

**THIS MUTUAL ASSISTANCE AGREEMENT**

made this 31<sup>st</sup> day of October, 2021.

B E T W E E N:

**THE CORPORATION OF THE TOWNSHIP OF BONFIELD**

**and**

**THE CORPORATION OF THE MUNICIPALITY OF CALLANDER**

**and**

**THE CORPORATION OF THE TOWNSHIP OF CHISHOLM**

**and**

**THE CORPORATION OF THE MUNICIPALITY OF EAST FERRIS**

**and**

**THE CORPORATION OF THE TOWNSHIP OF NIPISSING**

**and**

**THE CORPORATION OF THE MUNICIPALITY OF POWASSAN**

(collectively, the "parties")

**WHEREAS** Section 13.(3) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E. 9. (the "Emergency Management and Civil Protection Act") provides that the council of a municipality may make an agreement with the council of another municipality for the provision of any personnel, service, equipment or material during an Emergency;

**AND WHEREAS** the parties wish to provide for mutual aid and assistance through the provision of personnel, services, equipment or material to one or the other within the meaning of the *Emergency Management and Civil Protection Act*;

**AND WHEREAS** each of the parties has an emergency plan pursuant to the *Emergency Management and Civil Protection Act*;

**NOW THEREFORE** in consideration of the mutual covenants herein contained, the parties agree as follows:

## **1. Definitions**

### **1.1 In this Agreement,**

- 1.1.1 "Assisted Municipality" means the municipality receiving aid or assistance pursuant to this Agreement;
- 1.1.2 "Assisting Municipality" means the municipality providing aid or assistance pursuant to this Agreement;
- 1.1.3 "Emergency", "Emergency Area" and "Emergency Plan" shall have the same meanings as in the *Emergency Management and Civil Protection Act*;
- 1.1.4 "Agreement" means this Mutual Assistance Agreement and the attached Schedule(s) which embody the entire Agreement between the parties;
- 1.1.5 "Requested Party" means the municipality which has been asked for aid, assistance or both pursuant to this Agreement;
- 1.1.6 "Requesting Party" means the municipality asking for aid, assistance or both pursuant to this Agreement;
- 1.1.7 "Emergency Control Group" means the organizational entity, as defined in their respective Emergency Plans, responsible for directing and controlling the Assisted Municipality's response to an Emergency.

## **2. Role of Minister of Community Safety and Correction Services**

- 2.1 The parties acknowledge that pursuant to the *Emergency Management and Civil Protection Act* the Minister of Community Safety and Correctional Services for the Province of Ontario is responsible for the administration of the Act and is the principal contact for all Emergencies.
- 2.2 The Requesting Party also agrees to notify as soon as reasonably practicable, the Office of the Fire Marshal and Emergency Management ("OFMEM"), of the Ministry of Community Safety and Correctional Services of any request for assistance made under this Agreement.

### **3. Authorization to Request/Offer Assistance**

- 3.1 Each party hereby authorizes its Chief Administrative Officer/Clerk, or such other senior officer of the party as the Chief Administrative Officer/Clerk has designated (hereinafter "CAO/Clerk") to request assistance, to accept requests for assistance, to offer to provide assistance, or to accept offers to provide assistance pursuant to this Agreement on behalf of that party.

### **4. Requests for Assistance**

- 4.1 The parties agree that in an Emergency, a Requesting Party may request assistance in the form of qualified personnel, services, equipment, or material from any other party.
- 4.2 The request for assistance shall be made, after consultation with the CEMC and Head of Council, by the CAO/Clerk of the Requesting Party to the CAO/Clerk of the Requested Party. The CAO/Clerk may make the initial request for assistance orally; however, a written request should follow as soon as reasonably practicable. The Requested Party may request such reasonable additional information as it considers necessary to confirm the existence of the Emergency and to assess the type, scope, nature and amount of assistance to be provided.
- 4.3 The Requested Party shall respond to the request within one (1) day, and may in its sole discretion determine the type and scope, nature and amount of assistance, if any, it will provide. The Requested Party may respond to the request orally however a written response should follow as soon as reasonably practicable. (See Section 4.5)
- 4.4 The agreement to provide assistance shall be confirmed in writing as soon as reasonably practicable using the form set out in Schedule "A" attached hereto. The CAO/Clerk of the Requesting Party shall complete, sign and forward the form to the CAO/Clerk of the Requested Party, who shall then return a signed copy. The written confirmation shall set out in detail the specific personnel, services, equipment or material that has been requested as assistance, and which the Assisting Municipality has agreed to provide.
- 4.5 The parties may by mutual agreement amend the assistance to be provided to the Assisted Municipality under this Agreement. Amendments to the scope, type, nature or amount of assistance shall be confirmed in writing by the parties using the form set out in Schedule "A" attached hereto within three (3) days of being agreed upon.

