

- 1.337 **"Tower Interim Completion Payment Date"** means the date that is 2 Business Days after the Tower Interim Completion Date.
- 1.338 **"Tower Interim Completion SMH Commissioning"** means the commissioning activities to be carried out by SMH in accordance with the Final Commissioning Program.
- 1.339 **"Tower Interim Completion SMH Commissioning Period"** means the period during which SMH is performing the Tower Interim Completion SMH Commissioning.
- 1.340 **"Tower Interim Completion SMH Commissioning Tests"** means all commissioning tests required to be performed by SMH pursuant to the Tower Interim Completion Commissioning Program.
- 1.341 **"Tower Interim Completion Works"** means the portion of the Works in respect of the design, construction, installation, testing, commissioning and completion of the Tower and rectification of any Tower Interim Completion Minor Deficiencies described in Section 3.9 of Part 3 of Schedule 15 - Output Specifications.
- 1.342 **"Tower Occupancy Permit"** means all Permits, Licences, Approvals and Agreements required for the occupancy of the Tower in compliance with Applicable Law.
- 1.343 **"Trade-Marks"** means any registered or unregistered mark, trade-mark, service mark, distinguishing guise, logo, insignia, seal, design or symbol.
- 1.344 **"Transition"** and **"Transitions"** have the meanings respectively given in Section 24.14(a) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.345 **"Transition Advisor"** has the meaning given in Section 24.14(c) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.346 **"Transition Advisor Candidate"** has the meaning given in Section 24.14(c) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.347 **"Transition Parameters"** has the meaning given in Section 24.14(a) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.348 **"Transition Services Fee"** means \$200,000.00.
- 1.349 **"Transition Subcommittee"** has the meaning given in Section 24.15(a) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.350 **"Utilities"** means energy/power supplies and waste recovery, including electricity, natural gas/fuel oil, water, sanitary waste and storm water.
- 1.351 **"Utility Company"** means any company or companies designated by Construction Contractor to provide Utilities.

- 1.352 “**Variation**” has the meaning given in Schedule 22 - Variation Procedure.
- 1.353 “**Variation Confirmation**” has the meaning given in Schedule 22 - Variation Procedure.
- 1.354 “**Variation Directive**” has the meaning given in Schedule 22 - Variation Procedure.
- 1.355 “**Variation Enquiry**” has the meaning given in Schedule 22 - Variation Procedure.
- 1.356 “**Variation Procedure**” means the procedure set out in Schedule 22 - Variation Procedure.
- 1.357 “**Warranty Period**” means (i) with respect to each Phase of the Works which has achieved Phase Completion, a period beginning on the applicable Phase Completion Date and expiring on the date that is two years following the Substantial Completion Date, (ii) with respect to all Tower Interim Completion Works which have achieved Tower Interim Completion, a period beginning on the Tower Interim Completion Date and expiring on the date that is two years following the Substantial Completion Date, and (iii) with respect to the Remainder Design and Construction Work which has achieved Substantial Completion, a period beginning on the Substantial Completion Date and expiring on the date that is two years following the Substantial Completion Date.
- 1.358 “**Works**” has the meaning given in Schedule 1 – Definitions and Interpretations, of the Project Agreement.
- 1.359 “**Works Report**” has the meaning given in Section 13.6 of the Project Agreement.
- 1.360 “**Works Schedule**” means the works schedule developed pursuant to and in accordance with Section 13.2(a) of the Project Agreement.
- 1.361 “**Works Committee**” has the meaning given in Section 14.1(a) of Appendix A – General Conditions of the Design and Construction Contract.
- 1.362 “**WSIB**” means the Ontario Workplace Safety and Insurance Board that is responsible for administering the *Workplace Safety and Insurance Act, 1997* (Ontario).
2. **Interpretation.** This Design and Construction Contract shall be interpreted according to the following provisions, unless the context requires a different meaning:
- 2.1 The tables of contents, headings, marginal notes and references to them in the Design and Construction Contract are for convenience of reference only, shall not constitute a part of the Design and Construction Contract, and shall not be taken into consideration in the interpretation of, or affect the meaning of, the Design and Construction Contract.
- 2.2 Except where the context requires otherwise (irrespective of whether some, but not all, references in a Schedule specifically refer to that Schedule or to other portions of the Design and Construction Contract) references to specific Sections, Articles, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Design and Construction Contract are references to such Sections, Articles, Clauses, Paragraphs, or

Subparagraphs of, Schedules to, or divisions of the Design and Construction Contract and the terms "Section", "Article" and "Clause" are used interchangeably and are synonymous.

- 2.3 Except where the context requires otherwise, references to specific Sections, Articles, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Design and Construction Contract followed by a number are references to the whole of the Section, Article, Clause, Paragraph, Subparagraphs, Schedule or other division of the Design and Construction Contract as applicable, bearing that number, including all subsidiary provisions containing that same number as a prefix.
- 2.4 Except where the context requires otherwise, references in the Output Specifications to specific Parts, Sections, Articles, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Output Specifications shall be construed such that each such reference on a page of the Output Specifications will be read to be preceded by and to include the prefix Section number or other reference at the top of the applicable page, and all cross-references to any Section in Schedule 15 - Output Specifications shall be interpreted to include the applicable prefix Section number or other reference.
- 2.5 The Schedules to the the Design and Construction Contract are an integral part of the Design and Construction Contract and a reference to the the Design and Construction Contract includes a reference to the Schedules.
- 2.6 All references in the the Design and Construction Contract to a Schedule shall be to a Schedule of the Design and Construction Contract.
- 2.7 All capitalized terms used in a Schedule shall have the meanings given to such terms in Schedule 1, unless stated otherwise in a particular Schedule in which case such definition shall have the meaning given to it in that Schedule solely for the purposes of that Schedule.
- 2.8 The language of the Output Specifications and other documents comprising the the Design and Construction Contract is in many cases written in the imperative for brevity. Clauses containing instructions, directions or obligations are directed to Construction Contractor and shall be construed and interpreted as if the words "Construction Contractor shall" immediately preceded the instructions, directions or obligations.
- 2.9 Words importing persons or parties are to be broadly interpreted and include an individual, corporation, limited liability company, joint stock company, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity.
- 2.10 Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.

- 2.11 Unless otherwise provided in the the Design and Construction Contract, all accounting and financial terms used in the the Design and Construction Contract shall be interpreted and applied in accordance with Canadian GAAP.
- 2.12 References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of the Design and Construction Contract concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- 2.13 References to any Applicable Law, including any statutes or other Applicable Law specifically referred to herein, whether or not amendments or successors to such Applicable Law are referred to herein, are to be construed as references to that Applicable Law as from time to time amended or to any Applicable Law covering the same or similar subject matter from time to time replacing, extending, consolidating or amending the same.
- 2.14 References to a statute shall include all regulations, by-laws, ordinances and orders made under or pursuant to the statute.
- 2.15 References to persons shall include their successors and assigns. References to a public organization shall include their successors and assigns, and if a public organization ceases to exist or ceases to perform its functions without a successor or assign, references to such public organization shall be deemed to include a reference to any public organization or any organization or entity which has taken over either or both the functions and responsibilities of such public organization.
- 2.16 A reference in the the Design and Construction Contract or in any Project Document to any right, power, obligation or responsibility of any Governmental Authority shall be deemed to be a reference to the Governmental Authority that, pursuant to Applicable Laws has such right, power, obligation or responsibility at the relevant time.
- 2.17 References to a deliberate act or omission or deliberate or negligent act or omission of the Project Co or any Project Co Party shall be construed having regard to the interactive nature of the activities of the Project Co, Project Co Parties, the SMH Parties and Construction Contractor and further having regard to:
- (a) acts contemplated by the Output Specifications; or
 - (b) acts otherwise provided for in the Design and Construction Contract.
- 2.18 The words in the Design and Construction Contract shall bear their natural meaning.
- 2.19 Each of Project Co's and Construction Contractor's respective obligations shall be construed as separate obligations owed to the other.
- 2.20 References containing terms such as:

- (a) "hereof", "herein", "hereto", "hereinafter", and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to the Design and Construction Contract taken as a whole; and
- (b) "includes" and "including", whether or not used with the words "without limitation" or "but not limited to", shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean "includes without limitation" and "including without limitation".
- 2.21 In construing the Design and Construction Contract, the rule known as the *ejusdem generis* rule shall not apply nor shall any similar rule or approach apply to the construction of the Design and Construction Contract and, accordingly, general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- 2.22 Where the Design and Construction Contract states that an obligation shall be performed "no later than" or "within" or "by" a stipulated date or event which is a prescribed number of days after a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.23 Where the Design and Construction Contract states that an obligation shall be performed "no later than" or "by" a prescribed number of days before a stipulated date or event or "by" a date which is a prescribed number of days before a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.24 Where the Design and Construction Contract states that an obligation shall be performed "on" a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.25 Any reference to time of day or date means the local time or date in Toronto, Ontario.
- 2.26 Unless otherwise indicated, time periods will be strictly construed.
- 2.27 Whenever the terms "will" or "shall" are used in the Design and Construction Contract in relation to Construction Contractor or Project Co, they shall be construed and interpreted as synonymous and to read "Construction Contractor shall" or "Project Co shall" as the case may be.
- 2.28 Any reference to currency is to Canadian currency and any amount advanced, paid or calculated is to be advanced, paid or calculated in Canadian currency.

- 2.29 Unless otherwise identified in the Design and Construction Contract, all units of measurement in any documents submitted by Construction Contract to Project Co or SMH shall be in accordance with the SI system of units.
- 2.30 Terms not defined herein and used in the Design and Construction Contractor which have a technical meaning commonly understood by the health care sector in Ontario will be construed as having that meaning unless the context otherwise requires.
- 2.31 Save where expressly stated otherwise, references to amounts or sums expressed to be "indexed" or "index linked" are references to amounts or sums which require adjustment to reflect the effects of inflation. Such adjustment shall be calculated in accordance with the following formula:

$$\text{Adjusted amount or sum} = \text{Amount or sum} \times \frac{\text{CPI}_n}{\text{CPI}_o}$$

- 2.32 The terms "properly inferable", "readily apparent" and "readily discoverable" as used in this Design and Construction Contract, shall be interpreted by taking into consideration Contractor Contractor's and any Construction Contractor Party's experience and the investigations, inspections and examinations of the Background Information and of the Site, including the Existing Facilities, carried out by Construction Contractor or by any Construction Contractor Party during the Request for Proposals process or other due diligence; and by taking into consideration reasonable, normal course and industry standard investigations, inspections or other due diligence; in each case in accordance with Good Industry Practice.

APPENDIX "A" TO SCHEDULE 1 - PERMITS, LICENCES, APPROVALS AND AGREEMENTS

SMH AND CONSTRUCTION CONTRACTOR PERMITS, LICENCES, APPROVALS AND AGREEMENTS ("PLAA")

- NOTE 1:** Where both SMH and Construction Contractor are identified as having the same responsibility, please refer to the Comment column for an explanation.
- NOTE 2:** The responsibilities listed in the responsibility table in regards to the Notice of Approval Conditions ("NOAC") are based on the drawings listed in the NOAC and found in Schedule 15 Output Specifications to the Design and Construction Contract. Construction Contractor is responsible for satisfying itself with respect to compliance with the Output Specifications and any changes thereto.
- NOTE 3:** Non-Shuter Design and Construction Work (the "Non-Shuter Design and Construction Work") comprise all of the Design and Construction Work save and except for the New Shuter Wing.
- NOTE 4:** As of April 14, 2014 no applications have been submitted to the City of Toronto (the "City") for the New Shuter Wing. The New Shuter Wing PLAA Table is located at the end of this document. The New Shuter Wing is illustrated in drawing No AP2-A000, titled "New Shuter Wing – Footprint of Proposed Development" and dated April 22, 2014 in Part 5 – Indicative Planning and Design Drawings of Schedule 15 – Output Specifications.

NON-SHUTER DESIGN AND CONSTRUCTION WORK PLAA TABLE

	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
1. Zoning By-law No. 438-86, as amended, and as varied by Committee of Adjustment decisions dated 2010 and June 26, 2013 related to the Ancillary Renovations (including Critical Care Wing).	X			X	SMH obtained the minor variances from the Committee of Adjustment for the Non-Shuter Design and Construction Work – the most recent approval became final and binding on June 26, 2013. Construction Contractor's responsibility is to abide by the By-law, as varied by Committee of Adjustment decisions and 2013 condition as follows: "Prior to the issuance of a building permit, building permit

Non-Shuter Design and Construction Work Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
					drawings, including plans, elevations and details shall be submitted to the satisfaction of the Manager of Heritage Preservation Services ("HPS").
II Development Agreements 1. Pre-Approval Conditions to Site Plan Approval related to the Non-Shuter Design and Construction Work. NOAC to Site Plan Application received March 31, 2014 and dated March 26, 2014 and subsequently revised December 12, 2014	X	X		X	SMH and Construction Contractor to respectively satisfy pre-approval conditions to execution of the Site Plan Agreement as set out in the Site Plan Approval Pre-Approval Conditions Responsibility Table attached hereto as Schedule A. Construction Contractor to satisfy all post approval conditions to the Site Plan Agreement as set out in Section B of Schedule A. Construction Contractor will be responsible to replace all security provided to the City by SMH as per the NOAC
2. Site Plan Agreement – the Non-Shuter Design and Construction Work	X		X	X	SMH's obligation is to execute the Site Plan Agreement. Construction Contractor to perform all obligations under the Site Plan Agreement subject to the requirement for ongoing maintenance. Existing Site Plan Agreement to be amended or replaced, which is yet to be determined.

	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
<p>III Other Permits, Licences, Approvals and Agreements</p> <p>Encroachment Application Approval</p>					
<p>1. The approval of the following proposed encroachments must be received from the Right-of-Way Management section of Transportation Services – canopies, bay windows, passerelle at 5th floor of critical care wing.</p>	X			X	Approval received from Toronto East York Community Council on June 18, 2013. Construction Contractor to implement approvals.
<p>2. Enter into an Encroachment Agreement with the City of Toronto</p> <p>Roads and Parking</p>	X		X	X	SMH to execute the encroachment agreement as Owner. City has provided standard form agreement. Construction Contractor to finalize the agreement, and provide final plans (the "Encroachments Plans").
<p>3. Temporary public road closures and/or occupancy permits to permit construction staging and other construction related use of such roads.</p>			X	X	Construction Contractor to apply for and secure necessary permits, including coordinating efforts with other nearby construction sites affected.
<p>4. Temporary public lane closures and/or occupancy permits to permit construction staging and other construction related use of such lanes</p>			X	X	Construction Contractor to apply for and secure necessary permits, including coordinating efforts with other nearby construction sites affected.
<p>5. TTC track replacement work – coordination of schedules</p>			X	X	Construction Contractor is responsible to coordinate its construction schedule with the City in the event of any delays to the TTC track replacement work.

**St Michael's Hospital
Redevelopment Project**

**Design and Construction Contract
Schedule I**

	Non-Shutter Design and Construction Work Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
	General Construction					
6.	All building permits, including demolition, shoring, excavation, hoarding, and signage, including the preparation and submission of all supporting materials required for any such permits as required by the City.			X	X	
7.	MOE dewatering permit, if required			X	X	
8.	Tie backs, crane swing and encroachments required for the Works.			X	X	
9.	Construction management plans, road cut permits and road closure permits as required for the Works.			X	X	
10.	Agreements and arrangements (including notice to property owners) with landowners adjacent to Work to be completed on the public right-of-way.			X	X	
11.	Temporary road closures for any municipal roads required to be closed to the public as required for the Works.			X	X	
12.	Curb cut permits required for the modification of exiting private roads as they meet SMH Boulevard			X	X	
13.	Temporary occupancy permits and or licences to carry out works and occupancy of lands including but not limited to, City-owned lands (roadways parkland)			X	X	
14.	All levies, fees, charges and costs associated with the required Permits, Licences, Approvals and Agreements			X	X	

**St Michael's Hospital
Redevelopment Project**

**Design and Construction Contract
Schedule 1**

	Non-Shutter Design and Construction Work Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X.	SMH Obligation to Perform Identified by an X.	Construction Contractor Obligation to Obtain or Execute Identified by an X.	Construction Contractor Obligation to Perform Identified by an X.	Comment
15.	Sign Variance Permit			X	X	In the event that any signage applied for under the sign permit does not meet the City of Toronto Sign By-law, Construction Contractor should apply for a Sign Variance Permit for the design/erection of such building signage.
16.	Permission for all service installations not mentioned above.			X	X	
17.	Contact Municipal Numbering Supervisor, Survey and Mapping to obtain or verify new municipal addresses prior to submitting a building permit application. It should be noted that all addressed parcels and structures must have the correct municipal addresses posted.			X	X	SMH to follow up with Municipal Numbering on what needs to be done to change the 30 Bond Street address to a Queen Street address. SMH to provide this information to Construction Contractor and Construction Contractor to take steps to change municipal numbering.
18.	This development is not eligible for City refuse collection and as a result, arrangements for the collection of refuse to be done by a private refuse collection firm.	X	X			
19.	As established by Toronto By-law, Chapter 880, it is required that an approved fire access route be provided (application shall be submitted to Toronto Fire Services prior to occupancy).			X	X	
20.	Landscape Permit from Transportation Services, Right-of-Way Management.			X	X	
21.	All other Permits, Licences, Approvals and Agreements			X	X	

NON-SHUTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
<p>IV. NOAC Document -- March 26, 2014 (revised December 12, 2014)</p> <p>On March 26, 2014 the City Planning Division completed the review of your proposed renovation and expansion of St. Michael's Hospital and issued Notice of Approval Conditions. A site plan agreement was not registered on title. Subsequently, the scope of the project changed to exclude the "Shuter Wing" renovations and new drawings were submitted. City Planning has completed the review of this proposal and issues these Notice of Approval Conditions with the revised plans, as outlined in the following plans and drawings:</p> <ul style="list-style-type: none"> - Architectural Drawings prepared by DSAI dated October 11, 2013 (revised February 5, 2014) and May 2014 and dated stamped June 13, 2014; - Landscape Drawings prepared by Ferris & Associates Inc. dated May 2009 and date stamped December 12, 2013 and date stamped by Development Engineering February 7, 2014; and - Site Servicing Plan prepared by Lea Consulting Limited dated October 5, 2013, revised November 12, 2013, and dated stamped by Development Engineering February 7, 2014. 					
<p>The issuance of the City's Notice of Approval Conditions letter does not constitute site plan approval. The Chief Planner's designate; the Director of Community Planning will be in a position to issue approval of the plans and drawings listed herein and to satisfy applicable law requirements of Section 41(16) of the <i>Planning Act</i> and Section 114 of the <i>City of Toronto Act</i>, once the owner has satisfied all of the pre-approval conditions set out herein.</p>					

	NON-SHUTTER DESIGN AND CONSTRUCTION WORK. Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
	IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
	It is the owner's responsibility to work with the respective City divisions to satisfy the pre-approval conditions set out below. Please note that if the pre-approval conditions are not fulfilled with two (2) years of the date of this notice, then this notice is no longer valid and a new submission is required unless a written request for time extension is received and granted by the Chief Planner or her designate.					
	A. PRE-APPROVAL CONDITIONS					
	LEGAL SERVICES – Stephanie Morrow (416) 397-5397					
1.	Enter into the City's standard site plan agreement to and including registration of the site plan agreement on title to the subject lands by the City at the owner's expense.	X		X	X	SMH as owner of Site to sign Site Plan Agreement. Construction Contractor to obtain the Site Plan Agreement and to perform all such obligations.
	ENGINEERING & CONSTRUCTION SERVICES – Stephen Sudac (416) 392-1803					
1.	Provide securities and/or guarantees, to the satisfaction of the Executive Director of the Engineering and Construction Services Division, for any utility pole and/or traffic pole relocations/installations if required in conjunction with the proposed work within the public rights-of-way.			X	X	Construction Contractor to provide securities.

	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
2. Provide financial securities in the amount of \$2,776.41 with respect to the new parking control signs and lane realignment pavement markings.			X	X	Construction Contractor to provide financial securities.
3. Provide strata Reference Plan of survey in metric units and referenced to the Ontario Co-ordinate System, delineating thereon by separate PARTS the portions of the building encroaching onto Victoria Street and Queen Street East is required for the preparation of legal descriptions for the agreements to be entered into. The applicant is required to submit the draft Reference Plan of survey to the Executive Director of Engineering Services for review and approval prior to it being deposited in the Land Registry Office.		X	X	X	SMH to initiate draft and Construction Contractor to finalize. Note: Draft Reference Plan was submitted to the City for review on February 6, 2014. Comments received from Survey & Mapping; waiting for comments from Development Engineering. A follow up request for outstanding comments was made on January 8, 2015.
CITY PLANNING – Giulio Cescato (416) 392-0459					
1. Prior to the issuance of a statement of approval, the owner submit a letter of credit in the amount of \$87,500 for the security of landscaping.			X	X	Construction Contractor to provide securities.

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
2. Prior to the issuance of a statement of approval, the owner shall provide a detailed Conservation Plan for the conservation work described in the Heritage Impact Assessment prepared by ERA Architects dated May 21, 2009 and revised July 31, 2013, prepared by a qualified heritage consultant detailing all recommended interventions, and estimated costs for all conservation work satisfactory to the Manager, Heritage Preservation Services.		X	X	X	SMH to initiate Conservation Plan preparation. Construction Contractor to finalize.
Prior to the issuance of a statement of approval, the owner shall submit an Interpretation Plan that fully interprets the heritage values of the E Wing to the satisfaction of the Manager, Heritage Preservation Services.		X	X	X	SMH to initiate Interpretation Plan preparation. Construction Contractor to finalize.
URBAN FORESTRY – Gary LeBlanc (416) 392-0494					
1. The owner shall conduct an investigation of underground utilities prior to proposing new tree planting within the City road allowance. If planting is not possible due to a utility conflict, a utility locate information sheet from the respective utility company must be provided to the Supervisor of Urban Forestry, Tree Protection & Plan Review.			X	X	

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
B. POST APPROVAL CONDITIONS					
<p>In addition to the above pre-approval conditions, the following post approval conditions are to be fulfilled by the owner following site plan approval and will be incorporated into a site plan agreement:</p> <p>The proposed development shall be carried out and maintained in accordance with the plans and drawings referred to herein, to the satisfaction of the City of Toronto.</p>					
ENGINEERING & CONSTRUCTION SERVICES – Stephen Sudac (416) 392-1803					
1. The owner agrees to retrofit St. Michael's Hospital to provide a PATH connection in the basement level from Victoria Street to the elevator corridor providing access to the hospital lobby at the northeast corner of Queen Street East and Victoria Street, and enter into a tunnel agreement with the owners of the Maritime Life building abutting the west side of Victoria Street, at such time that the PATH system is extended under Victoria Street to the hospital in the future.		X	X	X	Construction Contractor to construct knock out panel as provided for in site plan approval drawings. SMH to confirm location for knock out panel.
2. Provide and maintain a trained staff member to act as flag person to direct pedestrians and vehicles when trucks are backing out of the Victoria Street loading spaces.	X	X			SMH to maintain.
3. Provide and maintain appropriate internal service connections between the Victoria Street loading facilities, and all sections of the hospital, so that deliveries can be undertaken within the building, without the need to use the abutting public rights-of-way.		X	X	X	Construction Contractor to provide. SMH to maintain.

