



**City of Kingston
Report to Council
Report Number 21-160**

To: Mayor and Members of Council
From: Lanie Hurdle, Chief Administrative Officer
Resource Staff: Kate Lillicrap, Project Manager, Office of the CAO
Date of Meeting: June 22, 2021
Subject: Asset Transfer from Town Homes Kingston to Kingston
Frontenac Housing Corporation

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

On May 19, 2020, City staff brought [Report Number 20-126](#) to Council recommending that Council authorize and direct staff to take any necessary actions to facilitate the transfer of assets from Kingston Municipal Non-Profit Housing Corporation (THK) to the Kingston Frontenac & Housing Corporation (KFHC).

On May 19, 2020, Members of THK met and approved a resolution to approve the merger between THK and KFHC and the transfer of the assets of THK to KFHC. Subsequently, Members of THK, at the same meeting, also approved a resolution authorizing and directing the Board to take the necessary actions to transfer the assets of THK to KFHC.

On December 1, 2020, City staff brought [Report Number 21-022](#) to Council for information purposes only. The purpose of this report was to provide Council with information on the steps taken to-date to secure a direction for the utilization of an internally restricted THK investment (Marguerite Fund).

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On May 18, 2021, City staff brought Information [Report Number 21-140](#) to Council with the purpose of updating Council on steps that have been taken towards a potential transfer of the assets of THK to KFHC and identify for Council the remaining steps required to finalize such a transfer.

On June 7, 2021, the Boards of THK and KFHC met separately and each approved the resolutions presented to Council as Membership of THK and Shareholder of KFHC.

This report is presented in combination with reports being provided to Council meeting as Shareholder of Kingston & Frontenac Housing Corporation as well as, in this report, Council meeting in its usual form under the *Municipal Act, 2001*.

The purpose of this report is to:

- Update Council on the steps taken towards a potential transfer of assets of THK to KFHC;
- Seek final support/approval of the proposed transfer of assets from THK to KFHC;
- Seek final support/approval of the proposed separate transfer of 610 Montreal Street to the Corporation of the City of Kingston; and
- Identify for Council the final steps and associated documentation that would occur should Council provide final support/approval of the proposed transfer of assets from THK.

610 Montreal Street was the only property owned by Town Homes Kingston that was used as an administrative office and did not include any affordable housing units. City staff are recommending that 610 Montreal Street be transferred to the City for a future potential Indigenous cultural services space.

Recommendation:

Whereas on May 19, 2020 Council of the City of Kingston passed the following resolution:

That the Council of the Corporation of the City of Kingston, having considered the resolutions approved by the Members of the Kingston Municipal Non-Profit Housing Corporation (Town Homes Kingston) and the Shareholders of the Kingston Frontenac and Housing Corporation (KFHC), at their meetings held on May 19, 2020, respectively, hereby supports the merger of Town Homes Kingston and KFHC and transfer of all assets of Town Homes Kingston to KFHC; and

That the Council of the Corporation of the City of Kingston directs staff to undertake all due diligence and negotiations required to prepare a Business Purchase Agreement with KFHC for the transfer of assets of Town Homes Kingston to KFHC and to also make any incidental applications for third party notice, approval or consents necessary for the preparation of the Business Agreement as required to the satisfaction of the City Solicitor; and

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That Council hereby authorize and directs staff to make the necessary application to the Province of Ontario to facilitate the transfer of assets from Town Home Kingston to the Kingston Frontenac and Housing Corporation; and

That Council directs staff to take any further necessary actions to assist in the facilitation of the merger between Town Homes Kingston and KFHC and the transfer of the assets of Town Homes Kingston to KFHC; and

Whereas staff have undertaken all necessary due diligence and, based on the outcome of those efforts, prepared all necessary documents, took all necessary steps and received required consents and approvals as set out in Report Number 21-160 in coordination with the Province, the Service Manager, Town Homes Kingston and KFHC; and

Whereas the Ministry of Municipal Affairs and Housing has granted its consent to the transfer of assets of Town Homes Kingston to KFHC under section 162(3)(b) of the Housing Services Act; and

Whereas Council as Shareholder of KFHC at its meeting held on June 22, 2021 approved a resolution to approve the transfer of assets from Town Homes Kingston to KFHC and to enter into such documents as set out in the agenda at that meetings to facilitate such transfer; and

Whereas Council as the Membership of the Kingston Municipal Non-Profit Housing Corporation (Town Homes Kingston) at its meeting held on June 22, 2021 approved a resolution to approve the transfer of assets from Town Homes Kingston to KFHC and to enter into such documents as set out in the agenda at that meetings to facilitate such transfer; and

Therefore Be It Resolved That Council approves the transfer of 610 Montreal Street from Town Homes Kingston to the Corporation of the City of Kingston as described and on the terms as set out in Report Number 21-160; and

That Council directs the Mayor and Clerk to execute an agreement with Kingston & Frontenac Housing Corporation (KFHC) confirming the terms of the promissory note and amended promissory note to be received by Kingston Municipal Non-Profit Housing Corporation (Town Homes Kingston) from KFHC for assignment to The Corporation of the City of Kingston with a term of 15 years at an interest rate of 0% prepared to the satisfaction of the Acting City Solicitor and Director of Legal Services; and

That Council as Membership of Kingston Municipal Non-Profit Housing Corporation / Town Homes Kingston approve and direct staff to assist with the issuance of the promissory note from Kingston & Frontenac Housing Corporation to Town Homes Kingston for later assignment to The Corporation of the City of Kingston in the amount of 45,720,172.00 with a term of 15 years at an interest rate of 0% prepared to the satisfaction of the Acting City Solicitor and Director of Legal Services; and

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That Council as approve and direct staff to assist with the issuance of an amended promissory note by Kingston & Frontenac Housing Corporation to Town Homes Kingston for later assignment to The Corporation of the City of Kingston in a final adjusted amount upon receipt of final valuation with a term of 15 years at an interest rate of 0% prepared to the satisfaction of the Acting City Solicitor and Director of Legal Services; and

That Council give all three readings to the bylaw attached as Exhibit "G" to Report Number 21-160, providing for the transfer of the assets of Town Homes Kingston to KFHC as set out in Report Number 21-160 as is required by section 6.4 of the Shareholder Agreement issued between the City of Kingston and KFHC dated April 21, 2016; and

That Council directs staff to take any further necessary actions to assist in the facilitation of the transfer of the assets of Town Homes Kingston to KFHC and the dissolution of Town Homes Kingston in accordance with all legal requirements to the satisfaction of the Acting City Solicitor and Director of Legal Services; and

That Council directs the Mayor and Clerk to execute all other documents necessary to facilitate to assist in the facilitation of the transfer of the assets of Town Homes Kingston to Kingston & Frontenac Housing Corporation, the transfer of 610 Montreal Street from Town Homes Kingston to the Corporation of the City of Kingston as well as the dissolution of Town Homes Kingston to the satisfaction of the Acting City Solicitor and Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services

Peter Huigenbos, Commissioner, Business, Environment & Projects

Brad Joyce, Commissioner, Corporate Services

Jim Keech, President & CEO, Utilities Kingston Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Sheila Kidd, Commissioner, Transportation & Public Works Not required

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Options/Discussion:**1. Background**

The Kingston Municipal Non-Profit Housing Corporation / Town Homes Kingston (THK) is a non-profit charitable organization that provides housing at affordable rents for low-to-moderate income households, and rent-geared-to-income housing. THK was incorporated in 1986 and subsequently merged with 3 housing providers in 1994 and 1998. THK manages 397 apartment and townhouse units at a variety of locations within the City. Council serves as Membership of THK having oversight of the Board and ownership of the corporation.

The Kingston Frontenac & Housing Corporation (KFHC) is a non-profit housing provider that manages 947 rent-geared-to-income housing units. KFHC administers the Rent Supplement Program to an additional 450 units on behalf of the Service Manager. KFHC was transferred from a provincial to municipal responsibility in 2001 through Ontario's Social Housing Reform Act, 2000. Council serves as Shareholder of KFHC of THK having oversight of the Board and ownership of the corporation.

Through its ownership, The Corporation of the City of Kingston is responsible for funding both housing providers, who in turn administer social housing based on local and provincial directives.

An operational review of THK was conducted by the Service Manager in May-June 2018. The review found numerous significant issues surrounding the operation of THK, including: 1) Health and Safety, 2) Governance and Organization and 3) Financial Stability.

In November 2018, the Service Manager (the City of Kingston) and KFHC entered into a service agreement for the maintenance of all THK properties. This has resulted in improved maintenance services to THK buildings and tenants.

A 2018 operational review by KPMG provided an overview of the benefits of merging both municipally-owned THK and KFHC. Such a transaction was identified as an opportunity to provide long-term stability, consistency and management of services, tenants and finances.

On June 4, 2019, a Recommendation Report went to the Members of KFHC seeking approval for the expansion of the existing maintenance agreement with KFHC to include all business operations, financial management and general administration of THK.

In December 2019, the Service Manager developed a working group to further explore the options available for merging the assets of THK and KFHC. As part of this working group, Cunningham, Swan, Carty, Little & Bonham LLP was retained for expertise in the corporations and transactions law.

In 2020, it was determined by the working group that an 'asset transfer' was the preferred approach to merging the assets of THK and KFHC. The proposed asset transfer transaction

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envisioned THK transferring substantially all of its assets, liabilities and operational activities to KFHC. THK would be subsequently wound up and dissolved.

The assets proposed to be transferred from THK to KFHC include:

- cash
- accounts receivable
- taxes recoverable
- Investments
- prepaid expenses and
- tangible capital assets (property)

The liabilities that would be transferred as part of this transaction include:

- accounts payable and accrued liabilities
- deferred revenues (pre-paid rents, rental deposits, other)
- subsidy paid in advance (Province of Ontario)
- accrued mortgage interest
- mortgages payable
- obligations under capital lease
- A full list of assets and liabilities proposed to be transferred, and their associated value, are outlined in **Exhibit A**.

On May 19, 2020, at separate meeting, the Members of THK, and Shareholders of KFHC met and approved a resolution to approve the merger THK and KFHC and the transfer of the assets of THK to KFHC. Subsequently, Members of THK, at the same meeting, also approved a resolution authorizing and directing the Board to take the necessary actions to transfer the assets of the THK to KFHC.

On May 18, 2021, City staff brought [Report Number 21-140](#) to Council with the purpose of updating Council on steps that have been taken towards a potential transfer of the assets of THK to KFHC and identify for Council the remaining steps required to finalize such a transfer.

In order to proceed with the proposed transfer of assets from THK to KFHC, approval of the transaction in principle was sought and obtained on by the following stakeholders:

- KFHC Board of Directors (January 27, 2020 & June 22, 2021)
- THK Board of Directors (May 8, 2020 & June 7, 2021)
- Membership of THK (May 19, 2020 & June 22, 2021)
- KFHC Shareholder (May 19, 2020 & June 22, 2021)
- City of Kingston Council (May 19, 2020)

On May 18, 2021, City staff also brought [Report Number 21-140](#) to Council with the purpose of updating Council on steps that have been taken towards a potential transfer of the assets of

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THK to KFHC, identify for Council the remaining steps required to finalize such a transfer and highlight the intention to return to Council on June 22, 2021, to seek support of a July 1, 2021, asset transfer from THK to KFHC.

On June 7, 2021, the Board of THK met and approved the resolution presented to Council as Membership of Kingston Municipal Non-Profit Housing Corporation / Town Homes Kingston.

On June 7, 2021, the Board of KFHC met and approved the set of resolutions presented to Council as Shareholder of KFHC.

2. Updates

Following the direction and support provided by THK, KFHC and City Council to-date, the THK Board, City staff and project working group have continued to take the necessary actions associated with the transfer of assets from THK to KFHC.

Ministry Approval

Under section 162(3)(b) of the Housing Services Act, a transfer of assets requires the consent of the Ministry of Municipal Affairs and Housing (MMAH) where the assets are related to a housing provider which is deemed a “project in difficulty” and where the Service Manager has appointed directors to the board of the housing provider pursuant to that declaration.

Under the *Land Transfer Tax Act*, Land Transfer Tax (LTT) is payable on any conveyance of land at registration unless an exception applies. Under the *Housing Services Act*, and at the discretion of the MMAH, an exemption may be applied for in association with housing-related transfers.

The regulation which provides for the LTT exemption on the transfer will come into force on July 1st. Therefore, the actual asset transfer can happen any time after that – this is simply because the LTT exemption cannot be retroactive, so the HSA regulation must take effect before the transfer occurs.

LTT applications are made to the Legislation and Regulations Committee of Cabinet through MMAH, who will then make a recommendation to Cabinet and if granted, the LTT exemption would be approved by the Ministry. The MMAH has shared with the working group that there are existing LTT exemptions in place for other Local Housing Corporations. As such, it is not anticipated that there will be an issue qualifying for this exemption should THK assets be transferred to KFHC.

On May 19, 2020, City Council authorized and directed staff to make the necessary application to the Province of Ontario to facilitate the transfer of assets from THK to the KFHC.

On July 14, 2020, City staff submitted to the MMAH a ‘business case’ outlining the intended transfer of assets from THK to KFHC and all required documentation to be considered/approved

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by the Ministry for such a transaction. For additional details on the elements included in this business case, please refer to [Report Number 21-140](#).

The regulation exempting transactions from LTT are only approved with effective dates of July 1 and January 1, but the transfers can happen any time after the effective date of the regulation. The working group is targeting July 2, 2021, for the transfer of assets from THK to KFHC or as soon thereafter as possible once all required consents and approvals have been confirmed.

On May 25, 2021, City staff received a signed letter of Ministerial consent for the transfer of assets from THK to KFHC (**Exhibit B**).

At the time of this report, correspondence from MMAH confirms LTT exemption for all THK housing properties to be transferred from THK to KFHC. The 610 Montreal Street building has not been used for housing, but rather served an administrative function and LTT would not apply on a transfer of the property to the City. Staff are currently seeking final direction from the Ministry regarding the potential of transferring 610 Montreal Street property from THK to the City. The Province is aware of the intent to transfer assets on July 1, 2021, and the Ministry has advised that it has no concerns with meeting this deadline, given the straight-forward nature of this file.

Capital Lease Obligations

THK is currently bound by two HVAC leases, one relating to 37 Cassidy Street and the other to 35 Eldon Hall/55 Notch Hill.

In [Report Number 21-140](#), it was identified that given the costly nature of two THK capital lease obligations (for HVAC leases), Cunningham, Swan, Carty, Little & Bonham LLP would be investigating the possibility of terminating these leases in advance of the 2031 and 2032 expiry dates.

These leases will either be assigned, with consent of the lessor, to KFHC or paid out in full prior to closing of the transfer of assets. Preliminary discussion with the lessor under the HVAC lease for 37 Cassidy Street indicates that THK will have the option to pay out the outstanding balance under the lease prior to closing. A discharge statement has been requested from this lessor to understand the exact amount which is outstanding and any additional fees that may be applied. The lessor under the HVAC lease for 35 Eldon Hall/55 Notch Hill has not responded to requests for similar information to date.

610 Montreal Street

Since the date of the last report to Council it has been determined that the property at 610 Montreal Street will be able to be used by the City for non-housing related purposes as described in this report. This property owned by THK was used as an administrative office and did not include any affordable housing units.

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In 2019, City Council established its strategic priorities for its term from 2018-2022. Within those strategies, Council committed to “support the potential for Indigenous cultural space”. City staff have been working with the Indigenous community for the past two (2) years to determine needs and potential access to facilities in order to provide Indigenous cultural spaces. 610 Montreal was identified by the community as a space that could meet some of the Indigenous cultural programming needs. Staff are therefore recommending that the property be transferred to the City rather than to KFHC, so that the City can complete its engagement process and bring future recommendations to City Council this summer. 610 Montreal Street will be transferred for nominal value to the Corporation of the City of Kingston under its status as a qualified donee for charitable purposes.

Business Purchase Agreement

A Business Purchase Agreement has been drafted by Cunningham, Swan, Carty, Little & Bonham LLP and reviewed by KPMG and KFHC legal counsel (**Exhibit C**). The business purchase agreement identifies the assets and liabilities which are to be transferred by THK to KFHC and includes the requirement for due diligence investigations, such as satisfactory Ministry approvals (e.g., land transfer tax exemption), mortgage lender approvals and/or re-negotiation of mortgages, other contractual consents, other regulatory/governmental (including municipal) approvals or consent, absence of litigation or liability (actual or contingent).

Promissory Note

A Promissory Note is a financial legal instrument that acts as an ‘I-owe-you’ by one party to pay another party a determinate sum of money at either a fixed or flexible date in the future.

In the case of a proposed transfer, KFHC will issue a Promissory Note to THK for the balance of the amount that will be paid in exchange for the assets and properties being acquired by KFHC net of liabilities of THK assumed by KFHC.

Cunningham, Swan, Carty, Little & Bonham LLP has drafted the Promissory Note (**Exhibit D**) on behalf of KFHC as part of the proposed asset transfer process.

Of note, the promissory note identifies:

- The principal amount, subject to final adjustment for closing date values
- An interest rate of 0%
- A 15-year payment term with equal annual instalments

Promissory Note Side Agreement

A separate Promissory Note Side Agreement has been drafted (**Exhibit E**) to formally identify acknowledgement by THK, KFHC and the City, of the intended transfer of the note to the City upon the intended wind up and dissolution of THK following closing and the intended conversion of debt represented by the Promissory Note to equity represented by the shares of KFHC held by the City.

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Upon completion of the asset transfer, it is intended that THK will be wound up and dissolved. In connection with the planned wind up, the promissory note will be distributed by THK to the City by way of approved assignment and the promissory note will then be owed by KFHC to the City.

While, in accordance with past policy, the City in similar circumstances may have approved forgiveness of the debt owed by KFHC, in the circumstances of this transaction, it has been recommended that, instead of simply forgiving the debt, the debt be converted to equity technically accomplished as an increase in the stated capital value of the shares of KFHC held by the City. This conversion could be completed over the term of the promissory note or earlier if approved by the City and KFHC. The result would still be a gradual elimination of the debt owed by KFHC over time with the potential benefit to the City of an increase in the tax cost of the shares held by the City. This understanding is reflected in the terms of the Promissory Note Side Agreement.

By-Law

Section 6.4 of the Shareholder Agreement between the Corporation of the City of Kingston and Kingston & Frontenac Housing Corporation (**Exhibit F**) states:

“Any approvals of the Shareholder required under this Article shall be made through the passing of a duly authorized by-law of the Shareholder.”

As such, City staff have drafted and is proposing bylaw 2021-XXX (**Exhibit G**) providing for the transfer of the assets of Town Homes Kingston to KFHC.

3. Next Steps

Ministry Approval

As discussed, Ministerial consent for the transfer of assets has been received, however, formal approval for the exemption for the LTT by regulation is pending. The working group is awaiting confirmation of LTT exemption, which the MMAH has shared is not anticipated to be an issue qualifying for this exemption should THK assets be transferred to KFHC.

Transfer of Assets

Upon receipt of approval from the Ministry for the LTT exemption, the working group will be able to proceed with supporting the transfer of assets.

As outlined, assets may be transferred any time after the LTT exemption has been received. July 2, 2021 is the current target date for this transfer to take place.

Preparation of Ancillary Documents

Final ancillary documentation required in connection with the asset transfer date will be prepared and/or supported by Cunningham, Swan, Carty, Little & Bonham LLP subject to the

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review and approval of KFHC legal counsel and will be executed by the authorized signing officers, as applicable, for THK, KFHC and the City.

Accounting and Financial Reporting Considerations

As part of the financial transactions necessary to execute the transfer of assets, staff will review and confirm the financial reporting, valuation and net equity impacts of the transfer of assets on each entity's financial statements prior to the 2021 fiscal year end.

As a result of the wind up and dissolution of THK, the organization's residual assets will be distributed and assigned to the City, which will consist primarily of the promissory note issued by KFHC to THK as part of the asset transfer. It is anticipated that the City will report the promissory note as a receivable from KFHC on its annual financial statements as well as an offsetting amount that recognizes the transfer of THK's residual assets to the City as donation revenue in 2021.

Staff will also review the reporting requirements as it relates to the annual payment of the promissory note from KFHC, which is expected to be offset by a contribution from the City to the stated capital of the KFHC shares held by the City, as sole shareholder of KFHC.

The City and KFHC's 2021 annual financial statements will include note disclosure with respect to the transfer of asset transactions as required by generally accepted accounting principles for related party transactions.

KPMG Chartered Accountants are currently appointed the external auditors for the City, THK and KFHC and will work with staff to ensure that the transactions are reported consistently across each of the three entities.

Existing Policy/By-Law:

According to Section 6.4 of the KFHC - City shareholder agreement (**Exhibit F**), the City is required to pass a new by-law to approve the transfer of assets from THK to KFHC. A By-Law (**Exhibit G**) is being proposed for approval in order to support the required transfer of assets.

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

The Business Purchase Agreement between THK and KFHC provides for a transfer of net assets to KFHC that reflect fair market value at the date of closing. The net assets projected to

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be transferred are approximately \$46M and are comprised of total assets of \$58M offset by assumed liabilities of \$12M.

KFHC will issue a promissory note to TK in the amount of \$46M in exchange for the assets and properties being acquired by KFHC net of liabilities of THK assumed by KFHC. The value of the promissory note will be adjusted to reflect updates to the fair market values of the net assets as part of the closing procedures. The subsequent wind up and dissolution of THK will result in the promissory note being transferred to the City, as a qualified donee.

