

This Agreement executed this \_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date").

B E T W E E N:

**[Service Provider]**

("Service Provider")

- AND -

**THE CORPORATION OF THE CITY OF BURLINGTON**

("City")

(referred to individually as a "Party" and collectively, the "Parties")

WHEREAS the *Emergency Management and Civil Protection Act*, R.S.O. 1990, CHAPTER E.9, as amended, requires that every municipality shall develop and implement an emergency management program and the council of the municipality shall, by by-law, adopt the emergency management program;

AND WHEREAS Burlington By-law 087-2015 (the "Emergency Plan") outlines the City's response to major incidents and emergencies, such as tornadoes, floods, and spills ("Incidents and Emergencies") and defines the roles and responsibilities of officials from every level of government and from external agencies;

WHEREAS community service organizations and faith based organizations engage with the local community and work with vulnerable populations on a regular basis and volunteers from these organizations can provide invaluable support and services to the City in the event of an Incident or Emergency, as set out in the Emergency Plan;

WHEREAS the City has initiated a capacity-building project with various community service organizations and faith-based organizations throughout the City of Burlington with a mandate to engage and train volunteers to assist and provide services and support in the event of an Incident or Emergency, including but not limited to: the provision of warming and cooling centres; gathering points and temporary day time refuge locations for people affected by Incidents or Emergencies; language translation services; spiritual and emotional support; and opportunities to provide public education on emergency preparedness (the "Lighthouse Program");

AND WHEREAS the Service Provider has the capacity, expertise and experience to supply such services in the event of an Incident or Emergency in the City of Burlington and wishes to participate in the Lighthouse Program;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Parties agree to as follows:

## **1. SCOPE OF SERVICES**

1.1. Upon receiving notification from the City that the City has activated its Emergency Plan, the Service Provider will provide services as set out below and detailed in Schedule "A" to this Agreement (the "Services"):

(a) Facilities **[Service provider to select all applicable services]**

- ☐ Gathering Point and Day-time Refuge Location Facilities
- ☐ Warming Centre
- ☐ Cooling Centre
- ☐ Member Contact Centre and/or Emergency Info. Centre
- ☐ Charging Centre
- ☐ Other \_\_\_\_\_

(b) Subject Matter Experts

- ☐ Foreign Language Translators, Braille and/or Sign Language
- ☐ Spiritual and Emotional Support providers
- ☐ Information Technology Professions
- ☐ Cultural, Religious & Neighborhood Engagement Norms Knowledge Experts
- ☐ Other \_\_\_\_\_

## **2. SERVICE PROVIDER REPRESENTATIONS, WARRANTIES AND COVENANTS**

### **2.1. The Service Provider represents, warrants and covenants that:**

- (a) it is, and shall continue to be for the Term, as defined in Section 4, a validly existing legal entity with full power to fulfill its obligations under this Agreement;
- (b) it has, and shall continue to have for the Term, the experience and expertise necessary to deliver the Services described in Schedule A to this Agreement;
- (c) it follows applicable federal and provincial laws and all municipal by-laws, including but not limited to the Ontario Fire Code and the Ontario Building Code, and does not know of or have reasonable grounds to know of, any fact that could result in or give rise to non-compliance with any such laws, regulations or by-laws;
- (d) it will provide vulnerable sector and criminal background checks to the City for all volunteers prior to providing Services under this Agreement;
- (e) all volunteers providing Services are above the age of eighteen (18) and are adequately trained and are familiarized, to the satisfaction of the City, with the emergency plans, protocols and procedures of the City;
- (f) all volunteers are trained and familiarized with Ministry of Labour standards, First Aid and CPR;
- (g) it will not permit use of facilities as overnight shelters, as governed by the Region of Halton's Social and Community Services standards; and
- (h) it will only handle or prepare food after obtaining approval from the Halton Region Health Department.

