

COMMUNITY AND HUMAN SERVICES
Housing Services
Postal Bag 6300, 228 Church Street
Belleville, Ontario K8N 5E2



Phone: 613.966.1311
Fax: 613.968.3197
Toll Free: 1.800.267.0575

THIS AGREEMENT is made this _____ day of _____, 20_____.

B E T W E E N:

The Corporation of the County of Hastings

(the County of Hastings)

- and -

X

(the “**Borrower(s)**”)

1. Loan

Subject to the provisions of the Investment in Affordable Housing for Ontario Program Extension (2014) (IAH-E), Homeownership Component, and subject to the terms hereof, The Corporation of the County of Hastings agrees to lend to the Borrower and the Borrower agrees to borrow from The Corporation of the County of Hastings the sum of Enter \$ amount Dollars (\$Enter Amount.00) of lawful money of Canada (the “**Principal Sum**”), secured by way of a valid second mortgage/charge on the IAH-E Unit. This agreement should be attached to the mortgage/charge.

2. Purpose

The Borrower shall use the Principal Sum only to finance the Borrower’s purchase of a single, detached home valued at \$Enter \$ amount.00 located at Enter Address (the “**IAH-E Unit**”). The Corporation of the County of Hastings shall advance the Principal Sum to the solicitor of the Borrower on behalf of the Borrower to be applied towards the purchase price on the closing of the purchase by the Borrower of the IAH-E Unit (the “**Closing**”).

3. Repayment

The Borrower promises to forthwith repay the Principal Sum to The Corporation of the County of Hastings on demand PROVIDED however in the event that there has been no Event of Default as defined herein by the Borrower or other event giving rise to the acceleration of the prepayment of the Principal Sum during the term of twenty years, then the Principal Sum owing shall be forgiven on the twentieth (20th) annual anniversary date of the registration of the Mortgage/Charge securing the Principal Sum.

In certain circumstances as provided for herein, the Borrower also promises to pay to The Corporation of the County of Hastings, in addition to the Principal Sum, additional amounts as provided for herein.

4. Security

As continuing collateral security for the advance of the Principal Sum and any amount payable in respect of capital appreciation, the Borrower shall execute and deliver to The Corporation of the County of Hastings a mortgage/charge of land, in form and content satisfactory to The Corporation of the County of Hastings, which shall be registered against title to the IAH-E Unit (the “**Mortgage**”). The borrower is responsible for all legal costs related to the registration and purchase of the IAH-E Unit.

5. Preconditions to Advance.

The obligation of The Corporation of the County of Hastings to advance the Principal Sum under this Agreement is subject to and conditional upon:

- (a) receipt by The Corporation of the County of Hastings of a copy of the executed agreement of purchase and sale for the IAH-E Unit in accordance with section 21.
- (b) each representation, statement, declaration and all information provided to The Corporation of the County of Hastings by the Borrower in connection with this credit facility being true and accurate at the time it was given or made;
- (c) receipt by The Corporation of the County of Hastings of the Mortgage registered against title to the IAH-E Unit;
- (d) there being no restrictions, liens or encumbrances against the IAH-E Unit at the time of the advance of the Principal Sum other than (i) any mortgage/charge of land securing financing obtained solely for the purchase of the IAH-E Unit; (ii) a declaration and description under the *Condominium Act*; (iii) any minor easements for the supply of domestic utility or telephone services to the IAH-E Unit or adjacent properties; (iv) any minor easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property as a residential dwelling; (v) any registered municipal agreement and registered agreement with publicly regulated utilities providing such have been complied with; and (vi) any registered restrictions that run with the land providing such are complied with, and (vii) any property taxes due within thirty days of the closing have been paid in full;
- (e) the lawyer for the Borrower will certify to the County of Hastings that the County of Hastings has a good, valid and marketable title second mortgage to the IAH-E Unit in accordance with the terms hereof; that the Borrower has house insurance to protect the County of Hastings as the second Mortgagee; and the lawyer will provide a full reporting letter to the County of Hastings enclosing copies of the Agreement of Purchase and Sale, the registered Transfer, the registered first mortgage, the registered second mortgage in the form attached, and fire insurance particulars.

6. Events of Default

The occurrence of any one or more of the following events (each, an “**Event of Default**”) shall constitute a default under this Agreement:

- (a) the death of the Borrower;
- (b) use of the Principal Amount for a purpose other than that specified in Section 2;
- (c) the Borrower becomes bankrupt or insolvent or the Borrower becomes subject to the provisions of the *Bankruptcy and Insolvency Act, R.S.C. 1985 c. B-13* or any other Act for the benefit of creditors or the Borrower makes a general assignment for the benefit of its creditors or otherwise acknowledges insolvency;
- (d) a writ of execution against the Borrower is or becomes binding against the IAH-E Unit;
- (e) a disposal by the Borrower of part of the IAH-E Unit;
- (f) any representation, statement, declaration or information provided to The Corporation of the County of Hastings by the Borrower in connection with this credit facility is false or erroneous in any material respect as of the time it was made or given.

