

## BINDING MEMORANDUM OF AGREEMENT

This Binding Memorandum of Agreement ("MOA") is made effective as of the \_\_\_\_ day of June, 2025.

BETWEEN:

**THE CORPORATION OF THE CITY OF MISSISSAUGA**  
(the "Lender")

-and-

**HOSPICE OF MISSISSAUGA INC.**  
(the "Borrower")

**WHEREAS** the Borrower is an Ontario corporation incorporated under the Ontario *Non-profit Corporations Act, 2010* and operates from the municipal premises located at Unit 1, 855 Matheson Boulevard East, Mississauga.

**AND WHEREAS** the Borrower's objectives are to provide hospice palliative care, including compassion, support and advocacy that lessens the distress of serious illness and loss on individuals, families and the community.

**AND WHEREAS** the Borrower has received site plan approval and a foundational building permit to build a new approximately 40,000 square foot, 12 bed hospice care facility on a portion of the property municipally known as 2176 Speakman Drive in Mississauga (the "Project" or the "Property") pursuant to a ground lease made as of July 19, 2022 between Trillium Health Partners (the "Landlord"), as landlord, and the Borrower (formerly Hearthouse Hospice Inc.), as tenant, as amended (the "Lease") where construction costs are estimated to be between Twenty-Eight Million Dollars (\$28,000,000) and Thirty-Three Million Dollars (\$33,000,000).

**AND WHEREAS** the Borrower requires a loan to finance a portion of the construction costs for the Project and the Lender has agreed to provide a loan not to exceed Sixteen Million Dollars Two Hundred and Fifty Thousand Dollars (\$16,250,000) (the "Maximum Loan Amount"), on such terms and conditions as are hereinafter described.

**NOW THEREFORE** in consideration of the covenants and agreements contained in this MOA and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Lender and the Borrower, the parties hereby set out the following basic terms and conditions applicable to the commercial loan for the Project.

## 1. Purpose

To provide financing for the construction of the Project, whereby the total construction costs for the Project are estimated to be between Twenty-Eight Million Dollars (\$28,000,000) and Thirty-Three Million Dollars (\$33,000,000).

## 2. The Loan

The Lender is pleased to offer the Borrower a loan on the following general terms and conditions:

(a) Principal Amount:

The Lender agrees to loan the Borrower the principal sum of up to Sixteen Million Two Hundred and Fifty Thousand Dollars (\$16,250,000.00) (the "Loan").

(b) Loan Arrangement:

The Loan will be disbursed under two separate arrangements:

(i) Construction Line of Credit (up to 3 years – Estimated timeframe October 1, 2025 to February 1, 2028).

(1) maximum one draw per month based on information provided in Progress Draw Request Package.

(2) Each draw request shall be verified by the Lender by way of a "*Progress Draw Request Package*" from the Borrower to the Lender to be provided 10 business days in advance of when funds are required based on the cash advance required by the Borrower for the next 30-day period.

(3) The Progress Draw Request Package shall contain, but not be limited to, the following:

a. Draw request form or draw schedule detailing the amount(s) requested and its intended use (e.g. type of construction work).

- b. A Certificate signed by the Borrower and a statutory certificate from the architect and/or engineer for each draw request certifying that all subtrade accounts for the Project for the period preceding the Progress Draw Request Package have been paid in full except for statutory holdback requirements and those accounts which are to be paid under the Progress Draw Request Package.
  - c. A letter from the Borrower's legal counsel for each draw confirming no liens have been registered against the Borrower's leasehold interest in the Property and there are no writs against the Borrower.
  - d. Contractor invoices/bills (invoices from general contractors, subcontractors, suppliers that show work completed and materials delivered).
  - e. Inspection report (if applicable) prepared by a quantity surveyor licensed by the Canadian Institute of Quantity Surveyors and satisfactory to the Lender (the "Quantity Surveyor").
  - f. Updated Project schedule and construction budget certified by the Quantity Surveyor.
- (4) It is acknowledged by the Lender that the Project budget will contain management fees and other such disbursements intended to facilitate the completion of the Project, as outlined in the Loan Agreement. The Borrower will be permitted to pay said budget amounts in the course over the Project, subject to review by the Quantity Surveyor.
- (ii) Long-term borrowing (25-year amortization from the Conversion Date – Estimated timeframe February 1, 2028 to January 31, 2053).
- (1) The Borrower shall convert the final balance of the construction line of credit to a long-term loan arrangement on a conversion date, which date shall be the date on which

the Project has achieved substantial performance (as such term is defined in the *Construction Act* (Ontario)) (the "Conversion Date").

