

OPERATING AGREEMENT

THIS AGREEMENT effective the 1st day of May, 2002.

BETWEEN:

CITY OF TORONTO
(the "City")

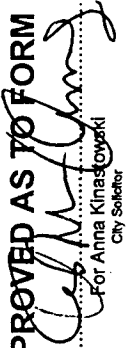
OF THE FIRST PART

and

TORONTO COMMUNITY HOUSING CORPORATION
("TCHC")

OF THE SECOND PART

APPROVED AS TO FORM


For Anna Kinastoyarski
City Solicitor

WHEREAS the City, in its role and function as service manager under the provisions of the *Social Housing Reform Act, 2000*, is responsible for the administration and funding of housing programs in the City of Toronto;

AND WHEREAS the Shelter, Housing and Support Division of the City is the Program Administrator on behalf of the City as service manager;

AND WHEREAS TCHC is a local housing corporation duly constituted under the *Business Corporations Act* under the name "Metro Toronto Housing Corporation" by Articles of Incorporation certified effective the 14th day of December, 2000, pursuant to the Act, which name was changed to "Toronto Community Housing Corporation" by Articles of Amendment certified effective the 9th day of October, 2001.

AND WHEREAS the housing projects of TCHC and Toronto Housing Company Inc. are being integrated such that TCHC owns, leases or manages a large housing portfolio of projects built over a period of sixty years under various funding programs.

AND WHEREAS the City is the sole shareholder of both TCHC and Toronto Housing Company Inc.;

AND WHEREAS City Council, by its adoption of Clause No. 1 contained in Joint Report No. 1 of The Policy and Finance Committee and The Community Services Committee, as amended, at its meeting held on October 2, 3 and 4, 2001 approved the Shareholder Direction which, among other matters, required the City and TCHC to enter into an Agreement for the purpose of defining how TCHC will meet the requirements legislated under the *Social Housing Reform Act, 2000*, and how housing programs under which TCHC operates will be administered following the principles of :

- both parties will seek to ensure stable and predictable funding for TCHC to mitigate any impacts on tenants from program funding decisions;
- both parties will seek to simplify and harmonize the social housing program structures and funding models in order to reduce administration costs; and
- the City will require timely information required to prepare budgets and fulfil its reporting obligations to the Province and other agencies.

AND WHEREAS the funding provisions of this Agreement cover the years 2001, 2002 and 2003 and the parties intend to amend this Agreement not later than June 30, 2003 to deal with subsequent years on a multi-year basis;

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and the mutual covenants herein contained, the parties hereby agree as hereinafter set forth:

1.0 INTERPRETATION

1.1 Definitions under the Act and Regulations

In this Agreement, unless there is something in the subject-matter or context inconsistent therewith, terms and expressions used in this Agreement that are defined terms and expressions under the Act or Regulations shall have the same meaning as in the Act or Regulations.

1.2 Definitions under this Agreement

"Act" means the *Social Housing Reform Act, 2000* of the Province of Ontario, and any statute that may be substituted therefor, as may be amended from time to time;

"Agreement" means this agreement and Schedule "A" to this agreement, as may be amended from time to time;

"Annual Information Return" means such social housing annual information return as may be prescribed under the Act.

"Auditor" means a person appointed by the General Manager, Shelter, Housing and Support Division of the City, to conduct an audit or investigation of TCHC pursuant to the provisions of this Agreement.

"Effective Date" means May 1, 2002.

"Federal Operating Agreement" means an operating agreement to which the Government of Canada or Canada Mortgage and Housing Corporation was a party under a prescribed housing program, as may be amended from time to time.

"Housing Program" means one of the programs listed in Table 1 of Ontario Regulation 368/01 and may be referred to in this Agreement by the program category number used in that table;

"Non-Profit Rent Supplement Agreement" means an operating agreement under a rent supplement program administered by the City with respect to units in housing projects owned, leased or operated by TCHC, including the following programs: Community Sponsored Housing Program; Ontario Community Housing Assistance Program; and The Rent Supplement Homelessness Initiative and The Rent Supplement Special Needs Initiative.

"Portfolio" means those housing projects owned, leased or managed by TCHC and formerly funded and administered under a Housing Program.

"Program Administrator" has the same meaning as it is defined in the Shareholder Direction.

"Public Housing" means the housing projects formerly owned by the Government of Ontario or Ontario Housing Corporation or Toronto Housing Company Inc. under the Housing Programs being program category numbers 1(a) and 1(b) in Table 1 of Ontario Regulation 368/01 and listed in Ontario Regulation 369/01, Schedule 1, Items 1-196.

"Regulations" means the regulations made pursuant to the Act, and any regulations that may be substituted therefor, as may be amended from time to time.

"Schedule "A" or "Schedule" means the Schedule titled "Delegation of Income Testing for Housing Projects subject to Part V of the Act" attached to this Agreement.

"Shareholder" means the City of Toronto, as Shareholder, pursuant to the Shareholder Direction.