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
4. Remove all existing accesses, curb cuts, traffic control sign(s) along the development site frontages that are no longer required and reinstate the curb, gutter and boulevard within the City's right-of-way, in accordance with City standards and to the satisfaction of the Executive Director, Engineering and Construction Services.		X	X	X	Construction Contractor to provide and SMH to maintain.
5. Provide and maintain off-street loading facilities and access driveways in accordance with the approved plans and drawings, to the satisfaction of the Executive Director, Engineering and Construction Services.		X	X	X	Construction Contractor to provide and SMH to maintain
6. Contact Traffic Operations staff of the Transportation Services Division a minimum of six months prior to any occupancy of the project, in order to prepare the necessary reports associated with new parking regulatory signing on Victoria Street and new parking regulatory signing and (any) new pavement markings for bicycle lane and traffic lane realignments on Shuter Street, as may be deemed necessary, in association with the revisions to the emergency department.			X	X	
7. Construct and maintain stormwater management measures/facilities and site grading as recommended in the accepted Stormwater Management Report, dated May 2009, prepared by R. V. Anderson Associates Limited and Letter dated October 3, 2013, prepared by LEA Consulting Ltd. and Site Grading information provided on plan SPL1.1, SPL1.2 & SPL2, prepared by Ferris & Associates Inc. and signed and sealed by Z. Du of LEA Consulting Ltd.			X	X	

	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
<p>NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements</p>					
<p>IV. NOAC Document – March 26, 2014 (revised December 12, 2014)</p>					
<p>8. Construct and maintain site servicing indicated on the accepted Site Servicing Plan Drawing No. C-01, revisions #5 dated December 11, 2013, prepared by LEA Consulting Ltd.</p>			X	X	
<p>9. Provide certification to the Executive Director of Engineering & Construction Services by the Professional Engineer who designed and supervised the construction that the stormwater management facilities and site grading have been constructed in accordance with the accepted Stormwater Management Report and the accepted Grading Plans.</p>			X	X	
<p>10. Provide certification to the Executive Director of Engineering & Construction Services by the Professional Engineer who designed and supervised the construction, that the site servicing facilities have been constructed in accordance with the accepted drawings.</p>			X	X	
<p>CITY PLANNING – Giulio Cescato (416) 392-0459</p>					
<p>1. Prior to the issuance of any heritage permit for the heritage property, 30 Bond Street, including a permit for the demolition, excavation, and/or shoring of the subject property, the applicant shall provide the following to the satisfaction of the Manager, Heritage Preservation Services; the owner shall:</p>					
<p>a) Submit final building permit plans and drawings for the alterations and new construction, satisfactory to the Manager, Heritage Preservation Services;</p>			X	X	

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document -- March 26, 2014 (revised December 12, 2014)					
b) Provide a Letter of Credit in accordance with the approved Conservation Plan and the approved Heritage Interpretation Plan in a form and amount satisfactory to the Manager, Heritage Preservation Services to secure the approved conservation and interpretive work;			X	X	
c) Prior to the release of the Letter of Credit, the owner shall provide a certificate of completion prepared by a qualified heritage consultant confirming that the conservation and heritage interpretation work has been completed in accordance with the approved Conservation Plan and Heritage Interpretation Plan to the satisfaction of the Manager, Heritage Preservation Services.			X	X	
URBAN FORESTRY – Gary LeBlanc (416) 392-0494					
1. The owner shall remove City owned trees only upon the agreement of the local Councillor and receipt of the required tree removal payment by the Supervisor of Urban Forestry, Tree Protection & Plan Review and the building and/or demolition permits have been obtained and the permitted construction and/or demolition related activities associated with this project warrant the removal of the trees.			X	X	
2. The applicant shall have a qualified company implement the approved Landscape Plan and all approved tree preservation and maintenance strategies to the satisfaction of Urban Forestry. As well, prior to construction or grading activities, where necessary to ensure the health and vigour of trees to be preserved, tree maintenance measures must be undertaken by a certified arborist or other qualified expert and according to currently accepted sound arboricultural practices.			X	X	

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
3. Tree planting must be completed according to the approved Landscape Plan and to the satisfaction of Urban Forestry within a reasonable time frame. Any proposed revisions to the planting plan must first be approved by Urban Forestry.			X	X	
4. The site shall be developed and maintained in accordance with the approved plans and conditions of approval associated with the Site Plan, Grading Plan, Site Servicing Plan, Landscape Plan, Building Permit and Tree Permit(s) Approvals. Any proposed revisions/alterations to the approved plans or permits that affect trees must be approved by Urban Forestry, on behalf of the General Manager of Parks, Forestry & Recreation.			X	X	
5. The owner shall provide a two-year renewable guarantee for all new tree plantings within the City road allowance and shall notify the Supervisor of Urban Forestry, Tree Protection & Plan Review in writing, of the planting date prior to planting. This date is used to establish the anniversary date of the required two-year renewable guarantee.			X	X	
6. The owner shall maintain all new tree plantings with the City road allowance in good condition. Trees will be inspected during and prior to the end of the renewable guarantee period. If the trees are in good condition at the end of the renewable guarantee period, the City will assume maintenance and ownership of the trees.			X	X	

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X.	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document - March 26, 2014 (revised December 12, 2014)					
7. The owner shall be responsible for the maintenance or replacement of all new tree plantings within the City road allowance if during or at the end of the renewable guarantee period the trees are not in good condition, require maintenance or require replacement. The owner will be responsible for rectifying the problem as determined by and to the satisfaction of the General Manager of Parks, Forestry & Recreation.			X	X	
8. The owner shall maintain all newly replanted trees within the City road allowance in good condition and shall provide an additional two-year renewable guarantee.			X	X	
9. Prior to the issuance of a Landscape Permit (by Transportation Services, Right-of-Way Management), the owner shall provide a tree planting security deposit in the form of an irrevocable Letter of Credit or certified cheque or money order/bank draft payable to Treasurer, 'City of Toronto', or by Visa, MasterCard, American Express or debit, in the amount of \$9,911.00 (\$583.00 per tree subject to change) for new tree planting within the City Road allowance. The deposit will be drawn upon to cover all costs incurred by the City of Toronto enforcing and ensuring that the trees are planted and kept in a healthy and vigorous state during the two-year guarantee period. The tree planting security deposit must be submitted to the attention of the Supervisor of Urban Forestry, Tree Protection & Plan Review. Payment must be made in person at the Urban Forestry office located at 50 Booth Avenue, 2 nd Floor. Our front reception desk hours are 8:30 p.m. to 3:00 p.m., Monday to Friday.	X	X			

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
<p>IV. NOAC Document – March 26, 2014 (revised December 12, 2014)</p> <p>The site plan agreement is being prepared by Legal Services. They will forward it to you shortly for your execution and return to the City.</p> <p>Please find attached advisory comments to assist you with your application.</p> <p>Attached is a copy of the standard form letter of credit required by the City of Toronto. We have found in the past that the failure of applicants to provide the City with a letter of credit in the proper format has resulted in the City's Finance Division rejecting the letter with a resulting delay in the issuance of the building permits. Please ensure that the letter of credit follows the format and content verbatim of the sample letter.</p> <p>Should you have any questions, please contact Giulio Cescato, Planner at (416) 392-0459.</p>					
<p>ATTACHMENT: 1</p>					
<p>SITE PLAN ADVISORY COMMENTS</p>					
<p>1. The owner is advised that the Green Roof By-law (By-law No. 583-2009) (Chapter 492 of the City of Toronto Municipal Code) including Article IV the Toronto Green Roof Construction Standard, may be applicable to the proposed development. For further information, please contact Garret Dvernichuk, Toronto Building at (416) 392-4239.</p>					
<p>2. That the project, in its present form, is contingent on the owner obtaining final approval for the variances which were approved, subject to conditions by the Committee of Adjustment as its hearing of June 5, 2013 (File No. A0246/13TEY).</p>					

NON-SHUTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)					
3. Of the need to make separate applications to the General Manager of Transportation Services for permits to carry out any works involving the construction in, or occupancy of, the Queen Street East, Victoria Street, Shuter Street or Bond Street public rights-of-way.					
4. Of the need to submit an application for the review and approval of the General Manager of Transportation Services for any irrigation systems encroachments for the planting beds on Bond Street, and any encroachment of Siamese connections. The existing encroachments to be retained, which are not already subject to encroachment agreements, including the encroachments of gate swings for the refurbished fence on Bond Street, and for the proposed bollards within the Victoria Street public right-of-way and enter into an encroachment agreement for the approved encroachments.	X		X	X	SMH to execute any necessary encroachment agreement. Construction Contractor to apply for the subject encroachments and finalize the provisions of the encroachment agreement.
5. Of the need to submit a separate application for the review and approval of the General Manager of Transportation, in consultation with the Chief Building Official, for the proposed canopies within the Queen Street East and Victoria Street public rights-of-way, and enter into an encroachment agreement for any approved encroachments.	X			X	This relates only to the canopies. Approval obtained for passerelle and bay windows. Application for passerelle and bay windows includes canopies. Final approval of any canopies will be through site plan process.

NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document - March 26, 2014 (revised December 12, 2014)					
6. That in conjunction with the application for an encroachment agreement for the proposed canopies, the owner will be required to submit a report to address how pedestrians will be protected from any snow and/or ice that may fall from the proposed canopies and/or surgical corridor encroachment.	X	X			Required Report was filed with ROW Management.
7. Of the need to construct an underground garage when the New Shuter Wing is eventually constructed, in accordance with the existing development approvals.	X	X			
8. That they are financially responsible for all costs associated with removing, reinstalling or relocating existing street furniture (transit shelters, benches and litter bins, etc.), and that the City will not undertake the necessary work until it receives payment. For additional information, the applicant is advised to contact the Public Realm Section at 416-392-1799.			X	X	
9. That prior to the issuance of a construction permit for work within the public rights-of-way, an Irrevocable Letter of Credit in the amount of \$390,900.00 to guarantee the work to be undertaken and a certified cheque in the amount of \$19,545.00, made payable to Treasurer, City of Toronto, to cover the cost of engineering and inspection fees related to same must be submitted to Transportation Services, Right-of-Way Management.			X	X	
10. The owner shall obtain approval from Toronto Hydro Street Lighting Incorporated (THSLI) for removing and/or relocating any utility with attached municipal street lighting and for any upgrades. The owner is advised to contact THSLI (416-542-3195) or www.torontohydro.com/streetslighting for comment and cost estimated for required fieldwork.			X	X	

	NON-SHUTTER DESIGN AND CONSTRUCTION WORK Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
IV. NOAC Document – March 26, 2014 (revised December 12, 2014)						
11.	The owner is financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of any above or below-grade public or private utility resulting from the development of this property.			X	X	
12.	The owner will be required to make an application to the Toronto Water Division for the installation of any proposed services within the City right-of-way after acceptance of the stormwater management report and site servicing plan. For further information, please contact Matthew McAinish, District Operations, Toronto Water 416-395-6063.			X	X	

NEW SHUTER WING PLAA TABLE

NEW SHUTER WING Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
<p>I Zoning</p> <p>Zoning By-law No. 438-86, as amended and subject to rezoning or minor variance.</p>	<p>X</p>		<p>X</p>	<p>X</p>	<p>SMH will be responsible for submitting an application for zoning approvals necessary to permit the New Shuter Wing.</p> <p>1. If it is determined that the zoning approval process will be via minor variance, SMH will obtain minor variance approval and Construction Contractor will be responsible for implementing any conditions imposed by the Committee of Adjustment.</p> <p>2. If it is determined that the zoning approvals will be obtained via a rezoning, SMH will process the application until NOAC is received for the New Shuter Wing. Construction Contractor will be responsible for processing/ obtaining the zoning approvals after NOAC is received for the New Shuter Wing or such earlier date as determined by SMH, at its discretion.</p>

NEW SHUTER WING Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
II Development Agreements					
Site Plan Approval specific to New Shuter Wing	X		X	X	SMH will be responsible for filing the Site Plan Approval Application for the New Shuter Wing with the City. SMH will process the application until the date NOAC is received or an earlier date as determined by SMH, at its discretion.
Site Plan Agreement New Shuter Wing	X		X	X	SMH's obligation is only to execute the Site Plan Agreement associated with the New Shuter Wing. Construction Contractor to obtain the Site Plan Agreement and perform all obligations under the Site Plan Agreement subject to the requirement for ongoing maintenance. The Site Plan Agreement for the New Shuter Wing will either amend or replace the Non-Shuter Design and Construction Work Site Plan Agreement, which is yet to be determined.
III Other Permits, Licences, Approvals and Agreements					
Encroachment Application Approval					
If any Encroachment provisions are required they will be dealt with in the same manner as the Encroachment provisions set out in Part III of the Non-Shuter Design and Construction Work.					
Roads and Parking					
If any Roads and Parking provisions are required they will be dealt with in the same manner as the					

NEW SHUTTER WING Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
Roads and Parking provisions set out in Part III of the Non-Shutter Design and Construction Work.					
General Construction					
If any General Construction Provisions are required they will be dealt with in the same manner as the General Construction Provisions set out in Part III of the Non-Shutter Design and Construction Work.					
All other Permits, Licences, Approvals and Agreements			X	X	
IV NOAC DOCUMENT					

NEW SHUTTER WING Permits, Licences, Approvals and Agreements	SMH Obligation to Obtain or Execute Identified by an X	SMH Obligation to Perform Identified by an X	Construction Contractor Obligation to Obtain or Execute Identified by an X	Construction Contractor Obligation to Perform Identified by an X	Comment
[NTD: TO BE DETERMINED]					Construction Contractor will be responsible for all conditions under the NOAC for the New Shuter Wing. Any conditions identified as Part IV of the Non-Shuter Design and Construction Work above which are applicable to the New Shuter Wing pre-approval conditions will be completed in the same standard as Part IV of the Non-Shuter Design and Construction Work set out above. All other conditions will be satisfied by Construction Contractor unless they are only capable of being performed by SMH. Only requirements for the New Shuter Wing that are incremental to the requirements provided for in the Site Plan Agreement for the Non-Shuter Design and Construction Work in Part II as set out above and the NOAC dated March 26, 2014 in Part IV as set out above or already provided for in Schedule 15 – Output Specifications will be the subject of a Variation.

SCHEDULE 3

DESIGN AND CONSTRUCTION WORK SCHEDULING REQUIREMENTS

1. DEFINITIONS

- 1.1 **“Interim Design and Construction Work Schedule”** means the schedule for the Design and Construction Work identified as the “Interim Design and Construction Work Schedule” agreed to between Project Co and Construction Contractor prior to or on the date of the Design and Construction Contract, which sets out in detail the Design and Construction Work that Construction Contractor anticipates it will perform until such time as the draft Design and Construction Work Schedule becomes the Design and Construction Work Schedule pursuant to Section 13.2(a) of the Design and Construction Contract, including, but not limited to all of the applicable Design and Construction Work Milestones to be commenced and/or completed during such period and any anticipated SMH participation required or desired during such period.
- 1.2 **“Design and Construction Work Area Micro-Schedule”** means any portion of the Design and Construction Work Schedule for a specific portion of the Design and Construction Work that has been developed in a highly detailed manner to support day-by-day or hour-by-hour coordination with certain SMH Activities that have been identified by SMH. Each Design and Construction Work Area Micro-Schedule shall be in the form of a series of activities and milestones that are logically linked and shall identify the start and finish dates of each applicable event and activity (including Design and Construction Work Milestone). Each Design and Construction Work Area Micro-Schedule shall further contain the dates for events and activities (including Design and Construction Work Milestones) that are consistent with those set out in the remainder of the Design and Construction Work Schedule.
- 1.3 **“Design and Construction Work Milestone”** means any of the following milestone events or activities and includes the applicable dates for commencing and completing such event or activity:
- (a) all Phase Completions by the applicable Scheduled Phase Completion Dates;
 - (b) Tower Interim Completion by the Scheduled Tower Interim Completion Date;
 - (c) Substantial Completion by the Scheduled Substantial Completion Date;
 - (d) Final Completion by the Scheduled Final Completion Date;
 - (e) all Warranty Periods;
 - (f) the Schedule Cushion;
 - (g) the application for and obtainment of all Permits, Licences, Approvals and Agreements;

- (h) the submission of each Design and Construction Work Submittal (including, for clarity, each Design Development Submittal and Construction Document Submittal) and the associated review period in accordance with Schedule 10 – Review Procedure of the Design and Construction Contract;
- (i) the submittals identified in the Design Quality Plan and the Construction Quality Plan;
- (j) prominent planning and procurement events for equipment, including, but not limited to, the dates when SMH's requirements are validated by SMH, each Equipment procurement will be issued and awarded, all Shop Drawings will be approved, the first item of Equipment will be delivered and the last item of Equipment will be delivered;
- (k) Equipment and Existing Equipment installation and commissioning for each phase of the Works;
- (l) training for Equipment for each phase of the Works;
- (m) prominent ICT events, including, but not limited to, SMH decision points for system requirements confirmation, the confirmation of systems integration requirements, the issuance of procurement documentation, procurement awards, and the delivery, commencement and completion of network and systems testing by SMH;
- (n) HVAC, plumbing, and electrical rough-ins;
- (o) construction for each phase of the Works;
- (p) excavation;
- (q) foundations;
- (r) backfill operations;
- (s) the building's superstructure;
- (t) the building envelope (including, but not limited to, the roof membrane, exterior cladding, exterior doors, louvers, windows, glazing systems, flashings, and sealants);
- (u) interior concrete block and steel stud partitions (sheathing excepted);
- (v) soft and hard landscaping;
- (w) interior finishes (flooring, interior sheathing, painting, ceiling tile);

- (x) life-safety systems (public address, fire alarm, sprinkler systems) and security systems;
- (y) building systems commissioning for each phase of the Works;
- (z) the availability of permanent power serving all building levels;
- (aa) deficiency reviews;
- (bb) the application for and the achievement of a LEED Silver Rating under the LEED Rating System for the applicable Design and Construction Work;
- (cc) Phase SMH Commissioning (including each Phase SMH Commissioning Period);
- (dd) Tower Interim Completion SMH Commissioning (including the Tower Interim Completion SMH Commissioning Period);
- (ee) SMH Commissioning (including the SMH Commissioning Period);
- (ff) each of the Transitions;
- (gg) building systems training for each phase of the Works;
- (hh) the turnover of space by SMH to Construction Contractor in respect of each phase of the Works;

and “**Design and Construction Work Milestones**” means, collectively, all of the Design and Construction Work Milestones.

2. INTERIM WORKS SCHEDULE

- 2.1 From Financial Close until the draft Design and Construction Work Schedule becomes the Design and Construction Work Schedule pursuant to Section 13.2(a) of the Design and Construction Contract, the Interim Design and Construction Work Schedule shall be deemed to be the Design and Construction Work Schedule and, until such time, all provisions of the Design and Construction Contract applicable to the Design and Construction Work Schedule shall be applicable to the Interim Design and Construction Work Schedule *mutatis mutandis* as though the Interim Design and Construction Work Schedule were the Design and Construction Work Schedule. Upon the draft Design and Construction Work Schedule becoming the Design and Construction Work Schedule, the Design and Construction Work Schedule shall automatically replace the Interim Design and Construction Work Schedule and, from such date, the Interim Design and Construction Work Schedule shall no longer be of any further force or effect.

3. WORKS SCHEDULE WORKSHOPS

- 3.1 Prior to the submission of the draft Design and Construction Work Schedule by Construction Contractor pursuant to Section 13.2(a) of the Design and Construction Contract, Construction Contractor and its primary Subcontractors shall attend two half-day planning workshops with Project Co and SMH to discuss the scope and phasing of the Project and the Design and Construction Work Milestones and to resolve questions or issues relating to Construction Contractor's preparation of its draft Design and Construction Work Schedule. Construction Contractor and such Subcontractors shall come suitably prepared to participate effectively in such workshops. Each planning workshop shall take place at the date and time determined by SMH and Project Co, acting reasonably, following Financial Close provided that both workshops must be completed no later than 15 Business Days following Financial Close. Each planning workshop shall be chaired by Construction Contractor but the agenda shall be jointly prepared by SMH and Construction Contractor.
- 3.2 No fewer than two times per calendar year or otherwise following the reasonable written request of Project Co, as requested by SMH, Construction Contractor and its primary Subcontractors shall conduct a workshop with SMH to explain Construction Contractor's strategy, activities, critical path and areas of concern or particular challenge associated with the performance of the Design and Construction Work or any part thereof in relation to the Design and Construction Work Schedule for the upcoming six month period. Construction Contractor and its Subcontractors shall come suitably prepared to effectively participate in such workshops. Each workshop shall take place at the date and time agreed upon by SMH and Project Co, acting reasonably. Each workshop shall be chaired by Construction Contractor but the agenda shall be jointly prepared by SMH and Construction Contractor.

4. FORMAT AND CONTENT OF THE WORKS SCHEDULE

4.1 The Design and Construction Work Schedule

- (a) Construction Contractor shall prepare a detailed computerized Design and Construction Work Schedule using a critical path method ("CPM") network and a Design and Construction Work Schedule dependent cash flow forecast, each in a form approved by SMH. The planning and schedule software shall be Primavera 6.0 or other software compatible with Primavera 6.0 that supports the completion of the Design and Construction Work in accordance with Section 13.1 of the Design and Construction Contract. For clarity, the draft Design and Construction Work Schedule shall be submitted in hard and soft copy in the native file format prescribed in this Section 4.1(a), showing all the schedule underlying assumptions, including tasks interdependency and schedule floats. The Design and Construction Work Schedule and any other schedule related reporting requirements of Construction Contractor shall also conform to the phasing and sequencing requirements for the Design and Construction Work as set out in the Design and Construction Contract, including the Phasing Requirements, the work to be completed by SMH's own forces or by other contractors, access restrictions, availability of work areas, each Scheduled Phase Completion Date, the Scheduled Tower Interim Completion Date, the Scheduled Substantial Completion Date, the

Scheduled Final Completion Date, the Output Specifications, including the sequencing requirements, the schedule for commissioning of the Design and Construction Work and for achieving each Scheduled Phased Completion Date, the Scheduled Tower Interim Completion Date, the Scheduled Substantial Completion Date and the Scheduled Final Completion Date.

- (b) Construction Contractor shall:
- (i) continuously monitor the progress of the Design and Construction Work in relation to the Design and Construction Work Schedule and the cash flow and update the Design and Construction Work Schedule and the cash flow projections set out in the Design and Construction Work Report, maintain the continuity of the Design and Construction Work Schedule's CPM network for all updates and revisions and immediately notify Project Co and SMH of any variance or potential variance in the scheduled completion dates;
 - (ii) advise Project Co and the SMH Representative of any revisions required to the Design and Construction Work Schedule as a result of any extension of a Scheduled Phase Completion Date, the Scheduled Tower Interim Completion Date or the Scheduled Substantial Completion Date in accordance with Schedule 22 – Variation Procedure;
 - (iii) identify potential variances between scheduling and scheduled completion dates, review the schedule of Design and Construction Work not started or incomplete and implement necessary adjustments in the Design and Construction Work Schedule in order to meet each Scheduled Phase Completion Date, the Scheduled Tower Interim Completion Date, the Scheduled Substantial Completion Date and the Scheduled Final Completion Date set out in the Design and Construction Work Schedule, including the movement of manpower and equipment in response to availability of work areas;
 - (iv) comply with the Design and Construction Work Schedule so as not to interfere with the activities of SMH in the Existing Facilities;
 - (v) monitor the Subcontractors' personnel staffing and equipment and the availability of materials and supplies in order to meet the Design and Construction Work Schedule and take appropriate courses of action when the requirements of a Subcontract with any Construction Contractor Party are not met;
 - (vi) obtain from Construction Contractor Parties a schedule showing the order number, vendor's name, Shop Drawing status, manufacturing lead time and delivery date of all critical material and equipment required for the Design and Construction Work;

- (vii) pre-order equipment, materials and supplies where necessitated by cost and/or time factors and expedite delivery of critical items;
 - (viii) in consultation with the SMH Representative, include in the Design and Construction Work Schedule the integration of the equipment described in the Output Specifications, rough-in requirements, supply and installation, including of the Equipment, to ensure that the ordering, delivery, receiving and supply of Equipment does not adversely affect the Design and Construction Work Schedule.
- (c) The Design and Construction Work Schedule shall be prepared in accordance with Good Industry Practice for a large complex project and shall be in sufficient detail so as to enable the SMH Representative and, if applicable, the Independent Certifier, to monitor the progress of the Design and Construction Work, including all commissioning activities, and the likely future progress of the Design and Construction Work.
- (d) The total number of activities that Construction Contractor includes in the Design and Construction Work Schedule shall reflect the complexity of the Design and Construction Work and is subject to the prior approval of Project Co and SMH, provided that the Design and Construction Work Schedule shall contain no fewer than 1000 activities.
- (e) The Design and Construction Work Schedule shall identify:
- (i) activities in a graphical, time-scaled, horizontal bar chart format;
 - (ii) the first day of each work week as a Monday;
 - (iii) intended working days and holidays that are used as the basis for critical path calculations;
 - (iv) inter-relationships and logic dependencies between activities;
 - (v) sufficient detail to identify the major activities and milestones for planning, coordination and progress assessment purposes;
 - (vi) the name of the Project, the Project's number, the status date, the date submitted and the revision or update number in the title block;
 - (vii) the sequence logic between activities with at least one predecessor and one successor activity for each activity to avoid open-ended logic;
 - (viii) the activity percentage completion, which represents the physical percentage of completion of the underlying activity;
 - (ix) early dates and late dates as well as a clearly-identified critical path of activities and milestones throughout each phase of the Works;
 - (x) the total float and free float for all activities and Design and Construction Work Milestones;

- (xi) consistent and intuitive terminology for activity descriptions and activity descriptions that begin with verbs; and
 - (xii) when requested by SMH, the crewing assumptions for the activities and the dependency logic that is governed by or represents crewing availability.
- (f) Construction Contractor shall:
- (i) ensure that all activities in the Design and Construction Work Schedule comply with the Phasing Requirements;
 - (ii) ensure that all activities in the Design and Construction Work Schedule have at least one successor and one predecessor except for the first and last activity;
 - (iii) avoid unnecessary use of imposed date constraints on activities in the Design and Construction Work Schedule;
 - (iv) employ the effects of normal inclement weather in establishing durations for activities in the Design and Construction Work Schedule;
 - (v) employ the effects of lesser productivity due to learning curves on the part of Construction Contractor and its Subcontractors in establishing durations for activities in the Design and Construction Work Schedule;
 - (vi) reflect the constraints related to allowable hours of work on the Site in establishing the logical relationships and durations for the activities in the Design and Construction Work Schedule;
 - (vii) schedule the Design and Construction Work to minimize the effects of adverse weather and to allow for protection of the Site from such effects;
 - (viii) employ a coding schema in the Design and Construction Work Schedule that allows for grouping, selecting, sorting and printing of activities for each Subcontractor, as well as activities to be carried out by Construction Contractor and SMH;
 - (ix) provide SMH all of the software settings it has used in its scheduling software, such as calendar settings, user and administrative preferences, schedule settings, etc.; and
 - (x) enter into its scheduling software the estimated cost to perform each activity in the Design and Construction Work Schedule with appropriate distributions to generate cash flow forecasts.
- (g) Construction Contractor shall not:

- (i) include activity durations in the Design and Construction Work Schedule that exceed 45 Business Days except for single process-step activities (such as manufacturing time, delivery periods, etc.);
 - (ii) use negative lags between activities in the Design and Construction Work Schedule; and
 - (iii) use automatic resource levelling functionality in its scheduling software.
- (h) Without limiting the generality of Section 4.1(a), the Design and Construction Work Schedule shall, at a minimum, include:
- (i) major milestone events, which shall include, at a minimum, the Design and Construction Work Milestones; and
 - (ii) all activities and events in the Interim Design and Construction Work Schedule;
 - (iii) all Design and Construction Work involving high degrees of interaction with and participation by SMH, including, but not limited to, with respect to key decisions by SMH to support the progress of the Design and Construction Work;
 - (iv) the manpower requirements for each activity, including Subcontractor work;
 - (v) a manpower histogram, both overall and by trade;
 - (vi) a cumulative "S" curve showing planned percent completion for each month from the commencement of the Design and Construction Work until the Scheduled Final Completion Date;
 - (vii) projected Design and Construction Contract cash flows;
 - (viii) design related activities, including but not limited to:
 - A. activities outlined in the Design Quality Plan and the Construction Quality Plan;
 - B. all design related activities, including the proposed date for each Design Workshop;
 - C. the proposed date of submission of each Design and Construction Work Submittal;
 - D. presentations / workshops on design topics expected to involve multiple SMH stakeholders such as interior design, envelope, security, signage and exterior site works;