- (2) The long-term borrowing agreement shall have a term of 25 years.

(c) Interest Rate:

(i) Construction Line of Credit Interest Rate:

The annual interest rate on the construction line of credit will be applied monthly, calculated on the outstanding principal and interest balance on the last day of each month, based on the Bank of Canada's Target Overnight rate plus 1%. The "Target Overnight rate" is also referred to as the Bank of Canada's policy interest rate, key interest rate or target rate. The Bank of Canada carries out its monetary policy by adjusting the Target Overnight rate on fixed dates each year.

(ii) Long Term Borrowing Interest Rate:

The annual interest rate on the long-term borrowing, after the Conversion Date, will be applied monthly, calculated on the outstanding balance on the last day of each month and will be amortized over 25 years. The annual interest rate shall be based on the Bank of Canada's Target Overnight rate plus 1% as at the Conversion Date. The rate shall be fixed for one year after the Conversion Date, then adjusted annually based on Bank of Canada's Target Overnight rate plus 1% on each annual anniversary date thereafter. The basis of the rate shall be reviewed between the Lender and the Borrower every 5 years during the term of the Loan. On each such 5 year anniversary of the term of the Loan, the Lender shall have the right to adjust the basis of the rate for the long-term borrowing interest rate for the remainder of the term of the Loan to align with interest rate the Lender pays to its lender for its line of credit, modified to comply with the relevant provisions of the *Interest Act* (Canada).

- (d) Term:
- (i) Construction Line of Credit (up to 3 years – Estimated timeframe October 1, 2025 to February 1, 2028)
  - (iii) Long-term borrowing (25 year amortization from the Conversion Date – Estimated timeframe February 1, 2028 to January 31, 2053).
- (e) Repayment and Prepayment Privileges.
- (i) Construction Line of Credit:
    - a. **Repayment Period:** The Borrower shall repay at a minimum, the interest portion of the Loan, over the duration of the construction line of credit period, of up to 3 years.
    - b. **Installment Payments:** The Borrower agrees to make monthly payments based on the Loan repayment schedule provided by the Lender, which shall include only the interest portion of the Loan.
    - c. **Prepayment:** The Borrower may prepay the Loan in whole or in part at any time without penalty. Any prepayment shall first be applied to accrued interest, then to principal.
    - d. **Method of Payment:** All payments shall be made via electronic funds transfer to the Lender by the last day of each month. A remittance notice to the Lender via email must accompany the payment.
  - (ii) Long term loan arrangement:
    - a. **Repayment Period:** The Borrower shall repay at a minimum, the principal and interest portion of the Loan, over the duration of the Loan period, being 25 years from the Conversion Date.
    - b. **Installment Payments:** The Borrower agrees to make monthly payments based on the loan repayment schedule provided by the Lender, which shall include both the principal and interest portion of the Loan.