Upon the occurrence of an Event of Default, and for so long as the Event of Default shall continue, The Corporation of the County of Hastings may by notice to the Borrower, declare the Principal sum to be due and owing.

7. Resale

If, during the period in which the Principal Sum is outstanding, (i) the IAH-E Unit is resold, transferred or disposed of for more than the price at which it was acquired by the Borrower, (ii) the Borrower leases the IAH-E Unit or (iii) the Borrower ceases to occupy the IAH-E Unit as his or her sole and principal residence, the Principal Sum shall be immediately due and payable. If, during the same period, the IAH-E Unit is resold, transferred or disposed of for less than the price at which it was acquired by the Borrower and either the sale of the IAH-E Unit was an arm's length transaction or The Corporation of the County of Hastings notifies the Borrower in writing that it is satisfied that the sale was at fair market value, the Principal Sum shall be forgiven. If, during the same period, the IAH-E Unit is resold, transferred or disposed of for less than the price at which it was acquired by the Borrower and The Corporation of the County of Hastings notifies the Borrower in writing that it is not satisfied that the sale was at fair market value, the Principal Sum shall be immediately due and payable.

8. Capital Appreciation Amount

If, during the period in which the Principal Sum is outstanding, the IAH-E Unit is resold, transferred or disposed of for more than the price at which it was acquired by the Borrower, the Borrower shall pay to The Corporation of the County of Hastings an amount that is equal to the percentage that the Principal Sum is of the original purchase price of the IAH-E Unit as applied to the differential between the current fair market value of the IAH-E Unit and the original purchase price of the IAH-E Unit. The fair market value of the IAH-E Unit shall be determined by The Corporation of the County of Hastings, at The Corporation of the County of Hastings's discretion, based on (i) the price at which the IAH-E Unit was resold transferred or disposed of, if such transaction was an arm's length transaction, (ii) an independent appraisal commissioned by The Corporation of the County of Hastings at The Corporation of the County of Hastings's expense, or (iii) the current municipally assessed value of the IAH-E Unit.

If, during the period in which the Principal Sum is outstanding, the IAH-E Unit is resold, transferred or disposed of for less than the price at which it was acquired by the Borrower and The Corporation of the County of Hastings notifies the Borrower in writing that it is not satisfied that the sale was at fair market value, the Borrower shall pay to The Corporation of the County of Hastings an amount that is equal to the percentage that the Principal Sum is of the original purchase price of the IAH-E Unit as applied to any positive differential between the current fair market value of the IAH-E Unit and the original purchase price of the IAH-E Unit. The fair market value of the IAH-E Unit shall be determined by The Corporation of the County of Hastings, at The Corporation of the County of Hastings's discretion, based on either an independent appraisal commissioned by The Corporation of the County of Hastings at The Corporation of the County of Hastings's expense or the current municipally assessed value of the IAH-E Unit.

If, during the period in which the Principal Sum is outstanding, the Borrower leases the IAH-E Unit or ceases to occupy the IAH-E Unit as his or her sole and principal residence, the Borrower shall pay to The Corporation of the County of Hastings an amount that is equal to the percentage that the Principal Sum is of the original purchase price of the IAH-E Unit as applied to any positive differential between the current fair market value of the IAH-E Unit and the original purchase price of the IAH-E Unit. The fair market value of the IAH-E Unit shall be determined by The Corporation of the County of Hastings, at The Corporation of the County of Hastings's discretion, based on either an independent appraisal commissioned by The Corporation of the County of Hastings at The Corporation of the County of Hastings's expense or the current municipally assessed value of the IAH-E Unit.

If, during the period in which the Principal Sum is outstanding, an Event of Default (other than the death of the Borrower) occurs and The Corporation of the County of Hastings has declared the Principal Sum immediately due and owing, the Borrower shall pay to The Corporation of the County of Hastings an amount that is equal to the percentage that the Principal Sum is of the original purchase price of the IAH-E Unit as applied to any positive differential between the current fair market value of the IAH-E Unit and the original purchase price of the IAH-E Unit. The fair market value of the IAH-E Unit shall be determined by The Corporation of the County of Hastings, at The Corporation of the County of Hastings's discretion, based on either an independent appraisal commissioned by The Corporation of the

County of Hastings at The Corporation of the County of Hastings's expense or the current municipally assessed value of the IAH-E Unit.

9. Prepayment

The Borrower may repay all of the Principal Sum upon payment of an amount that is equal to the percentage that the Principal Sum is of the original purchase price of the IAH-E Unit as applied to any positive differential between the current fair market value of the IAH-E Unit and the original purchase price of the IAH-E Unit. The fair market value of the IAH-E Unit shall be determined by The Corporation of the County of Hastings, at The Corporation of the County of Hastings's discretion, based on either an independent appraisal commissioned by The Corporation of the County of Hastings at The Corporation of the County of Hastings's expense or the current municipally assessed value of the IAH-E Unit. The Borrower shall not be permitted to prepay only part of the Principal Sum.