There are no immediate budget implications to the City with respect to the asset transfer process. The 2022 Housing and Social Services operating budget projections will be updated to reflect the Service Manager contributions based on the expanded operations of KFHC and the dissolution of THK.

Contacts:

Lanie Hurdle, Chief Administrative Officer 613-546-4291 extension 1231

Other City of Kingston Staff Consulted:

Kate Lillcrap, Project Manager, Office of the CAO

Ruth Noordegraaf, Director, Housing and Social Services

Alan McLeod, Acting Director, Legal Services & City Solicitor

Desiree Kennedy, City Financial Officer & City Treasurer

Jennifer Campbell, Director, Heritage Services

Others Consulted:

Kingston Frontenac Housing Corporation

Town Homes Kingston Board of Directors

Cunningham, Swan, Carty, Little & Bonham LLP

KPMG LLP

Exhibits Attached:

Exhibit A - Assets to be Transferred from THK to KFHC

Exhibit B - Ministerial Letter of Consent for the transfer for transfer of assets from THK to KFHC

Exhibit C - Draft Business Purchase Agreement

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Exhibit D - Draft Promissory Note

Exhibit E - Promissory Note Side Agreement

Exhibit F - City and KFHC Shareholder Agreement

Exhibit G - By-Law Number 2021-XXX

Exhibit A to Report Number 21-160

Kingston Municipal Non-Profit Housing Corporation
 Sale of Assets to Kingston & Frontenac Housing Corporation
 "Interim Balance Sheet"
 Prepared June 7, 2021

DRAFT - For Discussion Purposes Only

	Audited Financial Statements December 31, 2020	Excluded Assets / Liabilities	Transferred Assets / Liabilities	FMV Purchased Assets	Assumed Contracts/ Liabilities
	\$	\$	\$	\$	\$
ASSETS					
Cash	842,252	(332,853)	509,399	509,399	
Accounts receivable	51,188		51,188	51,188	
Taxes recoverable	101,440		101,440	101,440	
Investments	2,439,413		2,439,413	2,439,413	
Prepaid expenses	178,963		178,963	178,963	
Tangible Capital Assets	11,164,591	(610,000)	10,554,591		
610 Montreal Street		610,000			
205 Rideau Street, Kingston				10,550,000	
257 Rideau Street, Kingston				6,685,000	
37 Cassidy Street, Kingston				7,510,000	
375 Patrick Street, Kingston				11,750,000	
35 Eldon Hall Place / 55 Notch Hill Road				13,910,000	
710 Division Street, Kingston				1,570,000	
2075 Battersea Road, Kingston				5,110,000	
Less: Discount to appraised fair market value for short-term property repairs as per GHD report dated May 1, 2020				(2,111,000)	
	14,777,847	(332,853)	13,834,994		
LIABILITIES					
Accounts payable and accrued liabilities	195,827		195,827		195,827
Deferred revenues (prepaid rents, rental deposits, other)	93,686		93,686		93,686
Subsidy paid in advance (Province of Ontario)	171,616		171,616		171,616
Accrued mortgage interest	47,614		47,614		47,614
Mortgages payable	11,278,602		11,278,602		11,278,602
Obligations under capital lease	746,886		746,886		746,886
Payable to the City of Kingston	332,853	(332,853)	0		
	12,867,084	(332,853)	12,534,231		
ACCUMULATED SURPLUS	1,910,763	0	1,300,763		
	14,777,847	(332,853)	13,834,994	58,254,403	12,534,231
<i>Check</i>	0	0	0		

	\$
Estimated Purchase Price [4.1]	58,254,403
Assumed Liabilities [4.3(a)]	(12,534,231)
Estimated Promissory Note [4.3(b)]	45,720,172

Ministry of
Municipal Affairs
and Housing

Assistant Deputy Minister's Office
Municipal Affairs and Housing
777 Bay Street, 14th Floor
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Ministère des
Affaires municipales
et du Logement

Bureau du sous-ministre adjoint
Division du logement
777, rue Bay, 14^e étage
Toronto ON M7A 2J3
Téléphone : 416 585-6738
Télécopieur : 416 585-6800



May 20, 2021

Mr. Mitchell Grange
Manager, Housing and Early Years Programs
City of Kingston
216 Ontario Street
Kingston, ON K7L 2Z3

Dear Mr. Grange:

RE: Request for Ministerial Consent for the Transfer of Six Social Housing Projects of Kingston Municipal Non-Profit Housing Corporation to the Kingston & Frontenac Housing Corporation

The City of Kingston has requested ministerial consent under subsection 162 (3) of the *Housing Services Act, 2011* ("HSA") for the transfer of the following six social housing projects currently owned by the Kingston Municipal Non-Profit Housing Corporation ("KMNPHC") to the City's local housing corporation, Kingston & Frontenac Housing Corporation ("KFHC"):

- Rideaucrest Towers at 205 Rideau Street;
- County Living, Glenburnie at 2075 Battersea Rd;
- Family Townhouses at 257 Rideau Street;
- Family Townhouses at 375 Patrick Street;
- Family Townhouses at 710 Division Street; and,
- Family Apartment building at 37 Cassidy Street.

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Based on the materials submitted, ministerial consent to the sale is granted, subject to the following conditions:

1. KFHC will continue to operate the KMNPFC project located at 205 Rideau Street, County Living Glenburnie at 2075 Battersea Rd, 257 Rideau Street, 375 Patrick Street, 710 Division Street, and 37 Cassidy Street in accordance with the HSA and its regulations.
2. KFHC will assume or pay out all mortgages on the subject properties and shall be responsible for satisfying any requirements of the lender(s) in this regard, including the payment of any related costs, fees, or penalties.
3. KFHC will ensure that the transfer is conducted in accordance with all applicable laws, including any laws related to the protection of creditors.
4. There will be no disruption to the tenants of the projects at 205 Rideau Street, County Living Glenburnie at 2075 Battersea Road, 257 Rideau Street, 375 Patrick Street, 710 Division Street, and 37 Cassidy Street.
5. The City will implement a tenant communication plan to inform tenants of the change in ownership, and ensure they are properly informed and assured. The City will share this plan with the Ministry prior to the transfer.
6. There will be no decrease in the number of rent-geared-to-income units at 205 Rideau Street, County Living Glenburnie at 2075 Battersea Road, 257 Rideau Street, 375 Patrick Street, 710 Division Street, and 37 Cassidy Street.
7. The City of Kingston will provide the Ministry with a signed copy of the Agreement of Purchase and Sale within five days of its execution.
8. The City of Kingston shall provide confirmation to the Ministry upon closing of the transfers, together with particulars of registration.
9. In connection with the transfer, KFHC shall assume all of KMNPFC's remaining liabilities.

The City of Kingston has also requested an exemption from land transfer tax under the HSA. Such an exemption requires approval of a regulation under the HSA.

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An exemption from land transfer tax cannot be granted on a retroactive basis. Please ensure that the transfers are not completed until after you have been advised whether the regulation has been approved. We anticipate this process may take several months and we will advise you if approval is granted.

Should you have any questions, please do not hesitate to contact Michel Molgat Sereacki at 416-873-1103 or michel.molgatereacki@ontario.ca.

Yours truly,

A handwritten signature in blue ink, appearing to read 'JP', is positioned above the name and title of the signatory.

Joshua Paul
Assistant Deputy Minister - Housing

c: Peter Kiatipis, Director, Community Housing Policy Branch
Nadine Scott, Manager, Community Housing Supply Unit
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Dated

June 22, 2021

KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION

and

KINGSTON & FRONTENAC HOUSING CORPORATION

BUSINESS PURCHASE AGREEMENT

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Exhibit A	Form of Promissory Note
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THIS BUSINESS PURCHASE AGREEMENT is dated **June 22, 2021** and made between:

- (1) **KINGSTON & FRONTENAC HOUSING CORPORATION**, a corporation formed under the laws of the Province of Ontario (the “**Purchaser**”); and
- (2) **KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION**, a corporation formed under the laws of the Province of Ontario o/a “Town Homes Kingston” (the “**Seller**”).

RECITALS:

- (A) The Seller is a charitable corporation which owns and operates certain housing projects in Kingston, Ontario.
- (B) The City of Kingston is the Service Manager (as hereinafter defined) of the Seller pursuant to the *Housing Services Act* (Ontario) and the sole shareholder of the Purchaser.
- (C) The Purchaser has managed the Purchased Operations and maintained the Purchased Assets from and after the Reference Date pursuant to terms of agreements between the Seller and Purchaser dated November 1, 2018, as amended and extended (collectively the “KFHC Management Contracts”) following a review and determination of various concerning issues involving the operation of the Purchased Operations and resulting in housing assets of the Seller being identified as a “project in difficulty”.
- (D) The Seller wishes to sell the Purchased Assets (as hereinafter defined) and the Purchaser wishes to purchase the Purchased Assets, on and subject to the terms and conditions set out in this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

**Article 1
Interpretation**

1.1 Definitions

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

“**Accounts Receivable**” means all accounts receivable, notes receivable, trade receivables, rights to receive payment, book debts and other amounts, due, owing or accruing due to the Seller arising out of, from or in connection with the Purchased Operations together with any security interest, letters of credit or other credit support documents granted in favour of the Seller as security therefor.

“**Acquired Structures**” has the meaning specified in Section 5.14.

“**Agreement**” means this business purchase agreement, the Disclosure Schedule and the exhibits attached to it or otherwise forming part of it, as the same may be amended, restated, replaced, supplemented or novated from time to time and the words Article and Section followed by a number or letter mean and refer to the specified Article or Section of this business purchase agreement.

“**Assumed Contracts**” has the meaning specified in Section 2.1(f).

“**Assumed Liabilities**” has the meaning specified in Section 3.1.

“**Authorization**” means, with respect to any Person, any order, permit, approval, consent, waiver, licence or other authorization issued, granted, given or authorized by, or made applicable under the authority of, any Governmental Authority having jurisdiction over the Person.

“**Books and Records**” means all books of account, Financial Statements, historic documents relating to the Purchased Assets, sales and purchase records, cost and pricing information, customer, tenant and supplier lists and files, referral sources, research and development reports and records, production reports and records, equipment logs, operating guides and manuals, building and property reports, business reports, plans and projections and all other documents, files, correspondence and other information of the Seller (whether in written, electronic or other form) relating to the Purchased Operations or the Purchased Assets.

“**Business Day**” means any day, other than a Saturday, Sunday or statutory or civic holiday in Kingston, Ontario.

“**City of Kingston**” means The Corporation of the City of Kingston.

“**Closing**” means the completion of the transaction of purchase and sale contemplated in this Agreement.

“**Closing Date**” means July 2, 2021 or such earlier or later date as the Parties may agree in writing.

“**Closing Period**” means the period between the close of business on the date of this Agreement and the Closing.

“**Consent**” means any consent, approval, waiver or other authorization required under a Contract.

“**Contracts**” means all agreements, arrangements, understandings, commitments and undertakings (whether written, electronic or oral), to which a Person is a party or a beneficiary or pursuant to which any of its property or assets are or may be affected.

“**Damages**” has the meaning specified in Section 12.1.

“**Disclosure Schedule**” means the disclosure schedule attached to this Agreement.

“**Dispute**” has the meaning specified in Section 11.4.

“**Draft Final Closing Balance Sheet**” has the meaning specified in Section 4.4(a).

“**Effective Time**” means 12:01 a.m. (Kingston time) on the Closing Date.

“**Employee**” means any current or prior full-time or part-time employee of the Seller employed in connection with the Purchased Operations including any such employee on disability (long-term or short-term), workplace safety and insurance workers’ compensation, pregnancy or parental or other statutory or approved leave.

“**Environmental Authorization**” means all Authorizations issued pursuant to any Environmental Laws in connection with the operation of the Purchased Operations or the ownership and use by the Seller or by any other Person of the Purchased Assets and any other property and assets used by the Seller in connection with the Purchased Operations.

“**Environmental Laws**” mean all Laws relating to environmental matters, including any Laws having as a purpose or effect the protection of the environment, the prevention or reduction to acceptable levels of pollution or the provision of remedies in respect of damage arising therefrom.

“**Environmental Notice**” means any written directive or notice of infraction or written notice respecting any claim, investigation, proceeding or judgment from any Governmental Authority relating to non-compliance with or breach of any Environmental Laws or Environmental Authorizations by the Seller in connection with the Purchased Operations or the use or operation of the Purchased Assets by the Seller or any other Person.

“**Environmental Release**” means any emission, discharge, release, deposit, issuance, spray, injection, abandonment, escape, spill, leak, seepage, disposal or exhaust (other than exhaust from a vehicle) of an Environmentally Hazardous Substance, or other occurrence or event defined as such in any Environmental Laws.

“**Environmentally Hazardous Substance**” means any material or substance that could reasonably be expected to impair the quality of the environment or that causes or could reasonably be expected to cause an adverse effect on the environment for any use which can be made of it and as to which liabilities or standards of conduct are imposed pursuant to Environmental Laws, including any material or substance that is deemed pursuant to any Environmental Law to be “hazardous”, “toxic”, “deleterious”, “caustic”, “dangerous”, a “contaminant”, a “hazardous waste”, a “source of contaminant” or a “pollutant”.

“**Estimated Purchase Price**” has the meaning specified in Section 4.3.

“**Excluded Asset**” has the meaning specified in Section 2.2.

“**Final Closing Balance Sheet**” has the meaning specified in Section 4.4(e).

“**Financial Statements**” means the annual audited financial statements of the Seller with respect to the Purchased Operations as at, and for, the financial year ended on the 31st day of December in 2020, including the notes thereto, a true, correct and complete copy of which have been provided to the Purchaser.

“**GAAP**” means accounting principles generally accepted in Canada including those set out in the CPA Canada Handbook at the relevant time.

“**Governmental Authority**” means any (a) federal, provincial, territorial, municipal, local or other governmental or public department, central bank, court, commission, board, arbitrator, tribunal, bureau or agency, (b) any subdivision or authority of any of the above, or (c) any quasi-governmental or private body exercising any regulatory, expropriation or tax authority under or for the account of any of the above.

“**Indemnified Person**” has the meaning specified in Section 12.4(a).

“**Indemnifying Party**” has the meaning specified in Section 12.4(a).

“**Indemnity Representative**” means (a) where the Indemnified Person is any Purchaser Indemnified Person, the Purchaser, or (b) where the Indemnified Person is any Seller Indemnified Person, the Seller.

“**Initial Notice**” has the meaning specified in Section 11.5(a).

“**Interim Balance Sheet**” means the draft Balance Sheet prepared as of June 7, 2021 by KPMG LLP listing the assets and liabilities of the Seller and estimated fair market value as of such date using information from the audited financial statements for December 31, 2020, attached as Section 4.1 of the Disclosure Schedule.

“**KFHC Management Contracts**” has the meaning specified in the recitals to this Agreement.

“**Laws**” means any and all (a) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations and municipal by-laws, (b) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings or awards of any Governmental Authorities, and (c) policies, guidelines and protocols to the extent they have force of law.

“**Lien**” means (a) any mortgage, charge, pledge, hypothec, security interest, assignment, lien (statutory or otherwise), privilege, easement, servitude, pre-emptive right or right of first refusal, ownership or title retention agreement, restrictive covenant or conditional sale agreement, imperfections of title or encroachments relating to real property, and (b) any other encumbrance of any nature or any arrangement or condition which, in substance, secures payment or performance of an obligation.

“**Material Adverse Effect**” means any effects or changes that, when considered individually or in the aggregate, are materially adverse to (a) the business, condition (financial or otherwise) or results of operations of the Purchased Operations or Purchased Assets, or (b) the ability of the Seller to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

“**Material Contracts**” has the meaning specified in Section 5.15.

“**Ordinary Course**” means, with respect to an action taken by a Person, that such action (a) is consistent with the past practices of the Person or its business, as the case may be, and is taken in the ordinary course of the normal day-to-day operations of the Person or its business, and (b) would be similar in nature to actions customarily taken in the ordinary course of the day-to-day operations of other Persons that are in the same line of business as such Person.

“**Owned Properties**” means the lands and premises set out and described in Section 5.14 of the Disclosure Schedule by reference to their municipal address and proper legal description.

“**Parties**” means the Seller, the Purchaser and any other Person who may become a party to this Agreement.

“**Permitted Encumbrances**” means (a) Liens for Taxes, assessments or governmental charges or levies which relate to obligations not yet due or delinquent, (b) easements, servitudes, encroachments and other minor imperfections of title which do not, individually or in the aggregate, detract from the value of or impair the use or marketability of any real property, and (c) Liens set out and described in Section 5.12 of the Disclosure Schedule.

“**Person**” means a natural person, partnership, limited partnership, limited liability partnership, syndicate, sole proprietorship, corporation or company (with or without share capital), limited liability company, stock company, trust, unincorporated association, joint venture or other entity or Governmental Authority.

“**Personal Information**” means information that is protected by any Privacy Law.

“**Privacy Laws**” means the *Personal Information Protection and Electronic Documents Act* (Canada) and any similar Laws governing the protection of personal information.

“**Promissory Note**” has the meaning specified in Section 4.3(b).

“**Purchase Price**” has the meaning specified in Section 4.1.

“**Purchased Assets**” has the meaning specified in Section 2.1.

“**Purchased Operations**” means the operations carried on by the Seller on the Closing Date consisting primarily of the ownership, operation and provision of housing accommodation primarily to persons of low or modest income at rentals below the current rental market in Kingston, Ontario, the promotion of awareness and support for non-profit housing in Kingston, Ontario and raising of awareness of qualified tenants of their rights and responsibilities as tenants and as to the support services and awareness available to them.

“**Purchaser Indemnified Persons**” has the meaning specified in Section 12.1.

“**Reference Date**” means November 1, 2018.

“**Required Consents and Authorizations**” means those Consents and Authorizations required in accordance with this Agreement for the consummation of the transactions contemplated herein.

“**Retained Liabilities**” has the meaning specified in Section 3.2.

“**Seller Indemnified Persons**” has the meaning specified in Section 12.3.

“**Tax Authority**” means the Canada Revenue Agency and any other Governmental Authority having taxing authority and their respective successors, if any.

“**Tax Returns**” means all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in written, electronic or other form) and any amendments, schedules, attachments, supplements, appendices and exhibits thereto, which have been prepared or filed or are required to be prepared or filed in respect of Taxes.

“**Taxes**” includes any taxes, duties, assessments, imposts, fees, dues, withholdings, levies and other charges of any nature imposed by any Tax Authority and includes all interest, penalties, fines, additions to tax or other additional amounts imposed by any Tax Authority including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, withholding, business, property, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervailing and anti-dumping and all employment insurance, health insurance and Canada and other government pension plan and other employer plan premiums, contributions or withholdings and all other taxes and similar governmental charges of any kind imposed by any Governmental Authority.

“**Tenant Leases**” means the leases entered into between the Seller, as landlord, and each residential tenant, as tenant, for residential premises located at each of the following Owned Properties:

- (a) 37 Cassidy Street, Kingston, Ontario;
- (b) 205 Rideau Street, Kingston, Ontario;

- (c) 257 Rideau Street, Kingston, Ontario;
- (d) 2075 Battersea Rd., Glenburnie, Ontario;
- (e) 710 Division, Kingston, Ontario;
- (f) 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario; and
- (g) 375 Patrick Street, Kingston, Ontario.

“**Third Party Claim**” has the meaning specified in Section 12.4(a).

“**Transaction Documents**” means this Agreement and all other agreements, certificates and other instruments or documents delivered or given pursuant to this Agreement.

1.2 Gender and Number

In this Agreement, unless there is something in the subject matter or context inconsistent therewith,

- (a) words in the singular number include the plural and are to be construed as if the plural had been used and *vice versa*, and
- (b) words importing the use of any gender include all genders where the context or party referred to so requires, and the rest of the sentence is to be construed as if the necessary grammatical changes had been made.

1.3 Certain Phrases and Calculation of Time

- (a) In this Agreement (i) the words “including” and “includes” mean “including (or includes) without limitation” and (ii) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”. If the last day of any such period is not a Business Day, such period will end on the next Business Day.
- (b) When calculating the period of time “within” which or “following” which any act or event is required or permitted to be done, notice given or steps taken, the date which is the reference date in calculating such period is to be excluded from the calculation. If the last day of any such period is not a Business Day, such period will end on the next Business Day.

1.4 Headings, etc.

The inclusion of a table of contents, the division of this Agreement into articles and sections and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation of this Agreement.

1.5 References to the Schedules and Exhibits

The Disclosure Schedule and the exhibits form an integral part of this Agreement.

1.6 Currency

All monetary amounts in this Agreement, unless otherwise specified, are stated in Canadian currency.

1.7 Knowledge

Where any representation or warranty in this Agreement is expressly qualified by reference to the knowledge of the Seller, it is deemed to refer only to the actual knowledge which the Seller has without the requirement of a due and diligent inquiry as a prudent Person would have otherwise considered necessary or advisable as to the matters that are the subject of the representations and warranties. This stated understanding of the meaning and intent by reference to the knowledge of the Seller reflects the current management responsibilities exercised by the Purchaser in connection with the Purchased Assets and Purchased Operations and the mutual understanding of the Seller and Purchaser that the Purchased Assets and Purchased Operations are being transferred by the Seller and acquired by the Purchaser substantially on an “as is” basis.

1.8 Statutory References

Unless otherwise specifically indicated, any reference to a statute in this Agreement refers to that statute and the regulations and ministerial orders made under that statute, as the same may, from time to time, be amended, re-enacted or replaced.