- E. interfaces of the design process with equipment planning, ICT decisions, mock-ups, submissions to authorities having jurisdiction, and on-site construction;
 - F. mock-up review and approvals;
 - G. the process for resolution of non-compliant items after each Design Development Submittal and each Construction Document Submittal;
 - H. specific activities and approvals that are the responsibility of SMH that must coordinate with the Design and Construction Work;
- (ix) equipment related activities, including but not limited to:
- A. activities associated with establishing the Equipment procurement process for Equipment that is agreed to by SMH and the Construction Contractor;
 - B. activities associated with establishing the Equipment procurement bundling strategy and Equipment procurement priorities that are agreed to by SMH and the Parties;
 - C. equipment planning and procurement interface points with the design process, construction process, commissioning process, training process, and systems integration process;
 - D. in accordance with the requirements of Section 21 of the Design and Construction Contract, Schedule 14 – Outline Commissioning Plan of the Design and Construction Contract and Part 4 of Schedule 15 – Output Specifications, all material equipment planning, procurement, delivery, installation, training and commissioning activities, including, but not limited to:
 - (1) the validation of all Equipment requirements,
 - (2) the issuance of all procurement documentation,
 - (3) Equipment procurement awards,
 - (4) the approval of equipment shop drawings,
 - (5) the first delivery and last delivery of Equipment,
 - (6) the installation of all Equipment, and
 - (7) the commencement and completion of Equipment and Existing Equipment commissioning and Equipment and Existing Equipment and building systems certification and training;
- (x) ICT related activities, including but not limited to:

- A. prioritized SMH decisions required to support each Design Development Submittal and each Construction Document Submittal;
 - B. activities required to satisfy and demonstrate design compliance;
 - C. decisions that support final design integration between SMH's systems and Construction Contractor's systems;
 - D. systems testing and commissioning; and
 - E. ICT planning and procurement interface points with the design process, construction process, commissioning process, training process, and systems integration process;
- (xi) construction and site logistics related activities, including but not limited to:
- A. all construction activities, including Subcontractor work and cash allowance work, both on and off the Site and the Existing Facilities, as required to define a clear progression of activities for each phase of the Works, including, but not limited to:
 - (1) access to space turned over from SMH;
 - (2) demolition;
 - (3) site clearing;
 - (4) site utilities;
 - (5) foundation work;
 - (6) structural framing;
 - (7) special Subcontractor work;
 - (8) partitions including in-wall inspections prior to closing;
 - (9) ceilings, including above ceiling inspections prior to closing;
 - (10) flooring;
 - (11) finishes;
 - (12) equipment installations;
 - (13) mechanical rough-in and finishing;
 - (14) electrical rough-in and finishing;
 - (15) building systems and commissioning;
 - (16) deficiency inspections and correction periods;
 - (17) the typical process for turnover of space by SMH to Construction Contractor in respect of each phase of the Works;
 - (18) the typical process for Construction Contractor acceptance of areas vacated by SMH;
 - B. all procurement activities undertaken by Construction Contractor with respect to materials and equipment, including timelines for

Shop Drawings, manufacturing periods and dates of delivery to the Site;

- C. Construction Contractor activities that affect the operations of SMH, including but not limited to:
- (1) the erection and removal of construction barriers and other temporary works;
 - (2) changes to access and exiting; and
 - (3) changes/connections/shutdowns/to existing mechanical, electrical, medical, communications systems;
- (xii) testing and commissioning related activities, including but not limited to re-balancing and re-commissioning of systems required as a consequence of the phased nature of the Design and Construction Work; and
- (xiii) Transition related activities, including but not limited to:
- A. activities associated with establishing the plan for each Transition in accordance with Transition Parameters; and
 - B. a detailed plan for each Transition in accordance with Sections 24.14 and 24.15 of the Design and Construction Contract;
- (i) For greater certainty, Construction Contractor shall further develop the Design and Construction Work Schedule in compliance with the requirements of Section 2 of Schedule 10 – Review Procedure of the Design and Construction Contract.
- (j) Construction Contractor shall include in the Design and Construction Work Schedule the minimum schedule durations and sequence relationship constraints for Design Development Submittals and Construction Document Submittals set out in Appendix “A” to this Schedule 3.
- (k) Prior to developing the Design and Construction Work Schedule details for the procurement of Equipment, the Parties and SMH shall agree to the following:
- (i) the typical Equipment procurement process templates setting out the applicable steps, sequence logic and durations using a swim-lane flowchart approach that captures the requirements of SMH, Construction Contractor, third-party buying groups where applicable, and other key Project stakeholders;
 - (ii) logical Equipment procurement bundles or groupings;
 - (iii) the priority sequence of bundles or groupings for Equipment procurement based on design significance, construction significance, ICT systems integration significance, SMH operational significance; and

- (iv) the quantity of Equipment bundles or groupings for Equipment procurement that can be underway with procurement at any given time based upon SMH resource limitations.

Following such agreement, such inputs shall be incorporated into the Design and Construction Work Schedule by Construction Contractor.

- (l) At any time during the Project Term, Construction Contractor shall, no later than two Business Days following the written request of Project Co or SMH, deliver to Project Co or SMH, as applicable, hard copy and a soft (non-PDF) copy of the most current version of the Design and Construction Work Schedule and/or any past version of the Design and Construction Work Schedule requested by Project Co or SMH in its native file format, showing all the schedule's underlying assumptions, including tasks interdependency and schedule floats. At the request of the SMH Representative, the Construction Contractor Representative shall in person review the Design and Construction Work Schedule in such format with the SMH Representative for purposes including, explaining to the SMH Representative the activity logic and planning assumptions contained in the Design and Construction Work Schedule, any proposed changes to the critical path of the Design and Construction Work, and the impact of the Design and Construction Work on the Design and Construction Work Milestones.

4.2 Design and Construction Work Area Micro-Schedules

- (a) Upon the written request of Project Co or SMH and in accordance with the requirements of this Section 4.2, Construction Contractor shall prepare a Design and Construction Work Area Micro-Schedule for the area of the Design and Construction Work specified in such request.
- (b) Each Design and Construction Work Area Micro-Schedule shall be developed by Construction Contractor utilizing the same software that is used for the Design and Construction Work Schedule or an alternative software approved by SMH.
- (c) Construction Contractor shall prepare and submit a draft Design and Construction Work Area Micro-Schedule to Project Co and SMH in electronic native file format no less than 30 days in advance of the commencement of the applicable Design and Construction Work in order to permit adequate advance review by SMH. Project Co, as received from SMH, shall provide Construction Contractor with comments on the draft Design and Construction Work Area Micro-Schedule in accordance with Schedule 10 - Review Procedure, provided that the period for review of such draft schedule shall be 5 Business Days rather than the 15 Business Days prescribed in Section 2.4 of Schedule 10 - Review Procedure. Construction Contractor shall revise the draft Design and Construction Work Area Micro-Schedule to the extent required by Schedule 10 - Review Procedure within 10 days of receipt of any comments from SMH. When agreed by the parties, the draft Design and Construction Work Area Micro-Schedule shall become the agreed upon Design and Construction Work Area Micro-Schedule and form the

basis for future Construction Contractor and SMH planning and progress tracking for the purposes of coordinating the Design and Construction Work.

- (d) If reasonably required, Construction Contractor shall conduct planning meetings with SMH to accurately establish the objectives, constraints and parameters governing the Design and Construction Work to be included in a Design and Construction Work Area Micro-Schedule.
- (e) Each Design and Construction Work Area Micro-Schedules shall, at a minimum, include the following, if and as applicable:
 - (i) the commencement and completion of each applicable major element of the Design and Construction Work;
 - (ii) the Construction Contractor activities and events that affect the operations of SMH;
 - (iii) the erection and removal of construction barriers and other temporary Design and Construction Work;
 - (iv) changes to access and exits;
 - (v) changes, connections, or shutdowns to mechanical, electrical, medical or communications systems;
 - (vi) Equipment and Existing Equipment decommissioning, installation and re-commissioning; and
 - (vii) activities and milestones that SMH must coordinate with the Design and Construction Work.
- (f) Each Design and Construction Work Area Micro-Schedules shall:
 - (viii) have activities with maximum durations of no more than 10 Business Days;
 - (ix) identify any Design and Construction Work occurring at night or on Saturdays and Sundays;
 - (x) utilize activity descriptions and terminology that will be understandable to SMH; and
 - (xi) utilize colour coding of activities and other visual means to facilitate the understanding of the Design and Construction Work Area Micro-Schedule by SMH.
- (g) If requested by SMH, Construction Contractor shall provide a drawing of the affected Design and Construction Work areas, which is marked up to illustrate the sequence and timing of the construction activities depicted within any Design and Construction Work Area Micro-Schedule.
- (h) Construction Contractor shall continuously monitor the progress of the Design and Construction Work in relation to the Design and Construction Work Area

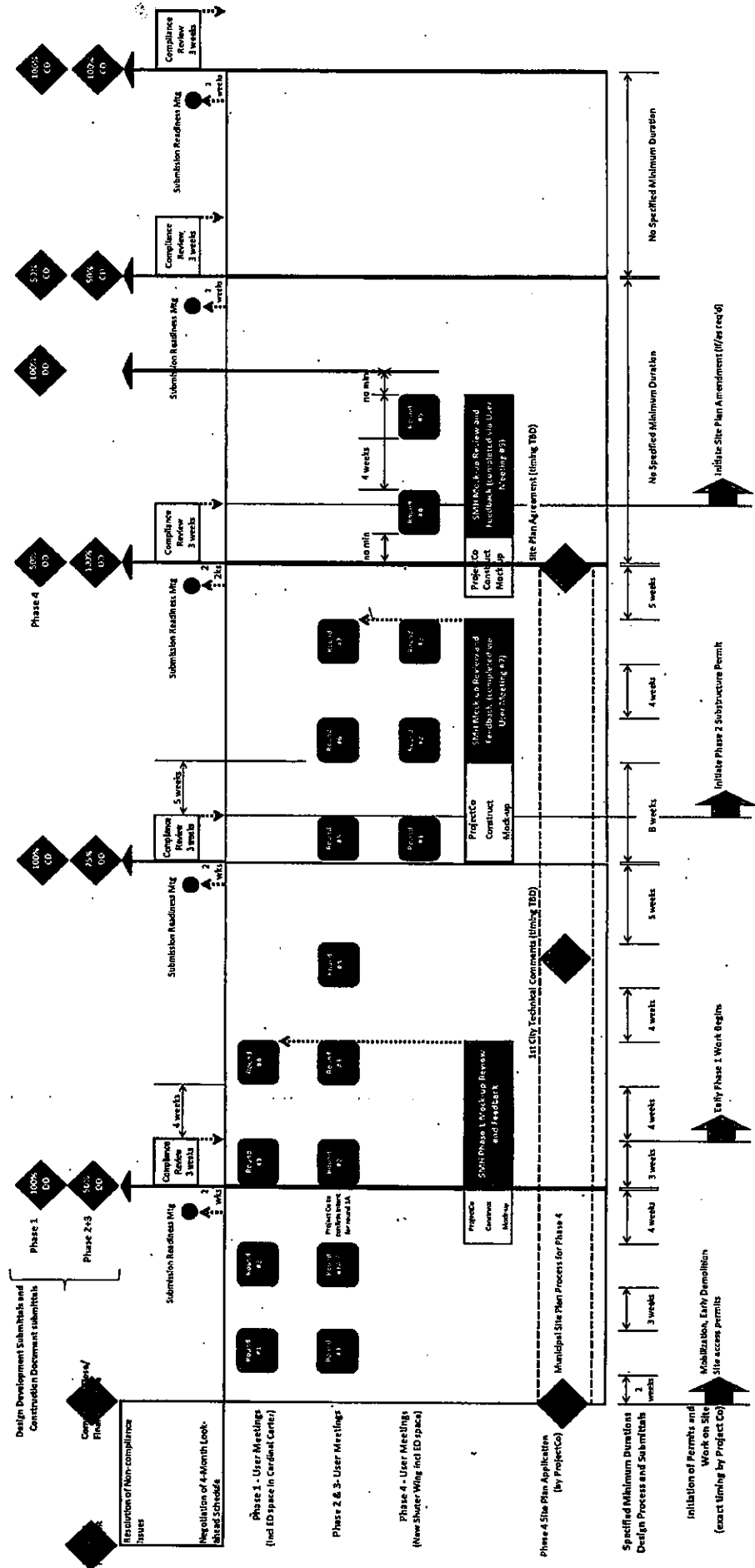
Micro-Schedule and update the Design and Construction Work Area Micro-Schedule with activity progress and forecasted activity completion no less frequently than every two weeks, and immediately notify Project Co and SMH of any variance or potential variance in the scheduled completion dates;

- (i) When updating a Design and Construction Work Area Micro-Schedule, Construction Contractor shall:
 - (i) show the projected percentage of completion of each activity as of the progress date;
 - (ii) indicate the progress of each activity;
 - (iii) compare the activity progress to the original approved Design and Construction Work Area Micro-Schedule using graphical means;
 - (iv) highlight activity additions, deletions or changes in activity duration or sequence logic; and
 - (v) identify any impacts to activities in the Design and Construction Work Area Micro-Schedule from progress in the Design and Construction Work Schedule.

APPENDIX "A"

MINIMUM SCHEDULE DURATION AND SEQUENCE RELATIONSHIP
CONSTRAINTS

- Please see the attached diagram -



NOTES

1. One week represents 5 business days.
2. Assumes SHH includes Minor Variance process for Phase 4 work, prior to Financial Close.

SCHEDULE 5

CONSTRUCTION CONTRACTOR'S DIRECT AGREEMENT

THIS AGREEMENT is made as of the ___ day of January, 2014

BETWEEN:

ST. MICHAEL'S HOSPITAL, a non-share capital corporation incorporated under the laws of Ontario

("SMH")

– AND –

2442931 ONTARIO INC., a corporation incorporated under the laws of the Province of Ontario

("Project Co")

– AND –

BONDFIELD CONSTRUCTION COMPANY LIMITED, a corporation incorporated under the laws of the Province of Ontario

(the "Construction Contractor")

– AND –

BONDFIELD CONSTRUCTION COMPANY LIMITED, a corporation incorporated under the laws of the Province of Ontario

(the "Construction Guarantor")

WHEREAS:

- A. SMH and Project Co have entered into the Project Agreement, which requires Project Co to enter into, and to cause the Construction Contractor and the Construction Guarantor to enter into, this Construction Contractor's Direct Agreement with SMH.
- B. Project Co and the Construction Contractor have entered into the Design and Construction Contract, which requires the Construction Contractor and the Construction Guarantor to enter into this Construction Contractor's Direct Agreement with SMH.

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

1. DEFINITIONS

In this Construction Contractor's Direct Agreement, unless the context otherwise requires:

- (a) **"Approved Purposes"** has the meaning given in the Project Agreement.
- (b) **"Business Day"** has the meaning given in the Project Agreement.
- (c) **"Construction Contractor"** means Bondfield Construction Company Limited.
- (d) **"Construction Guarantor"** means Bondfield Construction Company Limited.
- (e) **"Default Notice"** has the meaning given in Section 5(a).
- (f) **"Design and Construction Contract"** has the meaning given in the Project Agreement.
- (g) **"Governmental Authority"** has the meaning given in the Project Agreement.
- (h) **"Lenders"** has the meaning given in the Project Agreement.
- (i) **"Lenders' Direct Agreement"** has the meaning given in the Project Agreement.
- (j) **"Party"** means SMH, the Construction Contractor, the Construction Guarantor or Project Co, and **"Parties"** means SMH, the Construction Contractor, the Construction Guarantor and Project Co.
- (k) **"Project"** has the meaning given in the Project Agreement.
- (l) **"Project Agreement"** means the project agreement made on or about January __, 2015 between SMH and Project Co.
- (m) **"Project Co"** means 2442931 Ontario Inc.
- (n) **"SMH"** means St. Michael's Hospital.
- (o) **"Step-In Notice"** has the meaning given in Section 6(a).
- (p) **"Substitute"** has the meaning given in Section 6(a).
- (q) **"Works"** has the meaning given in the Project Agreement.

2. INTERPRETATION

This Construction Contractor's Direct Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) The headings in this Construction Contractor's Direct Agreement are for convenience of reference only, shall not constitute a part of this Construction Contractor's Direct Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, this Construction Contractor's Direct Agreement.
- (b) Unless the context otherwise requires, references to specific Sections, Clauses, Paragraphs, Subparagraphs, and other divisions are references to such Sections, Clauses, Paragraphs, Subparagraphs, or divisions of this Construction Contractor's Direct Agreement and the terms "Section" and "Clause" are used interchangeably and are synonymous.
- (c) Words importing persons or parties are to be broadly interpreted and include an individual, corporation, limited liability company, joint stock company, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity.
- (d) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- (e) References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of this Construction Contractor's Direct Agreement concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- (f) The words in this Construction Contractor's Direct Agreement shall bear their natural meaning.
- (g) References containing terms such as:
- (i) "hereof", "herein", "hereto", "hereinafter", and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Construction Contractor's Direct Agreement taken as a whole; and
 - (ii) "includes" and "including", whether or not used with the words "without limitation" or "but not limited to", shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean "includes without limitation" and "including without limitation".
- (h) In construing this Construction Contractor's Direct Agreement, the rule known as the *ejusdem generis rule* shall not apply nor shall any similar rule or approach to

the construction of this Construction Contractor's Direct Agreement and, accordingly, general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.

- (i) Where this Construction Contractor's Direct Agreement states that an obligation shall be performed "no later than" or "within" or "by" a stipulated date or event which is a prescribed number of days after a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- (j) Where this Construction Contractor's Direct Agreement states that an obligation shall be performed "on" a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- (k) Any reference to time of day or date means the local time or date in Toronto, Ontario.
- (l) Unless otherwise indicated, time periods will be strictly construed.
- (m) Whenever the terms "will" or "shall" are used in this Construction Contractor's Direct Agreement they shall be construed and interpreted as synonymous and to read "shall".

3. CONFLICT IN DOCUMENTS

- (a) In the event of ambiguities, conflicts or inconsistencies between or among this Construction Contractor's Direct Agreement, the Project Agreement and the Design and Construction Contract, this Construction Contractor's Direct Agreement shall prevail.
- (b) In the event of ambiguities, conflicts or inconsistencies between or among this Construction Contractor's Direct Agreement and the Lenders' Direct Agreement, the Lenders' Direct Agreement shall prevail.

4. AGREEMENTS

- (a) Project Co and the Construction Contractor shall not amend, modify, or depart from the terms of the Design and Construction Contract without the prior written consent of SMH, acting reasonably, which consent shall not be withheld or delayed where such amendment, modification or departure does not materially and adversely affect the ability of Project Co to perform its obligations under this Construction Contractor's Direct Agreement and does not have the effect of increasing any liability of SMH, whether actual or potential. Project Co and the

Construction Contractor shall provide to SMH a written copy of all such amendments, modifications or departures. The Parties acknowledge and agree that this Section 4(a) shall not apply to Variations provided for under the Project Agreement.

- (b) Each of the Parties acknowledges having received a copy of the Project Agreement and the Design and Construction Contract.
- (c) If the Construction Contractor gives Project Co any notice of any default(s) under the Design and Construction Contract that may give the Construction Contractor a right to terminate the Design and Construction Contract or to treat it as having been repudiated by Project Co or to discontinue the Construction Contractor's performance thereunder, then the Construction Contractor shall concurrently provide SMH with a copy of such notice and set out in reasonable detail the default(s).

5. NO TERMINATION BY CONSTRUCTION CONTRACTOR WITHOUT DEFAULT NOTICE

The Construction Contractor shall not exercise any right it may have to terminate the Design and Construction Contract or to treat it as having been repudiated by Project Co or to discontinue the Construction Contractor's performance thereunder unless:

- (a) the Construction Contractor first delivers a written notice (a "**Default Notice**") to SMH setting out in reasonable detail the default(s) on which the Construction Contractor intends to rely in terminating the Design and Construction Contract or to treat it as having been repudiated by Project Co or to discontinue the Construction Contractor's performance thereunder; and
- (b) within a period of 5 Business Days of SMH receiving the Default Notice:
 - (i) the default(s) on which the Construction Contractor intends to rely in terminating the Design and Construction Contract or to treat it as having been repudiated by Project Co or to discontinue the Construction Contractor's performance thereunder have not been remedied; and
 - (ii) the Construction Contractor has not received a Step-In Notice from SMH,

provided that if, within such period of 5 Business Days, SMH agrees to pay the Construction Contractor's reasonable costs of continued performance, such period of 5 Business Days shall be extended to 45 days.

6. STEP-IN RIGHTS

- (a) SMH may at any time:
 - (i) within 5 Business Days or, if such period has been extended in accordance with Section 5, 45 days of SMH receiving a Default Notice; or

- (ii) if SMH has not received a Default Notice and if SMH's right to terminate the Project Agreement has arisen and is continuing,

deliver a notice (a "Step-In Notice") electing to replace Project Co under the Design and Construction Contract either with SMH or a third party designated by SMH in the Step-In Notice (the "Substitute"), provided that SMH can demonstrate to the Construction Contractor, acting reasonably, that the Substitute shall have sufficient financial resources, or shall be supported by a satisfactory guarantee, to carry out the obligations of the Substitute under the Design and Construction Contract.

- (b) Subject to Section 6(d), upon receipt by the Construction Contractor of a Step-In Notice:

- (i) Project Co and the Construction Contractor will be deemed to be released from their existing and future obligations under the Design and Construction Contract to each other (except with respect to any and all indemnities from Project Co or the Construction Contractor to the other in respect of the period prior to the receipt of the Step-In Notice), and SMH or the Substitute, as applicable, and the Construction Contractor will be deemed to assume those same existing and future obligations towards each other (except in respect of the aforesaid indemnities);
- (ii) the existing and future rights of Project Co against the Construction Contractor under the Design and Construction Contract and vice versa will be deemed to be cancelled (except with respect to any and all indemnities from Project Co or the Construction Contractor to the other in respect of the period prior to the receipt of the Step-In Notice), and SMH or the Substitute, as applicable, and the Construction Contractor will be deemed to acquire those same existing and future rights against each other (except in respect of the aforesaid indemnities), subject to any applicable credit from the Construction Contractor to SMH if SMH pays for the Construction Contractor's reasonable costs of continued performance pursuant to Section 5;
- (iii) any guarantee, bond or covenant in favour of Project Co from any third party in respect of any term, provision, condition, obligation, undertaking or agreement on the part of the Construction Contractor to be performed, observed or carried out by the Construction Contractor as contained in, referred to, or inferred from the Design and Construction Contract shall be assigned, novated or granted, as required by SMH or the Substitute, as applicable, each acting reasonably, to SMH or the Substitute, as applicable, and the Construction Contractor shall cause such assignment, novation or grant on substantially the same terms and conditions as the original guarantee, bond or covenant, provided however that where Project Co shall continue to hold, or shall continue to be entitled to or have rights under, such guarantee, bond or covenant as security for any obligations of

the Construction Contractor, the assignment, novation or grant of the guarantee, bond or covenant to the extent of any such obligations to Project Co shall be conditional on the satisfaction of those obligations to Project Co; and

- (iv) at SMH's request, the Construction Contractor shall enter into, and shall cause the Construction Guarantor and any other guarantor, covenantor or surety under any guarantee, bond or covenant referred to in Section 6(b)(iii) to enter into, and SMH shall or shall cause the Substitute to enter into, as applicable, all such agreements or other documents as reasonably necessary to give effect to the foregoing, including, without limitation, an agreement between SMH or the Substitute, as applicable, and the Construction Contractor, acceptable to SMH and the Construction Contractor, each acting reasonably, on substantially the same terms as the Design and Construction Contract.
- (c) Subject to Section 6(d), Project Co shall, at its own cost, cooperate fully with SMH and the Substitute in order to achieve a smooth transfer of the Design and Construction Contract to SMH or the Substitute, as applicable, and to avoid or mitigate in so far as reasonably practicable any inconvenience, including the administration of the Design and Construction Contract, ongoing supervisory activities and scheduling.
- (d) The rights granted by Sections 6(b) and 6(c) shall be of no force or effect if, at any time the Construction Contractor receives a Step-In Notice, the Construction Contractor has already received notice in writing from another entity entitled to the benefit of step-in rights relating to the Design and Construction Contract that it is or has validly exercised those step-in rights. If the Construction Contractor receives any such notice on the same day as a Step-In Notice, the Step-In Notice shall be effective, except where the other notice is given by the Lenders, in which case such other notice and not the Step-In Notice shall be effective.
- (e) If SMH gives a Step-In Notice within the time provided hereunder at any time after the Construction Contractor has terminated the Design and Construction Contract or treated it as having been repudiated by Project Co or discontinued the Construction Contractor's performance thereunder in accordance with the terms of this Construction Contractor's Direct Agreement, the Construction Contractor agrees that the Design and Construction Contract shall be reinstated and deemed to have continued despite any termination or treatment as having been repudiated, and SMH shall pay the Construction Contractor's reasonable costs for re-commencing the obligations it has under the Design and Construction Contract and the Construction Contractor shall be entitled to reasonable compensation and/or relief for re-commencing such obligations, having regard to the additional costs and delays incurred as a result of having terminated the Design and Construction Contract or having treated it as being repudiated by Project Co or having discontinued its performance thereunder.

7. CONSTRUCTION CONTRACTOR LIABILITY

- (a) The liability of the Construction Contractor hereunder shall not be modified, released, diminished or in any way affected by:
- (i) any independent inspection, investigation or enquiry into any matter which may be made or carried out by or for SMH, or by any failure or omission to carry out any such inspection, investigation or enquiry; or
 - (ii) the appointment by SMH of any other person to review the progress of or otherwise report to SMH in respect of the Project, or by any action or omission of such person whether or not such action or omission might give rise to any independent liability of such person to SMH,

provided always that nothing in this Section 7 shall modify or affect any rights which the Construction Contractor might have otherwise had to claim contribution from any other person whether under statute or common law.

- (b) In the event SMH delivers a Step-In Notice, the Construction Contractor shall have no greater liability to SMH or any Substitute than it would have had to Project Co under the Design and Design and Construction Contract, and the Construction Contractor shall be entitled in any proceedings by SMH or any Substitute to rely on any liability limitations in the Design and Construction Contract.

