of financial position and amortized over their estimated useful lives;
- Additions are capitalized up to the original amount of the mortgage debt. The capital assets are subsequently carried at a value equal to the principal outstanding of the unmatured debt related thereto;
- Amortization is not provided on capital assets over the estimated useful lives of these assets but rather at a rate equal to the annual principal reduction of the related mortgage;
- Land is amortized on the same basis as other capital assets; and
- Transfers to the capital reserve fund are accounted for on the statement of operations rather than as an interfund transfer on the statement of changes in fund balances.

Per the Housing Services Act, a designated housing project that becomes a Part VII.1 housing project in accordance with section 101.2 ceases to be a designated housing project on the date it becomes a Part VII.1 housing project.

As such, these NPHC should now be preparing general purpose financial statements in accordance with ASNPO (as the conditions that originally lead to the requirement for special purpose financial statements no longer exists.)

COMMENTS

NPHCs' interpretation of the agreement can lead organizations to transition their financial statements, information and/or records fully to ASNPO. As a result, the following changes would be required to meet the reporting requirements under ASNPO.

- NPHCs' would need to go back to the date of incorporation and determine the original costs of the land and the building. Although the original mortgage value may be available to represent the cost, the split between land and building would have to be a best estimate provided by NPHC management.
- Expenditures incurred since incorporation through the capital reserve and general operating fund would need to be assessed by NPHC management as to whether it would be considered capital or operating in nature. Expenses capital in nature would need to be added to the cost of the building rather than expensed through the capital reserve or general operating fund. It is unlikely that management would have access to the details of expenditures since incorporation, making this exercise difficult to complete.

- The original cost of the land would not be amortized and remain as its original mortgage value.
- Amortization would be incurred based on the cost of the building and other capital additions over the estimated useful life of the asset. NPHCs' Management would need to determine what the useful life of the building would be and recalculate the amortization relating to the cost of the building and other capital additions in nature.

STRATEGIC PLAN IMPACT

This Report relates to the Board's strategic direction of Financial Stewardship, with a focus on ensuring accountability of TBDSSAB resources.

FINANCIAL IMPLICATIONS

There are no financial implications to the TBDSSAB, however the NPHC will incur additional professional fees in order to transition and comply fully with the ASNPO framework through their year-end audit process. This may lead NPHCs' to request additional financial support to cover additional professional costs.

CONCLUSION

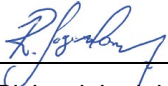
There are currently two options available.

1. No changes to the agreements and have NPHC prepare general purpose financial statements in accordance with ASNPO.
2. Make amendments and additions to the agreements to direct NPHC to continue to apply the financial reporting provisions of Section III of the Implementation Guidelines for Provincial Reformed and Other Housing Programs under the Housing Services Act, 2011.

Corporate Services recommends Option 2 based details under "Comments" with a recommendation to include the amendments and additions to those NPHC with rent supplement agreements as noted in Attachment #1 and Attachment #2.

REFERENCE MATERIALS

- Attachment #1 [Revision to NPHC Mortgage Expiry Agreement Template](#)
- #2 [Revision to NPHC Mortgage Expiry Schedule 3 Template](#)

PREPARED BY:	Richard Jagielowicz, CPA, CA, CBV, Director, Corporate Services Division
SIGNATURE	
APPROVED BY	Richard Jagielowicz, CPA, CA, CBV, Director, Corporate Services Division
SIGNATURE	
SUBMITTED BY:	Ken Ranta, Chief Executive Officer



THIS AGREEMENT made in duplicate this _____ day of _____, 2024
(the "**Effective Date**").

BETWEEN:

**THE DISTRICT OF THUNDER BAY
SOCIAL SERVICES ADMINISTRATION BOARD**

(hereinafter referred to as "**TBDSSAB**")

and

NAME OF HOUSING PROVIDER

(hereinafter referred to as the "**Housing Provider**")

WHEREAS TBDSSAB has been designated as a delivery agent pursuant to the *Housing Services Act, 2011*, and having the responsibility for establishing, administering, and funding housing and homelessness programs and services in the District of Thunder Bay;

AND WHEREAS TBDSSAB, under the *Housing Services Act, 2011*, has the authority to enter into an agreement with the Housing Provider for the provision of certain housing and homelessness programs and services;

AND WHEREAS TBDSSAB and the Housing Provider wish to enter into this Agreement for the provision of the Program by the Housing Provider, in accordance with the terms and conditions set out herein,

NOW THEREFORE this Agreement witnesses that in consideration of the covenants contained herein, the Parties hereto undertake and agree as follows:

1. DEFINITIONS

In this Agreement,

- (a) "**AODA**" means the *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005 Chapter 11*, as may be amended from time to time and all regulations thereunder.
- (b) "**Agreement**" means this housing operating agreement, including all Schedules attached hereto, as amended, supplemented, or otherwise modified from time to time.
- (c) "**Canada Pension Plan**" means the *Canada Pension Plan, R.S.C. 1985, c. C-8*, as may be amended from time to time and all regulations thereunder.
- (d) "**Delegates**" means such other person or persons as may be appointed by TBDSSAB.
- (e) "**Employment Insurance Act**" means the *Employment Insurance Act, S.C. 1996, c.23*, as may be amended from time to time and all regulations thereunder.
- (f) "**Fiscal Year**" means the calendar year beginning January 1st and ending December 31st.
- (g) "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act, R.S.O. 1990 c. F.11*, as may be amended from time to time and all regulations thereunder.
- (h) "**Funds**" means the funds paid in accordance with Section 6 of this Agreement.
- (i) "**Housing Services Act, 2011**" means the *Housing Services Act, S.O. 2011 c.6, Schedule 1*, as may be amended from time to time and all regulations thereunder.