## **5. Limitations on Assistance Provided**

- 5.1 Nothing in this Agreement shall require or obligate or be construed to require or obligate a party to provide assistance. Each party shall retain the right to refuse the request to provide assistance, and the right to offer alternative suggestions to the assistance that has been requested.
- 5.2 No liability shall arise against the Requested Party if it fails, for any reason whatsoever, to respond to a request for assistance made under this Agreement.
- 5.3 When assistance has been offered or provided by the Assisting Municipality, the Assisting Municipality shall not be obligated to provide any further assistance or to do anything or take any action beyond that which is specifically agreed to by the acceptance of the request for assistance.
- 5.4 Nothing in this Agreement shall prevent the Assisting Municipality, in its sole discretion, from withdrawing any or all assistance being provided to the Assisted Municipality. Any withdrawal of assistance by the Assisting Municipality shall only be made upon twenty-four (24) hours' notice to the Assisted Municipality, unless the Assisting Municipality is responding to an actual or pending Emergency within its own geographical boundaries, in which case it may withdraw assistance from the Assisted Municipality immediately without notice.
- 5.5 The Assisted Municipality may determine in its sole discretion that its requirement for assistance has ceased and shall notify the Assisting Municipality of this in writing.

## **6. Term, Termination and Withdrawal**

- 6.1 This Agreement shall be in effect for a period of 5 years from the date on which the last party signs the Agreement unless renewed in writing before then.
- 6.2 Despite any other section of this Agreement, any party may withdraw from and terminate its participation in this Agreement upon sixty (60) days' written notice to the other parties. The effective date of any such withdrawal and termination shall be the end of the notice period. In the event of the withdrawal and termination of any party, this Agreement shall survive and continue among the remaining parties.

## **7. Costs**

- 7.1 The parties agree that any and all direct and indirect costs for assistance are to be paid for by the Assisted Municipality. Such costs shall include all wages, salaries, overtime, shift premium, and similar charges and expenses incurred in providing the assistance including those wages, salaries, overtime and shift premium charges incurred resulting from staffing requirements in its home jurisdiction during the period of the assistance, providing all such costs are reasonable in the circumstances. In addition a flat 10% surcharge of actual wages will be used to offset the costs of benefits.
- 7.2 The Assisted Municipality shall also be responsible for all actual operating costs for all personnel, services, equipment, machinery or material furnished, including, but not limited to, costs of fuel, repairs, parts and any and all other items directly attributable to the operation of equipment and machinery, services and material furnished as assistance to the Assisted Municipality under this Agreement. The Assisted Municipality shall be responsible for the cost of replacing equipment or material furnished by the Assisting Municipality if damaged beyond reasonable repair.
- 7.3 The Assisting Municipality shall provide to the Assisted Municipality, if practical, an estimate of the cost of providing the assistance.

## **8. Payment**

- 8.1 Payment by the Assisted Municipality for costs incurred for the assistance provided, shall be subject to the Assisted Municipality's receipt of an invoice from the Assisting Municipality. Such invoice shall set out in sufficient detail the costs actually incurred by the Assisting Municipality in providing assistance, and where practically available, receipts for disbursements shall be forwarded in support of the invoice.
- 8.2 The Assisted Municipality shall remit payment of the amount owing for the assistance provided within thirty (30) days of the receipt of the Assisting Municipality's invoice.
- 8.3 Any amount remaining unpaid and outstanding after the thirty (30) day period referred to in sub-section 8.2 of this Agreement shall bear interest at the rate of 1% per month.