8. PROJECT CO AS PARTY

Project Co acknowledges and agrees that the Construction Contractor shall not be in breach of the Design and Construction Contract by complying with its obligations hereunder.

9. CONSTRUCTION GUARANTOR AS PARTY

The Construction Guarantor agrees with SMH that the Construction Guarantor has entered into a guarantee or covenant referred to in Section 6(b)(iii) and hereby consents to the assignment, novation or grant (including any conditional assignment, novation or grant) as provided herein immediately upon receipt by the Construction Contractor of a Step-In Notice and without the requirement of any further action on the part of SMH, and agrees that the Construction Guarantor shall in accordance with Section 6 enter into all such agreements or other documents as reasonably necessary to give effect to the foregoing. The Construction Guarantor enters into this Construction Contractor's Direct Agreement solely for the purposes of this Section 9.

10. ASSIGNMENT

- (a) Project Co shall not, without the prior written consent of SMH, assign, transfer, charge, subcontract, subparticipate or otherwise dispose of any interest in this

Construction Contractor's Direct Agreement except to the extent entitled to do so under the Project Agreement.

- (b) SMH may assign or otherwise dispose of the benefit of the whole or part of this Construction Contractor's Direct Agreement to any person to whom SMH may assign or otherwise dispose of its interest in the Project Agreement pursuant to Section 47.2 of the Project Agreement but only in conjunction therewith, and shall provide written notice to Project Co and the Construction Contractor of such assignment or disposition.
- (c) The Construction Contractor shall not, without the prior written consent of SMH and Project Co, assign, transfer, charge, subcontract, subparticipate or otherwise dispose of any interest in this Construction Contractor's Direct Agreement except as may be permitted under the Design and Construction Contract.

11. NOTICES

- (a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Construction Contractor's Direct Agreement shall be in writing (whether or not "written notice" or "notice in writing" is specifically required by the applicable provision of this Construction Contractor's Direct Agreement) and served by sending the same by registered mail, facsimile or by hand, as follows:

If to SMH:

St. Michael's Hospital
30 Bond Street
Toronto, Ontario
M5B 1W8

Fax No.: (416) 864-5948

Attn: Vice President and Chief Planning Officer

With a copy to the following addressees (which shall not constitute notice):

Ontario Infrastructure and Lands Corporation
777 Bay Street, 6th Floor
Toronto, Ontario
M5G 2C8

Fax No.: (416) 326-9291

Attn.: Vice-President, Project Delivery, SMH Project

If to Project Co:

2442931 Ontario Inc.
407 Basaltic Road
Concord, Ontario
L4K 4W8

Fax No.: (416) 667-8462
Attn.: John Aquino, President

If to the Construction Contractor or Construction Guarantor:

2442931 Ontario Inc.
407 Basaltic Road
Concord, Ontario
L4K 4W8

Fax No.: (416) 667-8462
Attn.: John Aquino, Vice-President

- (b) Where any notice is provided or submitted to a Party via facsimile, an original of the notice sent via facsimile shall promptly be sent by regular mail or registered mail. For greater certainty, a notice given via facsimile shall not be invalid by reason only of a Party's failure to comply with this Section 11(b).
- (c) Any Party to this Construction Contractor's Direct Agreement may, from time to time, change any of its contact information set forth in Section 11(a) by prior notice to the other Parties, and such change shall be effective on the Business Day that next follows the recipient Party's receipt of such notice unless a later effective date is given in such notice.
- (d) Subject to Sections 11(e), 11(f) and 11(g):
 - (i) a notice given by registered mail shall be deemed to have been received on the third Business Day after mailing;
 - (ii) a notice given by hand delivery shall be deemed to have been received on the day it is delivered; and
 - (iii) a notice given by facsimile shall be deemed to have been received on the day it is transmitted by facsimile.
- (e) If the Party giving the notice knows or ought reasonably to know of difficulties with the postal system which might affect negatively the delivery of mail, any such notice shall not be mailed but shall be made or given by personal delivery or by facsimile transmission in accordance with this Section 11.
- (f) If any notice delivered by hand or transmitted by facsimile is so delivered or transmitted, as the case may be, either on a day that is not a Business Day or on a

Business Day after 4:00 p.m. (recipient's local time), then such notice shall be deemed to have been received by such recipient on the next Business Day.

- (g) A notice given by facsimile shall be deemed to have been received by the recipient on the day it is transmitted only if a facsimile transmission report (maintained by the sender) indicates that the transmission of such notice was successful.

12. AMENDMENTS

This Construction Contractor's Direct Agreement may not be varied, amended or supplemented except by an agreement in writing signed by duly authorized representatives of the Parties and stating on its face that it is intended to be an amendment, restatement or other modification, as the case may be, to this Construction Contractor's Direct Agreement.

13. WAIVER

- (a) No waiver made or given by a Party under or in connection with this Construction Contractor's Direct Agreement shall be binding or effective unless the waiver is in writing, signed by an authorized representative of the Party giving such waiver, and delivered by such Party to the other Parties. No waiver made with respect to any right, power or remedy in one instance will be deemed to be a waiver with respect to any other instance involving the exercise of such right, power, or remedy or with respect to any other right, power, or remedy.
- (b) Failure by any Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

14. RELATIONSHIP BETWEEN THE PARTIES

The Parties are independent contractors. This Construction Contractor's Direct Agreement is not intended to and does not create or establish between the Parties any relationship as partners, joint venturers, employer and employee, master and servant, or, except as provided in this Construction Contractor's Direct Agreement, of principal and agent.

15. ENTIRE AGREEMENT

Except where provided otherwise in this Construction Contractor's Direct Agreement, this Construction Contractor's Direct Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Construction Contractor's Direct Agreement.

16. SEVERABILITY

Each provision of this Construction Contractor's Direct Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Construction Contractor's Direct Agreement is declared invalid, unenforceable or illegal by the courts of a competent jurisdiction, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Construction Contractor's Direct Agreement. If any such provision of this Construction Contractor's Direct Agreement is invalid, unenforceable or illegal, the Parties shall, acting in good faith, promptly negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Construction Contractor's Direct Agreement as near as possible to its original intent and effect.

17. ENUREMENT

This Construction Contractor's Direct Agreement shall enure to the benefit of, and be binding on, each of the Parties and their respective successors and permitted transferees and assigns.

18. GOVERNING LAW AND JURISDICTION

- (a) This Construction Contractor's Direct Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract, without regard to conflict of laws principles.
- (b) The Parties agree that the courts of the Province of Ontario and all courts competent to hear appeals therefrom shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Construction Contractor's Direct Agreement and hereby irrevocably attorn to the exclusive jurisdiction of such courts.

19. FURTHER ASSURANCE

Each Party shall do all things, from time to time, and execute all further documents necessary to give full effect to this Construction Contractor's Direct Agreement.

20. LANGUAGE OF AGREEMENT

Each Party acknowledges having requested and being satisfied that this Construction Contractor's Direct Agreement and related documents be drawn in English. Chacune des parties reconnaît avoir demandé que ce document et ses annexes soient rédigés en anglais et s'en déclare satisfaite.

21. COUNTERPARTS

This Construction Contractor's Direct Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the Parties shall constitute a full, original and binding agreement for all purposes. Counterparts may

be executed either in original or faxed form provided that any Party providing its signature in faxed form shall promptly forward to such Party an original signed copy of this Construction Contractor's Direct Agreement which was so faxed.

IN WITNESS WHEREOF the Parties have executed this Construction Contractor's Direct Agreement as of the date first above written.

ST. MICHAEL'S HOSPITAL

Per:

Name: Tom O'Neill
Title: Chair of the Board of Directors

Per:

Name: Robert Howard
Title: President and Chief Executive
Officer

2442931 ONTARIO INC.

Per:

Name: John Aquino

Title: President

I/We have the authority to bind the
Corporation

**BONDFIELD CONSTRUCTION
COMPANY LIMITED, in its capacity as
Construction Contractor**

Per:

Name: John Aquino
Title: Vice-President

I/We have the authority to bind the
Corporation

**BONDFIELD CONSTRUCTION
COMPANY LIMITED, in its capacity as
Construction Guarantor**

Per:

Name: John Aquino

Title: Vice-President

I/We have the authority to bind the
Corporation

SCHEDULE 6

INDEPENDENT CERTIFIER AGREEMENT

THIS AGREEMENT is made as of ___ day of January, 2015

BETWEEN:

ST. MICHAEL'S HOSPITAL, a non-share capital corporation incorporated under the laws of the Province of Ontario

(the "SMH")

AND:

2442931 ONTARIO INC., a corporation incorporated under the laws of the Province of Ontario

("Project Co")

AND:

ALTUS GROUP LIMITED, a corporation incorporated under the laws of Province of Ontario

(the "Independent Certifier")

WHEREAS:

- A. SMH and Project Co (collectively, the "PA Parties" and each, a "PA Party") have entered into the Project Agreement.
- B. Pursuant to the terms of the Project Agreement, the PA Parties wish to appoint the Independent Certifier, and the Independent Certifier wishes to accept such appointment, to perform certain services in connection with the Project Agreement.
- C. The PA Parties and the Independent Certifier wish to enter into this Independent Certifier Agreement in order to record the terms by which the Independent Certifier shall perform such services.

NOW THEREFORE in consideration of the mutual covenants and agreements of the PA Parties and the Independent Certifier herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the PA Parties and the Independent Certifier covenant and agree as follows:

1. DEFINITIONS**1.1 Definitions**

(a) In this Independent Certifier Agreement, including the recitals and appendices, unless the context indicates a contrary intention, terms which are defined in the Project Agreement (and not otherwise defined in this Independent Certifier Agreement) shall have meanings given to them in the Project Agreement and the following terms shall have the following meanings:

(i) **"Certification Services"** means:

- (A) all of the functions and obligations described in the Project Agreement as being the responsibility of the Independent Certifier;
- (B) all of the functions and obligations conferred on the Independent Certifier under this Independent Certifier Agreement, including the functions described in Appendix A to this Independent Certifier Agreement; and
- (C) all other things or tasks which the Independent Certifier must do to comply with its obligations under this Independent Certifier Agreement.

(ii) **"Certification Services Variation"** means any change to the Certification Services.

(iii) **"Contract Material"** means all material:

- (A) provided to the Independent Certifier or created or required to be created by either PA Party; and
- (B) provided by or created or required to be created by the Independent Certifier as part of, or for the purpose of, performing the Certification Services,

including documents, equipment, reports, technical information, plans, charts, drawings, calculations, tables, schedules and data (stored and recorded by any means).

(iv) **"Fee"** means the fees payable by SMH and Project Co to the Independent Certifier for the Certification Services, as such fees are specified and made payable in accordance with Appendix B to this Independent Certifier Agreement.

(v) **"Intellectual Property"** means any and all intellectual property rights, whether subsisting now or in the future, including rights of any kind in inventions, patents, copyright, trademarks, service marks, industrial designs, integrated circuit topography rights, applications for registration of any of the foregoing, and know-how, trade secrets, confidential information and trade or business names.

- (vi) "PA Parties" and "PA Party" have the meanings given in the recitals to this Independent Certifier Agreement.
- (vii) "Project Agreement" means that certain project agreement made on or about the date hereof between SMH and Project Co with respect to the design, construction and financing of the St. Michael's Hospital Redevelopment Project.

2. INTERPRETATION

2.1 Interpretation

- (a) In this Independent Certifier Agreement, unless the context indicates a contrary intention:
 - (i) words denoting the singular number include the plural and vice versa;
 - (ii) words denoting individuals include corporations and vice versa;
 - (iii) headings are for convenience only and do not affect interpretation;
 - (iv) references to Clauses, Sections or Parts are references to Clauses, Sections or Parts of this Independent Certifier Agreement;
 - (v) references to this Independent Certifier Agreement or any contract, agreement or instrument are deemed to include references to this Independent Certifier Agreement or such other contract, agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
 - (vi) references to any party to this Independent Certifier Agreement includes its successors or permitted assigns;
 - (vii) words denoting any gender include all genders;
 - (viii) references to any legislation or to any section or provision of any legislation include any statutory modification or re-enactment of any statutory provision substituted for legislation, section or provision, and ordinances, by laws, regulations and other statutory instruments issued under that legislation, section or provision;
 - (ix) a reference to "\$" is to Canadian currency;
 - (x) the terms "including" and "include" mean "including" or "include" (as applicable) without limitation;
 - (xi) if a word or phrase is defined, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning; and
 - (xii) unless otherwise indicated, all time periods will be strictly construed.

2.2 Obligations and Exercise of Rights by PA Parties

- (a) The obligations of the PA Parties under this Independent Certifier Agreement shall be several.
- (b) Except as specifically provided for in this Independent Certifier Agreement or the Project Agreement, the rights of the PA Parties under this Independent Certifier Agreement shall be jointly exercised by the PA Parties.

3. ROLE OF THE INDEPENDENT CERTIFIER**3.1 Engagement**

- (a) The PA Parties hereby appoint the Independent Certifier, and the Independent Certifier hereby accepts such appointment, to carry out the Certification Services in accordance with this Independent Certifier Agreement. The Independent Certifier shall perform the Certification Services in accordance with this Independent Certifier Agreement.
- (b) Nothing in this Independent Certifier Agreement will be interpreted as giving the Independent Certifier any responsibility for performance of the design or construction, or for the certifications of the professionals of record.
- (c) Neither PA Party shall, without the prior written consent of the other PA Party, enter into any separate agreement with the Independent Certifier in connection with the Project, and Project Co shall ensure that no Project Co Party enters into any separate agreement with the Independent Certifier in connection with the Project.
- (d) The Independent Certifier shall make such observations and evaluations of any Works pursuant to a Variation in order to certify any monthly progress payment to Project Co of the value of work performed, provided the Independent Certifier shall be entitled to a Certification Services Variation Order pursuant to Section 9.4 and 9.5 of this Independent Certifier Agreement.

3.2 Acknowledgement of Independent Certifier

- (a) The Independent Certifier hereby acknowledges in favour of the PA Parties that it has received a copy of the Project Agreement.

3.3 Standard of Care

- (a) The Independent Certifier must exercise the standard and skill, care and diligence in the performance of the Certification Services that would be expected of an expert professional experienced in providing services in the nature of the Certification Services for projects similar to the Project.

3.4 Duty of Independent Judgment

- (a) In exercising its Certification Services, the Independent Certifier must:
- (i) act impartially, honestly and independently in representing the interests of both PA Parties in accordance with the terms of the Project Agreement and this Independent Certifier Agreement;
 - (ii) act reasonably and professionally;
 - (iii) act in a timely manner:
 - (A) in accordance with the times prescribed in this Independent Certifier Agreement and the Project Agreement; or
 - (B) where no times are prescribed, within 10 days or such earlier time so as to enable the PA Parties to perform their respective obligations under the Project Agreement; and
 - (iv) act in accordance with the joint directions of the PA Parties provided that the directions are not inconsistent with the other terms of this Independent Certifier Agreement or the terms of the Project Agreement and do not vary or prejudice the Independent Certifier's authority or responsibilities or the exercise by the Independent Certifier of its professional judgment under this Independent Certifier Agreement.
- (b) Although the Independent Certifier may take account of any opinions or representations made by the PA Parties, the Independent Certifier shall not be bound to comply with any opinions or representations made by either of them in connection with any matter on which the Independent Certifier is required to exercise its professional judgment.
- (c) The Independent Certifier acknowledges that the PA Parties may rely on the Certification Services, including determinations, findings and certifications made by the Independent Certifier, and accordingly, the Independent Certifier will use its best skill and judgment in providing the Certification Services.

3.5 Authority to Act

- (a) The Independent Certifier:
- (i) is an independent consultant and is not, and must not purport to be, a partner, joint venturer or agent of either PA Party;
 - (ii) other than as expressly set out in this Independent Certifier Agreement or the Project Agreement, has no authority to give any directions to a PA Party or its officers, directors, members, employees, contractors, consultants or agents; and

- (iii) has no authority to waive or alter any terms of the Project Agreement, nor to discharge or release a party from any of its obligations under the Project Agreement unless jointly agreed by the PA Parties in writing.

3.6 Knowledge of the PA Parties' Requirements

(a) The Independent Certifier warrants that:

- (i) it has informed and will be deemed to have informed itself fully of the requirements of the Project Agreement;
- (ii) it will inform itself fully of the requirements of such other documents and materials as may become relevant from time to time to the performance of the Certification Services;
- (iii) without limiting Sections 3.6(a)(i) or 3.6(a)(ii), it has and will be deemed to have informed itself fully of all time limits and other requirements for any Certification Service which the Independent Certifier carries out under the Project Agreement and this Independent Certifier Agreement;
- (iv) it has and will be deemed to have informed itself completely of the nature of the work necessary for the performance of the Certification Services and the means of access to and facilities at or on the Facility, the Existing Facilities and Site including restrictions on any such access or protocols that are required; and
- (v) it has satisfied itself as to the correctness and sufficiency of its proposal for the Certification Services and that the Fee covers the cost of complying with all of the obligations under this Independent Certifier Agreement and of all matters and things necessary for the due and proper performance and completion of the Certification Services.

3.7 Co-ordination and Information by Independent Certifier

(a) The Independent Certifier must:

- (i) fully cooperate with the PA Parties;
- (ii) carefully co-ordinate the Certification Services with the work and services performed by the PA Parties;
- (iii) without limiting its obligations under Sections 3.4 and 3.7(a)(ii), perform the Certification Services so as to avoid unreasonably interfering with, disrupting or delaying the work and services performed by the PA Parties; and
- (iv) provide copies to the PA Parties of all reports, communications, certificates and other documentation that it provides to either PA Party.

3.8 Conflict of Interest

- (a) The Independent Certifier warrants that:
- (i) at the date of this Independent Certifier Agreement, no conflict of interest exists or is likely to arise in the performance of its obligations under this Independent Certifier Agreement, and the Independent Certifier further warrants that it has not been retained as a technical advisor to the Lenders or as an advisor to either of the PA Parties or any of their respective related entities in respect of the Project Agreement (including, but not limited to, acting as a transaction advisor to either PA Party); and
 - (ii) if, during the term of this Independent Certifier Agreement, any such conflict or risk of conflict of interest arises, the Independent Certifier will notify the PA Parties immediately in writing of that conflict or risk of conflict and take such steps as may be required by either of the PA Parties to avoid or mitigate that conflict or risk.

3.9 Independent Certifier Personnel

- (a) The Independent Certifier shall make reasonable efforts to ensure that the individuals listed in Appendix C remain involved in the performance of the Certification Services and, in particular, will not, for the duration of this Independent Certifier Agreement, require or request any such person to be involved in any other project on behalf of the Independent Certifier if, in the reasonable opinion of the PA Parties, such involvement would have a material adverse effect on the performance of the Certification Services.
- (b) The Independent Certifier shall ensure that its personnel providing the Certification Services in respect of the Commissioning Tests, the Outline Commissioning Program, each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program shall:
- (i) possess a current professional designation of not less than membership in Professional Engineers Ontario, The Ontario Association of Certified Engineering Technicians and Technologists or such similar professional designation recognized in North America;
 - (ii) have demonstrated competence in the commissioning of healthcare facilities and in having completed or monitored the commissioning for an acute health care facility of more than 50,000 sq. ft.;
 - (iii) have an understanding of the appropriate CSA standards, including CSA Standard Z318.0-05 – Commissioning of Health Care Facilities, commissioning for healthcare facilities, as well as other applicable standards such as ASHRAE and NACBB; and

- (iv) have an understanding of the commissioning process and the reports to be provided pursuant to this Independent Certifier Agreement and the Project Agreement, including not only the start-up procedures but the pre-commissioning and post-commissioning activities.
- (c) The Independent Certifier shall furnish SMH with evidence satisfactory to SMH of any such personnel's compliance with the foregoing requirements within a reasonable time prior to the proposed commencement of the Certification Services in respect of the Commissioning Tests, the Outline Commissioning Program, each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program.

3.10 Minimize Interference

- (a) The Independent Certifier shall perform the Certification Services in such a way as to minimize any undue interference with the progress of the Works.

4. ROLE OF THE PA PARTIES

4.1 Assistance

- (a) The PA Parties agree to cooperate with and provide reasonable assistance to the Independent Certifier to familiarize the Independent Certifier with all necessary aspects of the Project to enable the Independent Certifier to carry out its obligations under this Independent Certifier Agreement.

4.2 Instructions in Writing

- (a) Unless otherwise provided in this Independent Certifier Agreement or the Project Agreement, all instructions to the Independent Certifier by the PA Parties shall be given in writing and accepted or endorsed by both of the PA Parties.

4.3 Information and Services

- (a) The PA Parties shall make available to the Independent Certifier, as soon as practicable from time to time, all information, documents and particulars necessary for the Independent Certifier to carry out the Certification Services, including such information, documents and particulars required in order for the Independent Certifier to determine whether Substantial Completion, each Phase Completion, Tower Interim Completion and Final Completion have occurred, and shall provide copies of all such information, documents and particulars to the other party hereto.

4.4 Additional Information

- (a) If any information, documents or particulars are reasonably required to enable the Independent Certifier to perform the Certification Services and have not been provided by the PA Parties, then:
- (i) the Independent Certifier must give notice in writing to the Project Co Representative or the SMH Representative, as the case may be, of the details of the information, documents or particulars demonstrating the need and the reasons why they are required; and
 - (ii) Project Co or SMH, as the case may be, must arrange the provision of the required information, documents or particulars.

4.5 Right to Enter and Inspect

- (a) Upon giving reasonable notice to the Project Co Representative, the Independent Certifier (and any person authorized by it) may enter and inspect the Site or Works at any reasonable time in connection with the exercise or proposed exercise of rights under this Independent Certifier Agreement, subject to:
- (i) observance of the reasonable rules of Project Co as to safety and security for the Site and the Works;
 - (ii) not causing unreasonable delay to the carrying out of the Works by reason of its presence at the Site and the Works; and
 - (iii) not causing any damage to the Site or the Works.

4.6 PA Parties Not Relieved

- (a) Neither PA Party shall be relieved from performing or observing its obligations, or from any other liabilities, under the Project Agreement as a result of either the appointment of, or any act or omission by, the Independent Certifier.

4.7 PA Parties not Liable

- (a) On no account will a PA Party be liable to another PA Party for any act or omission by the Independent Certifier whether under or purportedly under a provision of the Project Agreement, this Independent Certifier Agreement or otherwise, provided that any such act or omission shall not extinguish, relieve, limit or qualify the nature or extent of any right or remedy of either PA Party against or any obligation or liability of either PA Party to the other PA Party which would have existed regardless of such act or omission.

5. CERTIFICATION QUALITY PLAN**5.1 Certification Quality Plan**

(a) The Independent Certifier must:

- (i) develop and implement a certification quality plan identifying the processes and outcomes of the Certification Services that complies with all requirements of the Independent Certifier's quality assurance accreditation, and is otherwise satisfactory to each of the SMH Representative and the Project Co Representative;
- (ii) within 14 days after the date of this Independent Certifier Agreement, provide such certification quality plan to each of the SMH Representative and the Project Co Representative;
- (iii) if satisfactory to each of the SMH Representative and the Project Co Representative, implement such certification quality plan; and
- (iv) if not satisfactory to each of the SMH Representative and the Project Co Representative, within 7 days after receiving notice thereof from either PA Party to that effect, revise and resubmit the certification quality plan to each of the SMH Representative and the Project Co Representative, and implement it if satisfactory to each of the SMH Representative and the Project Co Representative.

5.2 Certification Quality Plan not to Relieve Independent Certifier

- (a) The Independent Certifier will not be relieved of any responsibilities or obligations in respect of the performance of the Certification Services and will remain solely responsible for them notwithstanding:
- (i) the obligation of the Independent Certifier to develop and implement a certification quality plan; or
 - (ii) any comment or direction upon, review or acceptance of, approval to proceed with or request to vary any part of the certification quality plan by either the SMH Representative or the Project Co Representative.

6. SUSPENSION**6.1 Notice**

- (a) The Certification Services (or any part) may be suspended at any time by the PA Parties:
- (i) if the Independent Certifier fails to comply with its obligations under this Independent Certifier Agreement, immediately by the PA Parties giving joint notice in writing to the Independent Certifier; or

- (ii) in any other case, by the PA Parties giving 7 days joint notice in writing to the Independent Certifier.

6.2 Costs of Suspension

- (a) The Independent Certifier will:
 - (i) subject to the Independent Certifier complying with Article 9, be entitled to recover the extra costs incurred by the Independent Certifier by reason of a suspension directed under Section 6.1(a)(ii) valued as a Certification Services Variation under Section 9; and
 - (ii) have no entitlement to be paid any costs, expenses, losses or damages arising from a suspension under Section 6.1(a)(i).

6.3 Recommencement

- (a) The Independent Certifier must immediately recommence the carrying out of the Certification Services (or any part) on receipt of a joint written notice from the PA Parties requiring it to do so.

7. INSURANCE AND LIABILITY

7.1 Independent Certifier's Professional Indemnity Insurance

- (a) The Independent Certifier must have in place at all times during the term of this Independent Certifier Agreement:
 - (i) professional liability insurance:
 - (A) in the amount of \$2,000,000 per claim and \$4,000,000 in the aggregate, a deductible of not more than \$25,000 per claim and from an insurer and on terms satisfactory to each of the PA Parties; and
 - (B) covering liability which the Independent Certifier might incur as a result of a breach by it of its obligations owed by the Independent Certifier in a professional capacity to the PA Parties, or either of them, under or in connection with this Independent Certifier Agreement or the provision of the Certification Services; and
 - (ii) comprehensive general liability insurance in the amount of \$5,000,000 per claim and in the aggregate, no deductible for personal injury or bodily injury, a deductible of not more than \$5,000 per occurrence for property damage and from an insurer and on terms satisfactory to each of the PA Parties.
- (b) The Independent Certifier must provide copies of its insurance policies to each of the PA Parties upon execution of this Independent Certifier Agreement, and, at least 5 Business

Days prior to the expiry date of any such insurance policy, the Independent Certifier must provide evidence of the renewal of any such insurance policy satisfactory to the PA Parties, acting reasonably.