- (j) **"Human Rights Code"** means *Human Rights Code, R.S.O. 1990, CHAPTER H.19*, as may be amended from time to time and all regulations thereunder.
- (k) **"Income Tax Act"** means the *Income Tax Act, R.S.O. 1990, c. I.2*, as may be amended from time to time and all regulations thereunder.
- (l) **"MFIPPA"** means *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56*, as may be amended from time to time and all regulations thereunder.
- (m) **"Occupational Health and Safety Act"** means the *Occupational Health and Safety Act, R.S.O. 1990, c. O.1*, as may be amended from time to time and all regulations thereunder.
- (n) **"Parties"** means collectively TBDSSAB and the Housing Provider, and **"Party"** means any one of them.
- (o) **"PIPEDA"** means the *Personal Information Protection and Electronic Documents Act, S.C. 2000 c. 5*, as may be amended from time to time and all regulations thereunder.
- (p) **"Program"** means a wide range of programs and services, as further set out in Schedule 1.
- (q) **"Reports"** means the records and reports as set out in Section 9 and Section 10 of this Agreement.
- (r) **"Schedules"** means all Schedules attached hereto, which shall form part of this Agreement.
- (s) **"Services"** means the services, deliverables and obligations to be provided and/or performed by the Housing Provider in connection with the Program, as set out in the Schedules.
- (t) **"TBDSSAB Staff"** means the staff of TBDSSAB authorized to exercise the rights and perform the duties of TBDSSAB under this Agreement.
- (u) **"Term"** means collectively, the Initial Term and any Renewal Term(s), as set out in Section 5 of this Agreement.
- (v) **"WSIA"** means the *Workplace Safety and Insurance Act, 1997, S.O. 1997, c.16, Sch. A*, as may be amended from time to time and all regulations thereunder.

2. PURPOSE

TBDSSAB and the Housing Provider each acknowledge and agree that:

- (a) the Program will be governed by Part VII.1 of the *Housing Services Act, 2011* and shall cease being a 'designated housing project' under the *Housing Services Act, 2011*;
- (b) the Program is no longer subject to a pre-reform operating agreement or mortgage guaranteed by the Province of Ontario that relates to a transferred housing program, as applicable;
- (c) it shall comply with the applicable terms of the *Housing Services Act, 2011*, in the performance of its obligations under this Agreement; and
- (d) the Government of Ontario, as represented by the Minister of Municipal Affairs and Housing (the **"Minister"**) has been provided with written notice of the Parties' intention to enter into this Agreement at least thirty (30) days prior to the Effective Date.



3. GOVERNANCE

The Housing Provider represents, warrants and covenants that it has, and shall maintain, in writing, for the Term and thereafter, if so required by law or in accordance with this Agreement, the following:

- (a) a code of conduct and ethical responsibilities, including a policy on protection of privacy in accordance with *FIPPA*, *MFIPPA* or *PIPEDA*, as applicable, or that is consistent with the *Canadian Standards Association Code for the Protection of Personal Information* and that is publicly available;
- (b) a policy on conflict of interest for all persons at all levels of the Housing Provider;
- (c) a policy on access for all persons in accordance with the *AODA*;
- (d) procedures to ensure the ongoing effective functioning of the Housing Provider;
- (e) decision-making mechanisms for the Housing Provider;
- (f) procedures to enable the Housing Provider to manage the Funds prudently and effectively;
- (g) procedures to enable the Housing Provider to provide the Program successfully;
- (h) procedures to enable the Housing Provider, in a timely manner, to identify risks to the provision of the Program, and strategies to address the identified risks;
- (i) procedures to enable the preparation and delivery of all Reports; and
- (j) procedures to enable the Housing Provider to deal with such other matters as it or TBDSSAB deems necessary to ensure that the Housing Provider carries out its obligations in accordance with this Agreement.

The Housing Provider shall provide TBDSSAB with supporting documentation, upon request, that the Housing Provider has and maintains all items enumerated in this Section 3.

4. PROGRAM

- (a) The Housing Provider shall provide the Services required in connection with the Program in accordance with the terms of this Agreement.
- (b) The Parties acknowledge that, although the description of the Services as set out in Schedule 1 is specific in nature, TBDSSAB shall, at all times, have the right to specify:
 - (i) the precise Services that the Housing Provider is to perform and provide pursuant to this Agreement;
 - (ii) the method of provision of the Services;
 - (iii) the Housing Provider staff that will perform the Services; and
 - (iv) any other matter as may be required by TBDSSAB to ensure that the Services are provided, in accordance with the general intent, requirements and spirit of the Program.
- (c) The Housing Provider shall cooperate with all other service providers of the Program, if any, and as determined by TBDSSAB from time to time.
- (d) The Housing Provider shall ensure it meets the requirements of the *AODA*.



5. TERM

This Agreement will commence on the Effective Date and will continue for a period of ten (10) years (the "**Initial Term**"), unless terminated earlier in accordance with its terms. This Agreement will automatically renew on the expiry of the Initial Term for additional [one (1) year] terms (each, a "**Renewal Term**"), until the earlier of: (a) this Agreement being superseded or replaced by a subsequent agreement; (b) the Parties entering into an Exit Agreement (as defined in Subsection 21(d)) and such Exit Agreement takes effect; and (c) the termination of this Agreement by either Party in accordance with the terms hereof.

