

Management and Operating Agreement

Between:

Dartmouth Heritage Museum Society

and

Halifax Regional Municipality

FOR

Evergreen House & Quaker House & Collection

26 Newcastle Street

57/59 Ochterloney Street

Prepared by:

Halifax Regional Municipality

Parks & Recreation

Program Support Services

PO Box 1749

Halifax, Nova Scotia, B3J 3A5

www.halifax.ca

THIS MANAGEMENT AND OPERATING AGREEMENT

BETWEEN:

Halifax Regional Municipality
(hereinafter referred to as "HRM")
OF THE FIRST PART

- and -

Dartmouth Heritage Museum Society
(hereinafter referred to as the "Society")
OF THE SECOND PART

WHEREAS HRM wishes to encourage and facilitate a community based delivery of service to the public while maximizing efficiencies and opportunities for economies of scale;

AND WHEREAS the Municipality owns a Collection and associated records related to the heritage of Dartmouth and area;

AND WHEREAS HRM is responsible for the preservation, development, study and ultimate public display of the artifact collection and built heritage of Evergreen House and Quaker House;

AND WHEREAS HRM is the owner of the Evergreen House located at 26 Newcastle Street & Quaker House located at 57/59 Ochterloney Street (the "Facilities");

AND WHEREAS the Society is a community based non-profit organization incorporated under the *Societies Act* of Nova Scotia, whose members and directors receive no financial benefit from their participation;

AND WHEREAS the Society has played an important role in the management and development of the Collection and Facilities;

AND WHEREAS the Municipality acknowledges the Society's longstanding contribution to the Collection and associated records;

AND WHEREAS the Society focuses on the programming of the Facilities and delivery of the Collection activities as directed by HRM;

AND WHEREAS the Municipality has direct care and control of the management of the Collection and the Storage Facility at 191 Joseph Zatzman Drive, Unit 3 & 4 (the "Storage Facility").

IN CONSIDERATION of the mutual conditions and covenants contained herein and the provision of other valuable consideration, receipt of which is acknowledges, the parties hereto agree as follows:

1. DEFINITIONS

1.1 Definitions. When used in this Agreement, the following terms shall have the following meanings:

- 1) “Board” means the Board of Directors of the Society;
- 2) “Commencement Date” means April 1, 2019;
- 3) “Council” means the Regional Council of HRM;
- 4) “Collection” means the body of material owned by HRM and as further defined in Appendix A;
- 5) “Collection Database” means the records that support the provenance of the Collection, including but not limited to ownership information, artifact history, legal documentation, and photographs;
- 6) “Facilities” means those properties owned by HRM known as:
 - a) Evergreen House, located at 26 Newcastle Street, Dartmouth; and
 - b) Quaker House, located at 57/59 Ochterloney Street, Dartmouth;
- 7) “Fiscal Year” means the annual period ending on March 31st or such other period as the Municipality may establish upon notice to the Society;
- 8) “General Maintenance” includes household maintenance such as interior cleaning, gardening, snow removal, lawn maintenance and waste removal
- 9) “HRM” means the Halifax Regional Municipality;
- 10) “HRM Liaison” means the HRM Manager of Community Partnerships acting as HRM’s representative and liaison with the Society, or his or her designate;
- 11) “HRM Cultural Asset Manager” means the HRM staff person responsible for all elements related to the treatment and handling of the cultural assets of the Collection, or his or her designate;
- 12) “Revenue” means all monies, proceeds, funds and revenues of every nature and kind received by the Society in respect of the Facilities whether by way of fees paid for services provided in or from the Facilities, or any part thereof, or by way of grants, gifts, sponsorships, bequests, donations; or any monies or proceeds derived by the Society under any valid license of the Society to operate any form of lottery scheme; or from any fund raising program or through any third party fee-for-service agreements;

13) “Society” means the Dartmouth Heritage Museum Society, a society incorporated under the *Societies Act* of Nova Scotia; and

14) “Storage Facility” means the warehouse located at 191 Joseph Zatzman Drive, Dartmouth, or any off- site storage facility as established by HRM for purposes of storing the Collection.

2. PURPOSE

2.1 The purpose of this Agreement is to formalize the terms and conditions by which the Society will operate the Facilities and support the management of the Collection.