7.2 Workers' Compensation Insurance

- (a) The Independent Certifier must, at its own cost and at all times during the term of this Independent Certifier Agreement, insure its liability (including its common law liability) as required under any applicable workers compensation statute or regulation in relation to its employees engaged in the Certification Services.

8. PAYMENT FOR SERVICES

8.1 Payment of Fee

- (a) In consideration of the Independent Certifier performing the Certification Services in accordance with this Independent Certifier Agreement, each PA Party shall pay one-half of the Fee to the Independent Certifier in accordance with the payment schedule specified in Appendix B.
- (b) The obligation of each PA Party to pay one-half of the Fee to the Independent Certifier is a several obligation, and neither PA Party shall have any liability in respect of the non-payment by the other PA Party of any fees or costs payable by such other PA Party under this Independent Certifier Agreement.
- (c) The Fee includes all taxes (except for HST), overhead and profit, all labour and materials, insurance costs, travel, hospitality, food and incidental expenses, and all other overhead including any fees or other charges required by law to perform the Certification Services.
- (d) The PA Parties acknowledge and agree that if any approved amount due and payable by the PA Parties to the Independent Certifier in excess of \$100,000 is outstanding for more than 60 days, the Independent Certifier shall not have any obligation to make any certification under the Project Agreement.

9. CERTIFICATION SERVICES VARIATIONS

9.1 Notice of Certification Services Variation

- (a) If the Independent Certifier believes, other than a "Certification Services Variation Order" under Section 9.4(c), that any direction by the PA Parties constitutes or involves a Certification Services Variation it must:
- (i) within 7 days after receiving the direction and before commencing work on the subject matter of the direction, give notice to the PA Parties that it considers the direction constitutes or involves a Certification Services Variation; and

- (ii) within 21 days after giving the notice under Section 9.1(a)(i), submit a written claim to each of the SMH Representative and the Project Co Representative which includes detailed particulars of the claim, the amount of the claim and how it was calculated.
- (b) Regardless of whether the Independent Certifier considers that such a direction constitutes or involves a Certification Services Variation, the Independent Certifier must continue to perform the Certification Services in accordance with this Independent Certifier Agreement and all directions, including any direction in respect of which notice has been given under this Section 9.1.

9.2 No Adjustment

- (a) If the Independent Certifier fails to comply with Section 9.1, the Fee will not be adjusted as a result of the relevant direction.

9.3 External Services

- (a) In the event that external personnel or consultants are required for expert opinion with respect to a Certification Services Variation, then, with the prior written approval of the PA Parties, any additional fees relating to such external personnel or consultants will be payable by the PA Parties at the agreed upon amount.

9.4 Certification Services Variation Procedure

- (a) The SMH Representative and the Project Co Representative may jointly issue a document titled "Certification Services Variation Price Request" to the Independent Certifier which will set out details of a proposed Certification Services Variation which the PA Parties are considering.
- (b) Within 7 days after the receipt of a "Certification Services Variation Price Request", the Independent Certifier must provide each of the SMH Representative and the Project Co Representative with a written notice in which the Independent Certifier sets out the effect which the proposed Certification Services Variation will have on the Fee.
- (c) Each of the SMH Representative and the Project Co Representative may then jointly direct the Independent Certifier to carry out a Certification Services Variation by written document titled "Certification Services Variation Order" which will state either that:
 - (i) the Fee is adjusted as set out in the Independent Certifier's notice; or
 - (ii) the adjustment (if any) to the Fee will be determined under Section 9.5.

9.5 Cost of Certification Services Variation

- (a) Subject to Section 9.2, the Fee will be adjusted for all Certification Services Variations or suspensions under Section 6.1(a)(ii) carried out by the Independent Certifier by:

- (i) the amount (if any) stated in the "Certification Services Variation Order" in accordance with Section 9.4(c);
 - (ii) if Section 9.5(a)(i) is not applicable, an amount determined pursuant to the fee schedule in Appendix B; or
 - (iii) where such rates or prices are not applicable, a reasonable amount to be agreed between the PA Parties and the Independent Certifier or, failing agreement, determined by the SMH Representative and the Project Co Representative jointly.
- (b) Any reductions in the Fee shall be calculated on the same basis as any increases.

10. TERM AND TERMINATION

10.1 Term

- (a) Subject to earlier termination, this Independent Certifier Agreement will commence on the date of the Project Agreement and continue in full force until:
- (i) the Final Completion Date; or
 - (ii) such other date as may be mutually agreed between the PA Parties and the Independent Certifier.

10.2 Notice of Breach

- (a) If the Independent Certifier commits a breach of this Independent Certifier Agreement, the PA Parties may give written notice to the Independent Certifier:
- (i) specifying the breach; and
 - (ii) directing its rectification in the period specified in the notice being a period not less than 7 days from the date of service of the notice.

10.3 Termination for Breach

- (a) If the Independent Certifier fails to rectify the breach within the period specified in the notice issued under Section 10.2, the PA Parties may, without prejudice to any other rights of the PA Parties or either of them, immediately terminate this Independent Certifier Agreement.

10.4 Termination for Financial Difficulty or Change in Control

- (a) The PA Parties may, without prejudice to any other rights which the PA Parties or either of them may have, terminate this Independent Certifier Agreement immediately if:

- (i) events have occurred or circumstances exist which, in the opinion of the PA Parties, may result in or have resulted in an insolvency or a Change in Control of the Independent Certifier; or
- (ii) the Independent Certifier has communications with its creditors with a view to entering into, or enters into, any form of compromise, arrangement or moratorium of any debts whether formal or informal, with its creditors.

10.5 Termination for Convenience

- (a) Notwithstanding anything to the contrary in this Independent Certifier Agreement, the PA Parties may, at any time, jointly terminate this Independent Certifier Agreement upon 30 days written notice to the Independent Certifier. The PA Parties and the Independent Certifier agree that, notwithstanding the 30 days' notice of termination, the Independent Certifier shall continue on a day-to-day basis thereafter until a new Independent Certifier is appointed.

10.6 Independent Certifier's Rights upon Termination for Convenience

- (a) Upon a termination under Section 10.5, the Independent Certifier will:
 - (i) be entitled to be reimbursed by the PA Parties for the value of the Certification Services performed by it to the date of termination; and
 - (ii) not be entitled to any damages or other compensation in respect of the termination and (without limitation) any amount in respect of:
 - (A) the lost opportunity to earn a profit in respect of the Certification Services not performed at the date of termination; and
 - (B) any lost opportunity to recover overheads from the turnover which would have been generated under this Independent Certifier Agreement but for it being terminated.

10.7 Procedure upon Termination

- (a) Upon completion of the Independent Certifier's engagement under this Independent Certifier Agreement or earlier termination of this Independent Certifier Agreement (whether under Section 10.3, 10.4 or 10.5 or otherwise), the Independent Certifier must:
 - (i) cooperate with the PA Parties with respect to the transition of the Certification Services to a replacement certifier;
 - (ii) deliver to the PA Parties all Contract Material and all other information concerning the Project held or prepared by the Independent Certifier during the execution of work under this Independent Certifier Agreement; and

- (iii) as and when required by the PA Parties, meet with them and such other persons nominated by them with a view to providing them with sufficient information to enable the PA Parties to execute the Project or the persons nominated to provide the Certification Services.

10.8 Effect of Termination

- (a) Except as otherwise expressly provided in this Independent Certifier Agreement, termination of this Independent Certifier Agreement shall be without prejudice to any accrued rights and obligations under this Independent Certifier Agreement as at the date of termination (including the right of the PA Parties to recover damages from the Independent Certifier).

10.9 Survival

- (a) Termination of this Independent Certifier Agreement shall not affect the continuing rights and obligations of the PA Parties and the Independent Certifier under Sections 7, 8, 10.6, 10.7, 10.8, 11, 12.7, 12.9 and this Section 10.9 or under any other provision which is expressed to survive termination or which is required to give effect to such termination or the consequences of such termination.

11. INDEMNITY

11.1 PA Parties to Save Independent Certifier Harmless

- (a) The PA Parties hereby indemnify and save the Independent Certifier completely harmless from any actions, causes of action, suits, debts, costs, damages, expenses, claims and demands whatsoever, at law or in equity, arising directly or indirectly in whole or in part out of any action taken by the Independent Certifier within the scope of its duties or authority hereunder.
- (b) The indemnity provided under this Section 11.1 shall not extend:
 - (i) to any breach of this Independent Certifier Agreement, or any part or parts hereof, by the Independent Certifier, its employees, servants, agents or persons for whom it is in law responsible, or any negligent or unlawful act or omission or willful misconduct of the Independent Certifier, its employees, servants or persons for whom it is in law responsible (in respect of which the Independent Certifier shall indemnify the PA Parties, as referred to in Section 11.2);
 - (ii) to any action taken by the Independent Certifier outside the scope of authority set forth in this Independent Certifier Agreement, or any part or parts hereof; or
 - (iii) to any debt, cost, expense, claim or demand for which insurance proceeds are recoverable by the Independent Certifier.
- (c) This indemnity shall survive the termination of this Independent Certifier Agreement.

11.2 Independent Certifier to Save PA Parties Harmless

- (a) The Independent Certifier hereby indemnifies and saves the PA Parties, and their affiliated entities, subsidiaries and their respective directors, officers, employees, agents, permitted successors and assigns, completely harmless from any actions, causes of action, suits, debts, costs, damages, expenses, claims and demands whatsoever, at law or in equity, arising directly or indirectly in whole or in part out of any breach of this Independent Certifier Agreement, or any part or parts hereof, by the Independent Certifier, its employees, servants, agents or persons for whom it is in law responsible, or any negligent or unlawful act or omission or willful misconduct of the Independent Certifier, its employees, servants or persons for whom it is in law responsible.
- (b) The indemnity provided under this Section 11.2 to a PA Party shall not extend:
- (i) to any negligent or unlawful act or omission or willful misconduct of such PA Party, its employees, servants or persons for whom it is in law responsible (in respect of which such PA Parties shall indemnify the Independent Certifier, as referred to in Section 11.1); or
 - (ii) to any debt, cost, expense, claim or demand for which insurance proceeds are recoverable by such PA Party.
- (c) This indemnity shall survive the termination of this Independent Certifier Agreement.

12. GENERAL**12.1 Entire Agreement**

- (a) Except where provided otherwise in this Independent Certifier Agreement, this Independent Certifier Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Independent Certifier Agreement.

12.2 Negation of Employment

- (a) The Independent Certifier, its officers, directors, members, employees, servants and agents and any other persons engaged by the Independent Certifier in the performance of the Certification Services will not by virtue of this Independent Certifier Agreement or the performance of the Certification Services become in the service or employment of the PA Parties for any purpose.
- (b) The Independent Certifier will be responsible for all matters requisite as employer or otherwise in relation to such officers, directors, members, employees, servants and agents and other persons who are engaged by the Independent Certifier.

12.3 Waiver

- (a) No waiver made or given by a party under or in connection with this Independent Certifier Agreement shall be binding or effective unless the waiver is in writing, signed by an authorized representative of the party giving such waiver, and delivered by such party to the other parties. No waiver made with respect to any right, power or remedy in one instance will be deemed to be a waiver with respect to any other instance involving the exercise of such right, power, or remedy or with respect to any other right, power, or remedy.
- (b) Failure by any party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

12.4 Notices

- (a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Independent Certifier Agreement shall be in writing (whether or not "written notice" or "notice in writing" is specifically required by the applicable provision of this Independent Certifier Agreement) and served by sending the same by registered mail, facsimile or by hand, as follows:

If to SMH:

St. Michael's Hospital
30 Bond Street, Rm. 1-041 Bond
Toronto, Ontario
M5B 1W8

Fax No.: (416) 864-5948

Attn: Vice President and Chief Planning
Officer

If to Project Co:

2442931 Ontario Inc.
407 Basaltic Road
Concord, Ontario
L4K 4W8

Fax No.: (416) 667-8462

Attn.: John Aquino, President

If to Independent Certifier:

Altus Group Limited
33 Yonge Street,
Suite 500
Toronto, Ontario
M5E 1G4,

Fax No.: (416)641-9501

Attn.: Monica Sechiari

- (b) Where any notice is provided or submitted to a party via facsimile, an original of the notice sent via facsimile shall promptly be sent by regular mail or registered mail. For greater certainty, a notice given via facsimile shall not be invalid by reason only of a party's failure to comply with this Section 12.4(b).
- (c) Any party to this Independent Certifier Agreement may, from time to time, change any of its contact information set forth in Section 12.4(a) by prior notice to the other Parties, and such change shall be effective on the Business Day that next follows the recipient party's receipt of such notice unless a later effective date is given in such notice.
- (d) Subject to Sections 12.4(e), 12.4(f) and 12.4(g):
 - (i) a notice given by registered mail shall be deemed to have been received on the third Business Day after mailing;
 - (ii) a notice given by hand delivery shall be deemed to have been received on the day it is delivered; and
 - (iii) a notice given by facsimile shall be deemed to have been received on the day it is transmitted by facsimile.
- (e) If the party giving the notice knows or ought reasonably to know of difficulties with the postal system which might affect negatively the delivery of mail, any such notice shall not be mailed but shall be made or given by personal delivery or by facsimile transmission in accordance with this Section 12.4.
- (f) If any notice delivered by hand or transmitted by facsimile is so delivered or transmitted, as the case may be, either on a day that is not a Business Day or on a Business Day after 4:00 p.m. (recipient's local time), then such notice shall be deemed to have been received by such recipient on the next Business Day.
- (g) A notice given by facsimile shall be deemed to have been received by the recipient on the day it is transmitted only if a facsimile transmission report (maintained by the sender) indicates that the transmission of such notice was successful.

12.5 Transfer and Assignment

- (a) The Independent Certifier:
 - (i) must not assign, transfer, mortgage, charge or encumber any right or obligation under this Independent Certifier Agreement without the prior written consent of

the PA Parties, which each PA Party may give or withhold in its absolute discretion; and

- (ii) agrees that any assignment, transfer, mortgage, charge or encumbrance will not operate to release or discharge the Independent Certifier from any obligation or liability under this Independent Certifier Agreement.
- (b) For the purposes of this Section 12.5, an assignment will be deemed to have occurred where there is a Change in Control of the Independent Certifier after the date of this Independent Certifier Agreement.
- (c) Each of the PA Parties may assign, transfer, mortgage, charge or encumber any right or obligation under this Independent Certifier Agreement in accordance with the terms of the Project Agreement.

12.6 Governing Laws and Jurisdictions

- (a) This Independent Certifier Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract, without regard to conflict of laws principles.
- (b) The PA Parties and the Independent Certifier agree that the courts of the Province of Ontario and all courts competent to hear appeals therefrom shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Independent Certifier Agreement and hereby irrevocably attorn to the exclusive jurisdiction of such courts.

12.7 Confidentiality

- (a) The Independent Certifier must ensure that:
 - (i) neither it nor any of its officers, directors, members, employees, servants and agents disclose, or otherwise make public, any Contract Material or any other information or material acquired in connection with or during the performance of the Certification Services without prior written approval of the PA Parties; and
 - (ii) no Contract Material is used, copied, supplied or reproduced for any purpose other than for the performance of the Certification Services under this Independent Certifier Agreement.
- (b) The PA Parties may at any time require the Independent Certifier to give and to arrange for its officers, directors, members, employees, servants and agents engaged in the performance of the Certification Services to give written undertakings, in the form of confidentiality agreements on terms required by the PA Parties, relating to the non disclosure of confidential information, in which case the Independent Certifier must promptly arrange for such agreements to be made.

12.8 Contract Material

- (a) The PA Parties and the Independent Certifier agree that the Independent Certifier does not and will not have any rights, including any Intellectual Property, in any Contract Material provided to the Independent Certifier or created or required to be created by either PA Party.
- (b) As between the PA Parties and the Independent Certifier, all title and ownership, including all Intellectual Property, in and to the Contract Material created or required to be created by the Independent Certifier as part of, or for the purposes of performing the Certification Services, is hereby assigned jointly to the PA Parties on creation, or where such title, ownership and Intellectual Property cannot be assigned before creation of the Contract Material, it will be assigned to the PA Parties on creation. In addition, to the extent that copyright may subsist in such Contract Material so created by the Independent Certifier, the Independent Certifier hereby waives all past, present and future moral rights therein and the Independent Certifier shall ensure that any agent or employee of Independent Certifier shall have waived all such moral rights. The PA Parties acknowledge and agree that as between the PA Parties, title, ownership and other rights to the foregoing shall be governed by the Project Agreement.
- (c) The Independent Certifier will do all such things and execute all such documents as reasonably requested by either of the PA Parties in order to confirm or perfect the assignment of Intellectual Property in the Contract Material referred to in Section 12.8(b).

12.9 Amendment

- (a) This Independent Certifier Agreement may not be varied, amended or supplemented except by an agreement in writing signed by duly authorized representatives of the PA Parties and the Independent Certifier and stating on its face that it is intended to be an amendment, restatement or other modification, as the case may be, to this Independent Certifier Agreement.

12.10 Severability

- (a) Each provision of this Independent Certifier Agreement shall be valid and enforceable to the fullest extent permitted by law. If the courts of a competent jurisdiction shall declare any provision of this Independent Certifier Agreement invalid, unenforceable or illegal, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Independent Certifier Agreement. If any such provision of this Independent Certifier Agreement is invalid, unenforceable or illegal, the parties shall, acting in good faith, promptly negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Independent Certifier Agreement as near as possible to its original intent and effect.

12.11 Enurement

- (a) This Independent Certifier Agreement shall enure to the benefit of, and be binding on, each of the parties and their respective successors and permitted transferees and assigns.

12.12 Counterparts

- (a) This Independent Certifier Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the parties shall constitute a full, original and binding agreement for all purposes. Counterparts may be executed either in original or faxed form provided that any party providing its signature in faxed form shall promptly forward to such party an original signed copy of this Independent Certifier Agreement which was so faxed.

12.13 Copyright Notice

- (a) The parties acknowledge that the Queen's Printer for Ontario is the exclusive owner of the copyright in the Project Agreement.

[EXECUTION PAGES IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF the parties have executed this Independent Certifier Agreement as of the date first above written.

ST. MICHAEL'S HOSPITAL

Per: _____
Name: Tom O'Neill
Title: Chair of the Board of Directors

Per: _____
Name: Robert Howard
Title: President and Chief Executive
Officer

I/We have authority to bind the corporation.

2442931 ONTARIO INC.

Per: _____

Name: John Aquino

Title: President

I/We have authority to bind the corporation.

ALTUS GROUP LIMITED

Per: _____

Name: Monica Sechiari

Title: Manager, IC Services, Cost
Consulting & Project Management

I/We have authority to bind the corporation.

APPENDIX A

CERTIFICATION SERVICES

Without limiting the other provisions of this Independent Certifier Agreement and the Project Agreement, the Independent Certifier shall do the following:

- (a) Receive and monitor drawings and documents related to the development of the design as necessary for the Independent Certifier to be informed as to the progress of the Works and to provide an opinion in the event of a Dispute related to the development of the design;
- (b) Receive and monitor progress reports as necessary for the Independent Certifier to be informed as to the progress of the Works;
- (c) Review information relating to Delay Events and Compensation Events;
- (d) Review information relating to Variation Enquiries, Project Co Variation Notices, Variations, Estimates, claims for extension of time and compensation and consult with the relevant party;
- (e) In accordance with Section 14.1(b) of the Project Agreement, attend meetings and participate, as necessary, in the activities of the Works Committee;
- (f) Review each draft Phase Commissioning Program and the detailed tests, test methodology and expected test results proposed by Project Co and provide comments, including to report on the effectiveness of each Phase Commissioning Program, to identify any errors or omissions, and to report any risks;
- (g) Review the draft Tower Interim Completion Commissioning Program and the detailed tests, test methodology and expected test results proposed by Project Co and provide comments, including to report on the effectiveness of the Tower Interim Completion Commissioning Program, to identify any errors or omissions, and to report any risks;
- (h) Review the draft Final Commissioning Program and the detailed tests, test methodology and expected test results proposed by Project Co and provide comments, including to report on the effectiveness of the Final Commissioning Program, to identify any errors or omissions, and to report any risks;
- (i) Monitor the Commissioning Tests (as indicatively described in Schedule 14 - Outline Commissioning Program to the Project Agreement) and other tests, including re-tests, to be performed as set out in each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program or as otherwise required for Project Co to achieve each Phase Completion, Tower Interim Completion, Substantial Completion and Final Completion;
- (j) Prior to any certification, consider the views and comments of both Project Co and SMH in relation to the satisfaction of the conditions for certification;

- (k) Conduct inspections of the Works as necessary for the Independent Certifier to be satisfied that the Works are proceeding in accordance with the requirements of the Project Agreement;
- (l) Review relevant documentation, including floor area schedules, certificates and approvals, Permits, Licences, Approvals, and Agreements, certifications, test results, quality assurance audits, letters of assurance from professionals, schedules of equipment and staff profile schedules provided to the Independent Certifier pursuant to the Project Agreement;
- (m) Monitor the requirements, progress and results of all Phase Project Co Commissioning, Phase SMH Commissioning, Tower Interim Completion Project Co Commissioning, Tower Interim Completion SMH Commissioning, Project Co Commissioning and SMH Commissioning;
- (n) Monitor the conduct of the Commissioning Tests during any seasonal performance testing prescribed in each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program including, without limitation, any re-tests, review of Commissioning Tests and results, copies of any certificates or other Permits, Licences, Approvals, and Agreements received by Project Co in connection with any Commissioning Tests conducted during the seasonal performance testing, review and accepting performance testing forms required to be delivered pursuant to each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program and to perform such other similar responsibilities (other than performing Commissioning Tests or performance of inspections) with respect to any matter relating to commissioning of the Facility after Substantial Completion, as applicable, as either party may request and to report to each of the parties thereon;
- (o) Identify any errors or omissions made during the conduct of any such Commissioning Tests referenced in item (l) above and to advise Project Co and SMH with respect to the implications of those errors and omissions, to the extent that the Independent Certifier may reasonably be aware;
- (p) Upon receipt of notice from Project Co requesting the issuance of a Phase Completion Certificate, the Tower Interim Completion Certificate, the Substantial Completion Certificate or the Final Completion Certificate, as applicable, consider such request and, within the time period set out in the Project Agreement and in accordance with the Project Agreement, either:
 - (i) issue the applicable certificate; or
 - (ii) issue a report detailing the matters that the Independent Certifier considers are required to be performed prior to issuing the applicable certificate;

- (q) Upon notice from Project Co that the matters required to be performed prior to issuing the applicable certificate have been completed, re-inspect the Works or re-consider the matters specified to be performed, and repeat the procedures in Section **Error! Reference source not found.** of this Appendix A until the issuance of the applicable certificate;
- (r) Prepare, in consultation with Project Co and SMH, as soon as reasonably practicable and, in any event within, the time periods specified in Sections 23A.8(c), 23B.8(c) and 24.8(c) respectively of the Project Agreement, each Phase Minor Deficiencies List, the Tower Interim Completion Minor Deficiencies List and the Minor Deficiencies List, which each Phase Minor Deficiencies List, Tower Interim Completion Minor Deficiencies List and Minor Deficiencies List will include an estimate of the cost and the time for rectifying any Phase Minor Deficiencies, Tower Interim Completion Minor Deficiencies or Minor Deficiencies, as applicable and a schedule for the completion and rectification of such Phase Minor Deficiencies, Tower Interim Completion Minor Deficiencies or Minor Deficiencies, as applicable;
- (s) Both prior to and following Substantial Completion, review Project Co cash allowance expenditures against the installations in respect of the Cash Allowance Items and the Cash Allowance Amount;
- (t) Review and observe installation of all equipment, furniture, fixtures, information technology, communication equipment, telephone equipment and anything similar to the foregoing (collectively, the "**Installed Equipment**") into or onto the Facility by SMH or any agent or contractor of SMH either before or after Substantial Completion and provide a report to SMH and Project Co identifying any damage to the Facility which has been caused as a result of the installation of such Installed Equipment into or onto the Facility by SMH, its contractors and/or agents;
- (u) Provide any determinations contemplated in the Project Agreement, which determinations may be subject to final resolution between the PA Parties pursuant to Schedule 27 - Dispute Resolution Procedure to the Project Agreement;
- (v) Participate in and give the PA Parties and their counsel reasonable cooperation, access and assistance (including providing or making available documents, information and witnesses for attendance at hearings and other proceedings) in connection with any proceedings between the PA Parties that relate to the Certification Services;
- (w) Provide periodic reports to the PA Parties, copying IO, as follows:
- (i) a progress report within fifteen Business Days after each month's end or as otherwise agreed by the PA Parties (the "**Monthly Report**"); and
 - (ii) accompanying the Monthly Reports delivered for the months of May, August, November and December, a quarterly report (the "**Quarterly Report**") for the quarters ending June 30th, September 30th, December 31st and March 31st

respectively, in substantially the form as that in Appendix D and that contains the following information confirmed to the best of the Independent Certifier's professional knowledge and judgment:

- (A) the extent (expressed as a percentage) of completion of the Works as of the date of the Quarterly Report;
 - (B) the value of the Works completed as of the date of the Quarterly Report;
 - (C) the forecasted extent (expressed as a percentage) of completion of the Works as of the end of the applicable quarter and for the next four quarters; and
 - (D) the forecasted value of the Works anticipated to be completed as of the end of the applicable quarter and for the next four quarters;
- (x) Provide advice on other matters that may arise that both PA Parties may jointly require; and
- (y) Review the reports and plans prepared by Project Co pursuant to Section 13.6(a) of the Project Agreement.

APPENDIX B

INDEPENDENT CERTIFIER FEE

A. Disbursements and Expenses

The Fee and Hourly Rates set out in Sections B and C below respectively shall be all inclusive and include all labour and materials, insurance costs, travel, hospitality, food and incidental expenses, disbursements (examples: duplicating, delivery and communications) and all other overhead including any fees or other charges required by law.

The Independent Certifier shall not otherwise be reimbursed for any hospitality, food, travel or incidental expenses incurred.