6. PAYMENT FOR SERVICES

- (a) In consideration of the provision of the Services, TBDSSAB shall pay to the Housing Provider the amounts set forth in the approved budget attached hereto as Schedule 2, as updated in accordance with Subsection 6(h), up to the maximum amount specified therein (the "**Budget**"), and at the times and in the manner provided therein, subject to the terms and conditions of this Agreement. Notwithstanding the foregoing, TBDSSAB reserves the right to determine or amend the amounts, times and manner of such payments, in its sole discretion.
- (b) TBDSSAB shall deposit the Funds into an account designated by the Housing Provider provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Housing Provider.
- (c) Where the Housing Provider has failed to claim for all Services for which it is entitled to receive payment, a corrected claim must be received by TBDSSAB within ninety (90) days of the applicable Fiscal Year end, in default of which, the Housing Provider shall have no right to claim payment for such item.
- (d) Notwithstanding Subsection 6(c), where the Housing Provider has failed to claim for Services for which it is entitled to receive payment in the fourth quarter, any adjustments to annual reconciliation reports must be made within ten (10) days of the date in which the reconciliation report was due, in default of which, the Housing Provider shall have no right to claim payment for such item.
- (e) The Housing Provider shall expend the Funds in accordance with the Budget and the terms and conditions of this Agreement. If at the end of each funding year during the Term, the Housing Provider has not spent all of the Funds allocated to it for such funding year, as set out in the Budget, the Housing Provider shall, at TBDSSAB's option, either: (i) return such unspent Funds to TBDSSAB; or (ii) spend such unspent Funds, in accordance with any instructions provided by TBDSSAB from time to time.
- (f) It is agreed and understood that TBDSSAB may withhold payments, or a reasonable amount considering the nature of the breach, if the Housing Provider is in breach of its obligations under this Agreement.
- (g) In the event the Housing Provider does not achieve its target levels or spend monies advanced by TBDSSAB in connection with the Program, the Housing Provider shall refund such amounts as may be determined by TBDSSAB from time to time.
- (h) The Parties agree that the Budget will be negotiated and updated on or before the start of each calendar year during the Term. In the event the Budget is not renegotiated by that time, payment will continue to be made in accordance with the Budget for the immediately preceding Fiscal Year until such time as the Budget is renegotiated or this Agreement is terminated.



- (i) The Housing Provider acknowledges that the amount of Funds available to it pursuant to this Agreement is based on the established budget of the Housing Provider, less any costs (including taxes) for which the Housing Provider has received, will receive, or is eligible to receive, a rebate, credit or refund.
- (j) The Housing Provider may use a portion of the Funds for central administration costs, including for administering the Program, in accordance with the Budget.

7. ACKNOWLEDGEMENT OF FUNDING SUPPORT

- (a) To recognize and acknowledge the financial support provided hereunder, the Housing Provider will only communicate information to the public (e.g., via press release, social media posting, etc.) about the Program as requested or otherwise approved by TBDSSAB. For clarity, the Housing Provider will acknowledge the financial support of TBDSSAB, in a form and manner satisfactory to TBDSSAB and shall otherwise inform, involve, co-operate and obtain prior written approval of TBDSSAB with respect to any public communications concerning the Program or TBDSSAB.
- (b) TBDSSAB will consider requests for exemptions from the obligations of this Section if the requirements constitute undue hardship for the Housing Provider.
- (c) Materials prepared by the Housing provider in order to fulfill its reporting obligations under this Agreement are not required to fulfill the requirements outlined in Subsection 7(a) of this Agreement.

8. TBDSSAB INSPECTION AND CONSULTATION

- (a) The Housing Provider shall permit TBDSSAB Staff or Delegates to enter, at reasonable times, any premises used by the Housing Provider in connection with the Services and the retention of records pursuant to this Agreement to:
 - (i) observe and evaluate the Services and/or the Program; and
 - (ii) inspect, take and retain copies of all records relating to the Services and/or the Program.
- (b) The Housing Provider agrees that all staff, employees and other agents of the Housing Provider providing Services shall, upon reasonable request, be available for consultation with TBDSSAB Staff or Delegates, as may be required by TBDSSAB.

9. PROGRAM RECORDS AND REPORTS

- (a) The Housing Provider shall maintain complete and accurate records of all financial, service and other activities related to the Services and the Program, with respect to each site where the Services and the Program are being provided.
- (b) In accordance with Schedule 3, the Housing Provider shall provide TBDSSAB with quarterly, year-to-date reports, by the 21st of the month following the end of each quarter, which outline the actual and projected expenditures and revenues, as well as specific service data. The Housing Provider shall also forward to TBDSSAB any other related statistical data, which may be requested by TBDSSAB.
- (c) The Housing Provider shall prepare and submit to TBDSSAB a comprehensive annual report respecting the Services and the Program.
- (d) The Housing Provider shall provide to TBDSSAB such further information and reports, in such form as TBDSSAB may require from time to time to monitor and evaluate the provision of Services and the Program.
- (e) The Housing Provider shall ensure that all report submissions are signed on



behalf of the Housing Provider by an authorized signing officer.

- (f) In the event that the Housing Provider ceases operation, it is agreed that the Housing Provider will not dispose of any records related to the Services or the Program without the consent of TBDSSAB. The Housing Provider may, with the consent of TBDSSAB, satisfy this requirement by delivering the possession of the relevant books, documents, vouchers, records and books of account to TBDSSAB.