## **3. CITY OF BURLINGTON SUPPORT**

### **3.1. The City will provide the following support to the Service Provider during the Term of this Agreement:**

- (a) Design and implement applicable training programs and workshops for Service Provider staff and volunteers based on the City's standards;

- (b) Provide administrative support, including but not limited to: circulating newsletters, documentation, and online resources;
- (c) Provide ongoing communications, situation reports and status updates to the Service Provider during an Incident or Emergency; and
- (d) Reimburse the Service Provider for eligible expenses directly associated with the provision of Services during an Incident or Emergency, to the satisfaction of the City as set out in Schedule B to this Agreement ("Eligible Expenses").

3.2 Other than the obligations listed above in this section, the City shall not have any additional obligations with respect to the Lighthouse Program.

#### **4. TERM**

4.1. The Term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until either Party has provided notice to the other of termination pursuant to Section 5 of this Agreement.

#### **5. TERMINATION**

5.1. This Agreement may be terminated by either Party by giving thirty (30) days' notice in writing to the other Party.

5.2. Termination of this Agreement pursuant to clause 5.1 above shall not relieve either Party of any ongoing obligation(s) incurred in accordance with this Agreement prior to its termination.

5.3. Both the Service Provider and the City may give immediate notice of termination if conditions are such that the Service Provider and/or the City is/are unable to provide Services without compromising the health or safety of staff, volunteers or Burlington residents.

5.4. Each and every one of the following events is an "Event of Default":

- a) Any of the Service Provider's representations, warranties or covenants made to the City by the Service Provider are false, misleading or inaccurate; or
- b) The Service Provider engages in or permits any conduct or act which in the opinion of the City is improper or offends community standards of tolerance.

5.5 In an Event of Default, the City shall have the following remedies:

- a) Take steps to disassociate itself from the Service Provider, including issuing communications to the public;
- b) Terminate this Agreement immediately without liability, penalty or costs; and
- c) Avail itself of any of its legal remedies it may deem appropriate.

5.6 Where the Service Provider is in default of this Agreement, the Service Provider shall immediately take steps to disassociate itself from the City and the Service Provider shall not directly or indirectly at any time or in any manner whatsoever identify or associate itself with the City.

#### **6 RECORDS MANAGEMENT**

6.1 The Service Provider will establish, maintain, and retain records of Services offered, as applicable, during an Incident or Emergency. The records are for statistical and audit purposes only and will contain minimal personal information. As such, the records will include:

- (a) names of people directly involved in the Incident or Emergency;
- (b) the Postal Code of primary residence address of people directly involved in the Incident or Emergency;
- (c) a contact phone number and/or e-mail for the people directly involved with the Incident or Emergency in order to provide any required follow-up service, as applicable; and
- (d) depending on the situation, other information may be requested by the City on a case by case basis.

6.2 The Service Provider will keep the records in a secure place and will deliver all records to the City within thirty (30) days, after the conclusion of the Incident or Emergency response.

## **7 REPORTING**

7.1 If the Services of the Service Provider are required to support the City during an Incident or Emergency, the Service Provider will provide the City with a summary of events and/or a debriefing within ten (10) days after the start of the Incident or Emergency. After the Incident or Emergency, the Service Provider will, within sixty (60) days, provide to the City a final report and financial accounting of its activities during the Incident or Emergency.

## **8 INSPECTION**

8.1 The City may, with the approval of the Service Provider, and during normal business hours, enter upon the Service Provider's premises to review the progress of the activities and Services described in this Agreement.

## **9 INSURANCE**

9.1 The Service Provider shall obtain and maintain in force during the Term of this Agreement, at its cost, the following insurance policies:

- (a) general liability insurance insuring all responsibilities, operations and services as described in this Agreement. The policy will be extended to include bodily injury and property damage, personal injury and advertising liability, abuse coverage and contractual liability to a limit of not less than two million dollars (\$2,000,000) per occurrence. The policy will include volunteers as additional insureds. The policy shall include a cross liability and severability of interest clause and be endorsed to name the Corporation of the City of Burlington as an additional insured and;
- (b) Non-owned automobile liability to a limit of not less than \$1,000,000.