"Shareholder Direction" means the Shareholder Direction approved by City Council by its adoption of Clause No. 1 contained in Joint Report No. 1 of The Policy and Finance Committee and The Community Services Committee, as amended, at its meeting held on October 2, 3 and 4, 2001.

"Shelter, Housing and Support" or "SHS" means the Shelter, Housing and Support Division of the Community & Neighbourhood Services Department of the City of Toronto in its role as Program Administrator on behalf of the City as service manager.

1.3 Scope of Agreement

The parties acknowledge that the City is entering into this Agreement as Program Administrator as required by the Shareholder Direction.

2.0 NUMBER OF RENT GEARED TO INCOME UNITS AND MODIFIED UNITS

2.1 Number of Rent Geared to Income Units

TCHC shall ensure that it provides the required numbers of households receiving rent-geared-to-income assistance under Part V of the Act, as determined through the 2002 annual reporting process, which numbers shall be maintained by TCHC and confirmed annually through the annual reporting process.

TCHC will manage on a Portfolio basis to ensure that the overall service level remains at the required level.

2.2 Exclusions

The parties acknowledge that households accommodated under the following programs shall not be included in determining the number of households counted for the purposes of Section 2.1 of this Agreement:

- (a) The Rent Supplement Homelessness Initiative and the Rent Supplement Special Needs Homelessness Initiative;
- (b) Limited Dividend Entrepreneur Program;
- (c) Non-Profit Low Rental Housing Program;
- (d) Non-Profit 2% Write-Down Non-Profit Housing Program;
- (e) TCHC self-funded properties that are not part of the Portfolio.

2.3 Increase or Decrease

The City may require TCHC to increase or decrease the number of households referred to in Section 2.1 of this Agreement by the number specified by notice, after consulting with TCHC, upon not less than three (3) months prior notice. Funding will be adjusted to enable administration and operation of additional subsidy units where a change has been requested by the City.

2.4 Number of Modified Units

TCHC shall ensure that it provides the required number of modified units as determined through the 2002 annual reporting process. TCHC shall not decrease the number of modified units without the City's prior written consent.

3.0 OPERATION AND MANAGEMENT OF HOUSING PROJECTS

3.1 Generally

TCHC shall carry on its business and exercise its powers in compliance with its incorporating documents and bylaws, the Act, the Regulations, the Shareholder Direction, all Federal Operating Agreements and Non-Profit Rent Supplement Agreements, and this Agreement, as may be amended from time to time.

3.2 Delegation of Income Testing for Housing Projects subject to Part V of the Act
The parties agree that they shall comply with the provisions of Schedule "A" to this Agreement.

3.3 Operating Requirements

TCHC shall operate and manage the Public Housing in compliance with the provisions of Part VI of the Act and Ontario Regulation 339/01, with respect to the following matters:

- (a) compliance with the prescribed conflict of interest provisions;
- (b) compliance with property management provisions;
- (c) compliance with eligibility rules, occupancy standards, priority rules and selection of households provisions;
- (d) participation in the centralized waiting list system;
- (e) entering into leases and occupancy agreements and calculation of rent for all rent-geared-to-income units;
- (f) compliance with targeting plans and mandates;
- (g) compliance with the retention of records;
- (h) compliance with the provision of annual reports;
- (i) permitting the City to carry out an audit or investigation;
- (j) permitting the City to carry out its remedies.

3.4 Restrictions by Transfer Order concerning TCHC Housing Projects operating under Federal Operating Agreements

The parties acknowledge that, pursuant to the terms of the transfer order(s) transferring the administration and funding of Federal Operating Agreements to the City, and in respect of that part of the Portfolio that is subject to Federal Operating Agreements:

- (a) the Minister retains the right to amend the reporting requirements imposed on TCHC;
- (b) the City may however impose additional reporting requirements on TCHC;
- (c) the City shall not, without the prior written consent of the Minister, provide the City's consent for any transfer, lease or disposition of or offer to list, advertise or hold out for transfer, lease or disposal of a housing project, or any part of it, that is subject to a mortgage insured under the *National Housing Act*;
- (d) the City shall not, without the prior written consent of the Minister, provide the City's consent for altering any condition or state of the property, excluding repairs and maintenance, against which a mortgage insured under the *National Housing Act* is registered;
- (e) the City shall not, without the prior written consent of the Minister, provide the City's consent for amalgamating any projects, providers or properties, any one of which is subject to a mortgage insured under the *National Housing Act*;
- (f) the City shall not, without the prior written consent of the Minister, exercise any mortgage remedies against any project of TCHC, or agree to any amendment of the existing mortgage terms and conditions, where such mortgage is guaranteed by the Ministry;
- (g) the City shall not, without the prior written consent of the Minister, alter or amend the annual reporting requirements of TCHC including the requirement that such reporting be completed on the Annual Information Return form; and
- (h) the City shall not approve any new or replacement mortgage financing by TCHC on a housing project, or any part of it, without the prior consent of the Minister.