- c. **Final payment:** Any outstanding principal and accrued interest shall be due and payable in full on the earlier of: (i) January 31, 2053; and (ii) 25 years from the Conversion Date.
  - d. **Prepayment:** The Borrower may prepay the Loan in whole or in part at any time without penalty. Any prepayment shall be no less than \$50,000.00 and shall first be applied to accrued interest, then to principal.
  - e. **Method of Payment:** All payments shall be made via electronic funds transfer to the Lender by the last day of each month. A remittance notice to the Lender via email must accompany the payment.
- (f) Additional Provisions: The Borrower acknowledges and understands that following the execution of this MOA, the City will prepare a loan agreement (the "Loan Agreement"), which will supersede this MOA and govern the relationship between the Lender and Borrower. The Loan Agreement will include, inter alia, the Loan terms contained herein, representations and warranties from the Borrower, a comprehensive list of events of defaults and the penalties associated therewith, a covenant from the Borrower to continually operate the hospice on the Property during the duration of the Loan, and a provision allowing the Lender to appoint a director to the Borrower's board of directors and requiring the Borrower to have the appropriate Directors and Officers Insurance.
- (g) Restrictions: Other than indebtedness through credit cards and the acquisition of chattel equipment necessary for the operation of the hospice where the financing for same is secured under *Personal Property Security Act*, (Ontario), the Borrower shall not incur additional indebtedness during the term of the Loan and shall not provide security, guarantees or loans or advances of any kind to any person or entity, without the prior approval of the Lender, acting in a commercially reasonable manner. Prior to the first advance from the Lender, the Borrower shall be required to: (i) obtain consent under the *Planning Act* (Ontario) to the term of the Lease, (ii) have a reference plan prepared for the Property, (iii) obtain the consent of the Landlord, (iv) create a leasehold parcel for the Property, and (v) authorize the Lender to register a restriction under Section 118 of the *Land Titles Act* (Ontario) against such leasehold parcel, which restriction will prohibit the

Borrower from transferring or charging the Borrower's leasehold interest in the Property without the Lender's written consent.

- (h) Due on Sale: The Loan shall immediately become due and payable in the event of a sale or transfer of the hospice facility.
- (i) Representation: The Borrower must be represented by its own lawyer with respect to this transaction.

### **3. Conditions of Funding**

In order to advance funds, the Lender will need to be satisfied with the following in its sole and absolute discretion:

- (a) The terms of all documents contemplated by this MOA, including the Loan Agreement, and with the Borrower's compliance therewith.
- (b) Prior to the first advance from the Lender, confirmation from the Landlord under the Lease of the Property that base rent of \$1,000,000.00 has been paid for the entirety of the Lease term.
- (c) The Lender's review of the following, which the Borrower covenants to provide:
  - i. A full narrative appraisal report of the Project confirming a completed value of not less than \$22,153,000.00.
  - ii. Letter of Reliance from the appraiser stating the Lender may rely on the appraisal report in the same manner and to the same extent as the Borrower.
  - iii. A Phase I Environmental Site Assessment report related to the Project from a qualified environmental consultant acceptable to the Lender and any additional reports as recommended by the environmental consultant.
  - iv. Letter of Reliance from the environmental consultant stating the Lender may rely on the Phase I Environmental Site Assessment report in the same manner and to the same extent as the Borrower.

- v. Detailed final development cost breakdown and monthly construction schedule, to be certified by a Quantity Surveyor satisfactory to the Lender and found to be adequate for the Project.
- vi. Detailed architectural and construction plans/specifications for the Project.
- vii. Evidence the Project has received site plan approval and a building permit from the City of Mississauga, satisfactory to the Lender.
- viii. Copies of the Geotechnical (soils) Reports on the Project;
- ix. Letter of Reliance from the Geotechnical consultant stating the Lender may rely on the Geotechnical Reports in the same manner and to the same extent as the Borrower.
- x. Confirmation that Project architects or engineers will be retained to provide monthly inspections and provide the Lender with written confirmation that the Project is being constructed in conformance with the approved plans and specifications.
- xi. List of the principal consultants for the Project, together with their contact information.
- xii. Copy of the construction contract with the general contractor.
- xiii. Confirmation that the Borrower has used all cash on hand from donations designated for construction of the Project prior to any construction advances.
- xiv. Receipt and review of committed donations and grant funding.
- xv. Complete, up-to-date accountant prepared annual financial statements for the Borrower, covering the most recent three (3) fiscal years and, where the most recent fiscal year end is more than six months prior to the date of this MOA, an up-to-date interim management prepared statements, all signed in the original.