9.2 The Service Provider shall ensure that all policies of insurance will: (a) be written with an insurer licensed to do business in the Province of Ontario; (b) be non-contributing with and will apply only as primary and not excess to any other insurance or self-insurance available to the City; and (c) contain an undertaking by the insurers to notify the City in writing no less than thirty (30) Business Days prior to

any termination or cancellation of coverage unless otherwise required by law. Any deductible amounts will be borne by the Service Provider.

9.3 Within ten (10) days prior to the execution of this Agreement, the Service Provider shall provide to the City proof of insurance on a form of a certificate of insurance which has been signed by an authorized representative of the insurer. The Service Provider will make available complete certified copies of all applicable insurance policies for examination if required by the City.

9.4 The Service Provider shall deliver to the City certificates of insurance evidencing renewal or replacement of policies required under this Agreement at least fifteen (15) days prior to the expiration or replacement of the current policies without demand by the City.

## **10 INDEMNITY**

10.1 The Service Provider will indemnify, save harmless, and defend (at the discretion of the City) the City, its elected officials, and any other person for whom it is in law responsible for, from any kind of liability, suit, claim, demand, fine, action, or proceeding of any kind which may be brought against it, and from and against any and all losses, costs, damages, or expenses (including reasonable legal fees) suffered or incurred by the City (the "Claims and Losses"), howsoever caused, including, but not limited to, by reason of any damage to property or injury (including injury resulting in death) to any person, in any way connected with this Agreement, or arising from any breach of or non-performance by the Service Provider of any provision of this Agreement, unless such Claims and Losses are caused by the negligence or willful misconduct of the City or those for whom in law it is responsible.

## **11 NOTICE**

11.1 Any notice or other communication required or permitted to be given by this Agreement shall be in writing and shall be effectively given if:

(a) delivered personally; or

(b) sent by prepaid courier services; or

(c) sent by facsimile to the Service Provider or the City, and subsequently by regular mail service.

11.2 Any notice so given or made pursuant to this Section shall be deemed to have been given and received: (i) with regards to e-mail or fax, the date on which the e-mail or fax was sent (if after business hours, then deemed to have been received on the next business day) and (ii) with regards to pre-paid courier service or regular mail, 5 business days after the notice was mailed. Both Parties agree to update the other Party of any changes to the contact information.

11.3 In the case of the City, any notice or communication shall be addressed to:

The Corporation of the City of Burlington  
426 Brant St, Burlington, ON L7R 3Z6  
Attention: Mike O'Brien Community Emergency Management Coordinator

Tel: (905) 335-7600 ext. 6204

11.3 In the case of the Service Provider, any notice or communication shall be addressed to:

**Attention:**

Tel: (     )

## **12 CONFLICT OF INTEREST**

- 12.1 The Service Provider will carry out the Lighthouse Program without any actual, potential or perceived conflict of interest. For greater clarity, a conflict of interest includes any circumstances where the Service Provider or any person who has the capacity to influence the Service Provider's decisions, has outside commitments, relationships or financial interest that could, or could be seen to interfere with the Service Provider's objective, unbiased and impartial judgment relating to the Lighthouse Program, the use of in-kind support, or both.
- 12.2 The Service Provider will disclose to the City, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and comply with any terms and conditions that the City may prescribe because of the disclosure.

## **13 CONFIDENTIALITY**

- 13.1 Neither party shall disclose to third parties any Confidential Information or Confidential Data relating to the provision of Services.
- 13.2 "Confidential Information" and "Confidential Data" mean all confidential information disclosed by a Party to the other Party, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
- 13.3 The Service Provider acknowledges that the City is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M 56 ("MFIPPA") and any information provided to the City may be subject to protection or disclosure in accordance with MFIPPA.

## **14 COMMUNICATIONS**

- 14.1 The Service Provider shall provide to the City, prior to release, an electronic copy of all reports, announcements, brochures, audiovisual materials, internet materials, advertising and publicity, including design or other public communication or publication in relation to the Lighthouse Program.
- 14.2 The Service Provider will not make any public announcement related to the Lighthouse Program activities and Services until the City has been notified of the announcement.
- 14.3 The Service Provider will respond to requests by the City for information about any public announcement as soon as possible and in any event, will provide an initial response within twenty-four (24) hours.
- 14.4 The Service Provider will acknowledge that it is a participant in the Lighthouse Program by using the official Lighthouse Program logo (the "Logo"), which will be provided to the Service Provider by the City. The Service Provider will immediately discontinue using the Logo once it ceases to participate in the Lighthouse Program.