2.2 HRM will maintain direct management of the Collection including, but not limited to, items located in the Facilities and Storage Facility and in HRM offices and buildings, and remains the governing body responsible for the Collection’s direct care and control with the assistance of the Society.

3. TERM and TERMINATION

3.1 Term. This Agreement shall begin on the Commencement Date and shall continue in force, unless earlier terminated as set out in sections 3.2 or 3.3, for a period of 5 years.

3.2 Termination for Any Reason. This Agreement may be terminated by either party for any reason whatsoever upon six (6) months’ written notice to the other party. Termination of this Agreement does not release either of the Parties from any obligations which accrued while the Agreement was in force.

3.3 Termination for Breach. In the event of a default by the Society, HRM shall give written notice of the default to the Society, and the Society shall remedy the default to the satisfaction of HRM within fourteen days of receipt of the notice. Should the Society not remedy the default to the satisfaction of HRM within fourteen days, HRM may terminate the agreement. Termination of this Agreement does not release either of the Parties from any obligations which accrued while the Agreement was in force.

3.5 Dissolution. In the event the Society is dissolved, there will be no further payments made by HRM in relation to this Agreement, and the Facilities will immediately return to the direct care and control of HRM. The Collection is and remains the sole property of HRM.

4. AUTHORITY

4.1 HRM hereby appoints the Society, as an independent contractor, to develop, manage, promote, operate and administer the Facilities as a museum and to support the management of the Collection for the Term and on the terms and conditions set out in this Agreement, and the Society hereby accepts such appointment and agrees to exercise the powers and authority set out in this Agreement in a competent, efficient and economical manner.

4.2 The Society shall have full responsibility for the development, management, promotion, operation and administration of the Facilities as a museum in accordance with and subject to the terms and conditions of this Agreement except and to the extent otherwise determined by the Municipality and as communicated in writing to the Society. The Society shall

support the management of the Collection through the implementation of HRM's policies, practices, and work plan. The Society shall perform its duties and exercise the powers and authorities set out in this Agreement in a competent, efficient and economical manner subject to the directions from time to time of HRM, which directions shall not be in contradiction with the terms of this Agreement.

4.3 In furtherance of its work with the Collection, HRM will provide the Society with shared access to the Collection database.

4.4 HRM shall execute and provide to the Society any document or other evidence which may be reasonably required by the Society to demonstrate to third parties the authority of the Society as set out in this Agreement.

4.5 The Society shall operate the Facilities in compliance with all applicable laws and policies to ensure the safety of all persons present in the Facilities and to preserve the Facilities, ensuring their value does not diminish, and take all reasonable steps to safeguard the Facilities and any assets associated with the Facilities.

4.6 Limitation of Authority. Unless expressly authorized by prior written direction or approval of HRM, the Society shall not have the authority to do any of the following:

- 1) Obtain loans for the Facilities or HRM, whether secured or unsecured, or give grant options, rights of first refusal, deeds of trust, mortgages, pledges, security interests, or otherwise encumber the Facilities or any portion thereof or any interest of the HRM therein, or obtain replacements of any mortgage or mortgages;
- 2) Prepay in whole or in part, refinance, increase, modify, consolidate or extend any obligation affecting the Facilities or any portion thereof, except to the extent contemplated and approved in writing by HRM;
- 3) Cause HRM to extend credit or to make loans or become a surety, guarantor, endorser or accommodation endorser for any person, firm or corporation;
- 4) Cause HRM to enter into any contracts with respect to the Facilities;
- 5) Sell, exchange or convey the Facilities or the Collection or any portion thereof;
- 6) Release, compromise, assign or transfer any claim, right, or benefit of the HRM, except with the written authorization of HRM;
- 7) Allow a default judgement to be entered against the Facilities or any assets associated with the Facilities;
- 8) Modify, change or amend, in any material way, any drawings, maps, plans or specifications prepared for or in connection with the Facilities;
- 9) Grant easements or other property rights in the Facilities;

10) Purchase or sell any real property, including the Facilities or any part thereof, on behalf of HRM; or

11) Damage, destroy, or alter any part of the Collection or the Collection Database.

4.7 The Society shall not commence any litigation related to its operation or management of the Facilities without first consulting with the HRM Liaison.

5. Management Fee

5.1 Management Fee. HRM shall pay to the Society an annual management fee, to be paid in quarterly installments, in consideration of the services provided to HRM by the Society.