## **9. Employment Relationship**

- 9.1 Despite the fact that the employees, contractors, servants and agents (collectively "the workers") of the Assisting Municipality may be assigned to perform duties for the Assisted Municipality, and the fact that, for the duration of the Emergency, the Assisted Municipality shall reimburse the Assisting Municipality for the costs of the wages, salaries and expenses of the workers, in all other respects the workers of the Assisting Municipality retain their employment or contractual relationship with the Assisting Municipality. The parties acknowledge and agree that the Assisted Municipality is not to be deemed the employer of the Assisting Municipality's employees, agents, or contractors or servants, under any circumstances or for any purposes whatsoever. The Assisting Municipality shall remain responsible for all statutorily required deductions, contributions and/or payments, such as E.I. CPP, etc.

## **10. Indemnity**

- 10.1 The Assisted Municipality shall indemnify and save harmless the Assisting Municipality from all claims, costs, all manner of action or actions, cause and causes of action, accounts, covenants, contracts, demands or other proceedings of every kind or nature whatsoever at law or in equity arising out of this Agreement and out of assistance provided pursuant to this Agreement. The indemnity herein provided shall include all costs, including but not limited to duties, dues, accounts, demands, penalties, fines and fees.

## **11. Insurance**

- 11.1 During the term of this Agreement, each party shall obtain and maintain in full force and effect, general liability insurance issued by an insurance company authorized by law to carry on business in the Province of Ontario, providing for, without limitation, coverage for personal injury, public liability and property damage. Such policy shall:
- 11.1.1 have inclusive limits of not less than Five Million Dollars (\$5,000,000) for injury, loss or damage resulting from any one occurrence;
  - 11.1.2 contain a cross-liability clause endorsement and severability of interests clause of standard wording;
  - 11.1.3 name the other parties as an additional insured with respect to any claim arising out of the Assisted Municipality's obligations under this Agreement or the Assisting Municipality's provision of personnel, services, equipment or material pursuant to this Agreement; and
  - 11.1.4 include a Non-Owned Automobile endorsement.
- 11.2 During the term of this Agreement, each party shall obtain and maintain in full force and effect, automobile liability insurance in the amount of Five Million Dollars (\$5,000,000.00) for injury, loss or damage resulting from any one occurrence.
- 11.3 Upon the request of any other party, each party shall provide proof of insurance in a form satisfactory to the requesting party's CAO/Clerk.
- 11.4 In the case of any conflict between the provisions of this document and any other provisions speaking to contractual indemnity or insurance clauses, the provisions of this Agreement will govern.

## **12. Collective Agreements**

- 12.1 Each Party agrees to review the provisions of this Agreement with its appropriate local bargaining units for the purpose of seeking amendments to local agreements, if necessary, to reflect the terms of this Agreement. Each party further agrees to advise the other party as soon as practicable if it becomes aware of any impediments or obstacles to meeting its obligations under this Agreement imposed by its local agreements.

### **13. Liaison and Supervision**

- 13.1 The Assisting Municipality shall have the right, to be exercised in its sole discretion, to assign an employee or agent (the "Liaison Officer") of the Assisting Municipality to the Emergency Control Group of the Assisted Municipality. The Liaison Officer shall provide a liaison between the Assisting Municipality and the Emergency Control Group of the Assisted Municipality. The parties acknowledge that the role of the Liaison Officer shall be to permit communication between the Assisted and Assisting Municipalities. Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, the Liaison Officer shall be permitted to inform the Assisting Municipality on the status of the Emergency and the actions taken by the Assisted Municipality. The Liaison Officer shall have the right to obtain information about the Emergency and the use of the assistance provided in order to report to the Assisting Municipality, during and after the provision of assistance and the Emergency. The Assisting Municipality shall keep confidential and not disclose any information concerning the Emergency or the assistance provided, without the prior written consent of the Assisted Municipality, except as may be legally required.
- 13.2 The Assisting Municipality shall assign its personnel to perform tasks as requested by the Emergency Control Group of the Assisted Municipality. The Assisting Municipality shall have the right to assign supervisory personnel to operate or supervise the operation of any of the Assisting Municipality's personnel and or equipment furnished as assistance to the Assisted Municipality. Such supervision shall be in accordance with the instructions of the Emergency Control Group.

### **14. Information Sharing**

- 14.1 If requested, and subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), each party shall respond to the other party's request for information regarding specified types of personnel, services, equipment or material in the possession of each party that may be used in the provision of assistance under this Agreement. All such information shall be provided without any warranty of any kind as to its accuracy, reliability, usefulness or other characteristics.