1.9 Governing Law

- (a) This Agreement is governed by and is to be interpreted, construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of law principles.
- (b) Subject to the dispute resolution provisions of this Agreement, each of the Parties irrevocably attorns and submits to the exclusive jurisdiction of the courts of Ontario in any action or proceeding arising out of or relating to this Agreement. Each of the Parties waives objection to the venue of any action or proceeding in such court or any argument that such court provides an inconvenient forum.

**Article 2
Purchased Assets**

2.1 Purchased Assets

Subject to the terms and conditions of this Agreement, the Seller agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Seller on the Closing Date, effective as of the Effective Time, the undertaking and all property, assets and rights owned by the Seller and used in connection with the Purchased Operations, as a going concern, whether real or personal, movable or immovable, tangible or intangible, of every kind and description and wheresoever situate, other than the Excluded Asset, (collectively, the “**Purchased Assets**”), including the following:

- (a) the Owned Properties together with the buildings, structures, improvements and appurtenances situate thereon;
- (b) all machinery, equipment, furniture, computer hardware, furnishings, accessories and spare parts used in connection with the Purchased Operations;
- (c) all inventory and all supplies and packaging material used or consumed by the Seller in the Purchased Operations;
- (d) the Accounts Receivable;

- (e) the Tenant Leases;
 - (f) Contracts entered into by the Seller in connection with the Purchased Operations including all leases of personal property, all contracts for the provision of goods and services (whether as buyer or seller) and all licences, under which the right to use or market any product, service, technology, information, computer hardware or software or other property has been granted, licensed or otherwise provided to or by the Seller, or under which the Seller has been appointed or any Person has been appointed by the Seller as an agent, distributor, licensee or franchisee for any of the foregoing listed in Section 2.1 of the Disclosure Schedule (collectively, the “**Assumed Contracts**”);
 - (g) the Books and Records;
 - (h) all claims of the Seller relating to the Purchased Operations or the Purchased Assets, whether choate or inchoate, known or unknown, contingent or otherwise;
 - (i) to the extent transferable, all Authorizations issued to the Seller in connection with the Purchased Operations or the use and ownership of the Purchased Assets and any pending applications for, or renewals of, any such Authorizations including those listed in Section 2.1 of the Disclosure Schedule;
 - (j) all prepaid expenses and deposits relating to the Purchased Operations, if any; and
 - (k) the goodwill of the Purchased Operations, including the right of the Purchaser to:
 - (i) represent itself as carrying on the Purchased Operations in continuation of and in succession to the Seller; and
 - (ii) use any words indicating that the Purchased Operations are so carried on, including all of the Seller’s right, title and interest in and to the name “Town Homes Kingston” or any variation of it, together with the rights, if any, and telephone facsimile numbers, e-mail addresses and internet domain names used in connection with the Purchased Operations, and
 - (l) all cash and investments,
- all in accordance with the terms of this Agreement.

2.2 Excluded Asset

Unless otherwise requested by the Seller and approved by the Purchaser, the Seller shall not retain any assets associated with the Purchased Operations, save and except the real property municipally known as 610 Montreal Street, Kingston, Ontario (the “**Excluded Asset**”). For certainty, the Purchased Assets will constitute all of the property, assets, rights and interests of the Seller at the time of Closing, other than the Excluded Asset.

2.3 Assignment of Assumed Contracts

- (a) Nothing in this Agreement is to be construed as an attempt to assign any Assumed Contract or Tenant Lease (or any benefits or obligations thereunder) which is not assignable in whole or in part without all necessary Consents unless such Consent has been given. In accordance with the provisions of Section 7.5, the Seller will use its commercially reasonable efforts to

obtain such Consents and the Purchaser will cooperate with the Seller in obtaining such Consents. Whether or not the Consents are obtained, the Seller will take all actions described in Section 2.3(b) to preserve the full benefit of the Assumed Contracts and Tenant Leases for the Purchaser.

- (b) So that the Purchaser may realize the full benefit of the Assumed Contracts and Tenant Leases which are not assigned at Closing, if any, the Seller will, from and after the Closing Date, at the request and expense and under the direction of the Purchaser, in the name of the Seller or otherwise as the Purchaser specifies:
 - (i) hold such Assumed Contracts and Tenant Leases (and all rights and benefits thereunder) in trust for the benefit of the Purchaser;
 - (ii) take all such action and do or cause to be done all such things as are, in the opinion of the Purchaser, necessary or proper in order that the obligations of the Seller may be performed in such manner that the value of such Assumed Contracts and Tenant Leases are preserved and enure to the benefit of the Purchaser, and that the collection of moneys due and payable under the Assumed Contracts and Tenant Leases are received by the Purchaser; and
 - (iii) promptly pay over to the Purchaser all moneys collected by or paid to the Seller in respect of every such Assumed Contract, licences and Tenant Leases.

Article 3

Assumed Liabilities and Retained Liabilities

3.1 Assumed Liabilities

Subject to Closing, the Purchaser agrees to discharge, perform and fulfil all of the obligations and liabilities of the Seller with respect to the Purchased Operations and the Purchased Assets (other than the “**Retained Liabilities**”) (collectively, the “**Assumed Liabilities**”) including::

- (a) all liabilities accrued or recorded as liabilities as reflected on the Final Closing Balance Sheet;
- (b) obligations or liabilities of the Seller under the Assumed Contracts and Tenant Leases arising in respect of the period from and after the Effective Time and not relating to any default existing prior to or as a consequence of Closing;
- (c) obligations and liabilities arising with respect to Authorizations acquired by the Purchaser but only to the extent that such obligations and liabilities arise and relate to the period from and after the Effective Time; and
- (d) any other obligations expressly assumed under this Agreement.

3.2 Retained Liabilities

Except for the Assumed Liabilities, the Purchaser shall not assume and shall have no obligation to discharge, perform or fulfil any liabilities and obligations, contingent or otherwise, of the Seller or

related to the Purchased Operations or the Purchased Assets (collectively, the “**Retained Liabilities**”), including:

- (a) liabilities incurred or accruing due prior to the Effective Time under the Assumed Contracts and Tenant Leases to the extent not reflected in the Final Closing Balance Sheet;
- (b) liabilities of the Seller under Contracts that are not Assumed Contracts;
- (c) any liability of the Seller in respect of, or in connection with, any past Employee;
- (d) obligations and liabilities arising with respect to Authorizations which have not been acquired by the Purchaser; and
- (e) those obligations and liabilities reflected on the Interim Balance Sheet as Retained Liabilities.

3.3 Assumption of Contractual Liabilities

Notwithstanding anything in this Agreement, the Purchaser shall not assume and shall have no obligation to discharge any liability or obligation under any Contract or Tenant Lease which is not assignable in whole or in part without Consent, unless such Consent has been obtained, or unless the Seller has performed its obligations under Section 2.3(b) and the value of such Contracts and Tenant Leases has enured to the Purchaser.

Article 4 Purchase Price

4.1 Purchase Price

The purchase price payable by the Purchaser to the Seller for the Purchased Assets (the “**Purchase Price**”) shall be an amount equal to the fair market value of the Purchased Assets estimated for purposes of Closing in accordance with Section 4.3 but subject to final adjustment in accordance with Section 4.4.

4.2 Allocation

The Seller and the Purchaser agree to allocate the Purchase Price (and any adjustments thereto) among the Purchased Assets in accordance with and as reflected by the Final Closing Balance Sheet and to execute and file all Tax Returns and prepare all financial statements, returns and other instruments on the basis of such allocations as finalized.

4.3 Payment of the Purchase Price

At the Closing, the Purchaser shall pay to the Seller the sum of \$58,254,403.00 as the estimated Purchase Price determined in accordance with the Interim Balance Sheet (the “**Estimated Purchase Price**”) by:

- (a) the assumption of the Assumed Liabilities in an amount equal to \$12,534,231.00 as the estimated value of Assumed Liabilities at Closing determined in accordance with the Interim Balance Sheet but subject to final adjustment in accordance with Section 4.4; and
- (b) the balance of the Estimated Purchase Price shall be paid by delivery of a promissory note issued by the Purchaser to the Seller (the “**Promissory Note**”) in the form attached as

Exhibit A. The Seller has advised the Purchaser of its intention to wind up and dissolve following Closing and, in accordance with its Letters Patent, to distribute its net assets, including the Promissory Note, to the City of Kingston, as qualified donee. The Purchaser hereby consents to the distribution and assignment of the Promissory Note to the City of Kingston.

4.4 Adjustment of Purchase Price

- (a) Within 120 days following the Closing Date, the Purchaser shall prepare and deliver to the Seller a draft balance sheet for the Seller prepared as of the time immediately prior to Closing on the Closing Date, in the form and prepared on a consistent basis with the Interim Balance Sheet (the “**Draft Final Closing Balance Sheet**”). The Seller will provide the Purchaser and its representatives access, upon every reasonable request, to all work papers and accounting books and records relating to the Purchased Operations in the possession of the Seller to assist the Purchaser in the preparation of the Draft Final Closing Balance Sheet.
- (b) Within 30 days following receipt of the Draft Final Closing Balance Sheet, the Seller shall notify the Purchaser in writing if it has any objections. The notice of objection must contain a statement describing the basis of each of the Seller’s objections and each amount in dispute. The Purchaser shall provide the Seller access, upon every reasonable request, to all work papers of the Purchaser, accounting books and records of the Purchased Operations and the appropriate personnel to verify the accuracy, presentation and other matters relating to the preparation of the Draft Final Closing Balance Sheet. The Seller is deemed to have accepted the Draft Final Closing Balance Sheet as the final closing balance sheet if it does not deliver a notice of objection containing the required information to the Purchaser within the specified period of 30 days.
- (c) If the Seller disputes the Draft Final Closing Balance Sheet, the Parties shall work expeditiously and in good faith in an attempt to resolve such dispute within a further period of 20 days after delivery of the written notice of objection by the Seller to the Purchaser. If the Parties fail to reach a resolution as to the Draft Final Closing Balance Sheet, the dispute will be submitted for determination to an independent firm of chartered accountants mutually agreed to by the Seller and the Purchaser. The determination of the accountants with respect to the Draft Final Closing Balance Sheet will be final and binding upon the Parties and will not be subject to appeal, absent manifest error. The appointed accountants are deemed to be acting as experts and not as arbitrators.
- (d) The Seller and the Purchaser will each bear the fees and expenses of their respective accounting advisors, if any, in preparing or reviewing, as the case may be, the Draft Final Closing Balance Sheet. If an accounting firm is retained to resolve such dispute, the costs and expenses of such firm will be borne equally by the Seller and the Purchaser. However, the Seller and the Purchaser will each bear their own costs in presenting their respective cases to such firm.
- (e) Immediately following the 30 day period referred to in Section 4.4(b) or the resolution of any dispute in accordance with Section 4.4(c), the Purchaser shall deliver to the Seller the final closing balance sheet, (the “**Final Closing Balance Sheet**”), together with confirmation of the final Purchase Price and value of Assumed Liabilities reflected by the Final Closing Balance Sheet which will be final and binding upon the Parties and will not be subject to appeal, absent manifest error.

- (f) If the difference between the final Purchase Price and final value of Assumed Liabilities is lesser or greater than the principal balance of the Promissory Note delivered by the Purchaser on Closing, the Promissory Note shall be amended and restated to reflect a principal balance equal to the difference between the Purchase Price and value of Assumed Liabilities as finally determined with all other terms of the Promissory Note to remain the same. The amended and restated Promissory Note, if applicable, will be delivered by the Purchaser within two Business Days of delivery of the Final Closing Balance Sheet and, upon such delivery the original Promissory Note shall be cancelled by the Seller and returned to the Purchaser.
- (g) The determination and final adjustments to the Purchase Price in accordance with the provisions of this Section 4.4 do not limit or affect any other rights or causes of action which the Parties may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement.

4.5 Fair Market Value

It is the intention of the Parties hereto that the purchase and sale of the Purchased Assets shall take place at fair market value. The Seller and the Purchaser agree that in the event that any governmental taxing authority having jurisdiction shall assert by assessment, reassessment or otherwise, that the fair market value of the Purchased Assets as of the Closing Date is an amount different than the Purchase Price, or issues or proposes to issue assessments or reassessments of additional liability for taxes or any other subject by reason of asserting that the fair market value of the Purchased Assets is greater than or less than the Purchase Price, then the Purchase Price shall be increased or decreased by the difference so determined; but only to the extent that the Purchase Price so revised is accepted by the taxing authority, the Seller and the Purchaser, or, failing such acceptance, is established by a court having jurisdiction in the matter after all rights of appeal have been exhausted or all times for appeal have expired without appeals having been taken by such taxing authority, the Seller or the Purchaser. The Parties undertake to make whatever adjustments to the Promissory Note, or otherwise, that may be necessary between them to give full recognition to the revised Purchase Price as and from the Closing Date.

4.6 Tax Matters

- (a) The Purchaser is liable for and shall pay all federal, provincial and harmonized sales taxes, goods and services taxes and all other Taxes or other like charges properly payable by a buyer upon and in connection with the conveyance and transfer of the Purchased Assets by the Seller to the Purchaser.
- (b) All amounts payable by the Purchaser to the Seller pursuant to this Agreement do not include any goods and services, harmonized sales, sales, retail sales, use, consumption, personal property, customs, excise, stamp, transfer, or similar taxes, duties or charges (collectively "**Sales Taxes**") and all Sales Taxes are the responsibility and for the account of the Purchaser. If the Seller is required by applicable Laws to collect any Sales Taxes from the Purchaser, the Purchaser shall pay such Sales Taxes to the Seller concurrent with the payment of any amount payable pursuant to this Agreement, unless the Purchaser qualifies for an exemption from any such applicable Sales Taxes, in which case the Purchaser shall, in lieu of payment of applicable Sales Taxes to the Seller, deliver to the Seller such certificates, elections, or other documentation required by applicable Laws and prepared to the satisfaction of the Seller, acting reasonably, to substantiate and effect the exemption claimed by the Purchaser. The Seller shall remit all Sales Taxes to the relevant Governmental Authority in accordance with applicable Laws.

- (c) The Parties will use their commercially reasonable efforts to minimize (or eliminate) any Sales Taxes as are applicable to the purchase and sale of the Purchased Assets, including any taxes payable under the *Excise Tax Act* (Canada) by, among other things, making such elections and taking such steps as may be provided for under *Excise Tax Act* (Canada) (including making a joint election in a timely manner under Section 167 of Part IX of the *Excise Tax Act* (Canada)).
- (d) The Seller and the Purchaser will jointly elect under Section 22 of the *Income Tax Act* (Canada), and any corresponding provincial tax act provisions with respect to the sale, assignment, transfer and conveyance of the Accounts Receivable, and will designate and allocate therein that portion of the applicable portion of the Purchase Price referred to in Section 4.2. The Parties will execute and file, within the prescribed periods, the prescribed election forms and any other documents required to give effect to the foregoing and will also prepare and file all of their respective Tax Returns in a manner consistent with such allocation.
- (e) The Purchaser and the Seller will, if applicable, execute and file a joint election under subsection 20(24) of the *Income Tax Act* (Canada) and the corresponding provisions of any applicable provincial taxing statute or regulation, within the prescribed time periods, to have the provisions of such subsection apply to the obligations in respect of undertakings to which paragraph 12(1)(a) of the *Income Tax Act* (Canada) applies. The parties acknowledge that the Seller is transferring assets to the Purchaser which have a value equal to the elected amount as consideration for the assumption of such obligations.

Article 5

Representations and Warranties of the Seller

The Seller represents and warrants as follows to the Purchaser and acknowledges and confirms that the Purchaser is relying upon the representations and warranties in entering into this Agreement, purchasing the Purchased Assets and assuming the Assumed Liabilities. The Purchaser acknowledges that the Seller's representations and warranties are qualified by and to the extent of the knowledge of the Purchaser derived from the KFHC Management Contracts which may be inconsistent with or contrary to the Seller's representations and warranties.

5.1 Incorporation and Corporate Power

The Seller is a corporation incorporated, organized and existing under the laws of the Province of Ontario and has the corporate power and authority to own and operate its property and assets, carry on its business and enter into and perform its obligations under this Agreement and each of the Transaction Documents to which it is a party.

5.2 Corporate Authorizations

The execution, delivery and performance by the Seller of this Agreement and each of the Transaction Documents to which it is a party:

- (a) have been duly authorized by all necessary corporate action on the part of the Seller; and
- (b) do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any of its constating documents, shareholders' agreements, by-laws or resolutions of its board of directors or shareholders.

5.3 No Conflict with Authorizations, Laws, etc.

To the knowledge of the Seller, except as set out in Section 5.3 of the Disclosure Schedule, the execution, delivery and performance by the Seller of this Agreement and each of the Transaction Documents to which it is a party do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance):

- (a) subject to receiving the required approvals, result in a breach or a violation of, conflict with, or cause the termination or revocation of, any Authorization held by the Seller or necessary to the ownership and use of the Purchased Assets or the operation of the Purchased Operations;
- (b) result in or require the creation of any Lien upon any of the Purchased Assets;
- (c) result in a breach or a violation of, or conflict with, any judgement, order or decree of any Governmental Authority; or
- (d) subject to receiving the required approvals, result in a breach or a violation of, or conflict with, any Law applicable to the Seller.

5.4 No Conflict with Contracts

To the knowledge of the Seller, except as set out in Section 5.4 of the Disclosure Schedule, the execution, delivery and performance by the Seller of this Agreement and each of the Transaction Documents to which it is a party, do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance):

- (a) subject to receiving the required consents, result in a breach or a violation of, or conflict with, any Contract binding on or affecting the Seller or the Purchased Operations; or
- (b) subject to receiving the required consents described in Section 5.6 of the Disclosure Schedule, result in or give any Person the right to seek, or to cause (i) the termination, cancellation, amendment or renegotiation of any Contract binding on or affecting the Seller or the Purchased Operations, (ii) the acceleration of any debt or other obligation of the Seller, or (iii) the forfeiture or other loss, in whole or in part, of any benefit which would otherwise accrue to the Seller in connection with the Purchased Operations or the Purchased Assets.

5.5 Required Authorizations

To the knowledge of the Seller, other than notice and request for approval under the Housing Services Act (Ontario) and the filings, notifications and Authorizations set out in Section 5.5 of the Disclosure Schedule, there is no requirement for the Seller to make any filing with, give any notice to, or obtain any Authorization of, any Governmental Authority as a result of, or in connection with, or as a condition to the lawful completion of, the transactions contemplated by this Agreement or any of the Transaction Documents..

5.6 Required Consents

To the knowledge of the Seller, there is no requirement for the Seller to make any filing with, give any notice to, or obtain any Consent of, any Person who is a party to a Contract binding on or affecting the Seller as a result of, or in connection with, or as a condition to the lawful completion of, the transactions contemplated by this Agreement or any of the Transaction Documents except for the filings, notifications and Consents set out in Section 5.6 of the Disclosure Schedule.

5.7 Execution and Binding Obligation

This Agreement and each of the Transaction Documents to which the Seller is a party have been (or will be) duly executed and delivered by the Seller and constitute (or will constitute) legal, valid and binding obligations of the Seller enforceable against it in accordance with their respective terms.

5.8 Qualification

The Seller is qualified, licensed or registered, as necessary, to carry on business in the Province of Ontario.

5.9 Compliance with Laws

Intentionally deleted having regard to KFHC Management Contracts.

5.10 Authorizations

Subject to the terms of the KFHC Management Contracts, the Seller owns, possesses or lawfully uses in the operation of the Purchased Operations all Authorizations which are necessary for it to conduct the Purchased Operations or for the ownership and use of the Purchased Assets and the other property and assets used by the Seller in connection with the Purchased Operations.

5.11 Sufficiency of Assets

The Purchased Assets include all rights, assets and property necessary for the conduct of the Purchased Operations after the Closing substantially in the same manner as it was conducted prior to the Closing.

5.12 Title to the Purchased Assets

The property and assets included in the Purchased Assets (a) constitute all or substantially all of the assets used by the Seller in carrying on the Purchased Operations and (b) include all or substantially all of the assets set forth or reflected on the Financial Statements. The Seller has good and marketable title to, and legal and beneficial ownership of, the Purchased Assets free and clear of all Liens except for Permitted Encumbrances. For certainty, included in the investment assets are funds related to the capital reserve for rent geared to income housing that is required to remain intact.

5.13 No Options, etc.

Except for (1) the Purchaser's rights under this Agreement; and (2) the City of Kingston's contingent option to purchase a portion of the property [such portion referred to as the "parkette"] municipally known as 375 Patrick Street, Kingston Ontario, no Person has any written or oral agreement, option, understanding or commitment, or any right or privilege (whether by law, contractual or otherwise)

capable of becoming such for the purchase or other acquisition from the Seller of any of the property and assets forming a material part of the Purchased Assets.