3.5 Transition for Toronto Housing Company Inc. ("THCI") Housing Projects being transferred to TCHC

The parties acknowledge that all of THCI's housing projects are being transferred to TCHC pursuant to the terms of an asset purchase agreement dated November 14, 2001 between THCI, as vendor and TCHC, as purchaser. The parties acknowledge that none of THCI's housing projects were transferred to TCHC by the Effective Date. The parties acknowledge that TCHC has been managing THCI's housing projects since January 1, 2002 pursuant to the asset purchase agreement.

TCHC agrees that all of THCI's housing projects shall be considered TCHC's housing projects for the purposes of this Agreement. TCHC shall ensure that all of THCI's housing projects are operated and maintained as if they had been transferred to TCHC by the Effective Date.

4.0 BUDGETS AND FUNDING

4.1 Annual Budget

TCHC shall provide the City with its budget estimates not later than August 1st for the following calendar year for the approval of the Shelter, Housing and Support Division of the City. Not later than October 1st, TCHC shall provide the City with its Board-approved budgetary requirements for the following calendar year, for the approval of Shelter, Housing and Support. Based on the approval by Shelter, Housing and Support of TCHC's budget, Shelter, Housing and Support shall forecast and develop its budgetary requirements for the same calendar year.

4.2 Budget and Funding Levels for 2001, 2002 and 2003

The budgets for TCHC and THCI for 2001 and 2002 have been previously submitted and approved by the Minister as former social housing funder and administrator. The parties accept the format and amounts for these years.

The 2003 budget information will be in the format and amounts as previously submitted to SHS, subject to City Council's approval of SHS's 2003 annual budget.

The budget for 2003 provided by TCHC is based on those increases to the 2002 projected actuals as broken out in the table below. For 2003, funding levels will be based on the table below with monthly adjustments for mortgage payments based on actual renewal. Costs for the Rent Supplement program and for the housing waiting list system known as "Housing Connections" are included in the 2003 budget but will be reported on and funded separately as cost pass through services on behalf of the City as agreed to under separate agreements between TCHC and the City. The costs associated with Housing Connections will be identified for the multi-year amending agreement referred to in Section 4.5 of this Agreement.

TCHC will meet with SHS in the first quarter of 2003 to determine the method of annual reporting that meets the City's reporting requirements for 2001, 2002 and 2003 funding.

Excluding mortgage payments adjustments and pass-through cost adjustments for duties performed by TCHC on behalf of the service manager under the terms of other agreements, the funding levels for 2001, 2002 and 2003 will remain at the levels provided by this Agreement. TCHC will not seek additional funding for the redevelopment of the housing project known as "Don Mount Court" unless specific funding for this project is provided to the City through senior levels of government or the parties to this Agreement agree to additional funding under the multi-year amending agreement referred to in Section 4.5 of this Agreement. TCHC is not precluded however from applying to the City for other development or redevelopment funding in connection with other housing projects in its Portfolio.

TCHC agrees to manage the funding levels on a portfolio-basis, subject to Ministerial approval, where required.

TCHC Housing Programs & Commercial Rent Supplement Program	2002 Projected Actual	2003 Budget Request	%
Public Housing Program Category No. 1(b)	\$36,886,000	\$37,808,150	2.5%
Public Housing (excluding Rent Supplement Program) Program Category No. 1(a)	\$143,228,612	\$143,228,612	0.0%
Commercial Rent Supplement Program Program Category No. 2(a)	\$15,952,500	\$16,683,125	4.6%
CSNP Program Category No. 2(b)	\$13,114,716	\$13,481,703	2.9%
MNP Program Category No. 6(c)/ FP Program Category No. 4/ ONP Program Category No. 6(a)	\$61,877,911	\$62,991,713	1.8%
Total	\$271,059,739	\$274,193,303	1.01%
Note: The Rent Supplement Homelessness program is not included because it is still being administered by the Province.			

4.3 Redevelopment of the Portfolio

Unless specifically authorized by City Council, no additional funds will be available to TCHC for the redevelopment of the Portfolio.

4.4 Ministerial Approval

The parties acknowledge that the funding formula for 2002 and 2003 requires Ministerial approval in connection with the housing projects that are subject to Part VI of the Act. Accordingly, the proposed funding model is subject to Ministerial approval. If the Minister does not approve the funding formula, the parties acknowledge that they may be required by the Minister to comply with the provisions of Part VI in respect of those housing projects governed under that Part. In such event, the annual funding for 2002 and 2003 will not be increased or decreased, but the calculations required to be made under Part VI will be made and the appropriate apportionment of the funding across the Portfolio will be made accordingly. The City will seek Ministerial approval

in connection with the proposed funding.

4.5 Years 2004 and Beyond

The parties agree to commence negotiations in the first quarter of 2003 in respect of funding for the years 2004 and beyond on a multi-year basis and shall amend this Agreement accordingly not later than June 30, 2003. The parties will adhere to the principles in the Shareholder Direction and the goals and objectives of TCHC's Community Management Plan. The funding model will incorporate provisions that funding amounts will be subject to City Council's approval of SHS's annual budget and subject to Ministerial approval where required. If Ministerial approval is required, the City will seek approval.