B. Fee for all Certification Services (other than Certification Services identified in item (x) of Appendix A to this Independent Certifier Agreement)

The Fee for all Certification Services (other than the Certification Services identified in item (x) of Appendix A to this Independent Certifier Agreement) shall not exceed, in aggregate, the total fixed fee of \$199,999.00 Canadian Dollars, excluding HST.

C. Hourly Rates for Certification Services Contemplated for Item (x) of Appendix A to this Independent Certifier Agreement for each Independent Certifier team member

The Hourly Rate is for Certification Services contemplated in item (x) of Appendix A to the Independent Certifier Agreement. The Hourly Rate shall also be applied to all Certification Services, labour and materials required to provide additional work, and shall include the costs of all related disbursements.

The provision of Certification Services identified in item (x) of Appendix A of this Independent Certifier Agreement must be pre-approved by the PA Parties, in their sole and absolute discretion and in writing. If the PA Parties, in their sole and absolute discretion, decide to proceed with such Certification Services, the Independent Certifier will be reimbursed at the following noted hourly rates (excluding HST) (the "Hourly Rates").

PROFESSIONALS	HOURLY RATE
Senior Director, Corporate Oversight	\$227.50
Director in Charge, Back up Certification Manager	\$175.00
Director	
Team Lead and Certification Manager	\$126.00

**St Michael's Hospital
Redevelopment Project****Design and Construction Contract
Schedule 6**

Commissioning Lead- Civil/Structural	\$126.00
Mechanical and Electrical Director in Charge	\$203.00
Mechanical, Commissioning Lead Electrical, Commissioning Lead	\$126.00
IC Certification Coordinator	\$115.50
Analyst	\$80.50

APPENDIX C

INDEPENDENT CERTIFIER PERSONNEL

The following personnel shall be involved in the performance of the Certification Services:

PROFESSIONALS	POSITION
Monica Sechiari	Team Lead and Certification Manager Commissioning Lead-Civil/Structural
Marlon Bray	Director in Charge, Back up Certification Manager
Paul Hughes	Senior Director, Corporate Oversight
Suzanne Lardner	IC Certification Coordinator
John Porter	Mechanical and Electrical Director in Charge
Kiran Patel	Mechanical, Commissioning Lead
Hilary Fernando	Electrical, Commissioning Lead
Louis Pinsonneault	Analyst
Nigel Shelton	Director

APPENDIX D

FORM OF QUARTERLY REPORT

[ON THE INDEPENDENT CERTIFIER'S LETTERHEAD]

[date]

St. Michael's Hospital
30 Bond Street
Toronto, Ontario
M5B 1W8
Attention: Vice President and Chief Planning Officer

and to:

2442931 ONTARIO INC. a corporation incorporated under the laws of Ontario
407 Basaltic Road
Concord, ON L4K 4W8

Fax: 416-667-8462
Attn: John Aquino

with a copy to:

Ontario Infrastructure and Lands Corporation
777 Bay Street, 6th floor
Toronto, ON M5G 2C8
Attention: Daniel Douek

Dear [●] and [●]:

This report, for the quarter ending •, is delivered to you pursuant to Section (u)(ii) of Appendix A of the Independent Certifier Agreement between St. Michael's Hospital, 2442931 Ontario Inc. and us dated [●] (the "Agreement"). Terms not otherwise defined herein have the meaning ascribed to them in the Agreement.

All values stated herein are based on the Cost of the Works and are exclusive of HST. This report has taken into account the following information: [insert particulars of sources of information (e.g., works reports, site visits) used to prepare the report].

Based on our analysis of the foregoing, we confirm the following to the best of our professional knowledge and judgment:

- As of the date hereof, the value of the Works is \$[●] and the Works are [●]% complete.
- At the end of this quarter, the value of the Works will be \$[●] and the Works will be [●]% complete.

We estimate that the value of the Works and the extent of their completion will be as follows for the next four quarters (not including the present quarter):

	[quarter date] end	[quarter date] end	[quarter date] end	[quarter date] end
\$	%			

We have prepared this report for the specific use of St. Michael's Hospital, [Project Co] and the Province, as represented by its agent, the Ontario Infrastructure and Lands Corporation. This letter is not intended for general circulation, publication or reproduction for any other person or purpose without express written permission to each specific instance.

Yours truly,

[Name and Signature of Independent Certifier]

APPENDIX C

INDEPENDENT CERTIFIER PERSONNEL

The following personnel shall be involved in the performance of the Certification Services:

[NTD: Insert names and titles of relevant individuals.]

APPENDIX D

FORM OF QUARTERLY REPORT

[ON THE INDEPENDENT CERTIFIER'S LETTERHEAD]

[date]

St. Michael's Hospital
30 Bond Street
Toronto, Ontario
M5B 1W8
Attention: Vice President and Chief Planning Officer

and to:

2442931 Ontario Inc.
407 Basaltic Road
Concord, Ontario
L4K 4W8

Attention: John Aquino, President

with a copy to:

Ontario Infrastructure and Lands Corporation
777 Bay Street, 6th floor
Toronto, ON M5G 2C8
Attention: [●]

Dear [●] and [●]:

This report, for the quarter ending •, is delivered to you pursuant to Section (u)(ii) of Appendix A of the Independent Certifier Agreement between St. Michael's Hospital, 2442931 Ontario Inc. and us dated [●] (the "Agreement"). Terms not otherwise defined herein have the meaning ascribed to them in the Agreement.

All values stated herein are based on the Cost of the Works and are exclusive of HST. This report has taken into account the following information: [insert particulars of sources of information (e.g., works reports, site visits) used to prepare the report].

Based on our analysis of the foregoing, we confirm the following to the best of our professional knowledge and judgment:

- As of the date hereof, the value of the Works is \$[●] and the Works are [●]% complete.
- At the end of this quarter, the value of the Works will be \$[●] and the Works will be [●]% complete.

We estimate that the value of the Works and the extent of their completion will be as follows for the next four quarters (not including the present quarter):

	[quarter date] end	[quarter date] end	[quarter date] end	[quarter date] end
\$	%			

We have prepared this report for the specific use of St. Michael's Hospital, [Project Co] and the Province, as represented by its agent, the Ontario Infrastructure and Lands Corporation. This letter is not intended for general circulation, publication or reproduction for any other person or purpose without express written permission to each specific instance.

Yours truly,

[Name and Signature of Independent Certifier]

SCHEDULE 7

SUBCONTRACTOR'S DIRECT AGREEMENT

THIS AGREEMENT is made as of the ___ day of _____, 20__

BETWEEN:

ST. MICHAEL'S HOSPITAL, a non-share capital corporation
incorporated under the laws of Ontario

("SMH")

– AND –

2442931 ONTARIO INC., a corporation incorporated under the
laws of the Province of Ontario

("Project Co")

– AND –

BONDFIELD CONSTRUCTION COMPANY LIMITED, a
corporation incorporated under the laws of the Province of Ontario

(the "Construction Contractor")

– AND –

[●], a corporation incorporated under the laws of Ontario]]

(the "Subcontractor"])

WHEREAS:

- A. SMH and Project Co have entered into the Project Agreement, which requires Project Co to enter into, and to cause the Construction Contractor and the Subcontractor to enter into, this Subcontractor's Direct Agreement with SMH.
- B. Project Co and the Construction Contractor have entered into the Design and Construction Contract, which requires the Construction Contractor to enter into, and cause the Subcontractor to enter into, this Subcontractor's Direct Agreement with SMH.

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

1. DEFINITIONS

In this Subcontractor's Direct Agreement, unless the context otherwise requires:

- (a) **"Approved Purposes"** has the meaning given in the Project Agreement.
- (b) **"Business Day"** has the meaning given in the Project Agreement.
- (c) **"Construction Contractor"** means Bondfield Construction Company Limited.
- (d) **"Construction Contractor's Direct Agreement"** has the meaning given in the Project Agreement.
- (e) **"Default Notice"** has the meaning given in Section 5(a).
- (f) **"Design and Construction Contract"** has the meaning given in the Project Agreement.
- (g) **"Governmental Authority"** has the meaning given in the Project Agreement.
- (h) **"Lenders"** has the meaning given in the Project Agreement.
- (i) **"Lenders' Direct Agreement"** has the meaning given in the Project Agreement.
- (j) **"Novation Notice"** has the meaning given in Section 6(a)
- (k) **"Party"** means SMH, the Construction Contractor, the Subcontractor or Project Co, and **"Parties"** means SMH, the Construction Contractor, the Subcontractor and Project Co.
- (l) **"Project"** has the meaning given in the Project Agreement.
- (m) **"Project Agreement"** means the project agreement made on or about January __, 2015 between SMH and Project Co.
- (n) **"Project Co"** means 2442931 Ontario Inc.
- (o) **"SMH"** means St. Michael's Hospital.
- (p) **"Subcontract"** means the subcontract [NTD: Describe applicable Subcontract].
- (q) **"Subcontractor"** means [●].
- (r) **"Substitute"** has the meaning given in Section 6(a).
- (s) **"Works"** has the meaning given in the Project Agreement.

2. INTERPRETATION

This Subcontractor's Direct Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) The headings in this Subcontractor's Direct Agreement are for convenience of reference only, shall not constitute a part of this Subcontractor's Direct Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, this Subcontractor's Direct Agreement.
- (b) Unless the context otherwise requires, references to specific Sections, Clauses, Paragraphs, Subparagraphs, and other divisions are references to such Sections, Clauses, Paragraphs, Subparagraphs, or divisions of this Subcontractor's Direct Agreement and the terms "Section" and "Clause" are used interchangeably and are synonymous.
- (c) Words importing persons or parties are to be broadly interpreted and include an individual, corporation, limited liability company, joint stock company, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity.
- (d) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- (e) References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of this Subcontractor's Direct Agreement concerning amendments) a reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- (f) The words in this Subcontractor's Direct Agreement shall bear their natural meaning.
- (g) References containing terms such as:
 - (i) "hereof", "herein", "hereto", "hereinafter", and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Subcontractor's Direct Agreement taken as a whole; and
 - (ii) "includes" and "including", whether or not used with the words "without limitation" or "but not limited to", shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be

without limitation and construed and interpreted to mean "includes without limitation" and "including without limitation".

- (h) In construing this Subcontractor's Direct Agreement, the rule known as the *ejusdem generis rule* shall not apply nor shall any similar rule or approach to the construction of this Subcontractor's Direct Agreement and, accordingly, general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- (i) Where this Subcontractor's Direct Agreement states that an obligation shall be performed "no later than" or "within" or "by" a stipulated date or event which is a prescribed number of days after a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- (j) Where this Subcontractor's Direct Agreement states that an obligation shall be performed "on" a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- (k) Any reference to time of day or date means the local time or date in Toronto, Ontario.
- (l) Unless otherwise indicated, time periods will be strictly construed.
- (m) Whenever the terms "will" or "shall" are used in this Subcontractor's Direct Agreement they shall be construed and interpreted as synonymous and to read "shall".

3. CONFLICT IN DOCUMENTS

- (a) In the event of ambiguities, conflicts or inconsistencies between or among this Subcontractor's Direct Agreement, the Construction Contractor's Direct Agreement, the Project Agreement and the Design and Construction Contract, this Subcontractor's Direct Agreement shall prevail.
- (b) In the event of ambiguities, conflicts or inconsistencies between or among this Subcontractor's Direct Agreement and the Lenders' Direct Agreement, the Lenders' Direct Agreement shall prevail.

4. AGREEMENTS

- (a) If the Subcontractor gives the Construction Contractor any notice of any default(s) under the Subcontract that may give the Construction Contractor a right to terminate the Subcontract or to treat it as having been repudiated by the Construction Contractor or to discontinue the Subcontractor's performance thereunder, then the Subcontractor shall concurrently provide Project Co and SMH with a copy of such notice, an executed copy of the Subcontract and set out in reasonable detail the default(s).

5. NO TERMINATION BY SUBCONTRACTOR WITHOUT DEFAULT NOTICE

The Subcontractor shall not exercise any right it may have to terminate the Subcontract or to treat it as having been repudiated by the Construction Contractor or to discontinue the Subcontractor's performance thereunder unless:

- (a) the Subcontractor first delivers an executed copy of the Subcontract and a written notice (a "**Default Notice**") to SMH setting out in reasonable detail the default(s) on which the Subcontractor intends to rely in terminating the Subcontract or to treat it as having been repudiated by the Construction Contractor or to discontinue the Subcontractor's performance thereunder; and
- (b) within a period of 5 Business Days of SMH receiving the Default Notice the default(s) on which the Subcontractor intends to rely in terminating the Subcontract or to treat it as having been repudiated by the Construction Contractor or to discontinue the Subcontractor's performance thereunder have not been remedied; and provided that if, within such period of 5 Business Days, SMH agrees to pay the Subcontractor's reasonable costs of continued performance, such period of 5 Business Days shall be extended to 45 days.

6. NOVATION OF THE SUBCONTRACT

- (a) The Subcontractor acknowledges and agrees that where the Design and Construction Contract has been terminated:
- (i) by Project Co; or
- (ii) as a result of the termination of the Project Agreement; or
- (iii) due to the insolvency of the Construction Contractor,
- (iv) the Subcontract shall not terminate solely by reason of the termination of the Design and Construction Contract unless SMH shall have failed to request a novation of the Subcontract pursuant to Section 6(b) within [20 days] of the date of such termination.
- (b) SMH may at any time if:

- (i) the Project Agreement and the Design and Construction Contract have been terminated; or
 - (ii) SMH's right to terminate the Project Agreement has arisen and is continuing and as a result of such termination of the Project Agreement, the Design and Construction Contract would be terminated,
 - (iii) deliver a notice (a "Novation Notice") electing to novate the Subcontract either to SMH or a third party designated by SMH in the Novation Notice (the "Substitute"), provided that SMH can demonstrate to the Subcontractor, acting reasonably, that the Substitute shall have sufficient financial resources, or shall be supported by a satisfactory guarantee, to carry out the obligations of the Substitute under the Subcontract.
- (c) Subject to Section 6(d), upon receipt by the Subcontractor of a Novation Notice:
- (i) the Construction Contractor and the Subcontractor will be deemed to be released from their existing and future obligations under the Subcontract to each other (except with respect to any and all indemnities from the Construction Contractor or the Subcontractor to the other in respect of the period prior to the receipt of the Novation Notice), and SMH or the Substitute, as applicable, and the Subcontractor will be deemed to assume those same existing and future obligations towards each other (except in respect of the aforesaid indemnities);
 - (ii) the existing and future rights of the Construction Contractor against the Subcontractor under the Subcontract and vice versa will be deemed to be cancelled (except with respect to any and all indemnities from the Construction Contractor or the Subcontractor to the other in respect of the period prior to the receipt of the Novation Notice), and SMH or the Substitute, as applicable, and the Subcontractor will be deemed to acquire those same existing and future rights against each other (except in respect of the aforesaid indemnities), subject to any applicable credit from the Subcontractor to SMH if SMH pays for the Subcontractor's reasonable costs of continued performance pursuant to Section 5;
 - (iii) any guarantee, bond or covenant in favour of the Construction Contractor from any third party in respect of any term, provision, condition, obligation, undertaking or agreement on the part of the Subcontractor to be performed, observed or carried out by the Subcontractor as contained in, referred to, or inferred from the Subcontract shall be assigned, novated or granted, as required by SMH or the Substitute, as applicable, each acting reasonably, to SMH or the Substitute, as applicable, and the Subcontractor shall cause such assignment, novation or grant on substantially the same terms and conditions as the original guarantee, bond or covenant, provided, however, that where Construction Contractor shall continue to

hold, or shall continue to be entitled to or have rights under, such guarantee, bond or covenant as security for any obligations of the Subcontractor, the assignment, novation or grant of the guarantee, bond or covenant to the extent of any such obligations to Construction Contractor shall be conditional on the satisfaction of those obligations to Construction Contractor; and

- (iv) at SMH's request, the Subcontractor shall enter into, and shall cause any guarantor, covenantor or surety under any guarantee, bond or covenant referred to in Section 6(b)(ii) to enter into, and SMH shall or shall cause the Substitute to enter into, as applicable, all such agreements or other documents as reasonably necessary to give effect to the foregoing, including, without limitation, an agreement between SMH or the Substitute, as applicable, and the Subcontractor, acceptable to SMH and the Subcontractor, each acting reasonably, on substantially the same terms as the Subcontract.
- (d) The Construction Contractor shall, at its own cost, cooperate fully with SMH and the Substitute in order to achieve a smooth transfer of the Subcontract to SMH or the Substitute, as applicable, and to avoid or mitigate in so far as reasonably practicable any inconvenience, including the administration of the Subcontract, ongoing supervisory activities and scheduling.
- (e) The rights granted by Section 6(b) shall be of no force or effect if, at any time the Subcontractor receives a Novation Notice, the Subcontractor has already received notice in writing from another entity entitled to the benefit of step-in rights relating to the Subcontract that it is or has validly exercised those step-in rights. If the Subcontractor receives any such notice on the same day as a Novation Notice, the Novation Notice shall be effective, except where the other notice is given by the Lenders, in which case such other notice and not the Novation Notice shall be effective.
- (f) If SMH gives a Novation Notice within the time provided hereunder at any time after the Subcontractor has terminated the Subcontract or treated it as having been repudiated by Construction Contractor or discontinued the Subcontractor's performance thereunder in accordance with the terms of this Subcontractor's Direct Agreement, the Subcontractor agrees that the Subcontract shall be reinstated and deemed to have continued despite any termination or treatment as having been repudiated, and SMH shall pay the Subcontractor's reasonable costs for re-commencing the obligations it has under the Subcontract and the Subcontractor shall be entitled to reasonable compensation and/or relief for re-commencing such obligations, having regard to the additional costs and delays incurred as a result of having terminated the Subcontract or having treated it as being repudiated by Construction Contractor or having discontinued its performance thereunder.

- (g) The Subcontractor acknowledges that if SMH novates the Subcontract to itself pursuant to Section 6(b), SMH shall have the right to further novate the Subcontract to a Substitute in accordance with and otherwise on, and subject to, the terms and conditions of this Subcontractor's Direct Agreement.

7. SUBCONTRACTOR LIABILITY

- (a) The liability of the Subcontractor hereunder shall not be modified, released, diminished or in any way affected by:
- (i) any independent inspection, investigation or enquiry into any matter which may be made or carried out by or for SMH, or by any failure or omission to carry out any such inspection, investigation or enquiry; or
 - (ii) the appointment by SMH of any other person to review the progress of or otherwise report to SMH in respect of the Project, or by any action or omission of such person whether or not such action or omission might give rise to any independent liability of such person to SMH,

provided always that nothing in this Section 7 shall modify or affect any rights which the Subcontractor might have otherwise had to claim contribution from any other person whether under statute or common law.

- (b) In the event SMH delivers a Novation Notice, the Subcontractor shall have no greater liability to SMH or any Substitute than it would have had to Construction Contractor under the Subcontract, and the Subcontractor shall be entitled in any proceedings by SMH or any Substitute to rely on any liability limitations in the Subcontract.

8. PROJECT CO AND CONSTRUCTION CONTRACTOR AS PARTY

- (a) Project Co acknowledges and agrees that the Construction Contractor shall not be in breach of the Design and Construction Contract by complying with its obligations hereunder.
- (b) Construction Contractor acknowledges and agrees that the Subcontractor shall not be in breach of the Subcontract by complying with its obligations hereunder.

9. ASSIGNMENT

- (a) Construction Contractor shall not, without the prior written consent of SMH, assign, transfer, charge, subcontract, subparticipate or otherwise dispose of any interest in this Subcontractor's Direct Agreement except to the extent entitled to do so under the Design and Construction Contract.
- (b) SMH may assign or otherwise dispose of the benefit of the whole or part of this Subcontractor's Direct Agreement to any person to whom SMH may assign or

otherwise dispose of its interest in the Project Agreement pursuant to Section 47.2 of the Project Agreement but only in conjunction therewith, and shall provide written notice to Project Co, the Construction Contractor and the Subcontractor of such assignment or disposition.

- (c) The Construction Contractor shall not, without the prior written consent of SMH and Project Co, assign, transfer, charge, subcontract, subparticipate or otherwise dispose of any interest in this Subcontractor's Direct Agreement except as may be permitted under the Design and Construction Contract.
- (d) The Subcontractor shall not, without the prior written consent of SMH and Project Co, assign, transfer, charge, subcontract, subparticipate or otherwise dispose of any interest in this Subcontractor's Direct Agreement except as may be permitted under the Subcontract.

10. NOTICES

- (a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Subcontractor's Direct Agreement shall be in writing (whether or not "written notice" or "notice in writing" is specifically required by the applicable provision of this Subcontractor's Direct Agreement) and served by sending the same by registered mail, facsimile or by hand, as follows:

If to SMH:

St. Michael's Hospital
30 Bond Street
Toronto, Ontario
M5B 1W8

Fax No.: (416) 864-5948

Attn: Vice President and Chief Planning Officer

With a copy to the following addressees (which shall not constitute notice):

Ontario Infrastructure and Lands Corporation
777 Bay Street, 6th Floor
Toronto, Ontario
M5G 2C8

Fax No.: (416) 326-9291

Attn.: Vice-President, Project Delivery, SMH Project

If to Project Co:

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2442931 Ontario Inc.
407 Basaltic Road
Concord, Ontario
L4K 4W8

Fax No.: (416) 667-8462

Attn.: John Aquino, President

If to the Construction Contractor:

Bondfield Construction Company Limited
407 Basaltic Road
Concord, Ontario
L4K 4W8

Fax No.: (416) 667-8462

Attn.: John Aquino, Vice-President

If to the Subcontractor:

[Address]

Fax No.: ●

Attn.: ●

- (b) Where any notice is provided or submitted to a Party via facsimile, an original of the notice sent via facsimile shall promptly be sent by regular mail or registered mail. For greater certainty, a notice given via facsimile shall not be invalid by reason only of a Party's failure to comply with this Section 10(b).
- (c) Any Party to this Subcontractor's Direct Agreement may, from time to time, change any of its contact information set forth in Section 10(a) by prior notice to the other Parties, and such change shall be effective on the Business Day that next follows the recipient Party's receipt of such notice unless a later effective date is given in such notice.
- (d) Subject to Sections 10(e), 10(f) and 10(g):
 - (i) a notice given by registered mail shall be deemed to have been received on the third Business Day after mailing;
 - (ii) a notice given by hand delivery shall be deemed to have been received on the day it is delivered; and

- (iii) a notice given by facsimile shall be deemed to have been received on the day it is transmitted by facsimile.
- (e) If the Party giving the notice knows or ought reasonably to know of difficulties with the postal system which might affect negatively the delivery of mail, any such notice shall not be mailed but shall be made or given by personal delivery or by facsimile transmission in accordance with this Section 10.
- (f) If any notice delivered by hand or transmitted by facsimile is so delivered or transmitted, as the case may be, either on a day that is not a Business Day or on a Business Day after 4:00 p.m. (recipient's local time), then such notice shall be deemed to have been received by such recipient on the next Business Day.
- (g) A notice given by facsimile shall be deemed to have been received by the recipient on the day it is transmitted only if a facsimile transmission report (maintained by the sender) indicates that the transmission of such notice was successful.

11. AMENDMENTS

This Subcontractor's Direct Agreement may not be varied, amended or supplemented except by an agreement in writing signed by duly authorized representatives of the Parties and stating on its face that it is intended to be an amendment, restatement or other modification, as the case may be, to this Subcontractor's Direct Agreement.

12. WAIVER

- (a) No waiver made or given by a Party under or in connection with this Subcontractor's Direct Agreement shall be binding or effective unless the waiver is in writing, signed by an authorized representative of the Party giving such waiver, and delivered by such Party to the other Parties. No waiver made with respect to any right, power or remedy in one instance will be deemed to be a waiver with respect to any other instance involving the exercise of such right, power, or remedy or with respect to any other right, power, or remedy.
- (b) Failure by any Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

13. RELATIONSHIP BETWEEN THE PARTIES

The Parties are independent contractors. This Subcontractor's Direct Agreement is not intended to and does not create or establish between the Parties any relationship as partners, joint venturers, employer and employee, master and servant, or, except as provided in this Subcontractor's Direct Agreement, of principal and agent.

14. ENTIRE AGREEMENT

Except where provided otherwise in this Subcontractor's Direct Agreement, this Subcontractor's Direct Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Subcontractor's Direct Agreement.

15. SEVERABILITY

Each provision of this Subcontractor's Direct Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Subcontractor's Direct Agreement is declared invalid, unenforceable or illegal by the courts of a competent jurisdiction, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Subcontractor's Direct Agreement. If any such provision of this Subcontractor's Direct Agreement is invalid, unenforceable or illegal, the Parties shall, acting in good faith, promptly negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Subcontractor's Direct Agreement as near as possible to its original intent and effect.

16. ENUREMENT

This Subcontractor's Direct Agreement shall enure to the benefit of, and be binding on, each of the Parties and their respective successors and permitted transferees and assigns.

17. GOVERNING LAW AND JURISDICTION

- (a) This Subcontractor's Direct Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract, without regard to conflict of laws principles.
- (b) The Parties agree that the courts of the Province of Ontario and all courts competent to hear appeals therefrom shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Subcontractor's Direct Agreement and hereby irrevocably attorn to the exclusive jurisdiction of such courts.

18. FURTHER ASSURANCE

Each Party shall do all things, from time to time, and execute all further documents necessary to give full effect to this Subcontractor's Direct Agreement.

19. LANGUAGE OF AGREEMENT

Each Party acknowledges having requested and being satisfied that this Subcontractor's Direct Agreement and related documents be drawn in English. Chacune des parties reconnaît avoir demandé que ce document et ses annexes soient rédigés en anglais et s'en déclare satisfaite.

20. COUNTERPARTS

This Subcontractor's Direct Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the Parties shall constitute a full, original and binding agreement for all purposes. Counterparts may be executed either in original or faxed form provided that any Party providing its signature in faxed form shall promptly forward to such Party an original signed copy of this Subcontractor's Direct Agreement which was so faxed.

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IN WITNESS WHEREOF the Parties have executed this Subcontractor's Direct Agreement as of the date first above written.

ST. MICHAEL'S HOSPITAL

Per: _____
Name: Tom O'Neill
Title: Chair of the Board of Directors

Per: _____
Name: Robert Howard
Title: President and Chief Executive Officer

I/We have authority to bind the corporation.