10. FINANCIAL RECORDS AND REPORTS

- (a) The Housing Provider shall maintain books, documents, vouchers, records and books of account respecting the Services and the Program and shall allow TBDSSAB Staff, or such other persons as may be appointed by TBDSSAB, to inspect and audit such books, documents, vouchers, records and books of account at all reasonable times both during the Term and subsequent to its expiration or termination.
- (b) The Housing Provider shall, unless otherwise stated in writing by TBDSSAB, submit to TBDSSAB an audited financial statement and reconciliation report with respect to the Services provided within four (4) months of the Housing Provider's fiscal year end. The cost of preparing the statement and report shall be borne by the Housing Provider.
- (c) The Housing Provider shall prepare and submit annually, and at any other time upon request, a financial report in such form and containing such information as TBDSSAB may require.
- (d) The Housing Provider shall comply with the financial reporting requirements as attached hereto as Schedule 3.
- (e) The Housing Provider shall adhere to any additional financial reporting requirements specified in the Budget.
- (f) The Housing Provider shall retain the financial books, documents, vouchers, records and books of account referred to in this Agreement for a minimum period of at least seven (7) years from the end of the fiscal period to which they relate and for such additional period as TBDSSAB may require as they may relate to specific matters, provided that the Housing Provider may, with the consent of TBDSSAB, satisfy this requirement for retention beyond the seven (7) year period by delivering the possession of the relevant books, documents, vouchers, records and books of account to TBDSSAB.

~~(g) The Housing Provider shall comply with generally accepted accounting principles in the treatment of revenues and expenditures. The Housing Provider shall comply with TBDSSAB direction on the treatment of revenues and expenditures as determined from time to time by TBDSSAB.~~

~~(h)~~(g) Where the Housing Provider files its financial submissions after the filing deadline, TBDSSAB will take the following action until the submission has been received to the satisfaction of TBDSSAB:

- (i) If the submission is not received by TBDSSAB by the filing deadline, TBDSSAB will inform the Housing Provider that the submission is overdue;
- (ii) After thirty (30) days, the amount of Funding to be paid will be reduced by fifty percent (50%) of the applicable monthly payment; and
- (iii) Upon submission of TBDSSAB's requirements, TBDSSAB will revert to the normal monthly payment process, and will include in the monthly payment the total amount withheld up to that point, unless additional costs have resulted to TBDSSAB, in which case the payment will be reduced accordingly.



11. QUALITY ASSURANCE

The Housing Provider shall comply with the quality assurance program, attached hereto as Schedule 4, as well as any other quality assurance reporting requirements as designated or created by TBDSSAB from time to time.

12. RETENTION OF RECORDS

- (a) In addition to the requirements of Section 9 and Section 10, the Housing Provider shall not dispose of any records related to the Services or the Program for a period of seven (7) years from the end of the fiscal year during which they were prepared or received, without the prior written consent of TBDSSAB, which may be given subject to such terms and conditions as TBDSSAB deems advisable.
- (b) Notwithstanding Subsection 12(a) hereof, the Housing Provider shall retain any such records for such additional period as TBDSSAB may reasonably require in special circumstances, provided that the Housing Provider may, with the consent of TBDSSAB, satisfy this requirement for retention beyond the seven (7) year period by delivering possession of the relevant books, documents, vouchers, records and books of account to TBDSSAB.

13. ACQUISITION OF GOODS OR SERVICES AND DISPOSAL OF ASSETS

- (a) If the Housing Provider acquires goods, services, or both with the Funds, it shall do so through a process that promotes the best value for money, and is consistent with public procurement best practices.
- (b) The Housing Provider shall not sell, change the use of, or otherwise dispose of any item, furnishing, or equipment specifically funded, purchased, acquired, or created with the Funds or for which Funds were provided pursuant to this Agreement without the prior written consent of TBDSSAB, which consent may be withheld in its sole discretion or given subject to such terms and conditions as TBDSSAB may deem advisable, including any right of first refusal in favour of TBDSSAB. These assets may or may not be specifically listed in a Schedule attached to this Agreement.

14. CONFLICT OF INTEREST

- (a) The Housing Provider shall carry out the Program and use the Funds without an actual, potential, or perceived conflict of interest.
- (b) For the purposes of this Agreement, a conflict of interest includes any circumstances where:
 - (i) the Housing Provider; or
 - (ii) any person who has the capacity to influence the Housing Provider's decisions,has outside commitments, relationships or financial interests that could or could be seen to, interfere with the Housing Provider's objective, unbiased and impartial judgment relating to the Program, the use of Funds, or both.
- (c) The Housing Provider shall:
 - (i) disclose to TBDSSAB, without delay, any situation that a reasonable person would interpret as an actual, potential or perceived conflict of interest; and
 - (ii) comply with any terms and conditions that TBDSSAB may prescribe as a result of the disclosure.