## 15 GENERAL PROVISIONS

- 15.1 If any provision of this Agreement is held invalid, illegal or unenforceable,
- (a) the remainder of this Agreement and its application to any person or circumstances shall not be affected thereby; and
  - (b) the Parties will negotiate in good faith to amend this Agreement to implement the intentions set forth herein.
- 15.2 The laws of the Province of Ontario and the federal laws of Canada shall govern this Agreement.
- 15.3 The Service Provider shall not assign this Agreement in whole or in part without the prior written consent of the City.
- 15.4 This Agreement shall not be varied, altered, amended or supplemented except in writing signed by the authorized representatives of both Parties.
- 15.5 No waiver of a breach by a Party under this Agreement shall constitute a consent to or waiver of any other different or subsequent breach.
- 15.6 The Service Provider acknowledges that it is bound by the Ontario Human Rights Code (the "HRC") amended from time to time and all other applicable laws.
- 15.7 The Service Provider acknowledges that it shall be compliant with all applicable requirements, specifications and standards for accessibility established in accordance with the HRC, the *Ontarians with Disabilities Act* as amended from time to time and the *Accessibility for Ontarians with Disabilities Act* as amended from time to time, and regulations made thereto and any direction from the City.
- 15.8 For the purposes of interpretation:
- (a) words in the singular include the plural and vice-versa;
  - (b) words in one gender include all genders;
  - (c) the background and the headings do not form part of the Agreement; they are for reference only and shall not affect the interpretation of the Agreement;
  - (d) any reference to dollars or currency shall be to Canadian dollars and currency; and
  - (e) "include", "includes" and "including" shall not denote an exhaustive list.
- 15.9 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement
- 15.10 Each party is an independent contractor and this Agreement shall not constitute or be considered to create a partnership, joint venture, agency or employer/employee relationship between the Parties unless expressly so stated herein. Neither the Parties, nor any of their employees or agents, shall have the power or authority to bind or obligate the other Party unless expressly so stated herein.

- 15.11 The rights and remedies of the City under this Agreement are cumulative, and not in substitution for, any of its rights and remedies by law or in equity.
- 15.12 The Service Provider agrees that monetary damages are not an adequate remedy if the terms of this Agreement are breached, and that the City will suffer irreparable damage. Therefore, the City, in addition to any other legal or equitable remedies, shall be entitled to seek an injunction or similar equitable relief against such breach or threatened breach.
- 15.13 If this Agreement is signed in the name of a corporation, partnership, business, association, club or society, the person signing represents and warrants that he/she has full authority to sign this Agreement and to bind such organization, and that if he/she is not so authorized, he/she will be personally liable for the performance of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this agreement to be duly executed as of the Effective Date.

THE CORPORATION OF THE CITY OF  
BURLINGTON

SERVICE PROVIDER

\_\_\_\_\_  
David Lazenby  
Chief, Burlington Fire Department

\_\_\_\_\_  
Name:  
Title:

I have the authority to bind the Service  
Provider.

WITNESS

WITNESS

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

Date signed by the City: \_\_\_\_\_, \_\_\_\_\_,  
2017.

Date signed by the Service Provider:  
\_\_\_\_\_, \_\_\_\_\_, 2017.



**SCHEDULE "A" – SERVICE PROVIDER**

**DETAILS OF THE SERVICES WILL BE PROVIDED BASED ON THE OPTIONS SELECTED BY THE PROVIDER IN SECTION 1.1.**

**SCHEDULE “B” – ELIGIBLE EXPENSES**

**ELIGIBLE EXPENSES WILL DEPEND ON THE SERVICE OPTIONS SELECTED BY THE PROVIDER IN  
SECTION 1.1**