- xvi. Copies of all agreements governing the legal ownership and the beneficial leasehold ownership of the Project.
  - xvii. A copy of the Lease and copies of all amending agreements (including such amending agreements as may be required by the Lender to facilitate the Loan transaction), as applicable, and confirmation that it is in good standing.
  - xviii. A copy of the Certificate from the Secretary Treasurer authorizing the Consent from the Committee of Adjustments approving the term of the lease and evidence the Certificate has been registered on title.
  - xix. A copy of the registered Notice of Lease appearing on the Landlord's Land Titles Parcel Register.
  - xx. A list of directors together with their current occupations.
  - xxi. Access to the Project lands for a satisfactory site visit by the Lender.
  - xxii. Any other items reasonably requested by the Lender in order to assist with its due diligence and as may be required by the Lender in its sole discretion to advance funds and generally to act as lender for the Project.
- (d) The Borrower having provided all security documents contemplated by the Loan Agreement, to the satisfaction of the Lender and its solicitors.
  - (e) The total construction costs for the Project (based on the winning Request for Proposal) does not exceed the sum of the Borrower's (a) cash on hand from donations designated for construction of the Project as of the date of construction start, and (b) the Maximum Loan Amount). If the Borrower does not meet this requirement, then the Loan will be deferred until such time as the Borrower is able to meet this requirement.
  - (f) Any other item that the Lender reasonably requires.

#### **4. Security**

The Lender will take security (the "Security") in a form acceptable to the Lender and its solicitors. Security may include, but shall not be limited to the following:

- (a) Subject to indebtedness authorized by the Lender in accordance with Section 2(g), a first ranking all indebtedness Leasehold Mortgage in the amount of \$16,250,000 made by the Borrower charging the leasehold interest in the Project;
- (b) A full assignment of all pledged donations whether specifically designated for the Project or otherwise;
- (c) A General Security Agreement registered in first position under the *Personal Property Security Act* charging all personal property of the Borrower located at the Project or located elsewhere and reasonably necessary for the effective management and administration of the Project;
- (d) Debt Service, Completion and Cost Overrun Agreement from the Borrower;
- (e) Tripartite Agreement made between the Borrower, the Landlord, and the Lender with respect to the Project amending the provisions of the Lease to the reasonable satisfaction of the Lender;
- (f) Insurance coverage during the Term of the Loan, including but not limited to: Builder's Risk insurance written on an all-risk basis during the course of construction, business interruption, earthquake and flood. This policy(s) shall provide for full replacement cost on all buildings, equipment, and inventory, owned by the Borrower and located at the Project or located elsewhere and reasonably necessary for the effective implementation, management, and administration of the Project. The Lender is to be reflected as first loss payee. Insurance to include Wrap-Up liability in the minimum amount of \$5,000,000 per occurrence.
- (g) Assignment of:
  - (i) Fixed price building contract.
  - (ii) Performance bond(s) required to be obtained by the general contractor.
  - (iii) All permits, plans, licenses, etc. necessary to construct the Project.
- (h) An Environmental Indemnity Agreement executed by the Borrower;

- (i) Security over cash and/or balances in its bank accounts and/or deposit instruments as required;
- (j) Such ancillary or additional agreements, charges, corporate resolutions and bylaws, opinions, certificates, representations, and warranties as the Lender may require ensuring that the MOA and the Security are effective and binding on all parties thereto; and
- (k) Other reasonable security as determined by the Lender's solicitors.

## 5. **Credit Reporting**

The Borrower hereby consents to the Lender obtaining information and data on its creditworthiness from any person or credit reporting agency as the Lender may reasonably require from time to time.

## 6. **Notices**

Any demand, notice or communication to be provided under this MOA shall be in writing and may be given by personal delivery, email or prepaid first class mail addressed to the respective parties as follows:

- (a) the Lender at:

**City of Mississauga – Legal Services Division**

300 City Centre Drive

Mississauga, Ontario, L5B 3C1

Attention: Domenic Tudino, BA., LL.B., C.S.

Deputy Director, Special Projects

or if by email, to: [domenic.tudino@mississauga.ca](mailto:domenic.tudino@mississauga.ca)

- (a) the Borrower at:

**Hospice of Mississauga Inc.**

Unit 1, 855 Matheson Boulevard East,

Mississauga, Ontario, L4W 4L6

Attention: Kitrina Fex, Executive Director

or if by email, to: [kfex@hospicemississauga.ca](mailto:kfex@hospicemississauga.ca)

or to such other email address as any party may from time to time notify the other. Any demand, notice or other communication given by personal delivery or email shall be conclusively deemed to have been received by the party to which it is addressed on the day of actual delivery thereof. In the case of a demand, notice or communication addressed to more than one party, on the day upon which actual delivery thereof has been completed to all such parties. Any notice sent by prepaid first class mail as aforesaid shall be deemed to have been delivered on the fifth (5th) business day (excluding Saturdays, Sundays and Statutory Holidays) following the date of mailing thereof provided that postal services have not been interrupted, in which case notice shall only be given by personal delivery or email as aforesaid. It is agreed that any notice to be given by the Lender may be by the City Solicitor or their designate, and need not be under the corporate seal of the Lender and any such notice, so signed, shall be conclusively deemed to express the will and corporate act of the Lender as therein contained and no further evidence thereof or of any by-law or resolution need be given.

**7. Divisions/Headings**

The division of this MOA into Articles, Sections, Subsections, Paragraphs and Subparagraphs, and the insertion of headings or captions, are for convenience of reference only, and shall not affect the construction or interpretation of this MOA or any parts of them.

**8. Interpretation**

This MOA shall be read with all changes of gender and number required by the context. If two or more persons have executed this MOA as Borrower, their liability shall be joint and several.

**9. Time of Essence**

Time shall in all respects be of the essence of all matters provided for in this MOA provided that the time for the doing or completing of any matter may be extended or abridged by an agreement, in writing, executed by the Lender and the Borrower, or by their respective solicitors, who are expressly appointed for that purpose.

**10. Assignment**

The Borrower shall not assign this MOA, or direct that the Loan be taken in the name of any person or entity other than the Borrower, without the prior written

consent of the Lender, which consent may be unreasonably and arbitrarily withheld.

If the Lender consents to an assignment, or to a direction that the Loan be taken in the name of any person or entity other than the Borrower, the Borrower shall agree, and shall cause the assignee or such other person or entity to agree, in writing in favour of the Lender, to be jointly and severally bound to perform the obligations of the Borrower under this MOA. The MOA shall enure to the benefit of and be binding upon the Lender, its successors and assignees, and the Borrower, its successors and permitted assignees.

#### **11. Applicable Laws**

This MOA shall be interpreted and enforced in accordance with the laws of the Province of Ontario and Canada. The Loan Agreement and security documents will contemplate that disputes arising between the Lender and the Borrower that cannot be resolved between the parties directly will be resolved through arbitration.

#### **12. Entire Agreement**

This MOA, including any Schedules attached to this MOA, and all documents prepared pursuant to this MOA, shall constitute the entire agreement between the parties concerning the transaction contemplated by this MOA. The Borrower acknowledges that the Lender has made no representation, warranty, agreement or condition, whether direct or collateral, or express or implied, which induced the Borrower to make this MOA or on which reliance is placed by the Borrower, other than as expressly set out in this MOA.

#### **13. Electronic Signatures**

The parties hereto consent and agree that this MOA may be signed and/or transmitted by e-mail of a .pdf document or using electronic signature solution (including DocuSign or similar electronic signature solution), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's hand-written signature.

**14. Schedules**

All Schedules attached form an integral part of this MOA. If there is any conflict between what is set out in a Schedule and what is otherwise set out in the MOA, the conflicting term set out in the Schedule shall prevail.

Schedule "A" – Sketch of the Project Lands.

**[Remainder of page is intentionally left blank. Signature page follows.]**

Signed by the Borrower this \_\_\_\_\_ day of June, 2025.

**HOSPICE OF MISSISSAUGA INC.**

\_\_\_\_\_  
Per: **Kitrina Fex**, Executive Director

I have authority to bind the corporation

Signed by the Lender this \_\_\_\_\_ day of June, 2025.

**THE CORPORATION OF THE  
CITY OF MISSISSAUGA**

\_\_\_\_\_  
Per: **Geoff Wright**, City Manager

Authorized through Mississauga By-law  
# 0079-2025

**SCHEDULE "A"**

**The Project Lands**

Part of Land Titles PIN: 13427-0567

[This sketch is to be updated by the reference plan to be deposited on title. The Lease shall reflect access to the Property is over the private access road in a manner consistent with the site plan agreement. The Tripartite Agreement with Landlord shall include the requirement that access to Property cannot be changed without Lender's consent.]