15. CONFIDENTIALITY AND FREEDOM OF INFORMATION

- (a) Except where otherwise permitted or required by law, the Housing Provider and its directors, officers, employees, agents, volunteers, contractors and other representatives (collectively, "**Representatives**") shall hold confidential and shall not disclose or release to any person at any time during or following the Term, any information or document that tends to identify any individual in receipt of the Services or participating in the Program without obtaining the written consent of the individual or the individual's parent, guardian or legal representative prior to the release or disclosure of such information or document.
- (b) The Housing Provider shall require all of its Representatives to abide by its policy on protection of privacy in accordance with *FIPPA*, *MFIPPA* or *PIPEDA*, as applicable, in accordance with Subsection 3(i) of this Agreement.
- (c) Unless otherwise permitted or required by law, the Housing Provider shall, and shall ensure its Representatives, respect and strictly observe the confidentiality and propriety nature of the confidential business information of TBDSSAB and the personal information of any individual in receipt of Services through the Program. The confidential information of TBDSSAB shall include any information identified by TBDSSAB or its Representatives as confidential or proprietary, or which, under the circumstances, ought to be treated as confidential or proprietary.
- (d) The Housing Provider acknowledges that any information collected by TBDSSAB or provided to TBDSSAB by the Housing Provider or its Representatives pursuant to this Agreement is subject to the rights and safeguards in accordance with *MFIPPA*.

16. STAFF AND METHODS

The Housing Provider shall use current state-of-the-art principles and shall skillfully and completely perform the Services, and shall employ only skilled and competent staff who shall be under the supervision of a skilled and competent senior member of the Housing Provider's staff.

17. INDEMNIFICATION

The Housing Provider shall, both during and following the Term, indemnify, defend (at TBDSSAB's option) and save harmless TBDSSAB and its Representatives from all costs, losses, damages, judgments, claims, demands, suits, actions, complaints or other proceedings by whomever made, brought or prosecuted in any manner based upon, occasioned by or attributable to: (a) anything done or omitted to be done by the Housing Provider or its Representatives related to or arising out of this Agreement or in connection with the Program or the Services provided, purported to be provided or required to be provided by the Housing Provider pursuant to this Agreement; and (b) the Housing Provider's breach of any term of this Agreement or any representation or warranty provided hereunder.

18. LIMITATION OF LIABILITY

In no event will TBDSSAB be liable for any indirect, incidental, special, consequential, exemplary or punitive damages of any nature whatsoever, including damages for loss of profits, anticipated or lost revenue, loss of data, loss of use of any information system, business interruption, loss of business information, or any other pecuniary loss, arising from or relating to this Agreement, regardless of the Claim and regardless of whether TBDSSAB had been advised of the possibility of such damages. If Housing Provider is entitled to recover from TBDSSAB any damages relating to this Agreement, the aggregate liability of TBDSSAB, if any, will in no event exceed the value of the Funding paid by TBDSSAB to Housing Provider in the three (3) months preceding the event giving rise to such damages.



19. INSURANCE

- (a) Unless waived in writing, in whole or in part by TBDSSAB, the Housing Provider shall obtain and maintain in full force and effect during the Term, commencing no later than the Effective Date, and at the Housing Provider's expense, the following insurance policies, with insurers licensed in Ontario: errors and omissions (professional liability), property, boiler, general liability, directors' and officers' liability, vehicle, and such other insurance as may be required by TBDSSAB from time to time.

- (b) In addition to other provisions that may be required by TBDSSAB, the Housing Provider shall obtain and provide:

(i) Comprehensive General Liability Insurance

The Housing Provider shall obtain and maintain in full force and effect during the Term, commencing no later than the Effective Date, and at the Housing Provider's expense, general liability insurance acceptable to TBDSSAB in an amount of not less than Five Million (\$5,000,000) Dollars per occurrence in respect of the Services provided pursuant to this Agreement. The insurance policy shall:

- (A) include as an additional insured TBDSSAB in respect of the provision of Services by the Housing Provider pursuant to this Agreement;
- (B) contain a cross-liability clause endorsement;
- (C) contain non-owned automobile liability;
- (D) contain a clause including liability arising out of contract or agreement;
- (E) contain a clause including errors and omissions (professional liability), as required;
- (F) contain a clause stating that such insurance shall remain in force and not be amended, cancelled or allowed to lapse without thirty (30) days' prior written notice being given to TBDSSAB. Regardless of when or if notification is received by TBDSSAB, this Agreement will be terminated effective the date the insurance policy is cancelled, for whatever reason;
- (G) insurance for building contents (furniture/equipment) and computer insurance providing coverage, and with an insurer acceptable to TBDSSAB, in an amount not less than full replacement cost of all furniture, equipment, computer hardware, computer software, and other related items owned by TBDSSAB which are in the possession of the Housing Provider.

(ii) Property Insurance

The Housing Provider shall obtain and maintain in full force and effect during the Term, commencing no later than the Effective Date, and at the Housing Provider's expense, property insurance acceptable to TBDSSAB in an amount related to the replacement value of all buildings on the properties used in connection with the provision of the Services provided hereunder.



(iii) Automobile Insurance

The Housing Provider shall ensure that any employee utilizing an automobile in the provision of Services under this Agreement insure and maintain against legal liability for bodily injury and property damage caused by automobiles owned or leased by the employee or the Housing Provider. Such insurance shall provide coverage for business use and shall specify that it covers the carriage of passengers for hire. Such insurance shall be subject to an inclusive limit of not less than Two Million (\$2,000,000) Dollars where the automobile is owned or leased by an employee or Three Million (\$3,000,000) Dollars where the automobile is owned or leased by the Housing Provider. The Housing Provider shall provide TBDSSAB with proof of automobile insurance (inclusive items) for both owner and non-owner vehicles.