## **15. Food and Lodging**

- 15.1 For the duration of the assistance provided under this Agreement, the Assisted Municipality shall be responsible for providing all food, lodging and accommodation required by the personnel furnished pursuant to this Agreement. Where food and lodging cannot be provided in-kind, the Assisted Municipality shall pay a reasonable *per diem* to personnel for any food and lodging purchased by personnel of the Assisting Municipality. The per diem shall be no less than the Assisted Municipality pays to its own employees as a matter of policy or agreement.

## **16. Notice**

- 16.1 Any written notice to be given pursuant to this Agreement shall be addressed, in the case of notice to the Township of Bonfield, to the Chief Administrative Officer/Clerk. In the case of the Municipality of Callander, to the Senior Municipal Director. In the case of the Township of Chisholm, to the CAO-Clerk-Treasurer. In the case of the Municipality of East Ferris, to the Chief Administrative Officer. In the case of the Township of Nipissing, to the Municipal Administrator. In the case of the Municipality of Powassan, to the CAO-Clerk/Treasurer.
- 16.2 If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the receipt of the fax is confirmed; and if mailed, the notice is deemed to be effective on the fifth business day following the day of mailing.
- 16.3 Any notice given shall be sufficiently given if signed by the CAO/Clerk or by a person authorized by or acting under the direction or control of the CAO/Clerk.

## **17. Rights and Remedies**

- 17.1 Nothing contained in this Agreement shall be construed as restricting or preventing either party from relying on any right or remedy otherwise available to it under this Agreement, at law or in equity in the event of any breach of this Agreement.

## **18. Binding Effect**

- 18.1 This Agreement shall enure to the benefit of, and be binding upon the parties and their respective successors, administrators and assigns.
- 18.2 This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third parties, and no third party shall have any right of action arising in any way or manner under this Agreement for any cause whatsoever.

## **19. Incorporation of Schedules**

- 19.1 This Agreement and the attached Schedule "A" embody the entire Agreement

## **20. Provisions Surviving Termination**

- 20.1 Sections 2, 5.2, 7, 8, 9, 10, 11, 16, 17, 20, 21 and 22 of this Agreement shall survive termination of this Agreement.



## **21. Governing law**

- 21.1 The parties agree to be governed by the laws of the Province of Ontario and Canada.

## **22. Arbitration**

- 22.1 The parties herein agree that in the event of any dispute arising under or pursuant to this Agreement, which dispute cannot be resolved by the mutual agreement of the parties' CAO/Clerks, the CAO/Clerks shall refer the dispute to the respective Heads of Council of the parties for resolution. In the event that the Heads of Council cannot resolve the dispute, either party may, on providing ninety (90) days' written notice to the other, refer the dispute to a third party arbitrator of their mutual choice for resolution. Such arbitration shall be conducted pursuant to the *Arbitration Act, 1991*, S.O. 1991 c. 17, as amended.

**IN WITNESS WHEREOF** the parties have executed this Agreement.

**Township of Bonfield**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date: \_\_\_\_\_  
CAO/Clerk

**Municipality of Callander**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date \_\_\_\_\_  
Senior Municipal Director

**Township of Chisholm**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date: \_\_\_\_\_  
CAO-Clerk-Treasurer

**Municipality of East Ferris**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date: \_\_\_\_\_  
CAO

**Township of Nipissing**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date: \_\_\_\_\_  
Municipal Administrator

**Municipality of Powassan**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

\_\_\_\_\_ Date: \_\_\_\_\_  
CAO-Clerk/Treasurer

**SCHEDULE "A"**

**Mutual Assistance Agreement**

I, \_\_\_\_\_, Chief Administrative Officer/Clerk/Designated Official of \_\_\_\_\_, duly authorized to do so by the Council of \_\_\_\_\_, do hereby confirm my request of \_\_\_\_\_, to provide assistance in the form of

- \_\_\_\_\_ PERSONNEL
- \_\_\_\_\_ SERVICES
- \_\_\_\_\_ EQUIPMENT
- \_\_\_\_\_ MATERIAL

AS IS MORE PARTICULARLY SET OUT IN DETAIL AS FOLLOWS:

The above confirms the assistance verbally requested on \_\_\_\_\_, and which assistance \_\_\_\_\_ has agreed to provide.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_  
Chief Administrative Officer/Clerk  
\_\_\_\_\_  
(Assisted Municipality)

Confirmed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Chief Administrative Officer/Clerk  
\_\_\_\_\_  
(Assisting Municipality)