

SCHEDULE 7

LANDS

TABLE OF CONTENTS

1. DEFINITIONS.....1

2. OWNER’S OBLIGATIONS AND REPRESENTATIONS.....1

 2.1 Grant of Licence Over Site.....1

 2.2 Terms Affecting Licence Grant.....1

 2.3 Property Taxes.....2

3. PROJECT CO’S OBLIGATIONS AND ACKNOWLEDGMENTS.....2

 3.1 “As Is Where Is”2

 3.2 Encumbrances2

 3.3 Project Co Not To Encumber2

 3.4 No Restriction on Owner Use or Development3

 3.5 No Registration3

 3.6 Builders Liens.....3

 3.7 Title to Improvements.....3

 3.8 Alteration of Property Lines.....3

4. HAZARDOUS SUBSTANCES.....3

 4.1 Responsibility3

 4.2 Restrictions on Use4

 4.3 City Approval and Prior Street.....4

APPENDIX 7A DESCRIPTION OF LANDS AND ENCUMBRANCES

SCHEDULE 7

LANDS

1. DEFINITIONS

In this Schedule, in addition to terms defined in Schedule 1 of this Agreement:

“Charge” means any charge, mortgage, lien, pledge, judgment, execution, security interest, restriction, claim or encumbrance of any nature whatsoever, including any claims of the Workers’ Compensation Board, Canada Revenue Agency, Employment Standards Branch or other Governmental Authority;

“Encumbrances” means those Charges against title to the Lands described in the land title searches attached as Appendix 7A [Description of Lands and Encumbrances] and any additional Charges against the Lands permitted under this Schedule;

“Lands” means the real property interests described in Appendix 7A [Description of Lands and Encumbrances]; and

“Licence” has the meaning set out in Section 2.1(a) of this Schedule.

2. OWNER’S OBLIGATIONS AND REPRESENTATIONS

2.1 Grant of Licence Over Site

- (a) From the Effective Date until the Termination Date the Owner hereby grants, and will continuously until such date, grant or cause to be granted to Project Co a non-exclusive licence of use and access to, on and over the Site and the Facility to the extent required by Project Co to allow Project Co to perform the Design and the Construction (the **“Licence”**).
- (b) In consideration for the licence granted in Section 2.1(a), Project Co will perform the obligations described in Section 4.1 of the Agreement subject to and in accordance with the Agreement.
- (c) Project Co may for the same purposes described in Section 2.1(a), grant sub-licences to any Project Co Person, provided that any such grant will be subject to, and terminate upon, termination of the Licence.

2.2 Terms Affecting Licence Grant

Without limiting the other provisions of this Schedule and this Agreement, the following terms and conditions apply to the Licence:

- (a) no legal demise or other interest in land, and no interest in the Facility or any other improvements, is granted to Project Co or created by this Agreement;
- (b) the Licence is non-exclusive and no right to exclusive possession of the Lands or the Facility is granted to Project Co;
- (c) Project Co’s rights are subject to the Encumbrances; and
- (d) subject to Section 6.10 of Schedule 2 [Design and Construction Protocols], the Owner will be entitled at any time and from time to time to grant to Owner Persons and any other Persons, including contractors and the general public, access to the Lands and the Facility.

2.3 Property Taxes

The Owner will be responsible for property taxes (if any), or payments in lieu of property taxes, payable in respect of the Lands and the Facility, or the occupation thereof by the Owner, Project Co, the Design-Builder or any Sub-Contractor.

3. PROJECT CO'S OBLIGATIONS AND ACKNOWLEDGMENTS

3.1 "As Is Where Is"

Subject to the provisions of Section 4.1 of this Schedule, Project Co accepts the Lands comprising the Site and the Licence on an "as is, where is" basis.

3.2 Encumbrances

Project Co acknowledges that it has reviewed the Encumbrances in effect as of the Effective Date, and, except as expressly provided in Section 4.3 of this Schedule and in Section 5.2 of Schedule 2 [Design and Construction Protocols] in relation to Appendix 3U [Allocation of CD-1 Rezoning Report Appendix B], Project Co will:

- (a) fully and punctually observe and perform (to the same extent as if Project Co were the owner of the Lands and bound by the Encumbrances), any limitations, restrictions, obligations, liabilities and other terms and conditions set out in the Encumbrances and Project Co assumes all risks arising therefrom; and
- (b) fully and punctually observe and perform all of the terms and conditions of any interest included in the Lands and any Encumbrance.

The Owner may without restriction modify, add or remove any Encumbrances, provided that the foregoing will not limit Project Co's entitlements under the Agreement if such modification, addition or removal results in a Change. Notwithstanding the foregoing, Project Co's obligation to observe and perform limitations, restrictions, obligations, liabilities and other terms and conditions set out in the Encumbrances is subject to:

- (c) Project Co being legally capable of performing such limitations, restrictions, obligations, liabilities and other terms and conditions for and on behalf of the Owner; and
- (d) Project Co being relieved from such obligation to the extent that the limitations, restrictions, obligations, liabilities and other terms and conditions set out in the Encumbrances are obligations for which the Owner is otherwise responsible under this Agreement.

3.3 Project Co Not To Encumber

Project Co will not, without the consent of the Owner:

- (a) grant or permit any Charge affecting or against the Lands or the Facility; or
- (b) do or omit to do, or cause, suffer or permit to be done or omitted to be done by any Project Co Person anything that would result in any Charge against or affecting the Lands, the Facility or any asset, matter or thing that may be required to be delivered or transferred to the Owner on the Termination Date pursuant to Section 14.2 (Transfer to the Owner of Assets, Contracts, etc.) of this Agreement,

and will at its own expense promptly discharge and remove or cause to be discharged and removed any such encumbrance.