- (c) If TBDSSAB requests to have the amount of coverage increased or to obtain other special insurance, then the Housing Provider shall forthwith obtain such increased coverage or special insurance.
- (d) Prior to commencement of all activities provided for in this Agreement, the Housing Provider shall file with TBDSSAB certificates of insurance evidencing full compliance with this Section 19, and shall submit annually such certificates of insurance to TBDSSAB or other proof of insurance in such form as TBDSSAB may require.

20. PROOF OF CERTIFICATION

The Housing Provider shall maintain for inspection by TBDSSAB, as may be required, copies of the required fire and health certification and verification of each annual inspection.

21. TERMINATION AND SUSPENSION

- (a) Either Party may terminate this Agreement, in whole or in part, upon sixty (60) days' prior written notice to the other Party.
- (b) TBDSSAB shall have the right to:
- (i) terminate this Agreement, in whole or in part, at any time by providing ninety (90) days prior written notice to the Housing Provider;
 - (ii) terminate this Agreement, in whole or in part, at any time, without prior notice, if it determines, in its sole discretion, that the Housing Provider is not complying with the terms and conditions of this Agreement;
 - (iii) terminate this Agreement pursuant to Subsection 22(d)(vi); or
 - (iv) suspend the Services, in whole or in part, for such period of time as it may deem advisable.

Upon receipt of such notice, the Housing Provider shall cease performing the Services and any activities related thereto, except as necessary to close out or suspend such Services, as approved by TBDSSAB in writing.

- (c) In the event of the termination or suspension, the Housing Provider will promptly refund to TBDSSAB any Funds advanced by TBDSSAB to the Housing Provider and not expended in accordance with the Budget, and all other adjustments shall be made as between the Parties as of the date of the notice of termination or suspension.
- (d) Notwithstanding any other provision of this Agreement, any termination of this



Agreement is subject to both Parties entering into an exit agreement, on such terms and for such period as the Parties may agree, in accordance with the *Housing Services Act, 2011* (an "**Exit Agreement**").

22. Events of Default

- (a) Any of the following events will constitute an event of default under this Agreement:
- (i) the Housing Provider fails to observe or comply with any term of this Agreement, in whole or in part;
 - (ii) the Housing Provider fails to remain in good standing, including meeting any applicable obligations under its incorporating legislation, maintaining minimum board size, and making annual filings;
 - (iii) the Housing Provider is in breach of or fails to comply with any applicable law, regulation, license, permit or TBDSSAB policy;
 - (iv) any representation or warranty made by the Housing Provider under this Agreement is found to be untrue or incorrect;
 - (v) if the Housing Provider knew or ought to have known any information, statement, certificate, report or other document provided by, or on behalf of, the Housing Provider pursuant to, or as a result of this Agreement, is untrue or incorrect;
 - (vi) the Housing Provider incurs an expenditure or an accumulated deficit that is, in the opinion of TBDSSAB, substantial and excessive;
 - (vii) in the opinion of TBDSSAB, acting reasonably, the Housing Provider has failed to operate the Program properly;
 - (viii) the Housing Provider contravenes a lease under which it has a leasehold interest in the Program or in land where the Program is located; or
 - (ix) the Housing Provider is in a default pursuant to any other agreement between TBDSSAB and the Housing Provider,
- (each, an "**Event of Default**").
- (b) On the occurrence of an Event of Default, TBDSSAB will provide written notice to the Housing Provider, which sets out the nature of the default, what, if anything, the Housing Provider must do or refrain from doing to rectify the default, and the date by which the breach must be rectified (the "**Cure Period**"). The Cure Period shall be a minimum of thirty (30) days from the date of delivery of the notice. If the Event of Default is not, or cannot be, remedied during the Cure Period, such Event of Default will become a Material Default (as defined in Subsection 22(c)).
- (c) Any of the following events will constitute a material default under this Agreement:
- (i) the Housing Provider does not or cannot remedy an Event of Default during the Cure Period;
 - (ii) the Housing Provider becomes bankrupt or insolvent, takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors;
 - (iii) steps are taken or proceedings are commenced by any person to dissolve or wind up the Housing Provider;
 - (iv) the Housing Provider ceases or threatens to cease to carry on business in the normal course;



- (v) a trustee receiver, receiver and manager or similar person is appointed with respect to the business or assets of the Housing Provider;
 - (vi) any assets of the Housing Provider are seized under execution or attachment;
 - (vii) the Housing Provider is unable to fulfil its obligations; or
 - (viii) the Housing Provider has operated the Program in a way that has resulted in significant physical deterioration of the Units (as defined in Schedule 1) affecting their structural integrity or causing any health or safety issues for the residents of the Units, (each a **"Material Default"**).
- (d) In the event that a Material Default has occurred, TBDSSAB may, at its option, without prejudice to TBDSSAB obtaining any other remedy it may be entitled to:
- (i) reduce, suspend or discontinue payment of any Funding, subsidy or contribution that would otherwise be payable by TBDSSAB to the Housing Provider under this Agreement;
 - (ii) remedy such Material Default on behalf of the Housing Provider;
 - (iii) appoint an operational advisor, an interim receiver, and/or a property manager for the Housing Provider to assume operation of the Program;
 - (iv) seek appointment by a court of competent jurisdiction of a receiver or receiver and manager for the Housing Provider;
 - (v) appoint directors to the Housing Provider's board of directors, where permitted under the Housing Provider's constating documents and applicable law; and/or
 - (vi) terminate this Agreement.
- (e) Should TBDSSAB incur any expenses in exercising its remedies under this Agreement, TBDSSAB may bill the Housing Provider, and the Housing Provider shall reimburse TBDSSAB, for such expenses incurred. The Parties agree that TBDSSAB may elect to recover such debt by reducing the amount of any payment that would otherwise be payable by TBDSSAB to the Housing Provider pursuant to this Agreement.
- (f) The Housing Provider acknowledges that TBDSSAB will be under no liability to the Housing Provider for any act or omission of any operational advisor, receiver and/or property manager appointed in connection with TBDSSAB exercising its remedies under this Agreement.