5.14 Owned Property

The Seller is the absolute registered and beneficial owner of, and has good and marketable title to, the Owned Properties free and clear of all Liens other than Permitted Encumbrances. Save and except the Excluded Asset, the Seller is not now and has never been the owner or lessee of, or subject to any agreement, option or right to own or lease, any real property or any interest in any real property used in connection with the Purchased Operations, other than the Owned Properties. To the knowledge of the Seller, all of the buildings, improvements and fixtures (including fences, if any) on the Owned Properties (collectively, the “**Acquired Structures**”) were constructed in accordance with all applicable Laws and the Seller has adequate rights of ingress and egress to, from and over the Owned Properties for the operation of the Purchased Operations in the Ordinary Course. To the knowledge of the Seller, none of the Owned Properties nor any Acquired Structures, nor their use, operation or maintenance for the purpose of carrying on the Purchased Operations, violate any restrictive covenant or any provision of any applicable Law. No condemnation, rezoning, dedication or expropriation proceeding is pending or, to the knowledge of the Seller, threatened against any of the Owned Properties or the Acquired Structures, and to the knowledge of the Seller, there is no plan, study, notice of intent or pending by-law which, if implemented, would change the zoning of any of the Owned Properties or adversely affect the ability of the Seller or Purchaser to carry on the Purchased Operations in the Ordinary Course.

5.15 Material Contracts

To the knowledge of the Seller, except for the Contracts set out in Section 5.15 of the Disclosure Schedule (the “**Material Contracts**”), those Contracts made by the Purchaser pursuant to the KFHC Management Contracts and the Tenant Leases, the Seller is not a party to or bound by any Contract material to the Purchased Operations or the ownership of the Purchased Assets including:

- (a) any Contract for the purchase or sale of materials, supplies, equipment or services for the Purchased Operations (i) involving in the case of any such Contract, the payment by the Seller of more than \$10,000.00 in aggregate in any 12-month period or (ii) which contains minimum purchase commitments or requirements or other terms that restrict or limit the purchasing or selling ability of the Seller;
- (b) any Contract relating to the Purchased Operations that expires, or may be renewed at the option of any Person other than the Seller so as to expire, more than one year after the date of this Agreement;
- (c) any Contract relating to the Purchased Operations for capital expenditures in excess of \$50,000.00 in the aggregate;
- (d) any Contract relating to the Purchased Operations pursuant to which the Seller is a lessor or lessee of any machinery, equipment, motor vehicles, office furniture, fixtures or other personal property;
- (e) any Contract relating to the Purchased Operations with any affiliate of the Seller or any other Person with whom the Seller does not deal at arm’s length within the meaning of the Tax Act;

- (f) any Contract relating to grants or other forms of assistance received by the Seller in respect of the Purchased Operations from any Governmental Authority; or
- (g) any Contract relating to the Purchased Operations made outside of the Ordinary Course.

True, correct and complete copies of all Material Contracts and Tenant Leases have been provided to the Purchaser.

5.16 No Breach of Material Contracts and Tenant Leases

To the knowledge of the Seller and subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, it has performed all of the obligations required to be performed by it and is entitled to all benefits under, and is not alleged to be in default or breach of, any Material Contract or Tenant Lease. To the knowledge of the Seller, each of the Material Contracts and Tenant Leases is in full force and effect, unamended. To the knowledge of the Seller and subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, no party is in breach of any of its covenants thereunder and there exists no default or event of default or event, occurrence, condition or act which, with the giving of notice, the lapse of time or the happening of any other event or circumstance, would become a breach of, or a default or event of default under, any Material Contract or Tenant lease. Except as set out in Section 5.15 of the Disclosure Schedule, the Seller has no knowledge of any consent or notice required for a valid assignment to the Purchaser of any Material Contract.

5.17 No Breach of Other Contracts

To the knowledge of the Seller and subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, it has not violated or breached in any material respect any of the terms or conditions of any Contract (excluding Material Contracts) forming part of the Purchased Assets and to the knowledge of the Seller, all the covenants to be performed and the obligations to be fulfilled by any other party to such Contract have been fully performed and fulfilled in all material respects.

5.18 Related Party Transactions

Except as set out in Section 5.15 of the Disclosure Schedule and subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, all Contracts, binding upon or affecting the Seller and relating to the Purchased Operations or forming part of the Purchased Assets have been entered into on an arm's length basis (within the meaning of the *Income Tax Act* (Canada)).

5.19 Accounts Receivable

All accounts receivable forming part of the Purchased Assets are (a) shown on the financial Books and Records, (b) to the knowledge of the Seller, are actual and *bona fide* receivables resulting from the ordinary and usual conduct of the Purchased Operations, (c) subject to customary trade terms and (d) collectible without set-off or counterclaim. Any reserves provided for such accounts receivable in the financial Books and Records of the Seller have been computed in accordance with GAAP applied on a consistent basis.

5.20 Books and Records and Internal Financial Controls

Subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, all accounting and financial Books and Records relating to the Purchased Operations and the Purchased Assets have been fully, properly and accurately kept and are complete in all material respects.

5.21 Financial Statements

The Financial Statements have been prepared from and using the Books and Records in accordance with GAAP applied on a basis consistent with those of previous fiscal years are complete and accurate and present fairly:

- (a) the assets, liabilities, sales, income, losses, retained earnings, accruals, reserves, adjustments and financial condition of the Seller;
- (b) the results of operations of the Seller; and
- (c) the changes in financial position of the Seller,

all as at the dates and for the periods specified in such statements. True, correct and complete copies of the Financial Statements have been provided to the Purchaser.

5.22 Insurance

Subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, the Purchased Assets and all other property and assets used in the Purchased Operations are insured against loss or damage by all insurable hazards and risks on a replacement cost basis. Section 5.22 of the Disclosure Schedule is a list of insurance policies which are maintained by or on behalf of the Seller in connection with the Purchased Operations. Subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, the Seller is not in default with respect to any of the provisions contained in the insurance policies, the payment of any premiums under any insurance policy, and has not failed to give any notice or to present any claim under any insurance policy in a due and timely fashion. True, correct and complete copies of all insurance policies held by or on behalf of the Seller in respect of the Purchased Operations and the most recent inspection reports received from insurance underwriters, if any, have been provided to the Purchaser.

5.23 Litigation

Except as set out in Section 5.23 of the Disclosure Schedule, there are no actions, suits or proceedings, at law or in equity, by any Person (including the Seller), nor any arbitration, administrative or other proceeding by or before (or to the knowledge of the Seller any investigation by) any Governmental Authority, current or pending, or, to the knowledge of the Seller, threatened against or affecting, the Purchased Operations, any of the Purchased Assets or any other property or assets used by the Seller in connection with the Purchased Operations that would prevent or have a Material Adverse Effect on the ability of the Purchaser to operate the Purchased Operations in the Ordinary Course following Closing. To the knowledge of the Seller, no event has occurred or circumstance exists which may give rise to or serve as a valid basis for the commencement of any action, suit, proceeding, arbitration or investigation by or against the Seller, the Purchased Operations, any of the Purchased Assets or any other property or assets used by the Seller in connection with the Purchased Operations.

5.24 Taxes

- (a) The Seller has prepared and filed all Tax Returns within the prescribed period with the appropriate Tax Authority in accordance with applicable Laws. The Seller has reported all income and all other amounts and information required by applicable Law to be reported on each such Tax Return. Each such Tax Return is true, correct and complete in all material respects.
- (b) The Seller has paid, within the prescribed period, all Taxes and instalments of Taxes, which are required to be paid to any Tax Authority pursuant to applicable Law and which are capable of forming or resulting in a Lien (other than a Permitted Encumbrance) on the Purchased Assets or becoming a liability or obligation of the Purchaser. No deficiency with respect to the payment of any Taxes or Tax instalments has been asserted against it by any Tax Authority. From and after January 1, 2021, the Seller has not (i) incurred any liability for Taxes, (ii) engaged in any transaction or event which would result in any liability for Taxes, or (iii) realized any income or gain for tax purposes, other than, in each case, in the Ordinary Course. Adequate provision has been made in the Books and Records for all Taxes payable for all taxable periods ending on or before the Closing Date, and where no taxable period ends or is deemed to end on or immediately prior to the Closing Date, for all Taxes in respect of any time or event prior to the Closing Date.
- (c) Subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, the Seller has duly and timely withheld and collected all Taxes required by applicable Law to be withheld or collected by it and has duly and timely remitted to the appropriate Tax Authority all such Taxes as and when required by applicable Law.
- (d) There are no proceedings, investigations or audits pending or, to the knowledge of the Seller, threatened against or affecting the Seller in respect of any Taxes. To the knowledge of the Seller, no event has occurred or circumstance exists which may give rise to or serve as a valid basis for the commencement of any such proceeding, investigation or audit. There are no matters under discussion, audit or appeal with any Tax Authority relating to Taxes. All Tax Returns of the Seller for taxation years ending on or before December 31, 2020 have been assessed by the relevant Tax Authority.
- (e) The Seller is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).
- (f) The Seller is registered charity with the Canada Revenue Agency and registration number 897423141 RR 0002.
- (g) The Seller is registered under Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and the registration number is 87330 0495 RT0001.

5.25 Environmental Matters

- (a) From and after the Reference Date, the Seller has not received any Environmental Notice with respect to a matter relating to the Purchased Operations, the Purchased Assets or any other property or assets used by the Seller in carrying on the Purchased Operations which has not been remedied, corrected or cured.
- (b) To the knowledge of the Seller, no order, direction or notice or other mandatory communication from a Government Authority has been issued in respect of the Purchased

Operations, the Owned Properties, the Purchased Assets or any other property or assets used by the Seller in carrying on the Purchased Operations which has not been complied with nor has the Seller been charged with or convicted of an offence for non-compliance with any applicable Environmental Laws.

- (c) To the knowledge of the Seller, it is not in default in filing any report or information with any Governmental Authority in respect of the Purchased Assets, the Owned Properties, or the Purchased Operations as required pursuant to any applicable Environmental Laws.
- (d) To the knowledge of the Seller, there is no Environmental Release nor any presence of, any Environmentally Hazardous Substance at, on, from or under any of the Owned Properties.
- (e) To the knowledge of the Seller and subject to the actions and knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts, no unbudgeted works or additional expenditure is required or planned in relation to the Purchased Operations, the Purchased Assets, the Owned Properties or any other property or assets used by the Seller in carrying on the Purchased Operations to ensure compliance with applicable Environmental Laws or Environmental Authorizations.

5.26 Employee Matters

- (a) Other than three (3) individuals currently acting as building monitors (superintendents) by the Seller, complete and accurate details of which have been provided to the Purchaser, the Seller is not a party to, subject to, or affected by, any current (i) written employment Contract with a Person engaged in the Purchased Operations, (ii) verbal employment Contract with a Person engaged in the Purchased Operations, (iii) written Contract with a Person acting as an agent, independent contractor or dependent contractor providing services to the Seller in connection with the Purchased Operations other than the Purchaser, or (iv) certification order or any collective agreement.
- (b) There are no Employees currently employed by the Seller.
- (c) To the knowledge of the Seller, it has observed and complied with the provisions of all applicable Laws respecting past employment, including employment standards Laws as well as Laws relating to human rights, occupational health and safety, workplace safety and insurance, labour relations and pay equity.
- (d) From and after the Reference Date, the Seller is not aware of any written remedial order, notice of offence or conviction under occupational health and safety, pay equity or employment standards Laws. Prior to the Reference Date, the Seller performed all its financial obligations under such Laws which are owed to past Employees and the Governmental Authority having jurisdiction over such matters.
- (e) Subject to the knowledge of the Purchaser in connection with its performance of the KFHC Management Contracts to the contrary, there are no charges or complaints pending, or to the knowledge of the Seller, threatened with respect to or relating to the Seller before any Governmental Authority in relation to past unlawful employment practices. The Seller has not received any written notice from any such Governmental Authority responsible for the enforcement of labour or employment Laws of an intention to conduct an investigation of the Seller or any of its business concerning its past employment practices, wages, hours and terms and conditions of employment and no such investigation is, to the knowledge of the Seller, threatened.

5.27 Privacy Laws

To the knowledge of the Seller, it conducted the Purchased Operations in compliance in all material respects with all applicable Privacy Laws including in connection with its collection, use and disclosure of Personal Information. The Seller has not received any written complaint or notice of any breach or violation of any such Privacy Laws. To the knowledge of the Seller, all Personal Information of the Seller relating to the Purchased Operations:

- (a) has been collected, used or disclosed with the consent of each individual to which such Personal Information relates (if such consent is required under applicable Privacy Laws);
- (b) has been used only for the purposes for which the Personal Information was initially collected or for a subsequent purpose for which consent was subsequently obtained; or
- (c) has been collected, used or disclosed for a purpose in respect of which consent may, under applicable Privacy Laws, be implied.

5.28 No Brokers' Fees, etc.

The Seller has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement or any of the Transaction Documents.

5.29 Full Disclosure

To the knowledge of the Seller, neither this Agreement nor any Transaction Document to which the Seller (or any of its directors or officers) is a party (a) contains or will contain any untrue statement of fact, or (b) to the knowledge of the Seller, omits or will omit any fact necessary in order to make the statements contained herein or therein not misleading.

**Article 6
Representations and Warranties of the Purchaser**

The Purchaser represents and warrants as follows to the Seller and acknowledges and confirms that the Seller is relying on the representations and warranties in entering into this Agreement and selling the Purchased Assets to the Purchaser:

6.1 Incorporation and Corporate Power

The Purchaser is a corporation incorporated, organized and existing under the laws of the Province of Ontario and has the corporate power and authority to enter into and perform its obligations under this Agreement and each of the Transaction Documents to which it is a party.

6.2 Corporate Authorization

The execution, delivery and performance by the Purchaser of this Agreement and each of the Transaction Documents to which it is a party:

- (a) have been duly authorized by all necessary corporate action on the part of the Purchaser; and
- (b) do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance) result in a breach or a violation of, or conflict with, or allow

any other Person to exercise any rights under, any of its constating documents, shareholders' agreements, by-laws or resolutions of its board of directors or shareholders.

6.3 No Conflict with Authorizations, Laws, etc.

Except as set out in Section 6.3 of the Disclosure Schedule, the execution, delivery and performance by the Purchaser of this Agreement and each of the Transaction Documents to which it is a party do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance):

- (a) result in a breach or a violation of, conflict with, or cause the termination or revocation of, any Authorization held by the Purchaser or subject to receiving the required approvals, necessary to the ownership of the Purchased Assets;
- (b) result in or require the creation of any Lien upon any of the Purchased Assets;
- (c) result in a breach or a violation of, or conflict with, any judgement, judicial order or decree of any Governmental Authority; or
- (d) subject to receiving the required approvals, result in a breach or a violation of, or conflict with, any Law applicable to the Purchaser.

6.4 Required Purchaser Authorizations

To the knowledge of the Purchaser, other than notice and request for approval under the Housing Services Act (Ontario) and the filings, notifications and Authorizations set out in Section 6.4 of the Disclosure Schedule, there is no requirement for the Purchaser to make any filing with, give any notice to, or obtain any Authorization of, any Governmental Authority as a result of, or in connection with, or as a condition to the lawful completion of, the transactions contemplated by this Agreement or any of the Transaction Documents.

6.5 Execution and Binding Obligation

This Agreement and each of the Transaction Documents to which the Purchaser is a party have been (or will be) duly executed and delivered by the Purchaser and constitute (or will constitute) legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms.

6.6 Tax Status

The Purchaser is registered under Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and the registration number is 88824 7210 RT0001.

**Article 7
Covenants of the Parties**

7.1 Access for Due Diligence

Subject to compliance with applicable Laws, during the Closing Period the Seller shall (a) give the Purchaser and its accountants, legal advisers and other representatives, during normal business hours, full access to personnel, premises, suppliers, customers, Books and Records, Tax Returns, Tenant Leases, Contracts and all other Purchased Assets and (b) provide the Purchaser with such

information relating to the Purchased Operations and the Purchased Assets as the Purchaser may reasonably request. At the request of the Purchaser, the Seller will execute or cause to be executed, such consents, authorizations and directions as may be necessary to enable the Purchaser and its representatives to obtain access to all files and records maintained by Governmental Authorities or other Persons in respect of the Purchased Assets and the Purchased Operations. No investigation made by the Purchaser or its representatives will affect the Purchaser's right to rely on any representation or warranty made by the Seller in this Agreement or in any Transaction Document.

7.2 Conduct of Business Prior to Closing

- (a) During the Closing Period, the Purchaser shall conduct the Purchased Operations in the Ordinary Course pursuant to the terms of the KFHC Management Contracts.

7.3 Actions to Satisfy Closing Conditions

- (a) The Seller shall take all such actions as are within its power to control and shall use commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all of the conditions set forth in Section 10.1 including ensuring that during the Closing Period and at Closing, there is no breach of any of its representations and warranties.
- (b) The Purchaser shall take all such actions as are within its power to control and shall use commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all of the conditions set forth in Section 10.2 including ensuring that during the Closing Period and at Closing, there is no breach of any of its representations and warranties.

7.4 Transfer of the Purchased Assets

The Seller shall take all necessary steps and corporate proceedings to permit good and marketable title to the Purchased Assets to be duly and validly transferred and assigned to the Purchaser at the Closing, free of all Liens other than Permitted Encumbrances.

7.5 Request for Consents

The Seller shall use commercially reasonable efforts to obtain, prior to Closing, all Consents. The Consents shall be on such terms as are acceptable to the Purchaser, acting reasonably.

7.6 Filings and Authorizations

The Seller and the Purchaser, as soon as practicable after the execution of this Agreement, shall (i) make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to complete the transactions contemplated in this Agreement and in each of the Transaction Documents, and (ii) use commercially reasonable efforts to obtain, or cause to be obtained, all Authorizations necessary or advisable in order to complete the transactions contemplated in this Agreement and in each of the Transaction Documents. Subject to compliance at all times with applicable Laws and the other provisions of the Agreement, the Seller, and the Purchaser shall coordinate and cooperate with each other in exchanging information and supplying such assistance as is reasonably requested in connection with the foregoing including providing each Party with all notices and information supplied to or filed with or received from any Governmental Authority (except for notices and information which the Seller or the Purchaser, in each case acting

reasonably, considers highly confidential and sensitive and which may be filed on a confidential basis).

7.7 Notice of Untrue Representation or Warranty

During the Closing Period, the Seller shall promptly notify the Purchaser, and the Purchaser shall promptly notify the Seller, upon any representation or warranty made by it and contained in this Agreement becoming untrue or incorrect. Any such notification must set out particulars of the untrue or incorrect representation or warranty, and details of any actions taken to rectify the matters.

7.8 Environmental Investigations and Due Diligence

The Purchaser acknowledges that it has undertaken and completed environmental site assessments and building material assessments of the Owned Properties and Purchased Operations to its satisfaction.

7.9 Books and Records

Pursuant to the KFHC Management Contracts, the Seller has delivered to the Purchaser all the Books and Records. The Purchaser shall retain all accounting Books and Records relating to the Purchased Operations and the Purchased Assets in its possession for a period of six years from the Closing Date or for such longer period as may be required by applicable Law, but the Purchaser is not responsible or liable to the Seller for any accidental loss or destruction of, or damage to, any such Books and Records. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Seller may inspect and make copies (at its own expense) of them for purposes of preparing its own Tax Returns at any time during normal business hours and upon reasonable notice and without undue interference to the business operations of the Purchaser. The Purchaser may have its representatives present during any such inspection.

**Article 8
Employees**

8.1 Employee Liability

The Seller is responsible for and shall indemnify and hold harmless the Purchaser for and against any and all liability for:

- (a) salary, bonuses, vacation pay, commissions and other compensation and all liabilities under employee pension and benefit plans of the Seller relating to employment of Employees prior to the Reference Date;
- (b) all pay in lieu of notice, severance payments, damages for wrongful dismissal and all legal and other related costs in respect of the termination by the Seller of the employment of any Employee prior to the Reference Date;
- (c) all claims for injury, disability, death or workers' compensation arising from, or related to employment in, the Purchased Operations prior to the Reference Date.

**Article 9
Closing**

9.1 Date, Time and Place of Closing

The completion of the transaction of purchase and sale contemplated by this Agreement will take place at the offices of Cunningham, Swan, Carty, Little & Bonham LLP, , Suite 300 – 27 Princess Street, Kingston, Ontario, at 12:00 p.m. (Kingston time) on the Closing Date or at such other place, on such other date and at such other time as may be agreed upon in writing by the Parties.

9.2 Closing Procedures

Subject to satisfaction or waiver of the conditions of Closing by the relevant Party, at the Closing, the Seller shall deliver the instruments of conveyance described in Section 10.1(h)(v) to the Purchaser and upon such delivery the Purchaser shall assume the Assumed Liabilities and pay or satisfy the Purchase Price in accordance with Section 4.3.

9.3 Effective Time

The transfer of ownership and possession of the Purchased Assets is deemed to take effect at the Effective Time on the Closing Date.

9.4 Non-Merger

Except as otherwise expressly provided in this Agreement, the covenants, representations, warranties and other provisions of this Agreement will not merge on Closing but will survive (a) the execution, delivery and performance of this Agreement and any related transfer or conveyance documents, (b) the Closing, and (c) the payment of the Purchase Price. Notwithstanding such Closing or any investigation made by or on behalf of any Party, the Agreement will continue in full force and effect. Closing will not prejudice any right of one Party against any other Party in respect of anything done or omitted under this Agreement or in respect of any right to Damages or other remedies.

**Article 10
Conditions of Closing**

10.1 Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the transactions contemplated by this Agreement is subject to the following conditions to be fulfilled or performed at or prior to Closing, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

- (a) Truth of Representations and Warranties. The representations and warranties of the Seller contained in this Agreement and in any Transaction Document to which it is a party shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Seller shall have executed and delivered a certificate of a senior officer to that effect.
- (b) Performance of Covenants. The Seller shall have fulfilled, performed or complied with all covenants contained in this Agreement and in any Transaction Document to which it is a party to be fulfilled, performed or complied with by it at or prior to Closing, and the Seller shall have executed and delivered a certificate of a senior officer to that effect.