5.0 REPORTS, RECORDS

5.1 Annual Information Return

TCHC shall give to the City, within five (5) months of the end of its fiscal year, completed annual reporting requirements and audited financial statements in a form acceptable to the Commissioner of Community and Neighbourhood Services. TCHC will meet with SHS in the first quarter of 2003 to work out an annual report format that meets the City's reporting requirements under the Act.

The parties acknowledge that an Annual Information Return is currently required for the Portfolio and that any other form of reporting requires Ministerial approval. Accordingly, the parties acknowledge that they may be required to comply with the reporting requirements under the Act unless the Minister approves an alternate reporting format. The City will seek Ministerial approval for whatever form of reporting the parties wish to use.

5.2 Interim Reporting

TCHC shall provide to the City, on a quarterly basis, a copy of its performance report to the Board of Directors with accompanying staff report.

6.0 DEFAULT

6.1 Triggering Events

TCHC agrees that the triggering events listed in Section 115 of the Act shall apply to all of TCHC's housing projects, and that all the City's remedies contained in Part VI of the Act, and all of the provisions of the Act and Regulations in connection with such remedies, shall apply to all of TCHC's housing projects in the Portfolio with the necessary changes in respect of Public Housing and housing projects operating under Federal Operating Agreements or Non-Profit Rent Supplement Agreements. TCHC shall comply with all of the obligations of a housing provider under Part VI of the Act in connection with the City's exercise of such remedies.

6.2 Additional Triggering Events

The parties agree that the following events shall be deemed to be triggering events for the purposes of this Agreement:

- (a) a breach of a Federal Operating Agreement;
- (b) a breach of a Non-Profit Rent Supplement Agreement;
- (c) a breach of this Agreement.

6.3 Remedies

The parties agree that if a triggering event listed in s. 115 of the Act occurs, or a triggering event for the purposes of this Agreement occurs, the City may, subject to the prior approval of the City as Shareholder for any action that requires Shareholder approval, exercise any one or more of the following remedies:

- (a) the remedies contained in Part VI of the Act, with the necessary changes in connection with Public Housing and housing projects operating under Federal Operating Agreements and Non-Profit Rent Supplement Agreements;
- (b) the remedies contained in a Federal Operating Agreement;
- (c) the remedies contained in a Non-Profit Rent Supplement Agreement;
- (d) remedy such default on behalf of TCHC;
- (e) suspend or terminate the Schedule;
- (f) exercise any other remedy it has in law or equity.

6.4 Notice

The City shall not exercise a remedy under subparagraphs 6.3(d) or (e) of this Agreement unless:

- (a) the City has given TCHC notice specifying the particulars of the triggering event; the activities that TCHC must carry out or refrain from carrying out or the course of action that TCHC must take or refrain from taking; and a reasonable period of time within which TCHC must remedy such default; and
- (b) TCHC fails to comply with the notice.

6.5 Remedies Cumulative

All of the remedies and rights of the City under the Act, the Regulations, the Shareholder Direction, the Federal Operating Agreements, the Non-Profit Rent Supplement Agreements, in this Agreement or otherwise available in law or equity are cumulative and no right or remedy is intended to be exclusive. Each right or remedy shall be exercisable by the City in its sole and absolute discretion, and each right or remedy shall be in addition to every other right or remedy available to the City from time to time.

7.0 AUDIT

Without limiting the audit provisions in (9.4) of the Shareholder Direction, TCHC shall permit the Auditor at any time during the term of this Agreement and for seven (7) years after its expiry or termination, and during TCHC's usual business hours, to review all of TCHC's materials, records and other documents relating to this Agreement, and to enter and inspect any of TCHC's housing projects at any reasonable time, provided that the City gives TCHC reasonable notice of its intention to do so.

8.0 NOTICES

Any approval, consent, notice, communication, request, demand or document required or permitted to be given under this Agreement ("Notice") to either party shall be sufficiently given if it is in writing and delivered by hand, fax or mail to the parties at the following addresses:

City: City of Toronto
Shelter, Housing and Support Division
Community and Neighbourhood Services Department
6th Floor, Metro Hall
55 John Street
Toronto, Ontario
M5V 3C6

Attention: General Manager, Shelter, Housing and Support Division
Fax: 416-392-0548

TCHC: Toronto Community Housing Corporation
931 Yonge St.
7th Floor

Toronto, Ontario
M4W 2H2

Attention: Chief Executive Officer
Fax: 416-981-4224

If any Notice is so given, it shall be deemed to have been received on the date of delivery if delivered by hand, on the next business day if transmitted by fax, and on the third business day following the date of mailing. Any party may, from time to time, by Notice given as provided above, change its address for the purposes of this Section.