5.2 Management Fee Amount. The amount of the management fee shall be in accordance with the approval by Council as part of HRM's Annual Operating Budget. The amount of the fee for the fiscal year of 2019/2020 is \$100,000, to be paid in quarterly installments of \$25,000. The management fee for all subsequent years of the agreement is subject to approval through the annual operating budget process.

Payment of the Management Fee is contingent on all required reports being received and approved by HRM. HRM may adjust the percentage of installment and payment schedule from time to time with notice to the Society.

5.4 Termination. Upon termination of the Agreement, no further payments shall be made by HRM to the Society.

5.5 Use of Management Fee. The Society shall use the management fee to develop, manage, promote, operate and administer the Facilities as a museum and to support HRM in the management of the Collection. The management fee shall be used in accordance with the operating budget for the Facilities as provided to HRM by the Society annually.

6. ROLES AND RESPONSIBILITIES

6.1 HRM Liaison. HRM shall designate the HRM Liaison to be HRM's contact with the Society with respect to the operation of the Facilities. The HRM Liaison is accountable to ensure that the Society and HRM are operating the Facilities in accordance with this Agreement. The HRM Liaison is entitled to receive the agenda and meeting minutes of the Society's board and committee meetings, and to attend as required, with permission to attend meetings not to be unreasonably withheld.

6.1.1 Duties of the HRM Liaison. To ensure the Society is able to fulfill its mandate of operating the Facilities, the HRM Liaison shall:

- 1) review quarterly and annual reports and provide financial feedback to the Society and follow-up concerning financial variances;
- 2) review and respond to issues related to the Facilities or Society operation which require the approval of Council;

- 3) inform with the Society before policies (including operational opening and closures) or capital projects specifically impacting the operation of the Facilities are implemented;
- 4) meet with the Society at minimum once every three (3) months, either in person, via conference call or other means of electronic communication to share information and discuss issues related to the operation of the Facilities; and
- 5) respond to requests from the Society in a timely manner and develop a plan of action to allow for effective operation of the Facilities by the Society Board and staff.

6.2 HRM Cultural Asset Manager. The HRM Cultural Asset Manager has the primary responsibility for the care and control of the Collection. The HRM Cultural Asset Manager will direct the Society to ensure the appropriate treatment of the Collection is upheld, and its rationale is consistent to provide public access and display. The HRM Cultural Asset Manager or designate is entitled to attend all meetings of the Society Board, Collection meetings, and to receive meeting minutes of the Society's Board and committees.

6.2.1 Duties of the HRM Cultural Asset Manager. To ensure care and control of the Collection, HRM, through its Cultural Asset Manager, is responsible to:

- 1) lead development and rationale of the Collection;
- 2) oversee the operation of the warehouse and control access thereto for non-DHMS staff and volunteers;
- 3) develop, update, and supervise the implementation of policies, including: the collections policy; accessioning, deaccessioning and loan policies; and art loan policy;
- 4) develop preservation standards and procedures for the Collection;
- 5) fund and lead the migration and reconciliation of the Collection Database;
- 6) oversee the operation of the Collection Database;
- 7) sit as a member of the Collection Management Committee;
- 8) approve all acquisitions for, and deaccessions from, the Collection, in accordance with the Collections Policy as amended from time to time;
- 9) develop a work plan for the Collection that includes tasks and a schedule for implementation by the Society;
- 10) direct the Society on the implementation of the work plan;
- 11) identify opportunities for public display of the Collection;
- 12) meet with the Society at minimum once every three (3) months, either in person, via conference call or other means of electronic communication to share information and discuss issues associated with the Collection; and
- 13) review and respond to issues in a timely manner related to the Collection, associated work plan tasks, and programming.