2442931 ONTARIO INC.

Per: _____
Name: John Aquino
Title: President

I have authority to bind the corporation.

**BONDFIELD CONSTRUCTION COMPANY
LIMITED**

Per: _____
Name: John Aquino
Title: Vice-President

I have authority to bind the corporation.

[SUBCONTRACTOR]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

SCHEDULE 8

CONSTRUCTION CONTRACTOR PARTIES

PART 1: DESIGN AND CONSTRUCTION CONTRACT SECTION 11.20(B) -
LIST OF CONSTRUCTION CONTRACTOR PARTIES

Type of Trade	Name of Construction Contractor Party
Architects	NORR Architects
Mechanical Engineering	Urban Mechanical Contracting Ltd.
Electrical Engineering	OZZ Electric
Structural Engineering	MMM Group
Commissioning Authority	MMM Group
LEED Enhanced Commissioning	CP3X Engineering.
Security Systems Engineer	Lobo Consulting Services Inc.
Transition Advisor	RCG Incorporated

PART 2: DESIGN AND CONSTRUCTION CONTRACT SECTION 11.20(E) -
SUBCONTRACTOR'S DIRECT AGREEMENTS

Type of Subcontract	Name of Construction Contractor Party	Due Date for Delivery of Executed Subcontractor's Direct Agreement
(a) Mechanical	Urban Mechanical Contracting Ltd.	Within 90 days of Financial Close
(b) Electrical	OZZ Electric	Within 90 days of Financial Close
(c) Excavation	To be determined	Within 90 days of Financial Close
(d) Structural Steel	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in

Type of Subcontract	Name of Construction Contractor Party	Due Date for Delivery of Executed Subcontractor's Direct Agreement
		the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
(e) Formwork/Concrete Supply	To be determined	Within 90 days of Financial Close
(f) Reinforcing Steel	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
(g) Plaster & Gypsum Boarding	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
(h) Curtain Wall/Building Enclosures	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.

Type of Subcontract	Name of Construction Contractor Party	Due Date for Delivery of Executed Subcontractor's Direct Agreement
(i) Building Cladding	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
(j) Roofing	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Design and Construction Work Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
(k) Elevators	To be determined	The date upon which all of the parties to the applicable Subcontract have executed and delivered the Subcontract and by no later than the date which is 45 days prior to the date identified in the Works Schedule that the Subcontractor is scheduled to commence its first component of the Design and Construction Work.
All additional Subcontracts not listed in items a) through k) above and having a total estimated cost above the financial threshold set out in Section 11.20(d) of Appendix A – General Conditions of the Design and Construction Contract.		On or before the date that 100% Construction Document Submittals are submitted to SMH in accordance with Schedule 10 - Review Procedure

SCHEDULE 9

KEY INDIVIDUALS

A. Key Individuals – Design and Construction Work

Construction Contractor Party	Position/Function	Name and Contact Information
NORR Architects	Principal Architect	Frank Panici (416) 318-3169
NORR Architects	Lead Design Architect	David Clusiau (416) 275-0832
NORR Architects	Lead Clinical Planning Architect	George Bitsakakis (416) 434-3381
NORR Architects	Project Architect – Patient Care Tower	Aaron Smith (416) 926-4300 ext. 3318
NORR Architects	Project Architect – Renovation Projects	Luke Le (416) 926-4300 ext. 3191
NORR Architects	Project Manager	Paul Noskiewicz (416) 457-0963
MMM Group	Principal Mechanical Engineer	Dallas Bovay (905) 882-1100 ext. 3323
MMM Group	Lead Design Mechanical Engineer	Mike Nitescu (905) 882-1100 ext. 6882
MMM Group	Principal Electrical Engineer	Kevin Cassidy (905) 882-1100 ext. 6803

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Construction Contractor Party	Position/Function	Name and Contact Information
MMM Group	Lead Electrical Design Engineer	Stephen Tang Fong (905) 882-1100 ext. 6235
MMM Group	Lead ICT Design Engineer	Dan Butler (905) 882-1100 ext. 7248
Lobo Consulting Services Inc.	Lead Security Systems Engineer	Colin Lobo (905) 502-1234 ext. 11
MMM Group	Systems Coordinator	Jeremy Sellers (905) 882-1100 ext. 6448
MMM Group	Principal Structural Engineer	Brian Stonehouse (905) 882-1100 ext. 7237
MMM Group	Lead Design Structural Engineer	Chris Minerva (905) 882-1100 ext. 7501
NORR Architects	Clinical Programmer	Joyce Loney-Brenes (416) 434 3381
Bondfield Construction	Design and Construction Manager	Robert D'Errico (Design Manager) (647) 621-7882 Faisal Gaya (Construction Manager) (416) 667-8422

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Construction Contractor Party	Position/Function	Name and Contact Information
Bondfield Construction	Site Superintendent – Patient Care Tower	Bill Verhoog (416) 317-9632
Bondfield Construction	Site Superintendent – Renovations – Phase 1	John Velocci (647) 627-9503
Bondfield Construction	Site Superintendent – Renovations – Phase 2	Mark White (647) 282-8339
Bondfield Construction	Site Superintendent – Renovations – Phase 3	Tony Perry (416) 710-8942
Bondfield Construction	Health and Safety Officer	Jerry Cucchiara (416) 268-5784
Bondfield Construction	Mechanical/Electrical Coordinator	Syed Zaigham Ali Naqui (416) 667-8422
Urban Mechanical	Mechanical Site Superintendent	Dave Cassin (416) 771-6409
OZZ Electric	Electrical Site Superintendent	Jerry Rovito (416) 984-2792
Bondfield Construction	Construction Contractor Project Director	John Aquino (416) 667-8422
Bondfield Construction	Construction Contractor Representative	John Aquino (416) 667-8422
Bondfield Construction	Equipment Coordinator	Robert D'Errico (647) 621-7882
Bondfield Construction	LEED Coordinator	Sebastien

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Construction Contractor Party	Position/Function	Name and Contact Information
		Lagourgue (416) 667-8422
CP3X Engineering	LEED Enhanced Commissioning	John Kokko (519) 721-2166
RCG Incorporated	Transition Advisor	Elizabeth DiFrangia (416) 503-2908 ext 112
Bondfield Construction	Warranty and Facilities Management Coordinator	Sebastien Lagourgue (416) 667-8422

SCHEDULE 10**REVIEW PROCEDURE****1. WORKS SUBMITTALS**

- 1.1** The provisions of this Schedule 10 shall apply to the Design Development Submittals, the Construction Document Submittals, the Design Data and any and all items, documents and anything else required or specified by Section 11, Construction Contractor Responsibilities – Design and Construction of Appendix A of this Design and Construction Contract, including all Design and Construction Work Submittals listed in Appendix A to this Schedule 10, in respect of the Design and Construction Work to be submitted to, reviewed or otherwise processed by Project Co or SMH, as the case may be, in accordance with the Review Procedure prior to each Phase Completion, Tower Interim Completion and Substantial Completion, or after each Phase Completion, Tower Interim Completion and Substantial Completion in respect of the completion of the applicable Phase Minor Deficiencies, Tower Interim Completion Minor Deficiencies and Minor Deficiencies, including any and all subsequent revisions, amendments and changes thereto (collectively and individually, “Design and Construction Work Submittal” or “Design and Construction Work Submittals” as applicable in this Schedule 10).

2. SCHEDULE FOR WORKS SUBMITTALS

- 2.1** Construction Contractor shall develop a Design and Construction Work Schedule in accordance with Section 13 of Appendix A of this Design and Construction Contract that incorporates the design and plan certification process for the Project. The design development and plan submission schedule shall take into account required staged Design Development Submittals as per Section 11.1 of Appendix A of this Design and Construction Contract.
- 2.2** The Design and Construction Work Schedule shall include sufficient time for coordination and required approvals from all regulatory agencies, user groups, stakeholders and the SMH Design Team, as well as time required for construction trade coordination logistics.
- 2.3** The Design and Construction Work Schedule shall provide for a progressive and orderly flow of Design and Construction Work Submittals from Construction Contractor to the SMH Representative to allow sufficient time for review of each Design and Construction Work Submittal by the SMH Representative taking into account both the resources necessary to be available to the SMH Representative to conduct such review and whether delay in the review of the subject matter of the Design and Construction Work Submittal shall have a material impact on Construction Contractor's ability to progress future anticipated Design and Construction Work Submittals and the Design and Construction Work in accordance with the Design and Construction Work Schedule.
- 2.4** The Design and Construction Work Schedule and any amendment to the Design and Construction Work Schedule shall allow a period of 15 Business Days (or such longer period as the Parties may agree) from the date of receipt for review of and response to each Design and Construction Work Submittal, provided that if Construction Contractor has made major changes to the grouping and volume of Design and Construction Work Submittals, such period of time shall be adjusted by Construction Contractor, acting reasonably, taking into account the factors set forth in Section 2.1 of this Schedule 10.

- 2.5 Construction Contractor shall, in scheduling Design and Construction Work Submittals and in the construction of the Design and Construction Work, allow adequate time prior to performing the construction of the Design and Construction Work that are the subject of the Design and Construction Work Submittals, for review of the Design and Construction Work Submittals and for Construction Contractor to make changes to Design and Construction Work Submittals that may be required if comments are received on the Design and Construction Work Submittals, such review and required changes to be in accordance with this Schedule 10.
- 2.6 If the Design and Construction Work Schedule indicates that a large number of Design and Construction Work Submittals will be made at one time, the SMH Representative may, at the SMH Representative's discretion, request a longer period for review or a staggering of the Design and Construction Work Submittals, and Construction Contractor shall review and revise the Design and Construction Work Schedule accordingly, taking into account both the resources necessary to be available to the SMH Representative to conduct such review and whether delay in the review of the subject matter of the Design and Construction Work Submittal shall have a material impact on Construction Contractor's ability to progress future anticipated Design and Construction Work Submittals and the Design and Construction Work in accordance with the Design and Construction Work Schedule.
- 2.7 Construction Contractor shall submit all Design and Construction Work Submittals to SMH in accordance with the current Design and Construction Work Schedule.
- 2.8 If, at any time, Construction Contractor submits an unusually large number or volume of Design and Construction Work Submittals not contemplated by the Design and Construction Work Schedule, such that the SMH Representative cannot review the Design and Construction Work Submittals within the time permitted in the Design and Construction Work Schedule, the SMH Representative will pursuant to the Project Agreement, within 5 Business Days of receipt of such Design and Construction Work Submittals, provide Construction Contractor with an estimate of the time necessary for processing such Design and Construction Work Submittals.
- 3. GENERAL REQUIREMENTS FOR WORKS SUBMITTALS**
- 3.1 Unless otherwise specified by the SMH Representative, Construction Contractor shall issue 4 printed copies of all Design and Construction Work Submittals to SMH, together with an electronic copy in a format agreed by the Parties acting reasonably and one printed copy of each Design and Construction Work Submittal to the Independent Certifier.
- 3.2 Construction Contractor shall compile and maintain a register of the date and contents of the submission of all Design and Construction Work Submittals and the date of receipt and content of all returned Design and Construction Work Submittals and comments thereon.
- 3.3 All Design and Construction Work Submittals shall be in English.
- 3.4 All Design and Construction Work Submittals required by this Design and Construction Contract or by Applicable Law to be signed or sealed by persons with professional designations (including, where applicable, by registered professional engineers or architects) shall, where applicable, be so signed and sealed.
- 3.5 All Design and Construction Work Submittals shall include copies of all documents to be reviewed and shall clearly identify the purpose of the Design and Construction Work Submittal and Construction Contractor's proposed course of action relating to the Design and Construction

Work Submittal and the Design and Construction Work that are the subject of the Design and Construction Work Submittal.

- 3.6 All Design and Construction Work Submittals shall, where applicable, refer to the relevant provisions of the Output Specifications, any other applicable Schedule to the Design and Construction Contract and to any Design Data that has previously been subject to review.
- 3.7 When Construction Contractor submits a Clinical Functionality Report, Construction Contractor shall specifically identify all elements of Clinical Functionality, including where applicable, references to the Output Specifications.
- 3.8 All Design and Construction Work Submittals shall be clearly identified as a Design and Construction Work Submittal and shall be delivered with appropriate covering documentation, which shall include a list of all attached Design and Construction Work Submittals and for each Design and Construction Work Submittal:
- (a) the document number(s) or drawing number(s);
 - (b) revision numbers (if applicable);
 - (c) clouded revisions (if applicable);
 - (d) document or drawing title(s);
 - (e) name of entity that prepared the Design and Construction Work Submittal;
 - (f) the Design and Construction Work Submittal history showing date and delivery information and/or log number of all previous submissions of that Design and Construction Work Submittal; and
 - (g) identification of any previous Design and Construction Work Submittal superseded by the current Design and Construction Work Submittal.

4. COMMENTS

- 4.1 Pursuant to the Project Agreement, the SMH Representative shall review and respond to each Design and Construction Work Submittal in accordance with the time periods specified in Section 2.2 of Schedule 10 of the Project Agreement. The SMH Representative, pursuant to the Project Agreement, shall return Design and Construction Work Submittals to Construction Contractor with a copy to the Independent Certifier and assign one of the following 3 comments:
- (a) "REVIEWED";
 - (b) "REVIEWED AS NOTED"; or
 - (c) "REJECTED".
- 4.2 The comment "REVIEWED" will be assigned to those Design and Construction Work Submittals that, in the opinion of the SMH Representative, conform to the requirements of the Project

Agreement. Construction Contractor shall comply with and implement such Design and Construction Work Submittals.

- 4.3 The comment "REVIEWED AS NOTED" will be assigned to those Design and Construction Work Submittals that, in the opinion of the SMH Representative, generally conform to the requirements of the Project Agreement, but in which immaterial deficiencies have been found by the SMH Representative's review. Construction Contractor shall correct these Design and Construction Work Submittals and provide a copy of the corrected Design and Construction Work Submittals to the SMH Representative no later than 20 Business Days after the comment has been provided to Project Co, or such other time period as determined by the SMH Representative, acting in its sole discretion and as set out in writing. Construction Contractor shall comply with and implement such Design and Construction Work Submittals after correction, including in accordance with the comments. If at any time it is discovered that Construction Contractor has not corrected the deficiencies on Design and Construction Work Submittals stamped "REVIEWED AS NOTED", then Construction Contractor will be required to modify the Design and Construction Work Submittals and the Design and Construction Work, as required to ensure that the Design and Construction Work comply with the Output Specifications, any other applicable Schedule to the Design and Construction Contract, the Construction Contractor Proposal Extracts and the Project Agreement, and Construction Contractor may be required, at the SMH Representative's discretion, to resubmit relevant Design and Construction Work Submittals. In such circumstances, pursuant to the Project Agreement, the SMH Representative shall act promptly in considering whether such deficiencies have been corrected. No extension of time will be given or additional compensation paid in respect of any such modification or re-submittal.
- 4.4 The comment "REJECTED" will be assigned to those Design and Construction Work Submittals that, in the opinion of the SMH Representative, contain significant deficiencies or do not generally conform to the requirements of the Project Agreement, including Schedule 10. Construction Contractor shall correct and re-submit these Design and Construction Work Submittals within 10 Business Days after the comment has been provided to Construction Contractor or such other time period as determined by the SMH Representative, acting in its sole discretion and as set out in writing. The SMH Representative, pursuant to the Project Agreement, will then review such re-submitted Design and Construction Work Submittals and assign a comment to the corrected Design and Construction Work Submittal. The Design and Construction Work Submittals shall be corrected, revised and resubmitted as often as may be required to obtain a comment that permits Construction Contractor to proceed. No extension of time will be given or additional compensation paid in respect of any such modification or re-submittal.
- 4.5 Where the SMH Representative issues the comment "REVIEWED AS NOTED" or "REJECTED", the SMH Representative shall provide reasons for the comment, referencing the particulars of the Section(s) of the Project Agreement that the Design and Construction Work Submittal fails to satisfy, and, if requested by Project Co, at the request of the Construction Contractor Representative, the SMH Representative shall meet with the Construction Contractor Representative to discuss the reasons for the comment.
- 4.6 If, at any time after assigning any comment to a Design and Construction Work Submittal, the SMH Representative or Construction Contractor discovers any significant deficiencies or any failure to conform to the requirements of the Project Agreement, the SMH Representative may revise the comment assigned to any Design and Construction Work Submittal. If the Parties

agree or it is determined in accordance with Section 5 of this Schedule 10 that the revised comment is correct, Construction Contractor shall make all such corrections to the Design and Construction Work Submittals and the Design and Construction Work. No extension of time will be given or additional compensation paid in respect of any such modification or re-submittal.

- 4.7 For the purpose of facilitating and expediting the review and correction of Design and Construction Work Submittals, the SMH Representative and the Construction Contractor Representative may meet as may be mutually agreed to discuss and review any outstanding Design and Construction Work Submittals and any comments thereon.
- 4.8 Where a Design and Construction Work Submittal is voluminous, the SMH Representative at his or her discretion may elect to stamp only the cover page or first sheet of the Design and Construction Work Submittal with the appropriate comment, if any, and return to Project Co the cover page or first page together with individual pages or sheets on which comments are made, together with an explanation of the status of all pages not returned to Project Co. Any pages returned without such an explanation as to their status shall be deemed to be "REVIEWED" by SMH.
- 4.9 In lieu of returning a Design and Construction Work Submittal, the SMH Representative may by letter notify Project Co of the comment assigned to the Design and Construction Work Submittal and if such comment is "REVIEWED AS NOTED" or "REJECTED" the letter shall contain comments in sufficient detail for Construction Contractor to identify the correction sought.

5. DISPUTES

- 5.1 If Construction Contractor disputes any act of SMH or the SMH Representative in respect of a Design and Construction Work Submittal under this Schedule 10, Construction Contractor shall promptly notify the SMH Representative, Project Co and the Independent Certifier of the details of such Dispute and shall submit the reasons why Construction Contractor believes pursuant to the Project Agreement a different comment should be assigned, together with appropriate supporting documentation. The SMH Representative, pursuant to the Project Agreement, shall review the Design and Construction Work Submittal, the reasons and supporting documentation and within 5 Business Days after receipt thereof shall either confirm the original comment or notify Project Co of a revised comment. If the SMH Representative confirms the original comment, Project Co may, at the request of the Construction Contractor request the Independent Certifier to resolve the Dispute and render a decision within 5 Business Days of such request pursuant to the Project Agreement.
- 5.2 If either SMH or Project Co (where Project Co will take into account the views of the Construction Contractor) is not satisfied, acting reasonably, with the resolution of the Independent Certifier, subject to Section 10.2 of Schedule 10, either SMH or Project Co may refer the matter for determination in accordance with Schedule 27 - Dispute Resolution Procedure of the Project Agreement.
- 5.3 Notwithstanding the provisions of Sections 5.1 and 5.2 of this Schedule 10, Project Co may direct Construction Contractor to revise the Design and Construction Work Submittals in accordance with the comments of SMH and proceed to perform and complete the Design and Construction Work on the basis of such revised Design and Construction Work Submittals. For clarity, such direction shall be considered a Dispute and Construction Contractor may proceed in accordance

with Section 46 of Appendix A of the Design and Construction Contract and Schedule 27 - Dispute Resolution Procedure.

6. EFFECT OF REVIEW

- 6.1 Any review and comment by Project Co, SMH or the SMH Representative of any Design and Construction Work Submittals is for general conformity to the obligations and requirements of the Project Agreement and the Design and Construction Contract, and any such review and comment shall not relieve Construction Contractor of the risk and responsibility for the Design and Construction Work and for meeting all of its obligations under and requirements of this Design and Construction Contract, and shall not create any new or additional obligations or liabilities for Project Co or SMH. Without limiting the generality of the foregoing any and all errors or omissions in Design and Construction Work Submittals or of any review and comment shall not exclude or limit Construction Contractor's obligations or liabilities in respect of the Design and Construction Work under this Design and Construction Contract or exclude or limit Project Co's or SMH's rights in respect of the Design and Construction Work under this Design and Construction Contract or otherwise.

7. WORKS SUBMITTAL EXPLANATION

- 7.1 At any time, the SMH Representative may, acting reasonably, require Construction Contractor or any Construction Contractor Parties, including Construction Contractor's consultants and any other relevant personnel, at no additional cost to Project Co, to explain to the SMH Representative and SMH's advisors the intent of Construction Contractor's Design and Construction Work Submittals, including in relation to any design and any associated documentation and as to its satisfaction of the Output Specifications or any other Schedule to the Design and Construction Contract, as applicable.

8. REVISIONS

- 8.1 Construction Contractor shall ensure that Design and Construction Work Submittals keep the same, unique reference number throughout the review process, and that subsequent revisions of the same Design and Construction Work Submittal are identified by a sequential revision number. Correspondence related to such Design and Construction Work Submittal shall reference the reference number and revision number.
- 8.2 Re-submittals shall clearly show all revisions from the previous Design and Construction Work Submittal. Bound documents, including reports and manuals, shall contain a preface that clearly states how revisions are marked and the previous revision number against which the revisions have been marked. A consistent format for mark-ups of documents shall be used (e.g. deletions struck out and additions underscored). Revised portions of drawings shall be clearly marked (with appropriate means to visually distinguish between the parts of the drawing that are revised and the parts that are not revised, e.g. the use of revision clouds may be employed) and the revision number and description of the revision shall be included on the drawing.
- 8.3 All revisions on print media shall be initialled by hand by the individual designer, design checker and, where applicable, by the drafter and the drafting checker and shall identify the persons who initialled the Design and Construction Work Submittal. Electronic versions of the Design and Construction Work Submittal shall identify the persons who initialled the revisions to the printed

version of the Design and Construction Work Submittal. All such revisions must be able to be integrated into the As Built Drawings.

- 8.4 Construction Contractor shall keep all Design Data current, including a current set of all submittal documents available on site in the construction trailer for use by SMH and the SMH Representative. If any Design Data is revised as part of a Design and Construction Work Submittal, all other Design Data relying on or based on that Design Data shall also be revised accordingly. All such revised Design Data shall also be submitted with the Design and Construction Work Submittal to which it relates.

9. AUDIT BY PROJECT CO REPRESENTATIVE

- 9.1 Without limiting any other right under this Design and Construction Contract, Project Co or the SMH Representative shall have the right to audit all Design and Construction Work Submittals, including comparing all Design and Construction Work Submittals to previous Design and Construction Work Submittals.
- 9.2 If during an audit or at any other time it is discovered by Project Co, SMH or Construction Contractor (or resolved pursuant to Section 9.3 of this Schedule 10) that any Design and Construction Work Submittals were not correctly implemented, Construction Contractor shall at its sole cost immediately take all necessary steps to correct and modify the applicable Design and Construction Work Submittals and the Design and Construction Work to which they relate and shall advise Project Co and the SMH Representative of all such corrections and modifications.
- 9.3 Any Dispute concerning the implementation of a Design and Construction Work Submittal, subject to Section 5.1 of this Schedule 10, shall be referred in the first instance to the Independent Certifier for resolution.

10. VARIATIONS

- 10.1 No alteration or modification to the design, quality and quantity of the Design and Construction Work arising from the development of detailed design or from the co-ordination of the design in connection with any Design and Construction Work Submittal shall be construed or regarded as a Variation.
- 10.2 If, having received comments from the SMH Representative or Project Co on any Design and Construction Work Submittal, Construction Contractor considers that compliance with those comments would amount to a Variation, Construction Contractor shall, within 10 Business Days of receipt of and before complying with the comments, provide written notice to SMH, on behalf of Project Co, of the same and, if it is agreed by the Parties that a Variation would arise if the comments were complied with, Project Co may, at its election, (a) issue a Variation Enquiry and it shall be dealt with in accordance with Schedule 22 - Variation Procedure or (b) amend its comment on the Design and Construction Work Submittal. If the Parties do not agree that a Variation would arise if the comments were complied with, either party may proceed to resolve the matter in accordance with Section 5 of this Schedule 10 including for clarity, the exercise by Project Co of its rights under Section 5.3 of this Schedule 10. Subject to the foregoing sentence, any failure by Construction Contractor to notify SMH or Project Co, as the case may be in accordance with this Section 10.2 that Construction Contractor considers compliance with any comments of the SMH Representative or Project Co would amount to a Variation shall constitute an irrevocable acceptance by Construction Contractor that any compliance with Project Co or the

SMH Representative's comments shall be without cost to Project Co and without any extension of time.

APPENDIX A

MINIMUM DESIGN AND CONSTRUCTION

SUBMITTAL REQUIREMENTS

1. MINIMUM SUBMITTAL REQUIREMENTS FOR THE 50% DESIGN DEVELOPMENT STAGE

Construction Contractor shall provide the following Design Development Submittals to SMH for review and comment in accordance with this Schedule 10:

1.1 Design development documents in accordance with the requirements set forth in Section 11.1 of Appendix A of the Design and Construction Contract, including:

(a) Architectural Design Response including:

(i) Site Plan scale - 1:500

Building outline with full hard/soft landscape plan showing:

- A. Property line, site boundary line and lines of municipal conveyances;
- B. Lines of required setbacks;
- C. Integration of landscaping features/areas with floor plan elements and entrances;
- D. Treatment of public sidewalks and interface with hospital entrances;
- E. Hard and soft surfacing, planting;
- F. Site furnishings and signage;
- G. Additional Site features;
- H. Sidewalk treatment at vehicular entrances including Donnelly Wing Entrance, new main entrance, loading entrance, emergency/ambulance entrance;
- I. Service areas;
- J. Dimensions of all vehicles access/egress driveways; and
- K. Dimensions of all Site and building elements sufficient to demonstrate compliance with stand-off and setback requirements.