Any Notice permitted or required to be given by the City may be given by the Commissioner of Community & Neighbourhood Services from time to time, his or her successor, or his or her designate (s) from time to time (collectively, the "Commissioner"). However, the Commissioner specifically reserves the right to submit the issue of the giving of any Notice, or of the contents of any Notice, to City Council for its determination.

9.0 COMMUNICATIONS WITH THE MINISTRY AND THE CITY

9.1 Ministry

Any matter under the Act or Regulations that requires TCHC to seek the prior consent of the Minister shall be referred by TCHC to the City for service manager consent. Without limiting the generality of the foregoing, TCHC shall obtain the City's prior consent, and the City shall, on behalf of TCHC, seek the Minister's consent with respect to any of the following:

- (a) the disposition, mortgaging, encumbering, developing or redeveloping, or granting an interest in any real property transferred by a transfer order, pursuant to Subsection 50(1) of the Act, unless such transaction is an exception described in Subsection 50(2) of the Act;
- (b) the transfer, lease or other disposition of or the offering, listing, advertising or holding out for transfer, lease or other disposition of a housing project or any part of it, including any chattels in it, pursuant to Subsection 95(1) of the Act, unless such transaction is an exception described in Subsection 95(2) of the Act;
- (c) mortgaging, replacing of an existing mortgage, or otherwise encumbering a housing project, or the extension of the term of or otherwise amending any existing or approved mortgage or other encumbrance of the housing project, pursuant to Subsection 95(3) of the Act, unless such transaction is in compliance with paragraph 95(3)(a);
- (d) authorizing the phase-in of the reduction in the subsidy and setting a schedule for phasing in the reduction over a series of years, pursuant to Subsection 103(5) of the Act;
- (e) determining final amounts for benchmark revenue, operating costs, affordable mortgage payments, and benchmark market rents, pursuant to Subsection 104(5) of the Act;
- (f) amending the benchmark operating costs in respect of its housing projects, pursuant to Subsection 107(3) of the Act;
- (g) entering into a new debt repayment schedule with the Minister pursuant to Section 109 of the Act;
- (h) seeking any exemption from any of the requirements of the Act or Regulations.

Any matter under this Agreement that requires the City to seek the approval of the Minister may be submitted to City Council by the Commissioner of Community & Neighbourhood Services for its determination, and in that event, the provisions of this Agreement pertaining to Ministerial approval shall be subject to City Council's determination.

9.2 City

All communications and dealings between the City and TCHC, as parties to this Agreement, shall be made in the manner provided by Section 8.0 of this Agreement. No communication or dealing between TCHC and any department, committee, or body functioning under the administration of the City shall be deemed to be a communication or dealing under the provisions of this Agreement, or to effect the City with notice of any such communication or dealing under this Agreement unless made in the manner provided by Section 8.0 of this Agreement. No communication or dealing between TCHC and the City as a party to this Agreement shall relieve TCHC from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or by any other lawful manner separate and apart from the obligations imposed by this Agreement.

Any matter that requires TCHC to seek the consent of the service manager shall be brought to the attention of the City by notice from TCHC, in accordance with Section 8.0 of this Agreement.

TCHC agrees to notify the service manager when TCHC seeks Shareholder approval under the Shareholder Direction if the approval sought relates to the service manager's duties and functions under the Act. Such notice shall be in accordance with the provisions of Section 8.0 of this Agreement.

10.0 GENERAL

10.1 Compliance with Shareholder Direction, etc.

Nothing in this Agreement shall relieve TCHC from its obligations and duties under the Shareholder Direction, the Act, the Regulations, its incorporating documents and bylaws, the Federal Operating Agreements and the Non-Profit Rent Supplement Agreements.

10.2 No Restrictions on City

Nothing in this Agreement shall be construed as limiting the powers and remedies of the City under the Shareholder Direction, the Act, the Regulations, the Federal Operating Agreements and the Non-Profit Rent Supplement Agreements or otherwise available to the City, from time to time.

10.3 Amendments to Federal Operating Agreements and Non-Profit Rent Supplement Agreements

The parties agree that if any provisions of this Agreement are inconsistent with Federal Operating Agreements or Non-Profit Rent Supplement Agreements, such Federal Operating Agreements and Non-Profit Rent Supplement Agreements shall be deemed to have been amended by the parties in accordance with the provisions of this Agreement.

10.4 Amendment to Provincial Accountability Rules

The parties agree that if any provisions of this Agreement are inconsistent with the provincial accountability rules prescribed in Ontario Regulation 644/00 pursuant to Section 32 of the Act, such provisions of this Agreement shall be deemed to be amendments, deletions or additions to the provincial accountability rules and shall be effective as of the Effective Date. To the extent that any provincial accountability rule is not inconsistent with the provisions of this Agreement, the parties shall continue to be bound by such provincial accountability rule.

10.5 Amendments

No modification or amendment to this Agreement shall be made unless agreed to by the parties in writing.

10.6 Successors

This Agreement shall be binding and enure to the benefit of the parties and their respective

successors.