6.3 Duties of the Society. As the operator of the Facilities and a partner in the preservation of the Collection, the Society is responsible to:

- 1) operate the Facilities on a day-to-day basis;
- 2) provide heritage programming and exhibits in the Facilities;

- 3) implement the work plan for the Collection, whether at the Facilities or the Storage Facility, as provided by the HRM Cultural Asset Manager and provide monthly updates on implementation progress in the template provided by HRM;
- 4) implement all policies developed or approved by HRM with respect to the Collection and the Facilities;
- 5) develop and maintain the Dartmouth Heritage Museum Society website;
- 6) submit reports to HRM Liaison and Cultural Asset Manager, in accordance with this Agreement, and in addition to any other reporting periods determined by HRM from time to time;
- 7) follow Facility winterization process as directed by HRM, in accordance with a schedule developed by HRM in consultation with the Society;
- 8) make written recommendations to the HRM Cultural Asset Manager regarding HRM's potential accession/deaccession, repatriation, loan or conservation treatment of any items of the Collection;
- 9) provide staff and volunteers to ensure oversight and effective operation of the Facilities;
- 10) provide all digital and hard copy Collection records for migration and reconciliation of database;
- 11) assist members of the public in responding to research requests;
- 12) respond to requests from HRM related to the Collection or Facilities. Requests shall be responded to within two weeks and a plan of action developed;
- 13) provide timely notice to HRM Cultural Asset Manager on any issues which affect the Collection and HRM Liaison on issues related to the facilities and storage facility; and
- 14) provide monthly updates, or as directed, to the Cultural Asset Manager or designate on work plan tasks.

6.4 Regional Museum Strategy. HRM, under the leadership of the HRM Cultural Asset Manager, is developing a Regional Museum Strategy, seeking input from a variety of stakeholders. The Society will be invited to provide feedback on the proposed strategy as a stakeholder in the family of municipal community museums.

7. FINANCES

7.1 Revenues. Any and all revenues derived from any and all activities within or under the auspices of the Society are the property of the Society, and shall be used exclusively for the operation, promotion, development, administration, and management of the Facilities as a museum, including any federal or provincial government funding received by the Society for the operation of a museum. HRM and the Society agree that the Facilities shall be operated in a prudent and fiscally responsible manner and meet the needs of the community at large.

8. RESPONSIBILITY FOR COSTS

8.1 Society. Except where otherwise stated in this Agreement, the Society shall be responsible for and agrees to pay all costs associated with the management, operation, and

administration of the Facilities in accordance with and subject to the terms and conditions of this Agreement, including, but not limited to, the following costs:

- 1) staffing (employees and volunteers);
- 2) programming;
- 3) on site supplies;
- 4) permits and licenses; and
- 5) general maintenance.

8.2 Municipality. The Municipality shall be responsible for and agrees to pay all costs associated with:

- 1) capital repairs to the Facilities;
- 2) utilities for the Facilities;
- 3) rental of the Storage Facility and associated costs; and
- 4) costs relating to Collective Access database.

9. ASSETS

9.1 Property of HRM. The Collection, and all buildings, equipment, and infrastructure managed and administered by the Society on behalf of HRM, shall continue to be the property of the HRM, except those items that are on deposit, consignment or loan to the Museum. Upon termination of this Agreement by expiration or otherwise, the Society shall return or turn over possession of the same to HRM.

9.2 All equipment, supplies, facilities and materials located in or purchased for the Facilities, the Collection or the Storage Facility by the Society at any time, and all records, reports, books of account and other documents and materials relating to the operation and maintenance of the Facilities, the Collection or the Storage Facility shall be and remain the property of HRM and will be made available to HRM for inspection at during regular business hours or otherwise, upon reasonable request.

10. REPORTING

10.1 Annual Reports. The Society shall provide an Annual Report in the template provided by HRM to the HRM Liaison no later than 60 days after Fiscal Year end, including the following components:

- 1) Financial Reporting
 - i. Independent, third party, audited Financial Statements
 1. Income statement
 2. Balance Sheet
 - ii. Bank Reconciliation Report
 - iii. Discussion and analysis of Fiscal Year-end results highlighting significant variances and, if applicable, a report explaining any deficit realized
 - iv. The Annual Budget will include: i) an operating component consisting of operating expenses and anticipated revenues.