Exhibit C to Report Number 21-160

- (c) Consents. All Required Consents and Authorizations, including Authorization under the Housing Services Act (Ontario) shall have been obtained on terms acceptable to the Purchaser, acting reasonably.
- (d) Due Diligence. The Purchaser shall have completed its investigation of the Purchased Operations, the Seller's title to the Purchased Assets and all other matters it has deemed relevant and such investigation shall not have disclosed any matter which the Purchaser, acting reasonably, believes has or could reasonably be expected to be materially adverse to its decision to acquire the Purchased Assets.
- (e) Material Adverse Effect. Since the date of this Agreement, there shall not have occurred in the opinion of the Purchaser any event, development or condition or any damage, destruction or loss (whether covered by insurance or not) that has, or could reasonably be expected to have, a Material Adverse Effect on the assets, business, financial condition, earnings, results of operations or prospects of the Purchased Operations or which could reasonably be expected to materially adversely affect the ability of the Purchaser to carry on the Purchased Operations after Closing substantially as such Purchased Operations is being conducted on the date of this Agreement.
- (f) City Bylaw. The City of Kingston, as shareholder of the Purchaser, shall have passed a bylaw approving this Agreement and the intended Transaction Documents.
- (g) Land Transfer Tax Exemption. An exemption from the payment of land transfer tax by the Purchaser otherwise payable on the transfer of the Owned Properties shall have been issued pursuant to the provisions of the Housing Services Act (Ontario).
- (h) Deliveries. The Seller shall have delivered or caused to be delivered to the Purchaser the following:
 - (i) certified copies of (A) the letters patent and by-laws of the Seller, (B) the resolutions of the members and the board of directors of the Seller approving the entering into and completion of the transaction contemplated by this Agreement and the Transaction Documents and (C) a list of the officers and directors authorized to sign agreements together with their specimen signatures, all in form and substance satisfactory to the Purchaser, acting reasonably;
 - (ii) a certificate of status with respect to the Seller;
 - (iii) the certificates referred to in Section 10.1(a) and Section 10.1(b);
 - (iv) if applicable, a purchase certificate issued by the Ontario Workplace Safety and Insurance Board in respect of the Seller and the Purchased Operations confirming that as at the Closing Date, the relevant board has no claim against the Seller in respect of any amounts payable under the relevant workers' compensation legislation in respect of the Purchased Operations or any of the Purchased Assets;
 - (v) necessary deeds, conveyances, transfers and assignments and any other instruments necessary or reasonably required to transfer the Purchased Assets or the Assumed Liabilities to the Purchaser with good (and in the case of the Owned Properties, marketable) title, free and clear of all Liens other than Permitted Encumbrances;

- (vi) evidence, satisfactory to the Purchaser, of the release and discharge of the Liens specified in Section 10.1(h)(vi) of the Disclosure Schedule; and
 - (vii) any other Transaction Documents to be signed at Closing as reasonably requested by the Purchaser.
- (i) Change in Law. Since the date of this Agreement, no Law, proposed Law or any change in any Law or in the interpretation or enforcement of any Law shall have been introduced, enacted or announced, the effect of which could be to prevent or to increase materially the cost to the Purchaser from completing the transaction contemplated in this Agreement or any of the Transaction Documents or to prevent the operation of the Purchased Operations after Closing on substantially the same basis as currently operated.

10.2 Conditions in Favour of the Seller

The obligation of the Seller to complete the transactions contemplated in this Agreement is subject to the following conditions to be fulfilled or performed at or prior to Closing, which conditions are for the exclusive benefit of the Seller and may be waived, in whole or in part, by the Seller in its sole discretion:

- (a) Truth of Representations and Warranties. The representations and warranties of the Purchaser contained in this Agreement and in any Transaction Document to which it is a party shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect.
- (b) Performance of Covenants. The Purchaser shall have fulfilled, performed or complied with all covenants contained in this Agreement and in any Transaction Document to which it is a party to be fulfilled, performed or complied with by it at or prior to Closing and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect.
- (c) Consents. All Required Consents and Authorizations, including Authorization under the Housing Services Act (Ontario) shall have been obtained on terms acceptable to the Seller, acting reasonably.
- (d) Deliveries. The Purchaser shall have delivered or caused to be delivered to the Seller the following:
 - (i) certified copies of (A) the articles and extracts from the by-laws of the Purchaser relating to the execution of documents, (B) the resolutions of the sole shareholder and the board of directors of the Purchaser approving the entering into and completion of the transactions contemplated by this Agreement and the Transaction Documents and (C) a list of its officers and directors authorized to sign agreements together with their specimen signatures, all in form and substance satisfactory to the Seller, acting reasonably;
 - (ii) a certificate of status with respect to the Purchaser;
 - (iii) the certificates referred to in Section 10.2(a) and Section 10.2(b);
 - (iv) all necessary conveyances, assignments and assumption agreements evidencing the assumption by the Purchaser of the Assumed Liabilities; and

- (v) any other Transaction Documents to be signed at Closing as reasonably requested by the Seller.

Article 11
Termination and Dispute Resolution

11.1 Termination

This Agreement may be terminated at any time on or prior to the Closing Date:

- (a) by the Purchaser upon written notice to the Seller if, on the Closing Date, any of the conditions specified in Section 10.1 have not been satisfied in full;
- (b) by the Purchaser upon written notice to the Seller, if there has been a violation or breach by the Seller of any covenant, representation and warranty or other agreement contained in the Agreement such that any condition specified in Section 10.1 would be incapable of being satisfied by the Closing Date, and such violation or breach is not waived by the Purchaser or, in the case of a covenant breach, cured by the Seller within ten days or such longer period of time as may be required provided the Seller is diligently pursuing such cure after written notice thereof by the Purchaser;
- (c) by the Seller upon written notice to the Purchaser if, on the Closing Date, any of the conditions specified in Section 10.2 have not been satisfied in full;
- (d) by the Seller upon written notice to the Purchaser, if there has been a violation or breach by the Purchaser of any covenant, representation and warranty or other agreement contained in the Agreement such that any condition specified in Section 10.2 would be incapable of being satisfied by the Closing Date, and such violation or breach is not waived by the Seller, or, in the case of a covenant breach, cured by the Purchaser within ten days or such longer period of time as may be required provided the Purchaser is diligently pursuing such cure after written notice thereof by the Seller; or
- (e) by written agreement of the Parties.

11.2 Effect of Termination

- (a) If this Agreement is terminated pursuant to Sections 11.1(e) all obligations of the Parties pursuant to this Agreement will terminate without further liability of any Party to any other Party except for the provision of (i) Section 13.10 relating to public announcements, and (ii) this Section 11.2.
- (b) If the Agreement is terminated by a Party pursuant to Sections 11.1(a), 11.1(b), 11.1(c) or 11.1(d) and the right to terminate arose because of a breach of the Agreement by another Party (including a breach by the other Party resulting in a condition in favour of the terminating Party failing to be satisfied), then the other Party shall remain fully liable for any and all Damages suffered by the terminating Party as a result thereof.

11.3 Waiver of Conditions of Closing

If any of the conditions set forth in Section 10.1 have not been satisfied, the Purchaser may elect in writing to waive the condition and proceed with the completion of the transactions contemplated by this Agreement and, if any of the conditions set forth in Section 10.2 have not been satisfied, the Seller may elect in writing to waive the condition and proceed with the completion of the transactions contemplated by this Agreement. Any such waiver and election by the Purchaser or the Seller, as the case may be, will only serve as a waiver of that specific closing condition and the Party which has not been able to satisfy the waived condition will have no liability with respect to that specifically waived condition.

11.4 Dispute Resolution

Any controversy, dispute, claim, question or difference between the Parties arising out of or relating to or in connection with, this Agreement or any of the Transaction Documents including any indemnification claim pursuant to Section 12.7 (a “**Dispute**”) is to be resolved in accordance with the procedures set out in the following Sections 11.5, and 11.6 which are, subject to Section 4.4, the exclusive procedures for the resolution of any Dispute between the Parties.

11.5 Efforts to Settle Disputes

- (a) The Parties shall attempt in good faith to resolve any Dispute promptly by negotiation. However, at any time, a Party may give the other Party written notice (the “**Initial Notice**”) of any Dispute not so resolved. Within 15 days after delivery of an Initial Notice, the recipient Party shall deliver to the other a written response. Both the Initial Notice and the response must include a statement of that Party’s position, a summary of arguments supporting that position, and the name and contact particulars of the Person who will represent that Party and of any other Person who will accompany the representative. Within 30 days after delivery of the Initial Notice, the representatives of the Parties shall meet at mutually acceptable times and places, as often as they reasonably deem necessary, to attempt to resolve the Dispute.
- (b) All negotiations pursuant to this Section 11.5 are confidential and are to be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

11.6 Arbitration

If any Dispute is not resolved pursuant to Section 11.5, , then either Party may pursue binding arbitration by notice in writing to the other Party. Such Dispute shall be finally resolved by arbitration in accordance with the *Arbitration Act, 1991* (Ontario) (the “**Arbitration Act**”), by a single arbitrator, in Kingston, Ontario, appointed by the Parties, or if the Parties fail to appoint an arbitrator within 10 Business Days of a Party delivering notice of arbitration to the other Party then upon application to a Judge of the local court for an order of appointment.. The arbitration will be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction. The arbitration will be conducted in the English language.

11.7 Injunctive Relief

Notwithstanding any other provision of this Agreement, a Party may seek injunctive relief (whether as a temporary restraining order, preliminary injunction or otherwise) or specific performance

pending a decision of the arbitrator and this Article 11 will not apply to any such action or proceeding.

Article 12 Indemnification and Remedies

12.1 Indemnification by the Seller: General Matters

The Seller shall indemnify, defend and hold harmless, the Purchaser, its employees, shareholder, directors, officers, representatives and related persons (collectively, the “**Purchaser Indemnified Persons**”) from and against, and shall pay to the Purchaser Indemnified Persons, on demand, the amount of, any loss, liability, obligation, claim, damages (including costs of investigation and defence and the full amount of all legal fees and other professional fees) but excluding incidental, and consequential damages and loss of profits and diminution of value (collectively, “**Damages**”), suffered by, imposed upon or asserted against, any of the Purchaser Indemnified Persons as a result of, in respect of, connected with, or arising out of:

- (a) any incorrectness or breach of any representation or warranty made by the Seller in this Agreement or in any Transaction Document, whether or not the Purchaser relied on or had knowledge of it;
- (b) any breach or non-fulfillment by the Seller of any covenant, condition or obligation of the Seller contained in this Agreement or in any Transaction Document;
- (c) any Retained Liabilities, including any alleged responsibility of the Purchaser in respect thereof;
- (d) any services provided by the Seller prior to the Reference Date;
- (e) any breach or alleged breach of any Contract by the Seller which occurred prior to the Reference Date or any such breach or alleged breach which occurs after the Reference Date but arises out of continuation of a course of conduct which commenced prior to the Reference Date; or
- (f) any claim by any Person for brokerage or finder’s fees, commissions or similar payments based upon any agreement or understanding made or alleged to have been made by any such Person with the Seller (or any Person acting on its behalf) in connection with any of the transactions contemplated by this Agreement.

12.2 [Intentionally Deleted]

12.3 Indemnification by the Purchaser

The Purchaser shall indemnify, defend and hold harmless the Seller, its employees, members, directors, officers, representatives and related persons (collectively, the “**Seller Indemnified Persons**”) from and against, and shall pay to the Seller Indemnified Persons, on demand, the amount of any Damages suffered by, imposed upon or asserted against any of the Seller Indemnified Persons as a result of, in respect of, connected with, or arising out of:

- (a) any incorrectness or breach of any representation or warranty made by the Purchaser in this Agreement or any Transaction Document, whether or not the Seller relied on or had any knowledge of it;

- (b) any breach or non-fulfilment by the Purchaser of any covenant, condition or obligation of the Purchaser contained in this Agreement or any Transaction Document;
- (c) the performance by the Purchaser of the Assumed Liabilities; or
- (d) any claim by any Person for brokerage or finder's fees, commissions or similar payments based upon any agreement or understanding made or alleged to have been made by such Person with the Purchaser (or any Person acting on its behalf) in connection with any of the transactions contemplated in this Agreement.

12.4 Indemnification Procedure: Third Party Claims

- (a) If any claim, assertion or proceeding is made or commenced by a third party (a "**Third Party Claim**") against a Purchaser Indemnified Person or a Seller Indemnified Person, as the case may be (the "**Indemnified Person**") in respect of which the Indemnified Person proposes to demand indemnification from a Party (the "**Indemnifying Party**"), the Indemnified Person shall give notice to that effect together with particulars of the Third Party Claim to its Indemnity Representative and the Indemnifying Party with reasonable promptness. The failure to give, or delay in giving, such notice will not relieve the Indemnifying Party of its obligations except and only to the extent of any prejudice caused to the Indemnifying Party by such failure or delay.
- (b) The Indemnifying Party may, by notice to the Indemnity Representative of the Indemnified Person given not later than 30 days after receipt of the notice described in Section 12.4(a), assume control of the defence, compromise or settlement of the Third Party Claim provided that:
 - (i) the Third Party Claim involves only money damages and does not seek any injunctive or other equitable relief;
 - (ii) if the named parties in any Third Party Claim include both the Indemnifying Party and the Indemnified Person, representation by the same counsel would, in the judgment of the Indemnity Representative of the Indemnified Person, still be appropriate notwithstanding any actual or potential differing interests between them (including the availability of different defences);
 - (iii) settlement of, or an adverse judgment with respect to, the Third Party Claim is not, in the judgment of the Indemnity Representative of the Indemnified Person, likely to establish a precedent, custom or practice adverse to the continuing business interests of the Indemnified Person; and
 - (iv) the Indemnifying Party, at the request of the Indemnity Representative of the Indemnified Person, provides reasonable assurance to the Indemnity Representative of its financial ability to defend the Third Party Claim and to provide indemnification in respect thereof.
- (c) If the Indemnifying Party assumes control of the Third Party Claim, it is conclusively established for purposes of this Agreement that the Third Party Claim is within the scope of, and entitled to, indemnification pursuant to this Article 12.
- (d) Upon assumption of control by the Indemnifying Party:

- (i) the Indemnifying Party shall actively and diligently proceed with the defence, compromise or settlement of the Third Party Claim at its sole cost and expense, retaining counsel reasonably satisfactory to the Indemnity Representative of the Indemnified Person;
 - (ii) the Indemnifying Party shall keep the Indemnity Representative of the Indemnified Person fully advised with respect to the status of the Third Party Claim (including supplying copies of all relevant documents promptly as they become available) and shall arrange for its counsel to inform the Indemnity Representative of the Indemnified Person on a regular basis of the status of the Third Party Claim; and
 - (iii) the Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim unless consented to by the Indemnity Representative of the Indemnified Person (which consent may not be unreasonably or arbitrarily withheld or delayed).
- (e) The Indemnified Person and its Indemnity Representative may retain separate co-counsel at their sole cost and expense and may participate in the defence of the Third Party Claim (provided the Indemnifying Party continues to control such defence).
- (f) Provided all the conditions set forth in Section 12.4(b) are satisfied and the Indemnifying Party is not in breach of any of its other obligations under this Section 12.4, the Indemnified Person and its Indemnity Representative shall, at the expense of the Indemnifying Party, cooperate with the Indemnifying Party and use their commercially reasonable efforts to make available to the Indemnifying Party all relevant information in their possession or under their control (provided that it does not cause either of them to breach any confidentiality obligations) and shall take such other steps as are, in the reasonable opinion of counsel for the Indemnifying Party, necessary to enable the Indemnifying Party to conduct such defence provided always that:
- (i) no admission of fault may be made by or on behalf of any Purchaser Indemnified Person without the prior written consent of the Purchaser;
 - (ii) no admission of fault may be made by or on behalf of any Seller Indemnified Person without the prior written consent of the Seller; and
 - (iii) the Indemnified Person and the Indemnity Representative are not obligated to take any measures which, in the reasonable opinion of the Indemnity Representative's legal counsel, could be prejudicial or unfavourable to the Indemnified Person.
- (g) If (i) the Indemnifying Party fails to give the Indemnity Representative the notice required in Section 12.4(b) or otherwise fails to comply with any of the conditions in Section 12.4(b) or (ii) the Indemnifying Party breaches any of its other obligations under Section 12.4, the Indemnity Representative of the Indemnified Person may assume control of the defence, compromise or settlement of the Third Party Claim and retain counsel as in its sole discretion may appear advisable, the whole at the Indemnifying Party's sole cost and expense. Any settlement or other final determination of the Third Party Claim will be binding upon the Indemnifying Party. The Indemnifying Party shall, at its sole cost and expense, cooperate fully with the Indemnity Representative of the Indemnified Person and use its commercially reasonable efforts to make available to such Indemnity Representative all relevant information in its possession or under its control and take such other steps as are, in the reasonable opinion of counsel for the Indemnity Representative, necessary to

enable the Indemnity Representative to conduct the defence. The Indemnifying Party shall reimburse the Indemnified Person and its Indemnity Representative promptly and periodically for the costs of defending against the Third Party Claim (including legal fees and expenses), and shall remain responsible for any Damages the Indemnified Person and its Indemnity Representative may suffer resulting from, arising out of or relating to the Third Party Claim to the fullest extent provided in this Article 12.

12.5 Expiry of Liability

- (a) Except as set out in Sections 12.5(b) and 12.5(c), liability for breaches or non-fulfilment of the representations, warranties, obligations, conditions and covenants of the Seller and the Purchaser contained in this Agreement and in any of the Transaction Documents will terminate two years following the Closing Date, except (i) in the case of fraud, intentional misrepresentation or deliberate or wilful breach, in which case liability will survive and continue in full force and effect without limitation of time, or (ii) to the extent that, during such period, the Indemnified Person or its Indemnity Representative has given notice to the Indemnifying Party of a claim in respect of any such representation, warranty, obligation, condition or covenant, in which case liability therefor will survive and continue in full force and effect until the final determination of such claim.
- (b) The representations and warranties of the Seller relating to the tax liability of the Purchased Operations including those set forth in Sections 5.24 (and the Seller's liability in connection therewith), will survive and continue in full force and effect for the benefit of the Purchaser until 90 days after the expiration of the last of the limitation periods contained in the *Income Tax Act* (Canada) and any other applicable tax Laws imposing tax on the Purchaser subsequent to the expiration of which an assessment or reassessment or other form or recognized document assessing liability for tax, interest or penalties thereunder for the period ended on the Closing Date cannot be issued to the Purchaser (such period to include any period extended by any agreement, waiver or arrangement with any Tax Authority, if such extension is requested, or consented to, in writing by the Seller).
- (c) The representations and warranties contained in Section 5.12 the Seller's liability in connection therewith will survive and continue in full force and effect indefinitely.
- (d) No Party or other Person is entitled to indemnification pursuant to this Article 12 unless such Party or other Person has given written notice of its claim for indemnification pursuant to Section 12.4(a) or Section 12.7, as the case may be, within the survival periods specified in the foregoing provisions of this Section 12.5.
- (e) The Parties are aware of the provisions of the *Limitations Act*, 2002 (Ontario) and agree that (i) this agreement is a "business agreement" for purposes of that *Act*, and (ii) to the extent that the provisions hereof are found to be an agreement to vary or exclude a limitation period under that *Act*, such limitation period is deemed to have been suspended, extended, varied and excluded to the extent necessary to give full force and effect to the provisions of this Agreement.

12.6 Limitations on Liability

- (a) The obligation of the Seller to indemnify any Purchaser Indemnified Person for Damages is subject to the following::

- (i) the Seller shall have no liability in this Agreement or in any of the Transaction Documents and no Damages may be recovered from the Seller unless the claims of any Purchaser Indemnified Person exceed, in the aggregate, \$50,000.00; and
 - (ii) the liability of the Seller taken together, in respect of claims of any Purchaser Indemnified Person for Damages under this Agreement and the Transaction Documents shall not exceed, in the aggregate, the principal amount of the promissory note delivered by the Purchaser at Closing for the balance of the Purchase Price net of the assumption of the Assumed Liabilities.
- (b) The limitations set forth in Section 12.6 shall not apply to any claim for indemnification connected to a breach of any provisions (such as covenants) that should enjoy unlimited liability such as the tax nor in the event of fraud, intentional misrepresentation or wilful breach.

12.7 Procedures for Indemnification – Direct Claims

A claim for indemnification for any matter not involving a Third Party Claim must be asserted by notice (setting out in reasonable detail the factual basis for the claim and the amount of potential Damages arising from it) to the Party from whom indemnification is sought within the periods specified in Section 12.5 of this Agreement and will be subject, at all times, to the provisions of Sections 12.6, *mutatis mutandis*.

12.8 Indemnification Sole Remedy

The rights and remedies that a Party may have against the other Parties for a breach of any representation, warranty, covenant or obligation under this Agreement or any Transaction Document, except for any Damages that are the result of fraudulent conduct, wilful misconduct or intentional misrepresentation or omission, are exclusively governed by this Agreement. The Purchaser shall have the right to set-off any claims made against the Seller pursuant to the terms of this Agreement against the Promissory Note. To the extent permitted by applicable Law, any further claims and remedies (other than claims for specific performance, injunctive relief or other equitable remedy which do not include claims for monetary damages), irrespective of the nature, amount or legal basis, are hereby expressly waived and excluded.