10.7 Assignment

TCHC shall not assign any or all of its rights or any or all of its obligations under this Agreement to any person without the prior written consent of the City.

10.8 No Interference

All rights and benefits and obligations of the City under this Agreement shall be rights, benefits and obligations of the City in its capacity as a service manager under the Act and shall not derogate from or interfere with or fetter the rights, benefits and obligations of the City in its functions and capacity as a municipal corporation.

10.9 Further Assurances

TCHC shall execute and deliver all such further documents and do such further acts and things as the City may reasonably request from time to time to give full effect to this Agreement.

10.10 Waivers and Consents

No term or provision of this Agreement shall be deemed waived and no breach consented to, unless such waiver or consent shall be in writing and signed by an authorized member or staff of the party claimed to have waived or consented. No consent by a party to, or waiver of, a breach under this Agreement shall constitute a consent to, waiver of, or excuse for any other, different or subsequent breach.

10.11 No Partnership or Joint Venture

This Agreement is not intended to create, nor does it create, a joint venture or partnership between TCHC and the City. TCHC is an agent of the City only for the limited purposes provided for in this Schedule. It is acknowledged and agreed that TCHC does not acquire any right, title or interest in any property of the City by virtue of this Agreement.

10.12 Invalidity

If any part of this Agreement is held or rendered invalid or illegal by a court of competent jurisdiction, the remainder of this Agreement continues to apply.

10.13 Headings

The headings in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

10.14 Time

Time shall be of the essence of this Agreement.

10.15 Number and Gender

In this Agreement, words in or implying the singular include the plural and *vice versa*, and words having a gender include all genders.

10.16 Effective Date

This Agreement shall be in effect as of the Effective Date.

10.17 Schedule "A"

Schedule "A" Delegation of Income Testing for Housing Projects subject to Part V of Act forms part of this Agreement, and unless the context clearly indicates otherwise, all references in this Agreement to "this Agreement" shall be deemed to include Schedule "A".


The parties have executed these presents by their respective duly authorized officers.

CITY OF TORONTO

Per: 
Name: Eric Gam
Title: Commissioner of Community and
Neighbourhood Services

I / We have authority to bind the Corporation.

**TORONTO COMMUNITY HOUSING
CORPORATION**

Per: 
Name: Derek Ballantyne
Title: Chief Executive Officer

I / We have authority to bind the Corporation.

SCHEDULE "A"

Delegation of Income Testing for Housing Projects subject to Part V of the Act

1.0 INTERPRETATION

1.1 Definitions under this Schedule

"City Guidelines" means all written policies, procedures, guidelines and directives of the City relating to the Act, Regulations or this Schedule, as same may be established, amended or replaced from time to time.

"comply" means to implement, follow, adhere to and comply with.

"Eligible Tenant" means a tenant of TCHC who has been determined to be eligible to receive rent-geared-to-income assistance under the Act and Regulations and includes, as appropriate, members of his or her household.

2.0 INCOME TESTING WITH RESPECT TO TCHC HOUSING PROJECTS

2.1 Duties

TCHC shall, with respect to the rent-geared-to-income units in housing projects owned or operated by TCHC:

- (a) determine the amount of geared-to-income rent payable by an Eligible Tenant;
- (b) determine upon the commencement of a tenancy and at least once per year thereafter, the size and type of unit for which the Eligible Tenant is eligible;
- (c) receive and review information provided by an Eligible Tenant from time to time to determine if he or she remains eligible to receive rent-geared-to-income assistance and if so, the amount of rent-geared-to-income assistance for which he or she is eligible;
- (d) review, at least once per year, the eligibility of an Eligible Tenant to determine if he or she remains eligible to receive rent-geared-to-income assistance and if a finding of eligibility is made, the amount of rent-geared-to-income assistance for which he or she is eligible;
- (e) make its best efforts to obtain reimbursement of the excess amount of rent-geared-to-income assistance provided to an Eligible Tenant, if any, in the event TCHC determines that an Eligible Tenant has paid less geared-to-income rent for a period than he or she should have paid;
- (f) provide any and all notice to Eligible Tenants as required by the Act and Regulations;
- (g) receive requests for internal reviews from Eligible Tenants and conduct such internal reviews in accordance with the Act and Regulations;
- (h) receive and determine applications for a deferral of all or part of the rent payable by the household;
- (i) comply with all local eligibility rules established by the City within ninety (90) days following notice of issuance by the City;
- (j) take all reasonable steps to ensure that Eligible Tenants are advised of and comply with relevant provisions of the Act and Regulations and the City Guidelines;
- (k) perform such additional service manager duties and exercise such additional service manager powers under Part V of the Act, and the Regulations made thereunder, in connection with the eligibility of Eligible Tenants for rent-geared-to income assistance or the determination of geared-to-income rent payable by Eligible Tenants, as may be specified from time to time in a City Guideline.