23. RIGHTS AND REMEDIES ARE NOT MUTUALLY EXCLUSIVE

To the fullest extent permitted by law, TBDSSAB's rights and remedies, whether provided for in this Agreement or otherwise, are not mutually exclusive and are cumulative and not alternative and may be exercised independently or in any combination.

24. GOOD FAITH AND COOPERATION

The Housing Provider represents, warrants, and covenants that it shall act in good faith, complete cooperation, and honesty in the performance of all its obligations under this Agreement, which for clarity includes cooperation with TBDSSAB's exercise and use of its rights and remedies.



25. DISPUTE RESOLUTION

In the event that a dispute arises between the Parties out of or in connection with this Agreement, the Parties agree to use the following dispute resolution processes to resolve such dispute:

- (a) Either Party may provide written notice to the other Party, setting out the nature of the dispute and requesting that the Parties negotiate a resolution (each, a **"Dispute Notice"**). On receipt of a Dispute Notice, the Parties shall make every reasonable effort to resolve the dispute through negotiation. A meeting may be held promptly between the Parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to achieve a resolution to the dispute.
- (b) If within thirty (30) days after delivery of a Dispute Notice, or such further period as may be agreed to by the Parties in writing, the Parties have not resolved the dispute, the Parties agree to submit the matter to arbitration. The arbitration shall be conducted under the following parameters:
 - (i) The Parties shall refer the dispute to a single arbitrator.
 - (ii) If the Parties cannot agree on an arbitrator, then an arbitrator shall be appointed pursuant to the *Arbitration Act, 1991*, S.O. 1991, c.17.
 - (iii) The arbitration shall be conducted in accordance with the *Arbitration Act, 1991*, S.O. 1991, c.17, as may be amended or replaced from time to time.
 - (iv) Each Party shall bear its own costs and half of the fees and expenses of the arbitrator, unless the arbitrator determines otherwise.

26. INTERPRETATION

- (a) This Agreement shall be read with all changes in number or of gender as required by context. Words in one gender shall be interpreted to include all genders.
- (b) Words in the singular include the plural and vice-versa.
- (c) The word "shall" shall be construed as mandatory and the word "may" shall be construed as permissive.
- (d) The words "include", "includes" and/or "including" shall denote that the subsequent list is not exhaustive.
- (e) The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and shall, in no way, limit, define or describe the scope or intent of this Agreement or form part of this Agreement.
- (f) Any reference to currency, money or Funds shall refer to Canadian currency.

27. HUMAN RIGHTS CODE

- (a) The Parties agree to be bound by the *Human Rights Code*.
- (b) It is a specific condition of this Agreement that all parties to all agreements arising from or out of this Agreement shall abide by and be bound by the *Human Rights Code*.

28. OBSERVANCE OF THE LAW

- (a) This Agreement shall be governed by and construed in accordance with the laws



of Ontario.

- (b) Any reference to an act in this Agreement shall include a reference to the regulations made pursuant to such act, all amendments made to such act and regulations from time to time, and to any act or regulation which may be passed and thereafter has the effect of supplementing or superseding such act or regulation as referenced in this Agreement.
- (c) The Parties agree that they and their Representatives shall at all times comply with the terms of this Agreement and all Federal, Provincial and Municipal laws, ordinances, statutes, rules, regulations and orders governing the performance of this Agreement.
- (d) Any actions or proceedings arising in connection with the Agreement shall be conducted in the courts of Ontario, which shall have exclusive jurisdiction over such proceedings.

29. NON-ASSIGNMENT

The Housing Provider shall not assign or subcontract this Agreement, in whole or in part, without the prior written approval of TBDSSAB, which approval may be withheld by TBDSSAB in its sole discretion, or given subject to such terms and conditions as TBDSSAB may impose in its sole discretion.

30. AMENDMENTS

This Agreement, and any amendment, supplement, revision or termination thereof, including the addition or substitution of a Schedule, shall be signed by the Parties, and which, when signed and delivered, shall be taken together to constitute one and the same document.

31. THIS AND PREVIOUS AGREEMENTS

- (a) All the terms and conditions of the Schedules hereto are incorporated into and form part of this Agreement.
- (b) The invalidity of any provision of this Agreement or any covenant herein contained or the unenforceability of the same against any Party hereto shall not affect the validity of any other provision or covenant herein contained or the enforceability of any portion of this Agreement against any other Party hereto.
- (c) This Agreement supersedes all previous written or oral representations, agreements and understandings between the Parties with respect to the subject matter hereof and no amendments shall be valid unless in accordance with Section 30 of this Agreement.
- (d) The obligations of the Parties which expressly, or by their nature, survive the termination or expiration of this Agreement, shall continue in force and effect following termination or expiration until they are satisfied or, by their nature, expire. This includes the confidentiality provisions of this Agreement.