12.9 Agency for Non-Parties

Each Party hereby accepts each indemnity in favour of its indemnified Persons who are not Parties as agent and trustee for and on their behalf. A Party may enforce an indemnity in favour of any of that Party's indemnified Persons on behalf of each such Person.

Article 13 Miscellaneous

13.1 Notices

Any notice, consent, waiver or other communication given under this Agreement or any Transaction Document must be in writing and shall be given by delivering it (personally or by nationally recognized courier) or sending it by electronic mail addressed:

- (a) to the Purchaser at:

119 Van Order Drive, Kingston, Ontario, K7M 1B9

Attention: Mary-Lynn CousinsBrame

Email: mlcousinsbrame@kfhc.ca

(b) to the Seller at:

119 Van Order Drive, Kingston, Ontario, K7M 1B9●

Attention: Mary-Lynn CousinsBrame

Email: mlcousinsbrame@kfhc.ca

Any such communication is deemed to have been duly given (a) if delivered personally, on the day of delivery, (b) if sent by a nationally recognized courier service (delivery receipt requested) with charges paid by the sender, on the later of (i) the first Business Day following the date of dispatch, or (ii) the scheduled day of delivery by such service, (c) if sent by electronic mail on the date so sent, if the day is a Business Day and the email was sent prior to 5 pm (Kingston time) and otherwise on the next Business Day. In the case of electronic mail, receipt of each communication must be confirmed by the recipient by the end of the next Business Day or, if not so confirmed, must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that such email notice shall be deemed to have been given on the date stipulated in (c) above. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

13.2 Entire Agreement

This Agreement together with the Disclosure Schedule and Exhibits attached hereto, and the Transaction Documents constitute the entire agreement between the Parties and supercede all prior agreements, understandings, negotiations and discussions relating to the subject matter thereof, whether oral or written. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties relating to the subject matter hereof except as specifically set forth in this Agreement and the Transaction Documents. None of the Parties has relied or is relying on any other information, discussions or understandings in entering into and completing the transactions contemplated in this Agreement. If there is any conflict or inconsistency between the provisions of this Agreement and the provisions of any Transaction Document, the provisions of this Agreement will govern.

13.3 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by each of the Parties.

13.4 Waiver

The failure or delay by a Party in enforcing, or insisting upon strict performance of, any provision of this Agreement does not constitute a waiver of such provision or in any way affect the enforceability of this Agreement (or any of its provisions) or deprive a Party of the right, at any time or from time to time, to enforce or insist upon strict performance of that provision or any other provision of this Agreement. Any waiver by a Party of any provision of this Agreement is effective only if in writing and signed by a duly authorized representative of such Party.

13.5 Severability

If any provision of this Agreement is determined by an arbitrator or a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect, without amendment.

13.6 Assignments

- (a) This Agreement will become effective when executed by the Parties and thereafter will be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.
- (b) Neither this Agreement nor any of the rights, duties or obligations under this Agreement are assignable or transferable by a Party without the prior written consent of the other Parties. Any attempt to assign any of the rights, duties or obligations in this Agreement without such written consent is void.

13.7 Third Party Beneficiaries

Except as otherwise expressly provided in this Agreement, the Parties do not intend that this Agreement benefit or create any legal or equitable right, remedy or cause of action in, or on behalf of, any Person other than a Party and no Person, other than a Party, is entitled to rely on the provisions of this Agreement in any proceeding. Without limiting the generality of the foregoing, the consent of a Seller Indemnified Person or a Purchaser Indemnified Person is not required for any amendment or waiver of, or other modification to, this Agreement or any Transaction Document including any rights of indemnification to which such Person may be entitled.

13.8 Time of the Essence

Time is of the essence in this Agreement.

13.9 Further Assurances

From time to time after the Closing, each Party will, at the request of any other Party, execute and deliver such additional conveyances, transfers and other assurances and perform or cause to be performed such further and other acts or things as may be reasonably required to give effect to, and carry out the intent of, this Agreement and each of the Transaction Documents, including for purposes of effectively transferring the Purchased Assets to the Purchaser.

13.10 Announcements

No press release or other public announcement with respect to this Agreement or any of the Transaction Documents or any transaction contemplated therein is to be made by a Party unless and until the text of the announcement and the time and manner of its release have been approved by the other Party.

13.11 Counterparts

This Agreement may be executed in any number of separate counterparts (including by email, electronic signature or other electronic means) and all such signed counterparts will together constitute one and the same agreement. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the

other Parties by email or other means of recorded electronic transmission and such transmission (including in PDF form) with an acknowledgement of receipt shall constitute delivery of an executed copy of this Agreement to the receiving Party.

13.12 Language

The Parties confirm having requested that this Agreement and all notices or other communications relating to them be drawn-up in the English language only. Les Parties aux présentes confirment avoir requis que cette convention et autres communications s'y rapportant soient rédigés en langue anglaise seulement.

[rest of page intentionally left blank]

IN WITNESS WHEREOF the Parties have executed this Business Purchase Agreement.

**KINGSTON MUNICIPAL NON-PROFIT
HOUSING CORPORATION**

Per: _____
Name:
Title:

**KINGSTON & FRONTENAC HOUSING
CORPORATION**

Per: _____
Name:
Title:

(Signature Page for Business Purchase Agreement.)

DISCLOSURE SCHEDULE

Section 2.1 – Assumed Contracts

- 1) Parking and Roadways Agreement between Frontenac Management Board and Kingston Municipal Non-Profit Housing Corporation dated January 1, 2002
- 2) HSC Insite Services Agreement between Housing Services Corporation and Kingston Municipal Non-Profit Housing Corporation dated March 24, 2017
- 3) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated October 6, 2016, as assigned to CWB Maximum Financial Inc. as of December 22, 2016.
- 4) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated September 26, 2017, as assigned to Utilebill Credit Corp as of September 26, 2017.
- 5) Housing Provider Operating Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated July 5, 2005.
- 6) Social Housing Improvement Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 7) Social Housing Electricity Efficiency Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 8) Social Housing Renovation and Retrofit Funding Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated October 21, 2009
- 9) Rent Supplement Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation with a commencement date of April 1, 2015
- 10) All Tenant Leases
- 11) The following mortgages:
 - a. 37 Cassidy Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of The Toronto Dominion Bank noting a principal amount of \$5,302,520.00.
 - b. 205 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$5,427,520.00.
 - c. 257 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.

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- d. 2075 Battersea Rd., Glenburnie, Ontario
 - i. Mortgage registered on title in favour of London Life Insurance Company noting a principal amount of \$4,160,190.51.
 - e. 710 Division, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - f. 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario
 - i. Mortgage registered on title in favour of CIBC Mortgages Inc. noting a principal amount of \$3,719,400.00.
 - g. 375 Patrick Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Scotia Mortgage Corporation noting a principal amount of \$6,648,398.00.
- 12) All Contracts set forth on title to each of the Owned Properties. A copy of each title search result has been provided to the Purchaser.

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Section 4.1 – Interim Balance Sheet

Kingston Municipal Non-Profit Housing Corporation
 Sale of Assets to Kingston & Frontenac Housing Corporation
 "Interim Balance Sheet"
 Prepared June 7, 2021

DRAFT - For Discussion Purposes Only

	Audited Financial Statements December 31, 2020	Excluded Assets / Liabilities	Transferred Assets / Liabilities	FMV Purchased Assets \$	Assumed Contracts/ Liabilities \$
ASSETS	\$	\$	\$		
Cash	842,252	(332,853)	509,399	509,399	
Accounts receivable	51,188		51,188	51,188	
Taxes recoverable	101,440		101,440	101,440	
Investments	2,439,413		2,439,413	2,439,413	
Prepaid expenses	178,963		178,963	178,963	
Tangible Capital Assets	11,164,591	(610,000)	10,554,591		
610 Montreal Street		610,000			
205 Rideau Street, Kingston				10,550,000	
257 Rideau Street, Kingston				6,685,000	
37 Cassidy Street, Kingston				7,510,000	
375 Patrick Street, Kingston				11,750,000	
35 Eldon Hall Place / 55 Notch Hill Road				13,910,000	
710 Division Street, Kingston				1,570,000	
2075 Battersea Road, Kingston				5,110,000	
Less: Discount to appraised fair market value for short-term property repairs as per GHD report dated May 1, 2020				(2,111,000)	
	<u>14,777,847</u>	<u>(332,853)</u>	<u>13,834,994</u>		
LIABILITIES					
Accounts payable and accrued liabilities	195,827		195,827		195,827
Deferred revenues (prepaid rents, rental deposits, other)	93,686		93,686		93,686
Subsidy paid in advance (Province of Ontario)	171,616		171,616		171,616
Accrued mortgage interest	47,614		47,614		47,614
Mortgages payable	11,278,602		11,278,602		11,278,602
Obligations under capital lease	746,886		746,886		746,886
Payable to the City of Kingston	332,853	(332,853)	0		
	<u>12,867,084</u>	<u>(332,853)</u>	<u>12,534,231</u>		
ACCUMULATED SURPLUS	1,910,763	0	1,300,763		
	<u>14,777,847</u>	<u>(332,853)</u>	<u>13,834,994</u>	<u>58,254,403</u>	<u>12,534,231</u>
<i>Check</i>	0	0	0		

	\$
Estimated Purchase Price [4.1]	58,254,403
Assumed Liabilities [4.3(a)]	(12,534,231)
Estimated Promissory Note [4.3(b)]	45,720,172

Section 5.3 – No Conflicts with Authorizations, Laws Etc. (Kingston Municipal Non-Profit Housing Corporation)

- 1) Authorization from the Ministry of Municipal Affairs and Housing under the Housing Services Act (Ontario)

Section 5.4 – No Conflicts with Contracts

- 1) Parking and Roadways Agreement between Frontenac Management Board and Kingston Municipal Non-Profit Housing Corporation dated January 1, 2002
- 2) HSC Insite Services Agreement between Housing Services Corporation and Kingston Municipal Non-Profit Housing Corporation dated March 24, 2017
- 3) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated October 6, 2016, as assigned to CWB Maximum Financial Inc. as of December 22, 2016.
- 4) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated September 26, 2017, as assigned to Utlebill Credit Corp as of September 26, 2017.
- 5) Housing Provider Operating Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated July 5, 2005.
- 6) Social Housing Improvement Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 7) Social Housing Electricity Efficiency Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 8) Social Housing Renovation and Retrofit Funding Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated October 21, 2009
- 9) Rent Supplement Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation with a commencement date of April 1, 2015
- 10) The following mortgages:
 - a. 37 Cassidy Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of The Toronto Dominion Bank noting a principal amount of \$5,302,520.00.
 - b. 205 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$5,427,520.00.
 - c. 257 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - d. 2075 Battersea Rd., Glenburnie, Ontario
 - i. Mortgage registered on title in favour of London Life Insurance Company noting a principal amount of \$4,160,190.51.

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- e. 710 Division, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - f. 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario
 - i. Mortgage registered on title in favour of CIBC Mortgages Inc. noting a principal amount of \$3,719,400.00.
 - g. 375 Patrick Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Scotia Mortgage Corporation noting a principal amount of \$6,648,398.00.
- 11) The following Contracts set forth on title to each of the Owned Properties. A copy of each title search result has been provided to the Purchaser:
- a. [NTD: insert list of all Contracts on title to each property requiring consent]

Section 5.5 – Required Authorizations

- 1) Approval under the Housing Services Act (Ontario) from the Ministry of Municipal Affairs and Housing to transfer the Owned Property applicable to the Housing Services Act (Ontario)

Section 5.6 – Required Consents

- 1) Parking and Roadways Agreement between Frontenac Management Board and Kingston Municipal Non-Profit Housing Corporation dated January 1, 2002
- 2) HSC Insite Services Agreement between Housing Services Corporation and Kingston Municipal Non-Profit Housing Corporation dated March 24, 2017
- 3) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated October 6, 2016, as assigned to CWB Maximum Financial Inc. as of December 22, 2016.
- 4) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated September 26, 2017, as assigned to Utilebill Credit Corp as of September 26, 2017.
- 5) Housing Provider Operating Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated July 5, 2005.
- 6) Social Housing Improvement Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 7) Social Housing Electricity Efficiency Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 8) Social Housing Renovation and Retrofit Funding Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated October 21, 2009
- 9) Rent Supplement Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation with a commencement date of April 1, 2015
- 10) The following mortgages:
 - a. 37 Cassidy Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of The Toronto Dominion Bank noting a principal amount of \$5,302,520.00.
 - b. 205 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$5,427,520.00.
 - c. 257 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - d. 2075 Battersea Rd., Glenburnie, Ontario
 - i. Mortgage registered on title in favour of London Life Insurance Company noting a principal amount of \$4,160,190.51.

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- e. 710 Division, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - f. 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario
 - i. Mortgage registered on title in favour of CIBC Mortgages Inc. noting a principal amount of \$3,719,400.00.
 - g. 375 Patrick Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Scotia Mortgage Corporation noting a principal amount of \$6,648,398.00.
- 12) The following Contracts set forth on title to each of the Owned Properties. A copy of each title search result has been provided to the Purchaser:
- a. [NTD: insert list of all Contracts on title to each property requiring consent]

Section 5.12 – Permitted Encumbrances

- 1) The following mortgages:
 - a. 37 Cassidy Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of The Toronto Dominion Bank noting a principal amount of \$5,302,520.00.
 - b. 205 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$5,427,520.00.
 - c. 257 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - d. 2075 Battersea Rd., Glenburnie, Ontario
 - i. Mortgage registered on title in favour of London Life Insurance Company noting a principal amount of \$4,160,190.51.
 - e. 710 Division, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - f. 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario;
 - i. Mortgage registered on title in favour of CIBC Mortgages Inc. noting a principal amount of \$3,719,400.00.
 - g. 375 Patrick Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Scotia Mortgage Corporation noting a principal amount of \$6,648,398.00.
- 2) All Liens set forth on title to each of the Owned Properties. A copy of each title search result has been provided to the Purchaser.
- 3) All Personal Property Security Act (Ontario) registrations as follows:

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File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.					
					I	E	A	O	MV	
1. 733265613 PPSA	29	20171024 1551 1624 5500 Reg. 7 year(s) Expires 24OCT 2024	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	GRAND LEASING HVAC LTD.		X				
Amount \$200933					Secured:					
Maturity November					Date: 2024					
General Collateral					Description:					
QTY (67) GOODMAN FURNACES LOCATED AT 35 ELDON HALL & 55 NOTCH HILL AS PER SCHEDULE										
1. 733265613	30	20171025 1553 1624 5518 A AMNDMNT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	UTILEBILL CREDIT CORPORATION						
Reason ADD					Amendment: PARTY					
					for SECURED					
File No.	Page No.	Reg. No.	Debtor(s)	Secured Party	I Class.					
					CG	I	E	A	O	MV
2. 723805317 PPSA	27	20170103 1936 1531 9947 Reg. 11 year(s) Expires 03JAN 2028	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	GRAND LEASING HVAC LTD.			X		X	
KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION										
General Collateral					Description:					
61 JOHN WOODS WATER HEATERS MODEL# JW850S40N-PV-ES2 61 MAX AIRE MODEL# LV50 AIR HANDLERS, INCLUDING ALL ATTACHMENTS, ADDITIONS, REPLACEMENTS AND SUBSTITUTIONS										
2. 723805317	28	20170104 1038 1529 6378 D ASSGNMT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	CWB MAXIUM FINANCIAL INC.						

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File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.						
					CG	I	E	A	O	MV	
3. 723157002 PPSA	25	20161206 1546 1862 2295 Reg. 11 year(s) Expires 06DEC 2027	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	CIBC MORTGAGES INC.		X	X	X	X		
		General	Collateral	Description: ALL PRESENT AND FUTURE PROPERTY OF THE DEBTOR SITUATE AT, USED IN CONNECTION WITH, OR ARISING OUT OF THE OWNERSHIP OF THE PROPERTIES MUNICIPALLY KNOWN AS 35 ELDON HALL PLACE AND 55 NOTCH HILL ROAD, KINGSTON, ONTARIO.							
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.						
					CG	I	E	A	O	MV	
4. 705837024 PPSA	24	20150506 1341 1862 7562 Reg. 14 year(s) Expires 06MAY 2029	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	THE TORONTO-DOMINION BANK		X	X	X	X		
		No	Fixed	Maturity	Date						
		General	Collateral	Description: SECURITY INTEREST INCLUDING ASSIGNMENT OF RENTS WITH RESPECT TO 37 CASSIDY STREET, KINGSTON							
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.						
					CG	I	E	A	O	MV	
5. 623196648 PPSA	20	20060307 1949 1531 5467 Reg. 5 year(s) Expires 07MAR 2026	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	CIBC		X	X	X	X	X	
5. 623196648	21	20110128 1453 1530 1169 B RENEWAL Renew 5 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION								

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5.	623196648	22	20160108 1001 1219 1320 B Renew 05 RENEWAL year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION											
5.	623196648	23	20210106 0806 1219 1332 B Renew 05 RENEWAL year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION											
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.										
					CG	I	E	A	O	MV					
6.	883483839 PPSA	31	20020523 1148 1070 2138 Reg. 2 year(s) Expires 23MAY 2023	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	CANADA MORTGAGE AND HOUSING CORPORATION			X	X	X					
			General	Collateral	Description:										
			ASSIGNMENT OF RENTS AND LEASES SECURITY INTEREST ON PROPERTY KNOWN MUNICIPALLY AS 257 RIDEAU ST. KINGSTON, ON K7K 7B3 (S.LUNDRIGAN CMHC 15-939-630 REPLACING PPSA 943731576 EXPIRED ON 1998-06-12												
6.	883483839	32	20040429 1003 2333 0146 B Renew 4 RENEWAL year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION											
6.	883483839	33	20080402 1432 2333 2274 B Renew 05 RENEWAL year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION											
6.	883483839	34	20130405 1539 2333 4820 B Renew 05 RENEWAL year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION											

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6.	883483839	35	20180406 1036 2333 6847 B RENEWAL Renew 05 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING															
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.														
					CG	I	E	A	O	MV									
7.	085563261 PPSA	19	20010228 1336 0043 2464 Reg. 25 year(s) Expires 28FEB 2026	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	LONDON LIFE INSURANCE COMPANY														X
			General	Collateral	Description:	GENERAL ASSIGNMENT OF RENTS AND CHATTEL MORTGAGE/SECURITY AGREEMENT RELATING TO 2075 BATTERSEA ROAD, KINGSTON, ONTARIO													
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.														
					CG	I	E	A	O	MV									
8.	080857386 PPSA	12	19971015 1041 0028 5190 Reg. 5 year(s) Expires 15OCT 2023	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	CANADA MORTGAGE AND HOUSING CORPORATION	X		X											X
			General	Collateral	ASSIGNMENT OF RENTS, GOODS AND CHATTELS IN ASSOCIATION WITH 37 5 PATRICK KINGSTON														
8.	080857386	13	20020312 1757 1590 7613 D ASSGNMT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	SCOTIA MORTGAGE CORPORATION														
8.	080857386	14	20020509 1606 1590 8649 B RENEWAL Renew 5 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION															

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8.	080857386	15	20070305 1555 1862 1272 D ASSGNMT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	THE TORONTO-DOMINION BANK									
8.	080857386	16	20070305 1555 1862 1273 B RENEWAL Renew 6 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION										
8.	080857386	17	20120206 1311 1862 0627 D ASSGNMT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION	SCOTIA MORTGAGE CORPORATION									
8.	080857386	18	20120206 1312 1862 0632 B RENEWAL Renew 10 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION										
File No.	Enquiry Page No.	Reg. No.	Debtor(s)	Secured Party	Collateral Class.									
					CG	I	E	A	O	MV				
9.	002858292 PPSA	1	19920615 1531 0019 8192 Reg. 5 year(s) Expires 15JUN 2023	RIDEAUCREST NON-PROFIT HOUSING CORPORATION	CIBC MORTGAGE CORPORATION			X						
		Amount \$5427520 No Fixed Maturity Collateral Description: ALL APPLIANCES AND EQUIPMENT OWNED BY THE MORTGAGOR AND LOCATED AT 205 RIDEAU STREET IN THE CITY OF KINGSTON IN THE COUNTY OF FRONTENAC												
9.	002858292 PPSA	2	19970603 0843 0043 6804 B RENEWAL Renew 5 year(s)	RIDEAUCREST NON-PROFIT HOUSING CORPORATION										

Exhibit C to Report Number 21-160

9.	002858292	3	19990416 1023 1896 0242 D ASSGNMT	RIDEAUCREST NON-PROFIT HOUSING CORPORATION	CANADA MORTGAGE AND HOUSING CORPORATION														
		Reason for Amendment: AMALGAMATION WITH KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION BY LETTERS PATENT DATED JULY 15, 1994																	
9.	002858292	5	19990416 1029 1896 0243 B RENEWAL Renew 1 year(s)	RIDEAUCREST NON-PROFIT HOUSING CORPORATION															
9.	002858292	6	19990416 1038 1896 0244 E TRNSFER	RIDEAUCREST NON-PROFIT HOUSING CORPORATION	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION														
9.	002858292	7	20030523 1457 1070 3064 B RENEWAL Renew 5 year(s)	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION															
9.	002858292	8	20030529 1515 1070 3097 A AMNDMNT	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION															
		Reason for Amendment: INCORRECT MUNICIPAL ADDRESS INDICATED WHEN REGISTERED ORIGINALLY																	
		General Collateral Description: ASSIGNMENT OF RENTS AND LEASES AND COLLATERAL ON PROPERTY KNOWN MUNICIPALLY AS 205 RIDEAU STREET NORTH, KINGSTON, ONTARIO, CMHC 16 820 235																	