2.2 Delegation / Assignment

TCHC may, subject to compliance with the Shareholder Direction, perform any or all of its obligations under this Schedule through a Subsidiary (as defined in the Shareholder Direction). TCHC acknowledges that the City, as Shareholder, is to be informed of the creation of such Subsidiary at the earliest possible opportunity together with information related to the purpose and governance and other such information as may be relevant. The assumption by such Subsidiary of any or all of the obligations of TCHC under this Schedule does not relieve TCHC of any of its obligations to the City under this Schedule, it being understood and agreed that TCHC shall remain directly liable to the City for the due performance of all of its obligations under this Schedule. Except as provided by this Section, TCHC shall not assign any or all of its rights or any or all of its obligations under this Schedule to any person without the prior written consent of the City.

3.0 INCOME TESTING WITH RESPECT TO OTHER HOUSING PROJECTS

3.1 Background

The parties acknowledge that the City has or will enter into agreements with other housing providers in which the City has or will delegate to housing providers certain income testing powers or duties under the Act and Regulations with respect to the rent-geared-to-income units in housing projects owned or operated by such housing provider.

3.2 Duties

TCHC shall, upon not less than 120 days prior written notice from the City, perform all of the income testing powers and duties under the Act and Regulations that the City had delegated to a housing provider, in respect of such housing provider's rent-geared-to-income units in housing projects owned or operated by such housing provider. Any such request would be considered as a service by TCHC to the City and as such the City shall reimburse all reasonable costs incurred by TCHC in response to these duties.

4.0 TRAINING

4.1 Training Programs by the City

The City shall, from time to time, provide training programs with respect to eligibility for rent-geared-to-income assistance, the calculation of rent-geared-to-income assistance and other issues related to this Schedule. The City may approve other persons or organizations to provide the training programs. Where the City requests TCHC to perform this training on behalf of the City, the City shall reimburse all reasonable costs incurred by TCHC in response to the performing the request.

4.2 Required Training for TCHC

TCHC shall ensure that all current staff who are involved in the provision of services under this Schedule meet the City's training program requirements by April 30, 2003, and once every 18 months thereafter.

TCHC shall ensure that any new staff which are to be involved in the provision of services under this Schedule meet the City's training program requirements within three months of the commencement of their employment with TCHC, or such longer period as the City may approve, and once every 18 months thereafter.

5.0 FUNDING

5.1 Funding

It is agreed and understood that TCHC shall fulfil all of its obligations under this Schedule within its own budget amounts, excluding areas of agreement where additional funding for assumption of additional duties as required has been agreed to by both parties.

6.0 REPORTS, RECORDS, PUBLIC DOCUMENTS

6.1 Reports and Records Generally

TCHC shall:

- (a) maintain accurate records and accounts of all of its transactions;
- (b) give the City and all persons designated by the City access to TCHC's financial and other records at all reasonable times;
- (c) give the City such reports, documents and information as the City may request; and
- (d) give the requested reports, documents and information to the City at the times and in the form and manner requested by the City.

6.2 Public Documents

TCHC agrees that, in connection with this Schedule, it is a duty of TCHC to make the information required in Section 60 of the Regulation available for inspection and copying by members of the public during normal business hours.

6.3 Additional Reports and Records

TCHC shall:

- (a) no later than February 28th of every year, give the City a report with respect to the previous calendar year containing full and complete disclosure of TCHC's compliance with this Schedule and confirmation that:
 - (i) TCHC has complied with Part V of the Act and the provisions of the Regulation with regard to eligibility for rent-geared-to-income assistance, eligibility rules, occupancy standards, priority designations, decisions and internal reviews;
 - (ii) TCHC provided services with respect to the administration and provision of housing in both English and French; and
 - (iii) such other matters as the City may require.

7.0 PERFORMANCE REQUIREMENTS

7.1 Warranty of Skill and Professionalism

TCHC represents and warrants that it has the experience, skilled personnel and management and knowledge necessary to administer and discharge its obligations under this Schedule with due diligence and in a professional and competent manner.

7.2 Performance Standards

TCHC shall:

- (a) not knowingly furnish false information in a report, document or information given to the

- City under this Schedule or pursuant to the Act or the Regulations;
- (b) assign a representative to liaise with City staff for the purposes of this Schedule;
 - (c) co-operate and work with City staff in the performance of its functions and responsibilities for the purposes of this Schedule;
 - (d) maintain an adequate and appropriate administrative organizational structure sufficient to discharge its functions and responsibilities pursuant to this Schedule;
 - (e) act with all due and reasonable diligence, professional skill and competence;
 - (f) refrain from making representations on behalf of the City which are beyond the scope of this Schedule;
 - (g) maintain the physical security of all data, information, reports, material or other documents relating to this Schedule;
 - (h) treat all information which is obtained by it through its performance under this Schedule as confidential and shall not disclose same, other than in accordance with this Schedule or as required by law, without the prior written consent of the City;
 - (i) comply with all applicable federal, provincial and municipal legislation, regulations and bylaws, including but not limited to the Ontario Human Rights Code, the *Occupational Health and Safety Act*, *Workplace Safety and Insurance Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Freedom of Information and Protection of Privacy Act* and the *Tenant Protection Act, 1997*; and
 - (j) co-operate fully with any audit or investigation conducted by the City in connection with the services provided in this Schedule.