- 2) Management Reporting
 - i. Current list of Board of directors and facility staff contact information
 - ii. Monthly facility inspection sheets
 - iii. Program and Facility Usage Reports (October-March)
 - iv. Other reports as HRM may reasonably requires

10.2 Quarterly Reports. The Society shall provide a Quarterly Report in the template provided by HRM to the HRM Liaison no later than thirty days following the completion of each quarter of the Society's fiscal year, including the following components:

- 1) Financial Reporting
 - i. Budget update, including sources of funding
- 2) Management Reporting
 - i. Current list of Board of directors and facility contact information
 - ii. Monthly facility inspection sheets
 - iii. Program and Facility usage reports
 - iv. Other reports as HRM may reasonably require

10.3 Monthly Operational Updates. The Society shall provide monthly work plan updates in the template provided by HRM to the HRM Cultural Asset Manager or his or her designate pursuant to the Society's responsibilities as outlined in Section 6, in the format determined by the HRM Cultural Asset Manager or his or her designate. Monthly updates will include but are not limited to:

- 1) work plan status updates;
- 2) HOB0 environmental reports for Facilities and Storage Facility;
- 3) Facility Inspection Sheets (inclusive of seasonal Facilities closures); and
- 4) additional reports as HRM may reasonably require.

11. PURCHASING POLICY

11.1 Procurement. The Society shall follow the purchasing policy adopted by the Board of Directors for the purchase of all goods, supplies and services of a non-capital nature for the Facilities.

12. FACILITY ALTERATIONS

12.1 The Facilities are registered as municipal heritage properties under the *Heritage Property Act*, R.S.N.S. 1989, c. 199. The Society shall not make any alterations (including interior or exterior painting), structural changes, additions or improvements to the Facilities and premises thereof, including the placement of exterior branding, signs and /or advertising, unless HRM has granted written approval prior to the start of the work, which approval may be denied in the sole discretion of HRM.

12.2 The Society shall prepare and present to the HRM Liaison for his or her consideration and response, an annual list of proposed capital improvements and other capital expenditures relating to the Facilities. No substantial alterations to the Facilities shall be undertaken by the Society. HRM shall be responsible for any capital work required for the Facilities.

13. LEASES AND AGREEMENTS

13.1 The Society shall not enter into any rental agreement, lease or contract affecting the Facilities unless HRM has provided prior written approval of such agreement.

13.2 Leases or short term rentals of space, and sponsorship agreements will only be with groups and organizations that do not conflict with HRM's corporate policies.

14. INSURANCE

14.1 HRM Insurance Responsibilities

14.1.1 Property Insurance - HRM will insure all real and personal property that are owned by HRM or for which HRM is legally responsible. This coverage insures for all risks of direct physical loss or damage including but not limited to fire plus many other hazards including windstorm and lightning. HRM does not provide property insurance coverage for any real or personal property (including contents) owned by the Society or their invitee.

14.1.2 Commercial General Liability (CGL) - HRM will provide insurance coverage related to legal liability imposed upon HRM for its negligent act that causes bodily injury and/or property damage to a Third Party arising from entering onto, leaving or while on HRM premises, any products sold or other HRM operations, including programs. HRM does not provide Commercial General Liability insurance coverage for the negligence arising out of the Society's programs or the activities thereof.

14.1.3 Boiler & Machinery (Accident to an Object) - HRM will provide insurance coverage against the sudden and accidental damage of pressure vessels, mechanical and electrical equipment owned and maintained by the HRM. Coverage can extend to certain damage to air conditioning and refrigeration equipment, electrical panels, transformers, pumps, motors, compressors and generators also owned and maintained by HRM. Coverage also includes explosion and other accidental damage to boilers, hot water tanks of all types and resulting damage to other property.

14.2 The Society's Insurance Responsibilities

14.2.1 Society's Insurance Responsibility - The Society is required to provide certain insurance coverage with a Certificate of Insurance provided to the HRM at the time of signing the Management Agreement as well as at the Society's yearly renewal. Other insurance coverages listed are insurance policies the Society may wish to consider based upon their scope of activities. An insurance broker can advise on the appropriate coverages and limits required based upon individual circumstances. Halifax Regional Municipality is to be named on the Insurance Certificate as an Additional Named Insured.

14.2.2 Board Insurance, Director & Officers - The Society is required to insure against claims related to the wrongful acts or omissions committed or omitted by Directors and Board members "Wrongful acts or omissions" means those acts or omissions including, not limited to, decisions, organization policies, libel, slander, but excluding acts or omissions, which result in bodily injury to other people (the public) or damage to their property. Libel and Slander may be

excluded from certain directors and officers' policies.

14.2.3 Property (Content) - The Society is required to obtain insurance coverage in respect of all personal property owned by the Society or for which the Society is legally responsible. Coverage must include leasehold improvements. This coverage insures for all risks of direct physical loss or damage including but not limited to Fire and Earthquake plus many other hazards including Windstorm and Lightning. HRM does not provide Property insurance coverage for any real or personal property (including contents) owned by the Society or their invitee.