Exhibit C to Report Number 21-160

9.	002858292	9	20080605 1256 2333 2334	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION								
			B Renew 05									
9.	002858292	10	20130513 1242 2333 4849	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION								
			B Renew 05									
9.	002858292	11	20180508 1028 2333 6851	KINGSTON MUNICIPAL NON-PROFIT HOUSING CORPORATION								
			B Renew 05									

Section 5.14 – Owned Properties

- 1) 37 Cassidy Street, Kingston, Ontario
 - PT FARM LT 5 CON WEST GREAT CATARAQUI RIVER KINGSTON PT 1 & 2, 13R8663 S/T INTEREST OF THE MUNICIPALITY; KINGSTON ; THE COUNTY OF FRONTENAC
- 2) 205 Rideau Street, Kingston, Ontario
 - PT FARM LT A CON WEST GREAT CATARAQUI RIVER KINGSTON PT 4, 5, 6, 13R10643 T/W FR570758; S/T FR570758E; KINGSTON; THE COUNTY OF FRONTENAC
- 3) 257 Rideau Street, Kingston, Ontario
 - PT FARM LT A CON WEST GREAT CATARAQUI RIVER KINGSTON AS IN FR437011 SRO; KINGSTON; THE COUNTY OF FRONTENAC
- 4) 2075 Battersea Rd., Glenburnie, Ontario
 - PT LT 33 CON 5 KINGSTON PTS 1-7, 9 & 10, 13R10545, PTS 1 & 3, 13R15128, EXCEPT PTS 1, 2 & 3, 13R16141; S/T FR690851; T/W FR690851; KINGSTON; TOGETHER WITH AN EASEMENT OVER PT LT 33, CON 5, PT 1, 13R20350 AS IN FC143206
- 5) 710 Division, Kingston, Ontario
 - PT LT 24 CON 2 KINGSTON PT 1, 2, 3, 4, 5 13R7368 S/T FR448552; KINGSTON ; THE COUNTY OF FRONTENAC
- 6) 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario
 - PT LT 17 CON 1 KINGSTON AS IN FR202063 & FR227907; S/T FR202063; S/T FR176033E; KINGSTON ; THE COUNTY OF FRONTENAC
- 7) 375 Patrick Street, Kingston, Ontario
 - LT 142 – 149, 165 – 172 PL C22 KINGSTON S/T RESERVATIONS IN FR196928; KINGSTON; THE COUNTY OF FRONTENAC

Section 5.15 – Material Contracts

- 1) Parking and Roadways Agreement between Frontenac Management Board and Kingston Municipal Non-Profit Housing Corporation dated January 1, 2002
- 2) HSC Insite Services Agreement between Housing Services Corporation and Kingston Municipal Non-Profit Housing Corporation dated March 24, 2017
- 3) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated October 6, 2016, as assigned to CWB Maximum Financial Inc. as of December 22, 2016.
- 4) Lease Agreement with Grand HVAC Leasing Ltd. and Kingston Municipal Non-Profit Housing Corporation dated September 26, 2017, as assigned to Utilebill Credit Corp as of September 26, 2017.
- 5) Housing Provider Operating Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated July 5, 2005.
- 6) Social Housing Improvement Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 7) Social Housing Electricity Efficiency Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated December 13, 2016
- 8) Social Housing Renovation and Retrofit Funding Program Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation dated October 21, 2009
- 9) Rent Supplement Agreement between the Corporation of the City of Kingston and Kingston Municipal Non-Profit Housing Corporation with a commencement date of April 1, 2015
- 10) All Tenant Leases
- 11) The following mortgages:
 - a. 37 Cassidy Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of The Toronto Dominion Bank noting a principal amount of \$5,302,520.00.
 - b. 205 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$5,427,520.00.
 - c. 257 Rideau Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - d. 2075 Battersea Rd., Glenburnie, Ontario

Exhibit C to Report Number 21-160

- i. Mortgage registered on title in favour of London Life Insurance Company noting a principal amount of \$4,160,190.51.
 - e. 710 Division, Kingston, Ontario
 - i. Mortgage registered on title in favour of Canada Mortgage and Housing Corporation noting a principal amount of \$3,163,960.00.
 - f. 35 Eldon Hall Place and 55 Notch Hill Rd., Kingston Ontario
 - i. Mortgage registered on title in favour of CIBC Mortgages Inc. noting a principal amount of \$3,719,400.00.
 - g. 375 Patrick Street, Kingston, Ontario
 - i. Mortgage registered on title in favour of Scotia Mortgage Corporation noting a principal amount of \$6,648,398.00.
- 12) All Contracts set forth on title to each of the Owned Properties. A copy of each title search result has been provided to the Purchaser.

Section 5.22 – Insurance

Certificate of Insurance No. 2020-187773-E0031-14

Date: October 29, 2020

Type of Insurance

- Property Insurance Policy No. - MCL-2081
- Equipment Breakdown Policy No. - 00001619
- CGL Policy No. - MCL-2083
- Umbrella Liability Policy No. - MCL-2083

*Copy of insurance certificate and policies have been provided to the Purchaser.

Section 5.23 – Litigation

Nil.

Section 6.3 – No Conflict with Authorizations, Laws Etc. (Kingston & Frontenac Housing Corporation)

- 1) Authorization from the Ministry of Municipal Affairs and Housing under the Housing Services Act (Ontario)

Section 6.4 – Required Authorizations (Kingston & Frontenac Housing Corporation)

- 1) Approval under the Housing Services Act (Ontario) from the Ministry of Municipal Affairs and Housing to transfer the Owned Property applicable to the Housing Services Act (Ontario)

Section 10(h)(vi) – Released and Discharged Liens

Nil

EXHIBIT A

FORM OF PROMISSORY NOTE

Cdn. \$45,720,172.00

July 2, 2021

For value received, the undersigned hereby acknowledges its indebtedness to and hereby promises to pay to Kingston Municipal Non-Profit Housing, a corporation formed under the laws of the Province of Ontario, (the "Lender"), at such address as directed by the Lender, from time to time, the sum of Forty Five Million Seven Hundred Twenty Thousand One Hundred and Seventy Two Dollars (\$45,720,172.00) (the "Principal Amount") in lawful currency of Canada, without interest.

The Principal Amount shall be payable in 15 equal consecutive annual installments of \$3,048,011.47 beginning on the first anniversary of this Promissory Note and every year thereafter, *provided that* all amounts outstanding under this Promissory Note shall be due and payable on July 2, 2036 (the "Maturity Date").

The outstanding Principal Amount may be paid at any time, without notice, bonus or penalty. The parties hereto waive demand and presentation for payment, notice of non-payment, protest and notice of protest of this Promissory Note.

Upon the occurrence of any of the following events, the Lender may, at its option and by written notice to the undersigned, declare the entire Principal Amount immediately due and payable:

- (a) The Borrower fails to pay, when due, any amount of principal owing under this Promissory Note and such failure continues for 30 days;
- (b) The commencement by or against the undersigned of any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar proceeding relating to the undersigned or its debts in any jurisdiction; or
- (c) The corporate structure, status or purpose of the undersigned changes so that it does not, or cannot, provide assisted or social housing.

The undersigned acknowledges that this Promissory Note has been issued to the Lender for business purposes within the meaning of the *Limitations Act, 2002* (Ontario), and agrees that any limitation period applicable to this Promissory Note (other than the ultimate limitation period provided for in section 15 of the said Act) is suspended and shall not apply to this Promissory Note or the obligations of the undersigned hereunder.

This Promissory Note may not be assigned or otherwise transferred by the undersigned except with the prior written consent of the Lender. This Promissory Note may be assigned or otherwise transferred by the Lender to The Corporation of the City of Kingston, without consent of the undersigned. Whenever this Promissory Note reference is made to the undersigned or Lender, such reference shall be deemed to include, as applicable, a reference to successors and permitted assigns, as applicable. The provisions of this Promissory Note shall enure to the benefit of and be binding upon such successors and permitted assigns.

This Promissory Note shall be governed by, and interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Exhibit C to Report Number 21-160

IN WITNESS WHEREOF the undersigned has executed this Promissory Note by its officer authorized on the first date written above.

KINGSTON & FRONTENAC HOUSING
CORPORATION

per: _____

_____, President

PROMISSORY NOTE

Cdn. \$45,720,172.00

July 2, 2021

FOR VALUE RECEIVED, the undersigned hereby acknowledges its indebtedness to and hereby promises to pay to **Kingston Municipal Non-Profit Housing**, a corporation formed under the laws of the Province of Ontario, (the "**Lender**"), at such address as directed by the Lender, from time to time, the sum of Forty Five Million Seven Hundred Twenty Thousand One Hundred and Seventy Two Dollars (**\$45,720,172.00**) (the "**Principal Amount**") in lawful currency of Canada, without interest.

The Principal Amount shall be payable in 15 equal consecutive annual installments of **\$3,048,011.47** beginning on the first anniversary of this Promissory Note and every year thereafter, *provided that* all amounts outstanding under this Promissory Note shall be due and payable on July 2, 2036 (the "**Maturity Date**").

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- (b) The commencement by or against the undersigned of any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar proceeding relating to the undersigned or its debts in any jurisdiction; or
- (c) The corporate structure, status or purpose of the undersigned changes so that it does not, or cannot, provide assisted or social housing.

The undersigned acknowledges that this Promissory Note has been issued to the Lender for business purposes within the meaning of the *Limitations Act, 2002* (Ontario), and agrees that any limitation period applicable to this Promissory Note (other than the ultimate limitation period provided for in section 15 of the said Act) is suspended and shall not apply to this Promissory Note or the obligations of the undersigned hereunder.

This Promissory Note may not be assigned or otherwise transferred by the undersigned except with the prior written consent of the Lender. This Promissory Note may be assigned or otherwise transferred by the Lender to The Corporation of the City of Kingston, without consent of the undersigned. Whenever this Promissory Note reference is made to the undersigned or Lender, such reference shall be deemed to include, as applicable, a reference to successors and permitted assigns, as applicable. The provisions of this Promissory Note shall enure to the benefit of and be binding upon such successors and permitted assigns.

-2-

This Promissory Note shall be governed by, and interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF the undersigned has executed this Promissory Note by its officer authorized on the first date written above.

KINGSTON & FRONTENAC HOUSING CORPORATION

per: _____
_____, President

Promissory Note Side Agreement

This Promissory Note Side Agreement (this "**Agreement**") dated _____, 2021 (the "**Effective Date**").

BETWEEN:

THE CORPORATION OF THE CITY OF KINGSTON (the "**City**"),

- and-

KINGSTON & FRONTENAC HOUSING CORPORATION ("**KFHC**").

WHEREAS KFHC and Kingston Municipal Non-Profit Housing Corporation ("**THK**") have entered into a business purchase agreement, dated as of **June 22, 2021**, (the "**Business Purchase Agreement**") whereby THK has agreed to sell, assign and otherwise transfer all or substantially all of its assets and operations to KFHC;

AND WHEREAS as part consideration for payment of the purchase price under the Business Purchase Agreement, KFHC issued a promissory note to THK (the "**Promissory Note**") attached hereto as Schedule A, as may be finally adjusted in accordance with the Business Purchase Agreement;

AND WHEREAS THK has indicated its intent to wind up and dissolve its corporate existence following the closing of the transactions contemplated in the Business Purchase Agreement and to distribute and assign its residual assets to the City, including the Promissory Note;

AND WHEREAS in the event the Promissory Note is assigned by THK to the City, the City and KFHC wish to have a mutual understanding as to the required payments and arrangements for such debt on the terms and conditions of this Agreement;

NOW THEREFORE in consideration of One Dollar (\$1.00), the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

ARTICLE I

Contribution of Promissory Note Debt to Stated Capital of City Shares

Section 1.01 Acknowledgment and Agreement. KFHC acknowledges THK's right to assign the Promissory Note to the City, and hereby agrees to be liable to the City, in the event the Promissory Note is assigned to the City, for such debt pursuant to the terms and conditions of the Promissory Note.

Section 1.02 Conversion of Debt to Stated Capital. The annual payment due by KFHC in accordance with the terms of the promissory note shall be offset as a contribution to the stated capital of the shares held by the City, as sole shareholder of all of the issued and outstanding shares

of KFHC (the “Share Stated Capital Contribution”). The Share Stated Capital Contribution shall be subject to the following continuing conditions:

- (a) The terms of this Agreement providing for the contribution of debt to stated capital may be altered by the City if:
 - (i) There is default or event giving rise to acceleration of payment pursuant to the terms of the Promissory Note;
 - (ii) So directed by the Service Manager in accordance with the Housing Services Act (Ontario);
 - (iii) Permitted by the terms of the shareholder agreement between the City and KFHC; or
 - (iv) Permitted or directed by applicable government authority.
- (b) In the event that the Promissory Note has not been assigned by THK to the City prior to the first annual instalment, the City agrees to make an additional advance or advances of capital to KFHC equal to the payment(s) due by KFHC to THK in accordance with the terms of the Promissory Note prior to such payment(s) falling due, with such advance to be recorded as an increase to the stated capital of the shares held by the City.

**ARTICLE II
Miscellaneous**

Section 2.01 Notice. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement shall be in writing and shall be deemed to have been delivered, given and received: (a) on the date of delivery when delivered by hand; (b) on the date of receipt by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email if sent between 9:00 a.m. and 5:00 p.m. on a business day, and on the next business day if sent after those hours or not on a business day; and (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this **Error! Reference source not found.**):

to the KFHC:	119 Van Order Drive, Kingston, Ontario K7M 1B9
	Email: mlcousinsbrame@kfhc.ca
	Attention: Mary-Lynn CousinsBrame
to the City:	216 Ontario Street, Kingston, Ontario K7L 2Z3
	Email: amcleod@cityofkingston.ca
	Attention: Alan Mcleod

Section 2.02 Time of the Essence. Time shall in all respects be of the essence in this Agreement.

Section 2.03 Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

Section 2.04 Amendments. No amendment or modification of this Agreement shall be binding unless in writing and signed by all the parties to this Agreement.

Section 2.05 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by electronic signature, email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 2.06 Governing Law. This Agreement is governed by and construed in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein.

Section 2.07 Entire Agreement. This Agreement constitutes the entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

THE CORPORATION OF THE CITY OF
KINGSTON

By: _____

Name:

Title:

KINGSTON & FRONTENAC HOUSING
CORPORATION

By: _____

Name:

Title:

This Agreement made this 21st day of April, 2016, 2012.

Between:

The Corporation of the City of Kingston

(“the Shareholder”)

-and-

Kingston & Frontenac Housing Corporation

(“the Corporation”)

SHAREHOLDER AGREEMENT

WHEREAS the Shareholder is the Corporation of the City of Kingston, a municipality operating pursuant to the *Municipal Act, 2001* (“MA2001”) and other applicable legislation;

AND WHEREAS a Corporation is the Kingston & Frontenac Housing Corporation, a local housing corporation operating pursuant to the *Housing Services Act, 2011*, S.O. 2011, Chapter 6, Schedule 1 (“HSA”) and incorporated under the *Business Corporations Act*, R.S.O. 1990, Chapter B.16 (“BCA”);

AND WHEREAS the business of the Corporation is integral to the well being of the residents of the City of Kingston and the County of Frontenac and, as a result, the parties recognizes it is in the best interests of the Corporation, Tenants, Stakeholders and the greater community whom the business of the Corporation affects that the Corporation conduct its affairs in a manner consistent with the terms of this Agreement;

AND WHEREAS the Shareholder and the Corporation wish to enter into this Shareholder Agreement (“Agreement”) with respect of certain duties and powers described in the corporate documents as well as applicable legislation and regulation.

THEREFORE the parties to this Agreement agree as follows:

ARTICLE 1: DEFINITIONS, PARAMOUNCY AND INTERPRETATION

1.1 In this Agreement, the following terms shall have the meanings as set out below:

“Act” means *Housing Services Act, 2011*, S.O. 2011, Chapter 6, Schedule 1 (“HSA”) and, as applicable, all regulations in force there under as amended from time to time;

“Affordable Housing” means rental housing which is not Social Housing which receives public funding in the form of subsidies, loans or grants under the Act or otherwise made available under the jurisdiction or subject to the oversight of the Service Manager;

“Affordable Ownership Housing” means owner occupied housing which receives public funding in the form of subsidies, loans or grants under the Act or otherwise made available under the jurisdiction or subject to the oversight of the Service Manager;

“Annual Information Return” means a summary of the Corporation’s financial, operating and statistical information for the fiscal year;

“Annual Report” means the report prepared by the Corporation as indicated in Subsection 7.6;

"Articles of Incorporation" means the Articles of Incorporation of the Kingston & Frontenac Housing Corporation issued pursuant to the Ontario *Business Corporations Act*;

"Arm's Length" shall have the same meaning as defined in Section 251(1) of the *Income Tax Act* (Canada) (R.S.C. 1985, c.1 (5th Supp.);

"Auditor" means a person appointed by Shareholder in compliance with the Act;

"Board" means the Board of Directors of the Corporation;

"Capital Reserve Fund" means the total funds held to be used for future replacement of major capital items as well as chattels where the context requires;

"Corporation" means Kingston & Frontenac Housing Corporation;

"Council" means the Council of the City of Kingston;

"Directive" means a mandatory direction duly authorized and issued to any or all Housing Providers including the Corporation by the Service Manager pursuant to the Act.

"Director" means a member of the Board of the Corporation;

"Financial Statements" means audited statements, reports, notes and information prepared in accordance with generally accepted accounting principles to the satisfaction of the Service Manager as required in accordance with *the Act* and any applicable Regulations.

"Housing Portfolio" means all housing projects managed by the Corporation;

"Housing Provider" means an entity which operates a housing project under the jurisdiction of the Service Manager;

"Lien" means any mortgage, assignment, encumbrance, lien or security interest, regardless of form, that secures the payment of any indebtedness or liability or the observance or performance of any obligation;

"MFIPPA" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 and regulations there under, as amended from time to time;

"Monthly Financial Report" means a summary of the financial and analytical performance of the Housing Portfolio for the period of one month;

"Shareholder" means the Corporation of the City of Kingston exercising its authority as sole holder of all shares in the Corporation;

"Service Manager" means the City of Kingston exercising its authority to administer the delivery of social housing programs under the Act separately and distinct from the City of Kingston acting as Shareholder;

"Social Housing" means rental housing which receives public funding in the form of rent-g geared-to-income and other support under the Act or otherwise made available under the jurisdiction or subject to the oversight of the Service Manager;

"Subsidiary" means an corporation affiliated with the Corporation which provides services approved by the Shareholder pursuant to section 4.3 herein but which are beyond the jurisdiction of the Service Manager;

"Tenant" means a person who pays rent in return for the right to occupy a rental unit defined by the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17;

“Third Party” means a person who deals at arm’s length with the Corporation as defined by subsection 251 (1) of the Income Tax Act (R.S.C. 1985, c.1 (5th Supp.)).

- 1.2 In the event of any inconsistency between the terms of this Agreement and the terms of the articles or By-laws of the Corporation, the terms of this Agreement shall prevail to the extent of the conflict.
- 1.3 The defined terms “Affordable Housing”, “Affordable Ownership Housing”, “Social Housing” and the undefined term “housing” are to be given a generous and broad interpretation and read in such a way that the Corporation may manage and administer its Housing Portfolio in accordance with Article 2 below.

ARTICLE 2: PURPOSES, OBJECTIVES AND PRINCIPLES

2.1 The two purposes of this Agreement are as follows:

- a. to provide the Board with the Shareholder’s objectives and principles for governance of the Corporation; and
- b. to set out accountability and reporting processes to be adopted between the Board and the Shareholder.

2.2. The objectives of the Shareholder in connection with its relationship with the Corporation are as follows:

- a. the Corporation will operate at arm’s length from the Shareholder and be responsible for the management of its Housing Portfolio;
- b. the Corporation will seek to maximize the use of its assets to provide both Affordable and Social Housing for the residents of the City of Kingston and the County of Frontenac;
- c. the assets of the Corporation will be maintained in good repair and where reasonably possible the value of the assets shall be maintained and, where possible, increased;
- d. the Corporation shall strive to maintain and improve the current standards and levels of its operations and services at the lowest possible financial cost and risk to the Shareholder;
- e. the Corporation will provide a safe, secure and healthy environment for its Tenants; and
- f. the Corporation will operate based on a long-range strategic planning which:
 - i. is consistent with the objectives and principles set out in this Agreement,
 - ii. respects the opinions and experience Tenants, and
 - iii. preserves the value of the assets of the Corporation.

2.3 The following principles will govern the operations of the Corporation:

- a. the Corporation will abide by the Homelessness and Affordable Housing policies and other applicable policies of the Shareholder as approved from time to time;
- b. the Corporation will provide equitable access to housing in compliance with requirements contained within the Act and as required by law;
- c. the Corporation will conduct business in a manner that preserves housing for Tenants, allows tenants to live independently to the greatest degree possible, and ensures to the greatest degree possible a barrier-free environment;
- d. Tenants and other stakeholders shall have an opportunity to participate in decision making within the Corporation.
- e. the Corporation will;
 - i. ensure openness, accountability and transparency while protecting the financial best interests of the Corporation;
 - ii. maximize savings;
 - iii. ensure service and product delivery, quality, efficiency and effectiveness;

- iv. encourage competitive bidding for the acquisition and disposal of goods and services where practicable;
- v. ensure fairness among bidders;
- vi. encourage the procurement of goods and services with due regard to the preservation of the natural environment;
- vii. provide Corporation staff that have purchasing responsibilities clear direction on policy to be followed.