3.4 No Restriction on Owner Use or Development

Project Co acknowledges that the Owner may from time to time without restriction use, develop or re-develop, or permit the use, development or re-development of, the Lands, the Facility or any portion thereof (including by way of subdivision) for any purpose and by any Person. To the extent such use, development or re-development adversely interferes with the Licence or adversely interferes with Project Co's ability to carry out the Design and the Construction, the Owner will, to address such interference, initiate a Change.

3.5 No Registration

Project Co will not register in any land title office this Agreement, the Licence or any instrument, claim or notice in respect of the Licence or any other rights of Project Co under this Agreement.

3.6 Builders Liens

Project Co will, at its own cost and expense, cause any and all builders liens and other liens and claims of lien for labour, services or materials furnished or alleged to have been furnished with respect to the Design or the Construction that are registered against or otherwise affect the Lands or the Facility or any part thereof, to be paid, satisfied, released or vacated forthwith after the Owner has sent Project Co written notice of any such lien or claim. If there is a bona fide dispute of the validity or correctness of any such lien or claim, Project Co will be entitled to defend against the lien or claim in any proceedings if Project Co first:

- (a) pays into Court, or provides sufficient security for, the amount claimed and costs as the Court may direct, as may be required to obtain a Court Order for the discharge of such lien or claim from title to the Lands, and obtains such discharge and registers such discharge in the Land Title Office to cancel such lien; or
- (b) provides such other reasonable security in respect of such lien or claim as the Owner may in writing, and in its discretion, approve.

3.7 Title to Improvements

Project Co will not acquire any property interest in or title to the Facility or any other improvements to the Lands. As between Project Co and the Owner, title to and ownership of the Facility and all other improvements to the Lands will at all times be vested in the Owner.

3.8 Alteration of Property Lines

The Owner acknowledges that Project Co is seeking agreement from the City to alter the property lines of the Lands to reflect Project Co's proposed road layout at the south west corner of the Lands (i.e. Lot 1) from National Avenue to the proposed Health Care Boulevard, with a net increase in area in favour of the Owner. The Owner agrees that the Owner will not unreasonably withhold its consent to such alteration. The parties further agree that Project Co will bear the legal and survey costs incurred in relation to such alteration to the property lines. The Owner will be responsible for registration fees and any payment to the City for the additional land. In the event that the City requires changes to Project Co's proposed road layout for purposes of the CSRC, and not the Facility, and Project Co is required to change the Design, Project Co will be entitled to, and will proceed by a Change under a Change Certificate or a Change Directive.

4. HAZARDOUS SUBSTANCES

4.1 Responsibility

Notwithstanding any other provision of this Agreement or this Schedule, Project Co will not be responsible for any Hazardous Substances in, on, below or adjacent to the Lands or any cost, expense or claim arising therefrom, other than:

- (a) any Hazardous Substances brought onto, or adjacent to, the Lands by Project Co or any Project Co Person during the Term; and
- (b) those Hazardous Substances for which Project Co has agreed to accept responsibility in Schedule 3 [Design and Construction Specifications].

4.2 Restrictions on Use

Unless otherwise expressly required or permitted under this Agreement, Project Co will not install, use or store on the Lands or adjacent property any materials, equipment or apparatus, the installation, use or storage of which is likely to cause or in fact causes the generation, accumulation or migration of any Hazardous Substance in contravention of any applicable Laws. Without limiting the generality of the foregoing, Project Co will not use the Lands to dispose of, handle or treat any Hazardous Substances, in a manner that would cause the Lands, or any adjacent property, to become a contaminated site under applicable Laws.

4.3 City Approval and Prior Street

Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that:

- (a) the Encumbrances registered under numbers CA8694477-CA8694479 (conditions 32 and 33 referred to in Part 2 of Appendix 3U [Allocation of CD-1 Rezoning Report Appendix B] require a numerical assessment for purposes of remediation unless otherwise approved by the City;
- (b) in a letter dated February 4, 2021 (in this Section the "City Letter"):
 - (1) the City approved a risk based assessment approach to remediate identified Contaminants (as that term is used in the City Letter) of the Dedicated Lands (as that term is used in the City Letter), except as described in Section 4.3(b)(2) below; and
 - (2) the City requires remediation of all Hazardous Waste (as that term is used in the City Letter) soil identified on such Dedicated Lands to numerical standards;
- (c) Project Co may rely on the City's approval, and:
 - (1) except for such Hazardous Waste soil, if Project Co is required, either by the City or by the Owner, to proceed instead on the basis of numerical standards for such Dedicated Lands, Project Co will be entitled to, and will proceed by way of, a Change under a Change Certificate or Change Directive; and
 - (2) for such Hazardous Waste soil:
 - (A) Project Co and the Owner assumed that Project Co would proceed on the basis of a risk based approach; and
 - (B) Project Co will instead proceed on the basis of the numerical approach set out in the City Letter and Project Co will be entitled to, and will proceed by way of, a Change under a Change Certificate or Change Directive;
- (d) Project Co is not required to indemnify the City under the indemnity referred to on page 2 of the City Letter, which reads: " Providence Health Care Society indemnifies the City against all claims arising from the risk-based Contaminants in the roadway (including Dedicated Lands) in perpetuity"; and

- (e) notwithstanding references in such Encumbrances to Contaminants (as defined in those Encumbrances), the existence of any Hazardous Substances (other than Project Co Hazardous Substances) in, on or below Prior Street or any other area that is the subject of such Encumbrances will be deemed to be Undisclosed Environmental Liabilities for purposes of entitling Project Co to claim a Compensation Event.

APPENDIX 7A
DESCRIPTION OF LANDS AND ENCUMBRANCES