10. Calculations

Notwithstanding anything to the contrary contained in this Agreement, amounts payable under this Agreement with respect to capital appreciation shall not exceed the maximum amount of interest that does not violate applicable laws.

Where an amount payable in respect of capital appreciation is considered interest, the rate of interest in respect of a period less than one year shall be the applicable annual rate of interest multiplied by the number of days in the calendar year in respect of which the calculation is made divided by 365.

11. Notice

Any notice or other communication required, desired or permitted under this Agreement shall be in writing and shall be effectively given if:

- (a) delivered personally;
- (b) sent by prepaid courier service;
- (c) sent by registered mail; or
- (d) sent by facsimile

to the following address:

- (i) in the case of The Corporation of the County of Hastings to:

**County of Hastings, Housing Services
228 Church Street, P.O. Bag 6300,
Belleville, ON K8N 5E2**

- (ii) In the case of the Borrower to:

**Insert Name
Insert Address
Insert City, Province, Postal Code**

or at such other address as the party to whom such notice or other communication is to be given shall have advised the party giving the same in the manner provided in this section. Any notice or other communication shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day such notice or other communication shall be deemed to have been given and received on the next following business day. Any notice or other communication transmitted by facsimile shall be deemed to have been given and received on the day of its transmission, provided that such day is a business day and such transmission is completed before 4:30 pm on such day, failing which such notice or other communication shall be deemed to have been given and received on the first business day after its transmission.

12. Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions of this Agreement and any such prohibition or

unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

13. Whole Agreement

This Agreement constitutes the whole agreement between The Corporation of the County of Hastings and the Borrower relating to the subject matter of this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations, commitments and representations, written or oral, in respect thereof.

14. Amendment

This Agreement may only be amended by written agreement between The Corporation of the County of Hastings and the Borrower.

15. Further Assurances

The Borrower shall promptly execute and deliver to The Corporation of the County of Hastings, all such other and further documents, agreements and other instruments, and do such other and further things, as The Corporation of the County of Hastings may require to give effect to this Agreement.

16. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument.

17. Time

Time shall be of the essence in this Agreement.

18. Gender and Number

This Agreement shall be read with all changes of gender and number required by the context.

19. Successors and Assigns

This Agreement shall be binding upon and shall enure to the benefit of The Corporation of the County of Hastings and the Borrower and their respective successors and assigns. The Borrower may not assign or transfer its rights and obligations under this Agreement without the prior written consent of The Corporation of the County of Hastings. The Corporation of the County of Hastings may assign or transfer its rights and obligations under this Agreement without the Borrower's consent.

20. Governing Law

This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of Canada and the laws of Ontario applicable therein.

21. Agreement of Purchase and Sale

If the Borrower has not already done so, the Borrower shall provide The Corporation of the County of Hastings (County of Hastings) with a copy of the executed agreement of purchase and sale pertaining to the IAH-E Unit within fifteen (15) days of entering into this Agreement. Any personal information collected by or on behalf of The Corporation of the County of Hastings (County of Hastings) under this provision shall be subject to the provisions of the **Municipal Freedom of Information and Privacy Protection Act R.S.O. 1990, c M56**, as amended from time to time. The information in the agreement of purchase and sale will be used to confirm certain information provided in the Borrower's application for this credit facility and in preparing the Mortgage. The Borrower consents to such collection and use of the information. The Borrower acknowledges that the information contained in the agreement of purchase and sale may become public and consents to the release of that information. Any questions regarding the collection, use, or disclosure of the information should be directed to

Chief Administrative Officer, County of Hastings. At 613-966-1319 or 235 Pinnacle Street, Postal Bag 4400, Belleville, ON K8N 3A9.

22. Notice of Closing

The Borrower will provide The Corporation of the County of Hastings with ten (10) days advance written notice of the Closing.

23. Joint and Several Liability

In the instance where one or more persons hold title to the IAH-E Unit, the obligations of each of the Borrowers under this Agreement shall be joint and several.

Postponement

Provided that the Borrower is not in default under the terms of this Agreement and provided that the Borrower is not in default under the terms of the existing first mortgage or any successor thereto agreed to by the County of Hastings and provided that the principal amount of the balance owing under the existing first mortgage is not increased, The Corporation of the County of Hastings will from time to time as required postpone its second mortgage in favour of a new first mortgage, the costs of which will be fully paid by the Borrower.

IN WITNESS WHEREOF the parties hereby agree to the within Agreement.

The Corporation of the County of Hastings

Rick Phillips, Warden
Name/Position (Print)

Signature

Date

Cathy Monzon-Bradley, Clerk
Name/Position (Print)

Signature

Date

I/we have authority to bind the Corporation.

Borrower (typed or printed)

X_____
Borrower's Signature

Date

Witness (printed)

X_____
Witness Signature

Date

Borrower (typed or printed)

X_____
Borrower's Signature

Date

Witness (printed)

X_____
Witness Signature

Date