ARTICLE 3: BUSINESS OF THE CORPORATION

- 3.1 The Shareholder agrees that the Corporation may be engaged in any of the following business activities:
- a. operating, owning or having an ownership interest in housing including Social Housing, Affordable Housing and Affordable Ownership Housing within the City of Kingston and the County of Frontenac and providing related services to residents of the City of Kingston and the County of Frontenac;
 - b. partnering with others in Social Housing, Affordable Housing and Affordable Ownership Housing property developments, providing housing services to other agencies and other initiatives;
 - c. providing additional services to Tenants including parking, cable distribution, laundry, etc.;
 - d. leasing commercial premises within the Housing Portfolio;
 - e. purchasing and developing property as well as renovating existing buildings for the purpose of promoting the principles and objectives set out herein;
 - f. delivery of programming including, but not limited to, management of waiting lists and some part or all of the rent supplement program as required by the Service Manager from time to time;
 - g. creation of one or more Subsidiaries to assist the Corporation in meeting its goals;
 - h. establishment of committees of the Board to assist the Corporation in meeting its goals; and
 - i. such further and other business activities undertaken for the purpose of promoting the principles and objectives set out herein.
- 3.2 The Board of Directors of the Corporation shall call an annual meeting of Shareholders not later than fifteen (15) months after holding the last preceding annual meeting and within six (6) months of year-end.
- 3.3 In addition to holding an annual meeting, the Board shall report to the Shareholder on any major business developments, material adverse results or other extraordinary events at a special meeting of the Shareholder called by the Board, as the Board, in its discretion, considers appropriate.

ARTICLE 4: MANAGEMENT OF THE CORPORATION

- 4.1 The Board of Directors are responsible for the overall management and supervision of the Housing Portfolio of the Corporation, and shall ensure that in fulfilling its responsibilities the Corporation shall maintain compliance with applicable legislation, including the Act and *OBCA*, related Regulations and any Directives issued by either the Government of the Province of Ontario and the Shareholder as the Service Manager from time to time.
- 4.2 With respect to operational matters and reporting, the Board will ensure that:
- a. the Corporation meets the financial performance standards set out in Article 7;
 - b. the Auditor will deliver the audited Financial Statements of the Corporation for consideration by the Shareholder within 5 months after the end of each fiscal year;
 - c. the Annual Information Return is completed accurately and delivered within the required time;
 - d. the Shareholder will receive reports on any deficiencies in internal control or operations as may otherwise come to the Board attention including those reported by the Auditor;
 - e. any other information or reports are provided to the Shareholder upon request.
 - f. Officers of the Corporation are appointed annually;
 - g. annual and long-range strategies and plans are established which are consistent with this Agreement;
- 4.3 The power of the Corporation to create Subsidiaries is subject to the following conditions
- a. Corporation may only plan and incorporate a Subsidiary with Shareholder approval;
 - b. the Corporation shall provide the Shareholder with such information relating to the purpose and governance of the Subsidiary and other such information, as the Shareholder may require to consider approval of the Subsidiary; and
 - c. subject to the determination of the Shareholder, each Subsidiary shall be subject to the same terms as set out in this Agreement.
- 4.4 The Board shall avoid conflict of Interest and promote fiduciary responsibilities in accordance with, but not limited to, the following:
- a. no Director, officer or employee will enter into any relationship, arrangement, contract which may result in or appear to be a conflict of interest;
 - b. no Director shall directly or indirectly receive any payment of any nature from the Corporation, or any Subsidiary, on any basis except for reimbursement of expenses approved by the Board related to the obligations of a Director;
 - c. each Director, officer and employee will declare a potential or actual conflict of interest to the Board at the earliest possible time and such declaration will be considered no later than the next meeting of the Board;
 - d. no director, officer or employee will breach their responsibilities as they relate to their fiduciary relationship with the Corporation; and
 - e. the Corporation will ensure Directors are informed and aware of and also in compliance with conflict of interest and fiduciary duty best practices which are provided by law, provided by the Service Manager or otherwise identifiable.
- 4.5 The parties recognize that all information between the Shareholder and Corporation relating to personnel and specific operating matters is confidential information, and such confidential information shall not be disclosed, except as may be necessary in the proper discharge of their duties under this Agreement or as required by applicable legislation, including the *Municipal or Provincial Freedom of Information and Protection of Privacy Acts*, R.S.O. 1990, c. M.56; the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, and the

Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5 as applicable.

- 4.6 The Board of Directors will hire a Chief Executive Officer who shall:
- a. report to the Board as required by the Board
 - b. approve and administer the employment of staff; and
 - c. ensure provide a safe, healthy and positive working environment is provided in accordance with this Agreement and the legal obligations of Corporation.

ARTICLE 5: OPERATIONS POLICY

- 5.1 The Corporation shall deliver housing to Tenants in accordance with this Agreement and will develop and implement operational policy and procedures in such areas, as:
- a. collection and control of rental arrears; management and control of vacancy loss and unit turn-over time, control of utility costs, etc.
 - b. eviction prevention;
 - c. system of tenant representation, and tenant input and participation related to local and corporate decision making;
 - d. complaint tracking system with inquiries and complaints being forwarded and recorded in the database;
 - e. systems to measure levels and standards of service;
 - f. creation and implementation of cost reduction programs to ensure that operating costs are minimized and the most efficient cost structure exists to maximize the return on the Shareholder's equity;
 - g. regular reporting to the Shareholder and Service Manager on operational issues; and
 - h. any other operational issues as directed by the Shareholder.
- 5.2 The Corporation shall provide any reports, documents and information as requested by the Service Manager at the times and in the form and manner requested by the Service Manager.
- 5.3 The Corporation acknowledges that, pursuant to the Act, the Service Manager retains control of every record that is created by or is in the custody of the Corporation.
- 5.4 The Shareholder may direct the Corporation to develop or supplement any existing policies, guidelines, procedures of the Corporation in compliance with the Act, and related regulation.

ARTICLE 6: SHAREHOLDER APPROVALS

- 6.1 Where approvals are required pursuant to the Bylaw or this Agreement, the Corporation shall give such advance written notice to the Shareholder as required by the Shareholder of the need for the approval and provide such information as is reasonably necessary for the Shareholder to make an informed decision regarding the subject matter of the approval.
- 6.2 The Corporation or any Subsidiary shall not undertake any of the following corporate procedures without the prior approval of the Shareholder:
- a. amend its articles or make, amend or repeal any by-law;
 - b. amalgamate, apply to continue as a body corporate under the laws of another jurisdiction, merge, consolidate or re-organize or approve or otherwise effect any plan of arrangement related to changes to corporate status or articles of incorporation, in each case whether statutory or otherwise;
 - c. take or institute proceedings for any winding up, arrangement reorganization or dissolution;
 - d. create new classes of shares or reorganize, consolidate, subdivide or otherwise change its outstanding securities;

- e. refinance for the purposes of new development/ redevelopment;
- f. sell, or otherwise dispose of, all or substantially all of its assets or undertakings;
- g. appoint or change the Auditor;
- h. make any change to the number of directors comprising the Board;
- i. enter into any other transaction or take any other action that requires shareholder approval pursuant to the OBCA;
- j. initiate the planning to undertake any major redevelopment or change in the Housing Portfolio or to land bank for future affordable housing development.
- k. create one or more Subsidiaries to assist the Corporation in meeting its goals; and
- l. Issue public statements about any item listed above except by way of a notice issued pursuant to section 6.1 above.

6.3 The Corporation or any Subsidiary shall not undertake any of the following financial obligations without the prior approval of the Shareholder:

- a. provide any financial assistance, whether by loan, guarantee or otherwise, to any person including any director or officer of the Corporation;
- b. make any single capital expenditure in an amount exceeding in aggregate \$1,000,000.00 in any fiscal year in connection with maintenance or capital repairs of the buildings;
- c. acquire any interest in housing provision, undertaking or securities operating outside of the municipal boundaries of the City of Kingston;
- d. invest funds in publicly-traded securities other than governmental debt, Canadian chartered bank or Canadian corporate securities rated less than A/R-1 (low) (or its equivalent) by CBRS Inc. or Dominion Bond Rating Services Limited;
- e. enter into any agreement, commitment or investment that provides recourse to the assets of the Corporation or creates any encumbrance, lien, security interest or recourse in favour of any Third Party in such assets;
- f. create, incur or assume any unsecured indebtedness that, by its terms or by any other agreement, ranks higher than any indebtedness of the Corporation held by the Shareholder;
- g. create any lien on its assets, other than:
 - i. any lien in favour of the Shareholder;
 - ii. liens securing purchase money obligations, trade debts or other liabilities incurred in the ordinary course of business (other than in relation to the borrowing money) if the aggregate principal amount of such obligations does not exceed \$5,000,000.00 at any time;
 - iii. liens securing credit facilities created or incurred for the purpose of providing operating financing for day-to-day working capital requirements of the Corporation if the aggregate principal amount of such credit facilities does not exceed \$5,000,000.00 at any time;
 - iv. liens held by any governmental authority that have not at the time been filed or registered against the title to the Corporation's assets or served upon the Corporation pursuant to law or that relate to obligations of the Corporation that are not due or delinquent.
- h. dispose of or acquire any Housing Portfolio asset of the Corporation;
- i. make any decision that would materially or adversely affect the tax or regulatory status of the Corporation;
- j. take or institute proceedings for any legal reorganization of the Corporation.

6.4 Any approvals of the Shareholder required under this Article shall be made through the passing of a duly authorized by-law of the Shareholder.

ARTICLE 7: FINANCIAL PERFORMANCE AND REPORTING

7.1 The financial performance of the Corporation will be monitored by the Service Manager acting in accordance with the requirements of the Act through Monthly Financial Reports and the Annual Information Return based on the Corporation's audited Financial Statements.

- 7.2 The Corporation will prepare standard monthly financial and analytical reports for the Housing Portfolio, including:
- a. balance sheet;
 - b. revenue and expense report;
 - c. administrative expense report;
 - d. rent arrears report;
 - e. normal month-end reconciliation and analysis of accounts for the reporting period; and
 - f. vacancy loss.
- 7.3 Reporting requirements under section 7.2 may be amended as required by the Service Manager in accordance with the Act.
- 7.4 The Corporation will prepare an Annual Information Return as prescribed under the Act, and in particular Part VI of Ont. Reg. 339/01, including:
- a. financial information;
 - b. subsidy calculations and schedules supporting subsidy calculations;
 - c. statistical information.
- 7.5 The Corporation's Financial Statements will be audited annually with the following requirements:
- a. the Auditor must be licensed under the *Public Accountancy Act*, R.S.O. 1990, c. P. 37 and shall be appointed subject to Shareholder approval pursuant to section 6.2;
 - b. the Auditor will provide the Auditor's Report and the Auditor's Report on Financial Information for the Corporate Annual Information Return and shall further provide the Auditor's report on the Corporation's Financial Statements. In case of any operational weaknesses, the Auditor will prepare a report to the Board on issues identified during the audit.
- 7.6 The Corporation shall, in consultation with the Auditor, adopt and use the accounting policies which may be approved by the Board from time to time, and such policies and procedures will be in accordance with generally accepted accounting principles and applicable regulatory requirements.
- 7.7 The Corporation will produce an annual report outlining the general state of the Corporation and shall submit this report to the Shareholder within six (6) months of the Corporation's year-end or at the time of the Corporation's Annual General Meeting, in accordance with Section 3.2, or as may be required by the Shareholder. The Annual Report will such information as is required by the Shareholder including but not limited to:
- a. such explanations, notes and information as is required to account for any variances between the actual results from operations and the budgeted amounts set forth in the approved budget, and any material variances in the projected ability of any business activity to meet or continue to meet the financial objectives of the Shareholder;
 - b. information that is likely to materially affect the Shareholder's objectives;
 - c. information regarding any matter, occurrence or other event which is a material breach or violation of any law, including major findings of internal and other audits;
 - d. a report on the Corporation's five year business plan outlining the strategic direction and new business initiatives which the Corporation may undertake or recommend for approval;
 - e. information regarding the performance of the Corporation such that the Shareholder can determine that the business plan has been respected;
 - f. information regarding the performance of the Corporation such that the Shareholder can determine that the Shareholder Declaration has been respected; and
 - g. any such additional information as the Shareholder and/or the Service Manager may specify from time to time.

- 7.8 The Corporation shall ensure that operational policies are in place to:
- a. implement the most efficient cost structure available for like businesses;
 - b. mandate the creation and implementation of the cost reduction programs to ensure that costs are minimized;
 - c. protect the Shareholder's equity; and
 - d. protect and enhance the value of the Corporation's stock of affordable housing and other capital assets.
- 7.9 The Board shall ensure that the Corporation meets the financial performance standards set by the Board as well as those set by the Shareholder and/or Service Manager.

ARTICLE 8: OPERATING BUDGET, CAPITAL RESERVE FUND AND PURCHASING

- 8.1 The annual operating budget of the Corporation, including projected revenue and expenses as they relate to the services provided pursuant to this Agreement, shall be
- a. submitted for review and comment to the Service Manager acting in accordance with the requirements of the Act; and
 - b. submitted to the Board for approval.
- 8.2 The annual operating budget shall include but not be limited to providing the following information:
- a. any proposed changes in staff complement, reclassifications, and merit salary increases;
 - b. an estimate of expenditures to be incurred by the Corporation in respect of the operation of the Housing Portfolio including a breakdown of such expenditures for each Housing Project, including the estimated cost of repairs, maintenance, improvements, utilities, insurance, administration and taxes;
 - c. an estimate of the gross revenue to be derived from the Housing Portfolio including a breakdown for each Housing Project, from rentals and all other sources;
 - d. an estimate of expenditures to be incurred by the Corporation in respect to capital expenditures for each Housing Project
 - e. supporting reports to the capital budget setting forth by project the nature and type of capital expenditures proposed to be made in the following fiscal year; and
 - f. a five year capital expenditure projection identifying the major expenditures by project, type and anticipated cost in each of the fiscal years.
- 8.3 The Corporation shall not operate in a deficit in any fiscal year.
- 8.4 The Corporation will establish and maintain a Capital Reserve Fund for its Housing Portfolio as required by the Act and in compliance with Part VI of Ont. Reg. 339/01 as amended from time to time.
- 8.5 The amount of the annual budget contributions towards the Capital Reserve Fund shall be approved by the Board of Directors and submitted to the Service Manager, acting on behalf of the Shareholder, for approval.
- 8.4 Capital Reserve Funds must be applied to capital expenditures only.
- 8.5 The Corporation will establish purchasing practices that ensure that the Corporation will manage all financial transactions in a transparent and open manner which are fair and in accordance with best purchasing practices for a public institution operating in the Province of Ontario.
- 8.6 In compliance with the Act, the Corporation is liable for purchasing comprehensive insurance for the Corporation to include, but not limited to, property insurance,

public liability, Board Member liability, and boiler insurance. The Corporation will notify the Service Manager, acting on behalf of the Shareholder when such insurance is in place and provide a copy of the insurance certificate annually.

ARTICLE 9: ANNUAL INFORMATION RETURN

- 9.1 The Annual Information Return with the auditor's reports and a copy of the Corporation's audited Financial Statements, signed on behalf of the Board by two members, must be submitted to the Service Manager within five (5) months of the Corporation's year-end. The Service Manager may request additional information to be included into the Annual Information Return.
- 9.2 The Monthly Financial Reports must be submitted to the Service Manager within thirty (30) days of the month-end.
- 9.3 The Corporation will retain corporate and financial records for at least seven (7) years after the end of the fiscal year and other records in accordance with its records retention policy in accordance with the requirements of the Act and in particular Part VI of Ont. Reg. 339/01.
- 9.4 The Service Manager shall have unrestricted access to the books and records of the Corporation during normal business hours and shall treat all information of the Corporation with the same level of care and confidentiality as any records of the Shareholder.
- 9.6 The Corporation will provide other information and reports that the Shareholder may, from time to time, deem necessary.

ARTICLE 10: MISCELLANEOUS PROVISIONS

- 10.1 In the event of any material breach of this Agreement by the Corporation, the Service Manager acting on behalf of the Shareholder shall immediately and formally communicate with the Board and request compliance. Should the Board decline or fail to comply, the Service Manager, with the approval of the Shareholder, may undertake one or more of the following actions:
- a. suspend or restrict the internal signing authorities of the Corporation;
 - b. impose an administrator or manager on the Corporation;
 - c. suspend all or some of the subsidies received from the Service Manager; or
 - d. impose any such remedy as the Service Manager or Shareholder deems necessary in order to return the Corporation to full compliance.
- 10.2 This Shareholders Agreement may be amended solely at the discretion of the Shareholder or as requested by the Corporation. In all cases, the Shareholder will provide prior written notice to the Board of any proposed amendments to this Shareholders Agreement.
- 10.3 Except as provided in Article 6 above, this Agreement is not intended to constitute a unanimous Shareholder Agreement under the OBCA or to formally restrict the exercise of the powers of the Board.
- 10.4 Any notice shall be in writing and may be delivered by hand or by courier, by registered mail, or by facsimile or other electronic means that provides a paper record of the text of the notice, addressed to the Party for whom it is intended at the address in the Agreement or at the last address of which the sender has received notice in accordance with this section. Any notice shall be deemed to be effective seven days from the day it is delivered, mailed or electronically sent.
- 10.5 Any condoning, excusing or overlooking by the Shareholder of any default, breach or non-observance by the Corporation of any covenant, proviso or condition herein contained does not operate as a waiver of the Shareholder's rights hereunder in

respect of subsequent defaults, breaches or non-observances and does not defeat or affect in any way the rights of the Shareholder herein in respect of any subsequent defaults or breaches.

- 10.6 The Agreement constitutes the entire and sole Agreement between the parties with respect to the subject matter of the Agreement and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in the Agreement. There are no terms, covenants, representations, statements or conditions binding on the parties other than those contained in the Agreement.
- 10.7 The Corporation will ensure it is in compliance with the Act and all other applicable legislation and regulations, as amended from time to time which would pertain to the Corporation in normal day to day business operations including but not limited to those referenced elsewhere in this *Agreement and Employment Standards Act, 2000, S.O. 2000, c. 41; Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4; Labour Relations Act, 1995, S.O. 1995, c. 1, Schedule. A; Occupational Health and Safety Act, R.S.O. 1990, c. O.1; the Business Corporations Act, R.S.O. 1990, c. B.16; the Human Rights Code, R.S.O. 1990, c. H.19; the Building Code Act, 1992, S.O. 1992, c. 23; the Tenant Protection Act, 1997, S.O. 1997, c. 24; and the Residential Tenancies Act, 2006, . This agreement shall be construed and governed in accordance with the laws of the Province of Ontario and the Federal Government of Canada. This Agreement is subject to the provisions of all applicable law, including the *Municipal Freedom of Information and Privacy Act, RSO 1990, c. M54* and other applicable privacy legislation.*

10.8 This agreement shall be binding upon and ensure to the benefit of the parties and their respective successors and assigns.

IN WITNESS WHEREOF the service manager and service agent have signed and sealed this Agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of

I/We have the authority
to bind the organization

) THE CORPORATION OF THE
) CITY OF KINGSTON

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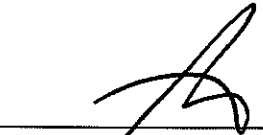
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Mark Gerretsen, Mayor

~~Bryan Paterson~~



John Bolognone, City Clerk

) KINGSTON & FRONTENAC
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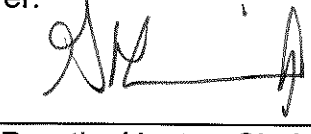
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Dorothy Hector, Chair

~~Geoff Heminsky~~



Mary Lynn Cousins Brame, CEO

By-Law Number 201X-XX

**A By-Law to Authorize an Agreement Pursuant to Section 6.4 of the
Shareholder Agreement issued between the City of Kingston and
KFHC dated April 21, 2016**

Passed: June 22, 2021

Whereas the Council of the City of Kingston is the Shareholder of Kingston & Frontenac Housing Corporation (“KFHC”); and

Whereas at the meeting of the Board of Kingston Frontenac Housing approval was given to recommend to the Shareholder a number of matters related to the transfer of assets from Kingston Municipal Non-Profit Housing Corporation (Town Homes Kingston) Town Homes Kingston to KFHC; and

Whereas pursuant to section 6.4 of the Shareholder Agreement issued between the City of Kingston and KFHC dated April 21, 2016 requires that approval of any matter listed in 6.3 of the Shareholder Agreement including acquisition of housing assets and related encumbrances; and

Whereas Council is desirous of taking all steps required to facilitate the transfer of assets from Kingston Municipal Non-Profit Housing Corporation (Town Homes Kingston) Town Homes Kingston to KFHC;

Therefore Be It Resolved That the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. The City of Kingston is authorized to enter into agreement pursuant to section 6.4 of the Shareholder Agreement issued between the City of Kingston and KFHC dated April 21, 2016.
2. This By-law shall come into force and take effect on the date its passing.
3. This By-Law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: Meeting date (June 22, 2021)

Given First and Second Readings Meeting date (June 22, 2021)

Given Third Reading and Passed Meeting date (June 22, 2021)

John Bolognone
City Clerk

Bryan Paterson
Mayor

Schedule "A"

Heading Two (If Necessary)

Text XXXXX.