14.2.4 Commercial General Liability (CGL) - The Society is required to obtain insurance coverage in respect of legal liability imposed upon the Society for its negligent act that causes bodily injury and/or property damage to a Third Party arising from entering onto, leaving or while at the Facilities, any products sold or other operations of the Society, including programs policy shall include Society legal liability coverage. If alcohol is to be served on site by the Society then liquor liability must be included in coverage. HRM does not provide Commercial General Liability insurance coverage for the negligence arising out of the Society's programs or the activities thereof. Insurance coverage must be satisfactory to HRM. HRM requires a minimum coverage limit of Two Million dollars (\$2,000,000.) for small recreation centres (25,000 sq ft and less) unless alcohol is regularly served onsite. For large facilities or if alcohol is served on site then the Commercial General Liability limits are increased to Five Million Dollars (\$5,000,000.).

14.3. Suits and Claims - The Society shall notify HRM in writing as soon as possible after the Society becomes aware of any claim or possible claim against the Society and/or HRM that involves the Facilities or the Collection. The Society shall notify the Municipality in writing as soon as possible after it becomes aware of any injury occurring in, on or about the Facilities, which could reasonably be expected to result in a claim being made against HRM or the Society and of all claims against HRM and/or the Society that involve the Facilities or the Collection. The Society shall take no steps (such as the admission of liability) that would operate to bar HRM from obtaining any protection afforded by any policies of insurance it may hold or which will operate to prejudice the defence in any legal proceeding involving HRM or the Facilities, or otherwise prevent HRM from protecting itself against any such claim, demand or legal proceeding. The Society shall cooperate fully with HRM in the defence of any claim, demand or legal proceeding.

15. LICENSES AND PERMITS

15.1 The Society shall obtain and renew as necessary all licenses, permits and approvals which may be required in connection with the operation and maintenance of the Facilities. The Society shall at all times comply with the conditions of such licenses, permits and approvals and shall comply with and observe all laws, by-laws and regulations applicable to the Facilities and the operation thereof (i.e. certificates, consents, licenses, third party leases, permits and qualifications and the Health & Safety Act or orders of any Governmental Authority by applicable laws).

16. EMPLOYEES

16.1 Manager and Curator. The Society shall select and employ competent and qualified persons to execute the duties of a Manager and a Curator as assigned by the DHMS Board of Directors to supervise and manage the day-to-day operations of the Facilities and to support the management of the Collection.

16.2 Personnel of the Society. All personnel employed by the Society in the administration and operations of the Facilities, including, without limitation to the foregoing, the Manager and Curator, are selected for employment by and will be employees of the Society, and shall under no circumstances or at any time be deemed or implied to be employees of HRM. The Society shall be solely responsible for the hire, dismissal, control, direction, supervision, instruction, and training of its employees. The wages, salaries and benefits of such employees are the responsibility of the Society and shall be paid directly by the Society. The entirety of the foregoing shall be a term of employment for anyone employed by the Society.

The Society shall continue to be responsible for the development of employment policies, and will ensure appropriate coverage for Workers' Compensation purposes, statutory payroll deductions and remittance to appropriate taxing authorities. The Society shall ensure that fidelity bonds, criminal records checks and sex-abuse registry records have been obtained and are in place in respect of all employees and volunteers at the Facilities where required by law or otherwise prudent or applicable, such as when employees are dealing with cash or working with vulnerable populations. The Society will take all measures required in compliance with the Occupational Health and Safety Act to ensure the safety of employees and onsite contract workers.

17. NON-COMPLIANCE

17.1 Non-compliance with this Agreement by the Society may result, upon written explanation delivered to the Society by registered mail, at HRM's sole discretion, in any or all of the following:

- 1) removal of the Society as manager of the Facilities;
- 2) removal of the Society's access to the Collection;
- 3) direct HRM management of the Facilities;
- 4) reduction or elimination of management fee to the Society;
- 5) termination of the agreement in accordance with section 3.3; and
- 6) other restrictions deemed appropriate to the non-compliance.

18. MANDATE and STATUS

18.1 During the term of this agreement, the Society shall carry on no business other than that of developing, managing, promoting, operating and administering the Facilities as a museum and supporting HRM in the management of the Collection.