32. STATUS OF HOUSING PROVIDER

- (a) The Housing Provider acknowledges and agrees this Agreement is in no way deemed or construed to be a contract or agreement of employment.
- (b) The Parties agree and acknowledge that this Agreement does not constitute a partnership, employment agreement or joint venture between the Parties, nor shall any agency relationship arise as a consequence of this Agreement.
- (c) The Parties agree and acknowledge that the Housing Provider is under no obligation to provide its services to TBDSSAB, exclusively or otherwise, and



TBDSSAB is under no obligation to engage the services of the Housing Provider during the Term. The Housing Provider shall not rely upon the continuation of the Term to plan its financial affairs.

- (d) Without limiting the generality of the foregoing, the Parties agree that it is not intended by this Agreement, that the Housing Provider, or its employees, are employees of TBDSSAB for the purposes of:
- (i) the *Income Tax Act*;
 - (ii) the *Canada Pension Plan*;
 - (iii) the *Employment Insurance Act*;
 - (iv) the *WSIA*; and/or
 - (v) the *Occupational Health and Safety Act*,

all as amended and revised from time to time, and any legislation in substitution therefore.

- (e) Notwithstanding Subsections 32(a) and 32(b), it is the sole and exclusive responsibility of the Housing Provider to satisfy itself as to its status and obligations under all legislation, and other laws including the acts referred to in Subsection 32(d).
- (f) The Housing Provider shall indemnify and hold harmless TBDSSAB from any and all amounts required to be paid by the Housing Provider, or claimed to be due and owing by the Housing Provider, and for any and all legal costs (including fees and disbursements) and administrative costs incurred by TBDSSAB relating to any failure of the Housing Provider to comply with the provisions of any legislation referred to above.

33. FURTHER ASSURANCES

The Housing Provider and TBDSSAB agree that each of them shall, upon the reasonable request of the other, provide or execute such further documents or assurances necessary to give effect to this Agreement.



34. WAIVER

No condoning, excusing, waiver or overlooking of any default, breach or non-observance by either Party at any time in respect of any term or condition of this Agreement is effective unless given in writing and shall not operate as a waiver of the rights of such Party in respect of any subsequent default, breach, or non-observance.

35. NOTICES

- (a) Any notice in writing relating hereto may be delivered in person or sent by courier, fax or may be mailed by certified mail, registered mail or priority post to TBDSSAB addressed to:

Chief Executive Officer
The District of Thunder Bay Social Services Administration Board
231 May Street South
Thunder Bay, ON P7E 1B5
Telephone: 807.766.2103
Fax No.: 807.345.6146

- (b) Any notice in writing relating hereto may be delivered in person or sent by courier, fax or may be mailed by certified mail, registered mail or priority post to the Housing Provider addressed to:

Executive Director
Name of Housing Provider
Address
City Province Postal Code
Telephone: xxx.xxx.xxxx
Fax No.: xxx.xxx.xxxx

- (c) Notices shall be considered delivered on the date of any personal delivery, service by courier or fax transmission and five (5) business days after mailing if the notice was sent by certified mail, registered mail or priority post. If a mail strike is in progress or there is a reasonable expectation of a mail strike, notice shall be given by one of the alternative permitted methods.
- (d) If at any time, either Party gives notice to the other Party of a change of its address or fax number, then from and after the date of such notice, the address or fax number therein specified shall be deemed to be the address or fax number of that Party.

36. BINDING EFFECT

This Agreement shall ensure to the benefit of, and be binding upon, the Parties and their respective executors, successors, administrators and assigns, as the case may be.

[Signature Page Follows]



Name of Housing Provider
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THE DISTRICT OF THUNDER BAY
SOCIAL SERVICES ADMINISTRATION BOARD

SCHEDULE 3

to the **Housing Operating Agreement**
between
TBDSSAB and the **Housing Services Provider**

FINANCIAL REPORTING REQUIREMENTS

During the Term, in connection with the Program, Housing Provider shall provide TBDSSAB with the following financial reports and related documentation:

- (a) An estimated annual budget for the applicable Fiscal Year, by August 31 of each year, including the goals and objectives for the Program; Annual approved budget within 30 days of approval;
- (b) quarterly, year-to-date financial reports by the 21st of the month following the end of the applicable quarter may be required, in the form attached hereto at Attachment 1 or such other form as may be required by TBDSSAB from time to time;
- (c) ~~annual audited financial statements must be prepared under the financial reporting provisions of Section III of the Implementation Guidelines for Provincial Reformed and Other Housing Programs under the Housing Services Act, 2011. This basis of accounting differs materially from Canadian ASNPO as illustrated in Schedule 5.~~
- (b) ~~annual audited financial statements, which must include segmented information (revenue and expenses) by Program area, within four (4) months of the Housing Provider's fiscal year end;~~
- (d) the applicable, annual management letter received from the external financial statement auditors;
- (e) annual unit activity report for the Program as per Attachment 1 to this schedule;
- (f) an annual report outlining the management/completion of the specific Program's goals and objectives, upon request from TBDSSAB;
- (g) any records or documents pertaining to the Funding and delivery of the Program by the Housing Provider, upon request from TBDSSAB;
- (h) annual confirmation of its contribution to its capital replacement reserve fund, annual capital budget, and nine (9) year forecast capital and replacement plan for the Program using information from the current Capital Plan and Forecast (as defined in Schedule 1);
- (i) a reserve fund strategy, updated annually upon request;
- (j) a statement of capital reserve investments for the Program upon request; and
- (k) any other documents, materials or other information as TBDSSAB may reasonably request.

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