8.0 INSURANCE AND INDEMNITY

8.1 Insurance

In addition to the insurance required to be obtained by TCHC pursuant to the Act, the Regulations, the Federal Operating Agreements and the Non-Profit Rent Supplement Agreements, TCHC shall, during the term of this Schedule, obtain and maintain in full force and effect comprehensive general liability insurance, errors and omissions insurance, crime insurance and directors' and officers' insurance coverages issued by an insurance company authorized by law to carry on business in the Province of Ontario. The limit of coverage to be maintained by TCHC for the comprehensive general liability shall reflect any minimal limits as directed by the Province of Ontario or the Ministry of Municipal Affairs and Housing, but not less than \$10,000,000, per occurrence. The limit of coverage to be maintained by TCHC for the errors and omissions insurance and directors' and officers' insurance shall reflect any minimal limits as directed by the Province of Ontario or the Ministry of Affairs and Housing, but not less than \$5,000,000 for each loss.

The comprehensive general liability insurance policy shall include a cross liability and severability of interest clause of standard wording and the City shall be named as an additional insured. All policies of insurance shall state that the policy will not be cancelled or allowed to lapse or materially changed without the City receiving thirty (30) days prior written notice.

TCHC shall, upon execution of this Agreement, deliver a certificate of insurance to the City indicating the required insurance coverage in form satisfactory to the City. Thereafter TCHC shall provide the City with proof of the required insurance coverage annually, and at such other times as requested by the City.

8.2 Indemnity

TCHC shall at all times indemnify and save harmless the City, its officers, employees, agents, invitees, elected and appointed officials, successors and assigns (all of which are hereinafter called the "City Indemnitees") from and against any and all manner of claims, demands, losses, costs, charges, fines, actions and other proceedings whatsoever made or brought against, suffered by or imposed on the City Indemnitees or their property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction,

employees, agents, officials, and property of the City Indemnitees, or of TCHC) directly or indirectly arising out of, resulting from or sustained as a result of TCHC's performance of or failure to perform this Schedule, excepting only those claims, demands, losses, costs, charges and actions that are a result of the negligence of the City Indemnitees.

9.0 CITY GUIDELINES

9.1 Establishment of City Guidelines

TCHC acknowledges and agrees that the City may establish City Guidelines as it deems necessary or desirable from time to time in connection with any matter or issue contemplated in this Schedule, and within ninety (90) days following notice of issuance by the City in accordance with this Agreement, TCHC agrees to comply with all City Guidelines.

9.2 New or Supplemental City Guidelines

TCHC acknowledges and agrees that the City may supplement any existing City Guideline or introduce any new City Guideline as it deems necessary or desirable from time to time in connection with any matter or issue contemplated in this Schedule and within ninety (90) days following notice of issuance by the City in accordance with this Agreement, TCHC agrees to comply with all such supplemented or new City Guidelines, as the case may be.

9.3 Amended, Modified or Eliminated City Guidelines

TCHC acknowledges and agrees that the City may amend, modify or eliminate any existing City Guideline issued by it in connection with any matter or issue contemplated in this Schedule and within ninety (90) days following notice of issuance by the City in accordance with this Agreement, TCHC agrees to comply with all such amended, modified or eliminated City Guideline, as the case may be.

9.4 Unclear or Ambiguous City Guidelines

To the extent that TCHC finds, in carrying out its duties and responsibilities hereunder, if at all, that any City Guideline is unclear, ambiguous or not in compliance with the Regulations or the Act, TCHC shall forthwith seek the written direction of the City in connection therewith and thereafter follow the written direction of the City. In addition, if TCHC has any questions about the interpretation of any City Guideline, TCHC will refer it to the City and TCHC will follow the written direction of the City relating to it. Until such time as the City has provided notice in writing to TCHC, TCHC shall exercise its best judgement in the circumstance.

10.0 GENERAL

10.1 Local Eligibility Rules, Local Occupancy Standards, Local Priority Rules

Nothing in this Schedule shall be interpreted as a delegation by the City to TCHC of the City's function of establishing local eligibility rules, local occupancy standards, or local priority rules pursuant to the Act or Regulations.

10.2 Minister's Powers / Communications with the Minister

The duties and powers delegated by the City to TCHC under this Schedule are subject to the Minister's powers to take away from the City some or all of the City's functions and responsibilities under the Act.

Nothing in this Schedule shall be construed as authorizing TCHC to communicate directly with the Minister in connection with any duties or powers delegated by the City to TCHC.

10.3 Termination Without Cause

The City may at any time, without penalty or cause, terminate this Schedule by giving a minimum of one hundred and eighty (180) days written notice to TCHC.