18.2 The Society is and shall remain during the Term of this Agreement and during any period of renewal thereof, organized and operated solely for a purpose other than profit, with no compensation to be paid to the directors and officers.

19. GENERAL TERMS AND CONDITIONS

19.1 Facilities Inspection. HRM shall be able to access the Facilities, with reasonable notice, for the purpose of completing an independent facility inspection report. These inspections will provide valuable information for recapitalization planning, insurance

compliance issues, and operational planning. When responding to facility-related emergencies, no notice is required to the Society for HRM access the Property.

19.2 Amendment. This Agreement shall only be amended by written agreement signed by both parties.

19.3 Notice. All notices, demands, requests, approvals or other communication of any kind which the parties may be required or may desire to serve on each other in connection with this Agreement shall be delivered by Registered Mail to:

Halifax Regional Municipality

Attention: Manager of Community Partnerships
P.O. Box 1749
Halifax, NS B3J 3A5

Or in person to:

Manager of Community Partnerships
88 Alderney Drive, 3rd floor
Dartmouth, NS

Society

Attention: Chair of Dartmouth Heritage Museum Society
26 Newcastle Street
Dartmouth NS B2Y 3M5

19.4 Amendments. No amendment of this Agreement, nor any waiver of any of the terms and provisions of this Agreement shall be valid unless effected by a written amendment signed by both Parties.

19.5 Waiver. No failure by a party to exercise any right under this Agreement or to insist upon full compliance by the other party as to its obligations under this Agreement will constitute a waiver of any provision of this Agreement. Headings contained herein are included solely for convenience and shall not be considered part of this Agreement.

19.6 Assignment and Enurement. Neither party may assign their rights or obligations under this Agreement without the prior written consent of the other party. This Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.

19.7 Severability. Should any part of this Agreement be determined to be void by a competent judicial or legislative authority, the remainder shall be valid and enforceable.

19.8 Governing Law. This Agreement shall be governed by the law of the Province of Nova Scotia.

19.9 Appendices. The following Appendices are attached to and form part of this Agreement:

Appendix "A" – Collection

19.10 Entire Agreement. This Agreement constitute the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, negotiations, discussions, undertakings, representations, warranties, and understandings, whether written or verbal.

19.11 Further Assurances. Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary to give effect to the provisions and intent of this Agreement.

19.12 Time of Essence. For every provision of this Agreement, time is of the essence.

The parties have executed this Agreement through authorized representatives on the date stated opposite each party's signature.

HALIFAX REGIONAL MUNICIPALITY

Witness

Jacques Dubé
Chief Administrative Officer

Date Signed

DARTMOUTH HERITAGE MUSEUM SOCIETY

Witness

Name:
Title:
I/We have authority to bind the Society.

Witness

Name:
Title:
I/we have authority to bind the Society

Date Signed

APPENDIX “A”

The Collection

The Collection to which this agreement applies is owned by HRM and is comprised of:

- a) that body of material made up of artifacts, archival material and works of art acquired under the auspices of the Dartmouth Heritage Museum as operated by the former City of Dartmouth and HRM;
- b) any artifacts located in the Facilities, and Storage Facility;
- c) any artifacts, archival material and works of art acquired between July 20, 2000 and April 1, 2005 by the Society;
- d) any artifacts, archival material and works of art acquired by the Society, on behalf of HRM, during the Management Agreement between HRM and the Society that commenced on April 1, 2005; and
- e) any artifacts, archival material and works of art acquired by HRM in accordance with the Collections Policy during the Term of this Agreement, including any renewals thereof.

And, for greater certainty, the Collection includes the Collection Database and all associated Collection records.

The Collection shall be deemed not to include:

- a) any artifacts, archival material or works of art which compromise any other collections belonging to HRM or departments of HRM;
- b) any artifacts, archival material or works of art on deposit, consignment or loan to the Dartmouth Heritage Museum Society.

The Collection, in whole or in part, may be displayed or stored in the Facilities or Storage Facility.

The Society, through its staff and volunteers, will support HRM in the maintenance of the Collection and the Collection Database in an environment conducive to preservation, as directed by HRM from time to time.

The Society shall ensure that staff and volunteers who have physical access to the Collection and Collection Database are trained in, and use, appropriate care and handling of the Collection.