(ii) Site Details : scale 1:100, 1:50 and greater as required to fully illustrate the landscaping proposal for the Site

(iii) Departmental Block Plan Enhanced Schematics (no scale)

Provide blocking, stacking and zoning diagrams illustrating the planning considerations listed below. Construction Contractor must submit separate diagrams for each construction phase only where their departmental layouts vary sufficiently between phases that a separate drawing is necessary to illustrate the planning approach:

- A. Horizontal and vertical circulation diagrams/overlays at a building as well as a departmental scale indicating, staff, patient, visitor and material flow (clean vs. soiled materials), and including measures for identifying and managing infectious patients;
 - B. Zoning diagrams/overlays at a building as well as a departmental scale indicating public, semi-public, and restricted spaces; and
 - C. Diagrams/overlays at a building as well as a departmental scale demonstrating flexibility for future renovations and expansion of priority departments;
- (iv) Master Floor Plans – 1:500 plans of whole facility floors indicating all rooms and areas, distinguishing areas of renovation and new construction from existing areas to remain. These plans will act as key plans for renovation projects;
- (v) Floor plans - 1:100 scale
- A. Indicate individual Functional Program spaces and all service rooms and shafts in the context of the proposed building envelope. Provide Floor Plans of each construction phase;
 - B. Rooms will be identified with Functional Program codes as listed in the Space Allocation Tables;
 - C. List additional rooms not identified in the Output Specifications and provide additional sequential Room Codes as required;
 - D. Include all the walls in their approximate thickness conforming to contemplated wall and partition schedule, all doors, screens, glazing and windows, structural elements, circulation elements (e.g. stairs, elevators) and major service shafts;
 - E. Include columns, shear walls, bearing walls and other components required and indicate structural grid;
 - F. Include mechanical and electrical systems including service shafts, risers, etc., in sufficient detail to demonstrate that functional and net area requirements are compliant;
 - G. Provide reference numbers on stairs and elevators;
 - H. Provide drawing index on front sheet of drawing set;

- I. All walls and partitions shall be drawn in actual thickness;
 - J. Indicate doors, windows, sidelights and interior glazing;
 - K. Indicate structural grid lines and references cross-referenced on all drawings;
 - L. Indicate all millwork/casework, built-in and modular;
 - M. Indicate all major pieces of Equipment. Indicate configuration of central care stations; Indicate workstation layouts in administrative areas;
 - N. All room accessories;
 - O. Integration of structural, mechanical, electrical and information & communications technology systems, in terms of columns, service shafts, risers, etc., in sufficient detail to demonstrate that functional and net area requirements are compliant;
 - P. Provide perimeter net area poly-lines indicating actual net areas of designed program spaces;
 - Q. Dimensions provided for all interior corridors, access aisles and locations of protruding elements that reduce clear width;
 - R. Identify clear width at doorways;
 - S. Identify, in chart form, ratios of accessible washroom fixtures;
 - T. Identify service routes for replacement of major pieces of mechanical and medical equipment; and
 - U. Identify areas of refuge;
- (vi) Clinical Functionality Plans (1:50 scale)

Provide plans, sections and elevations for a typical Acute Care Department, the MSICU, the CCICU, the Emergency Department, the Perioperative Services Department, the Advanced Ambulatory Care Unit – Infusion Centre; and one (1) Generic Ambulatory Clinic, including:

- A. Interior elevations;
- B. Reflected Ceiling Plans indicating ceiling materials, curtain tracks, patient lifts, configuration of lighting, mechanical diffusers and grilles;
- C. Identification of materials and finishes;
- D. Furniture and equipment layout;
- E. Location of room accessories; and

- F. All other electrical and mechanical items;
- (vii) Space Variance Analysis
- Using the chart/matrix template "Space Variance Analysis", provide a full space program reconciliation that compares the floor areas described in the Space Allocation Tables in Part 2 of the Output Specifications. All areas are to be calculated using CAN/CSA-Z317.11-02 Area Measurement for Health Care Facilities. Utilize room names and alphanumeric codes used in the Part 2 Space Allocation Tables and Room Data Sheets. List additional rooms not previously identified and provide additional sequential room codes as required. A Space Variance is required for each of Phase 1 and Phase 2 (Phase 2 to include all Phase 2A Works). Space Variance Analysis charts shall include a column showing the locations of each space by Floor, to assist in evaluation.
- (viii) Exterior Building Elevations – Scale 1:200:
- A. Along each frontage showing line of street topography, compound walls, gates, barriers, fenestration, materials, etc., including all hidden or partial elevations with a legend describing the extent of all glazing and cladding materials;
- B. Where different, exterior building elevations will detail the changes to building exterior; and
- C. Elevations to be fully rendered, in colour;
- (ix) Building Sections – Scale 1:500 of entire facility and 1:100 through Patient Care Tower indicating relative locations of grade. Building sections to clearly show how access to daylight is achieved where required;
- (x) Wall Sections – Scale 1:10 and 1:20 describing wall assemblies and indicating relationship of materials and transitions between Patient Care Tower and the Existing Building and at all areas of infill and addition. Wall sections will be drawn corresponding to same locations as those included in the submissions for design presentation meeting. Include annotation describing proposed wall assembly types;
- (xi) Building Perspectives – at a minimum 6 exterior perspectives in full colour describing the developed exterior with context
- A. Aerial perspective view of entire Facility;
- B. Exterior perspective view taken at pedestrian eye level from the southwest corner of Queen and Victoria Streets;
- C. Exterior perspective view taken at pedestrian eye level from the south east corner of Queen Street and Bond Street;
- D. Exterior perspective taken along Bond Street indicating the additions to the existing Bond and Shuter wings; and

- E. Exterior Perspective of the renovated entrance to the Emergency Department;
- (xii) Building Perspectives – at a minimum 13 interior perspectives in full colour describing the developed interior:
 - A. Interior perspective view taken at eye level of the new Public Lobby;
 - B. Interior perspective view taken at eye level of the renovated Queen Street Lobby;
 - C. Interior perspective view taken at eye level of the Open/Interactive space and Atrium;
 - D. 2- Interior perspective views taken at eye level of the new north/south circulation path – one looking either north toward the CCW north elevators showing the general character, layout and natural illumination of this space; and the other looking east from toward the Bond Lobby;
 - E. Interior perspective view taken at eye level of the new Bond Entrance Lobby and its relationship with the historic lobby;
 - F. Interior perspective view taken at the entrance of a typical Acute Care unit showing the central communication station and relationship to patient rooms, etc.;
 - G. Interior perspective view taken at the entrance to the MSICU showing the central communication station and relationship to patient rooms, etc.;
 - H. Interior perspective of Emergency Department Entrance/waiting/triage;
 - I. Interior perspective of typical Hybrid Operating Room;
 - J. Interior Perspective of typical Acute Care Patient Room;
 - K. Interior Perspective of typical Critical Care Patient Room; and
 - L. Interior Perspective of typical Ambulatory Generic Clinic reception and waiting area;
- (xiii) Interior Elevations – scale 1:10 of the following areas:
 - A. Key spaces;
 - B. Component reception areas;
 - C. Key Public space (New Main Lobby, renovated Donnelly Wing Lobby, Open/Interactive Space, North/South Circulation Path, Bond Lobby);
 - D. Typical clinical corridors, indicating extents of wall protection, rails, mounting heights for accessories, typical door types, etc.;

- E. Typical Surgical Program corridor indicating extents of wall protection, rails, mounting heights of accessories, typical doors, etc.;
- F. Typical Emergency Department corridor indicating extents of wall protection, rails, mounting heights of accessories, typical doors, etc.; and
- G. Public elevator lobbies;
- (xiv) Public Space Plans – 1:50 scale
 - A. Provide plans, sections and elevations for new Public Lobby, Open/Interactive space (Atrium), North/south circulation path, new Bond Lobby, Donnelly lobby;
- (b) Landscape Design Response
 - (i) Landscape design plans - scale 1:150, including renovated Bond Street streetscape; and
 - (ii) Landscape details – scale 1:25 or 1:10;
- (c) Civil Design Response
 - (i) Provide drawings that illustrate the following for the Site:
 - A. Existing Conditions Plan at a scale of 1:250 or 1:500 that accurately identifies the existing above and below ground infrastructure, easements, contours, geodetic benchmarks, drainage patterns and areas;
 - B. Erosion Control Plan at a scale of 1:250 or 1:500 that illustrates and specifies erosion control measures and tree protection measures (if applicable) to the requirements of the City of Toronto;
 - C. Site Grading Plan at a scale of 1:250 or 1:500 showing proposed grading, retaining walls, curbs and all information required by the City of Toronto Site Grading Guidelines;
 - D. Site Servicing Plan at a scale of 1:250 or 1:500 showing all existing and proposed underground infrastructure, pipe lengths and slopes and specifications for materials and construction and all information required by City of Toronto Servicing Guidelines; and
 - E. Stormwater Management Report prepared to the requirements of the City of Toronto;
- (d) Structural Design Response
 - (i) Provide a written statement describing the engineering design intent for the construction of the Facility with respect to the following subjects. The statement should be organized as follows:

- A. General design approach to structural systems, with specific reference to the proposed solutions in regard to subsoil conditions;
 - B. Structural design approach to building structural systems for both the Patient Care Tower and each renovation sub-project, as defined in section 3.9 of Part 3 of the Output Specifications;
 - C. Structural design approach to column locations, and coordination with spatial requirements and building services;
 - D. Structural design approach to specialized equipment loading requirements and vibration sensitivity requirements; and
 - E. Accommodation for green roofs, highly reflective roof and other sustainable technologies;
- (ii) Drawing Requirements
- A. Structural floor plans - scale 1:100, of every level, including all buildings, and roof(s) showing foundations, structural systems, framing and lateral force resisting systems; and
 - B. Structural details at appropriate scale;
- (e) Mechanical Design Response
- (i) Provide an updated written statement describing the engineering design intent with respect to the following subjects. The statement should be organized as follows:
- A. General design approach to mechanical systems (HVAC, plumbing and drainage, medical gases, fire protection, controls, pneumatic tube and noise and vibration mitigation) including services relocations, infrastructure improvements, redundancy, equipment selection, sustainability, etc. with specific references to the Output Specifications. Describe the mechanical services to be provided and include details of:
 - a. Existing services relocation strategy;
 - b. Existing System Improvement strategy;
 - c. Cooling plant;
 - d. Heating plant;
 - e. Steam distribution;
 - f. Domestic hot and cold water systems;
 - g. Plumbing fixtures;

- h. Medical gases Systems;
 - i. Fire protection systems;
 - j. All major mechanical space locations;
 - k. Building Management System;
 - l. Pneumatic Tube;
 - m. Load calculations per zone basis, including specialized equipment, energy recovery and redundancy;
 - n. Ventilation and total supply air rates for each space in Patient Care Tower and Renovations;
 - o. Smoke control and operations under fire service requirements for Patient Care Tower; and
 - p. Post-disaster provisions;
- (ii) Mechanical floor plans - scale 1:150, of every level, including mechanical room(s) (provide blow ups of mechanical rooms at scale 1:50), service tunnels, equipment rooms, and roof(s) showing location and basic layout of primary mechanical equipment including access routing of main feeds and associated shafts and risers, and preliminary sizing of the primary mechanical equipment;
- (iii) Mechanical equipment schedules showing capacities of all mechanical equipment;
- (iv) System schematics for all major systems including, but not limited to:
- A. Natural gas, heating water systems including terminal equipment;
 - B. Chilled water system;
 - C. Steam distribution system;
 - D. Incoming water and fire protection systems, including fire hose cabinet and sprinkler control cabinet risers;
 - E. Plumbing distribution systems including domestic cold, domestic hot and recirculation systems, sanitary and storm water drainage system risers;
 - F. Air handling and air distribution systems including exhaust;
 - G. Controls;
 - H. Pneumatic tube system;

- I. Zoning diagrams showing zoning for standpipe, sprinkler systems and air distribution systems;
- (f) Electrical Design Response
- (i) General design approach to electrical systems including redundancy, equipment selection, sustainability, etc. with specific references to the Output Specifications. Describe the electrical services to be provided and include details of:
 - A. Power distribution and maximum demand calculations for normal power, emergency power – including loads on the life safety branch – and UPS power;
 - B. The high-voltage switchboard in the new tower, type of new breakers being provided, and feeders;
 - C. Main step-down transformers serving the new tower and their sizing and redundancy parameters;
 - D. Low-voltage network including: type of switchgear proposed; type of breakers and trip units proposed; type of feeders and raceways proposed;
 - E. Standby and uninterrupted power supply requirements and distribution;
 - F. Wiring systems for patient treatment, identifying:
 - a. General and medical treatment areas;
 - b. Power monitoring systems;
 - c. Lighting control systems;
 - d. Proposed wiring methodologies, routing, conduit types and cable tray;
 - G. Fire alarm system, including details of fire alarm panels, detection and signaling devices. Provide a schematic riser diagram and describe proposed integration with other systems;
 - H. Emergency evacuation and intercommunication systems, including details of master emergency control panel, zones, speakers and firefighters' handsets;
 - I. Post-disaster provisions; and requirements;
 - J. Concept for lighting control, interface with daylight harvesting, integrated bedside terminals, etc.;
 - (ii) Provide single line and design drawings (1:150) and design documentation for electrical services and distribution, showing and describing:

- A. Origin of supply(s);
 - B. Arrangements for service redundancy;
 - C. Main service switchgear and transformer locations, main electrical distribution room and main communication room;
 - D. Sub-electrical room locations and communication room locations; and
 - E. Position, size and capacity for emergency power, associated switchgear and transfer switches;
- (iii) Provide design drawings (1:200) and design documentation for lighting and power, showing and describing:
- A. Lighting and controls, including proposed day lighting measures and energy management measures;
 - B. Proposed power monitoring systems;
 - C. Main single-line diagram showing sizes of all transformers, generators and distribution breakers, the proposed methodology of distribution, and the general arrangement methodology of supply to the Facility;
 - D. Typical room layouts (1:50) for each type of room for which room data sheets and drawings are required including:
 - a. OR;
 - b. Hybrid;
 - c. Nurse station;
 - d. CICU patient room;
 - e. PACU bay;
 - f. Patient room;
 - g. Waiting areas;
 - h. Washrooms;
 - i. Lounge;
 - j. Meeting rooms;
 - k. Office; and
 - l. Sterile core;

Showing location and type of all lighting, switching, receptacles and low-tension and communication. Indicate design illumination levels (including maintenance factors) for each area.

- E. Life safety system riser diagram including sequence of operation;
- F. Lighting control system diagram illustrating concept for lighting controls of exterior, typical rooms and public areas; and
- G. Lightning protection and grounding systems.

(g) Telecommunications Design Response

(i) Provide a written statement describing the engineering design intent with respect to the following subjects. The statement should be organized as follows:

- A. Describe the concept for telecommunications design, including fibre optic backbone;
- B. Describe issues related to CAT6 certification in the various configurations required;
- C. Describe issues related to security of various networks, and of various distinct users;
- D. Describe issues related to wireless access points and the creation of wireless networks as per the Output Specifications;
- E. Describe the integration of various systems and how they will be interconnected to each other;
- F. Describe the various systems (RTLS, Nurse Call etc.) with specific reference to the Output Specifications; and
- G. Describe the procedure for integrating new systems to existing systems located in the existing building;

(ii) For each of the following technology and communication systems, describe the system and associated scope, and the typical devices and functions for each area to be served. Describe any integration between each system and any others:

- A. Structured cabling (combined in the same drawing together with power layout);
- B. Network equipment;
- C. Telecom equipment;
- D. Wireless infrastructure;

- E. Wireless staff communications;
 - F. Nurse call;
 - G. Patient monitoring; and
 - H. Public address;
- (iii) Information Technology floor plans— scale 1:150, of every level including all telecommunications rooms, closets and distribution terminals and showing Telecommunications Backbones, Vertical and Horizontal Distribution Systems as well as routing of main feeds and associated shafts, risers, and IT closets;
- (iv) Provide documentation for both building network systems and BAS network systems with separate drawings showing:
- A. Origin of supply and interconnection with external services, including redundant service;
 - B. Proposed integration with wireless telephone systems;
 - C. Proposed call centre systems and layouts;
 - D. Proposed network diagram;
 - E. Proposed communication room layouts;
 - F. Proposed network equipment layouts detailing interconnection details;
 - G. Proposed network interface with other systems;
 - H. Proposed connection to the WAN service; and
 - I. Proposed connections to building and campus-based servers/server room;
- (v) For the proposed network systems set out above, provide:
- A. Cut sheets of all proposed equipment; and
 - B. Provide a description of building data communication systems showing:
 - a. Location of all data gathering equipment, including file servers, computers; and
 - b. Relationship between data communications and all other items of equipment;
- (vi) In addition to the above data communication system drawings, describe the data communications services and how they will satisfy the needs of related services;

- (vii) Provide details of all standards proposed for supply, installation, testing and commissioning;
- (viii) Communications riser diagram indicating infrastructure for voice and data system;
- (h) Security Design Response
 - (i) Provide a written statement indicating how the proposed design meets the security requirements in the Output Specifications. Indicate how the circulation of the various users of the Facility will be accommodated utilizing a keyless building design and controlled within the building and on the Site, including:
 - A. General Public;
 - B. Students;
 - C. Administrative Staff;
 - D. Building operations staff;
 - E. Support Staff;
 - F. Nurses, doctors;
 - G. Provide a threat and risk assessment and explain how that assessment has informed the design. Describe the approach that will be taken to developing a security master plan and an overview of what technologies will be considered to assist in implementing the master plan Electronic Security site and floor plans – scale 1:150, of each level including all equipment distribution rooms, closets and distribution terminals showing location of each electronic security device;
 - (ii) Proposed detailed layout of control;
 - (iii) Typical electrified portal diagrams – door elevations indicating hardware, devices, conduit, controllers, junction boxes, etc. and the relationship and integration of the work of various trades to ensure operability;
- (i) Lighting Design Requirements
 - (i) Provide a description of how the proposed design complies with the lighting design requirements included in the Output Specifications. Provide type(s) of lighting to be used, incorporating standards of design and exit lighting; and
 - (ii) Lighting Design floor plans– scale 1:150, of every level showing Lighting Design;
- (j) Response to Sustainability

- (i) Construction Contractor must submit a sustainability plan for the proposed design including the following submission documentation:
- A. Provide a description of how the proposed design complies with the requirements included in the Toronto Green Development Standard, including the TGS checklist, including the status of each certification item;
 - B. Submit a narrative description of how Construction Contractor intends on achieving the relevant prerequisite;
 - C. For each prerequisite that can only be documented during the construction or post-construction phase, submit a narrative description of the plan for achieving the relevant credit or prerequisite. As well submit a narrative description of proposed training and coordination of all team members to ensure successful implementation of the required design strategies;
 - D. For any sustainable design innovation proposed to be included in the design of the Facility, submit a narrative description identifying the intent of the proposed innovation, the proposed requirement for compliance, the proposed submittals to demonstrate compliance, and design approach (strategies) that might be used to meet the requirements;
 - E. LEED® NC project checklist including the status of each credit for required Silver certification level, and the team members responsible for meeting each credit requirement LEED mission statement for the Project;
 - F. Confirmation on LEED point status and level;
 - G. Provide LEED Canada NC (latest version) project checklist provided by the Canada Green Building Council (CaGBC) with all credits annotated as to whether they are: Yes, ? or No. For those credits defined as Yes or ?, provide a description of how that credit will be obtained for this Project;
 - H. For each credit and prerequisite that can be documented during construction, submit a narrative description of the plan for achieving the relevant credit or prerequisite. As well submit a narrative description of proposed training and coordination of all team members to ensure successful implementation of the required design strategies and LEED® credit requirements; and
 - I. For each Innovation and Design Credit (IDc1.1 – IDc1.4) submit a narrative description identifying the intent of the proposed innovation Credit, the proposed requirement for compliance, the proposed submittals to demonstrate compliance, and design approach (strategies) that might be used to meet the requirements;

- (k) Miscellaneous Drawings

- (i) Provide any other documentation supporting the Construction Contractor's submission.
- (l) Materials and Finishes
 - (i) Provide material and finish sample boards of:
 - A. all exterior cladding and hard landscaping materials; and
 - B. interior finishes of all public spaces, circulation, and each programmatic Component/Element, where they differ from each other.
- (m) Barrier Free Accessibility Requirements Report
 - (i) Provide an updated description of how the proposed design complies with the accessibility requirements included in the Output Specifications.
- (n) Code and Lifesafety Report
 - (i) Provide an updated description of design response to the life safety and Building Code requirements including a full analysis of the occupant loads, exiting requirements, the building's fire resistance ratings, stair and corridor widths, washroom requirements. Provide a description of how the Project is integrated into and affects Code considerations for the Facility as a whole;
- (o) Acoustics and Vibration Design Response
 - (i) Provide an updated report from an acoustical design specialist describing in detail how the acoustical requirements of the Output Specifications are proposed to be achieved and identifying measures proposed to control the sound environment both during construction and in the completed Project; and
- (p) Signage and Wayfinding Design Response
 - (i) Provide an updated written statement indicating how the proposed design meets the signage and wayfinding requirements in the Output Specifications.

2. MINIMUM SUBMITTAL REQUIREMENTS FOR THE 75% DESIGN DEVELOPMENT STAGE

Construction Contractor shall provide the following Design Development Submittals to SMH for review and comment in accordance with this Schedule 10:

2.1 Design development documents in accordance with the requirements set forth in Section 11.1 of the Design and Construction Contract, including:

- (a) Site plan (prepared at 1:500 scale) showing:

- (i) Full ground floor plan (see description below for Floor/Roof Plans);
 - (ii) Full hard/soft landscape plan showing integration of landscaping features/areas with floor plan elements and entrances;
 - (iii) Treatment of main approach to public entrance, including street lighting, sidewalks, etc.;
 - (iv) Vehicular drop-off and street right-of-way improvements;
 - (v) Additional Site features, including natural features, storm water management structures and design of outdoor spaces for patient, staff or visitor use; and
 - (vi) Vehicle access/egress driveways to and from the Site, loading dock access and location, ambulance access, lay-by's, etc.
- (b) Site servicing plan (prepared at 1:500) showing:
- (i) Storm water management/storm sewer;
 - (ii) Sanitary sewer system;
 - (iii) Water mains - domestic use;
 - (iv) Water mains – fire-fighting;
 - (v) Gas utilities;
 - (vi) Hydro utilities;
 - (vii) Steam servicing (Enwave); and
 - (viii) Main communication trunk entrance points;
- (c) Typical Site and landscape details (prepared at 1:10 scale);
- (d) Whole facility floor plans (prepared at 1:500 scale) of every level, including basements, penthouses and roofs. Identify areas of renovation and building additions;
- (e) Architectural floor plans (prepared at 1:100 scale) of every level, including basements, penthouse(s) and roof(s), for the Tower and of each of the areas of renovation and building addition:
- (i) All walls and partitions in actual thicknesses;
 - (ii) All program and non-program rooms/areas, colour-coded by component and numbered using the alphanumeric Room Codes (“Room Codes”) used in the Space Allocation Tables and Room Data Sheets in Part 2 of the Output Specifications;

- (iii) List of additional rooms not previously identified with additional sequential Room Codes as required;
 - (iv) Doors, screens, glazing and windows;
 - (v) Location of all millwork/systems furniture and workstation layouts (including filing storage units, shelving) for the clinical departments for which "Enhanced Block Schematic Diagrams" have been prepared;
 - (vi) All major equipment for the clinical areas for which architectural plan details have been prepared, coordinated with the updated Equipment List; and
 - (vii) Integration of structural, mechanical and electrical systems in terms of columns, service shafts, risers, etc., in sufficient detail to demonstrate that functional and net area requirements are compliant;
- (f) Preliminary Space Development (prepared at 1:50 scale or 1:100 scale as appropriate with actual room areas, in net square feet (NSF) identified by individual room) for key clinical areas listed below:
- A. Typical Acute Care Floor;
 - B. Medical/Surgical ICU;
 - C. Coronary Care ICU;
 - D. Peri-Operative Services – Surgical Suite;
 - E. Emergency Department;
 - F. Advanced Ambulatory Services – Infusions Centre;
 - G. Diagnostics Waiting Areas;
 - H. Pre-admission Facility;
 - I. Generic Ambulatory Clinic;
 - J. Typical Administrative suite;
- (g) Structural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing:
- (i) Foundation plan showing preliminary locations and elevations of footings;
 - (ii) Structural system and framing;
 - (iii) Provisions for adaptability, flexibility and expandability, removal and replacement of building and medical systems and equipment;

- (iv) Provisions for any major equipment requirements in the clinical areas for which architectural plan details have been prepared; and
- (v) Summary of preliminary structural loads;
- (h) Mechanical floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing:
 - (i) Location and basic layout of major equipment;
 - (ii) Routing of main feeds and associated shafts and risers;
 - (iii) Single-line drawings for all services;
 - (iv) Preliminary sizing of equipment;
 - (v) Chilled Water Schematics;
 - (vi) Heating Schematics;
 - (vii) Ventilation Schematics;
 - (viii) Provisions for adaptability, flexibility and expandability, removal and replacement of building and medical systems and equipment;
 - (ix) Provisions for any major equipment requirements in the clinical areas for which architectural plan details have been prepared;
 - (x) Preliminary load estimates for storm and sanitary sewers, potable water supply, heating and cooling plants;
 - (xi) Preliminary flow estimates for heating and cooling systems, air supply, return and exhaust systems;
 - (xii) Preliminary plumbing fixture schedules; and
 - (xiii) Preliminary estimate of annual energy use;
- (i) Electrical floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing:
 - (i) Location and basic layout of major equipment;
 - (ii) Routing of main feeds and associated shafts and risers;
 - (iii) Single-line drawings for all services;
 - (iv) Preliminary sizing of equipment;
 - (v) Preliminary electrical room layouts;

- (vi) Preliminary lighting layouts; and
- (vii) Preliminary load estimates;
- (j) Typical building sections (prepared at 1:100 scale) showing:
 - (i) Relative thickness of floors/walls, including differentiation between opaque and transparent walls;
 - (ii) Major floor elevations, including those below grade;
 - (iii) Finish grades, dotted lines through building section;
 - (iv) Relationship to Site contours and other important Site elements as shown in building elevation drawings; and
 - (v) Major room names.
- (k) Detail building sections (prepared at 1:50 scale) through existing building additions;
- (l) Stair and elevator plans, sections and details (scales as appropriate);
- (m) Exterior elevations (prepared at 1:100) showing:
 - (i) Indication of cladding materials for all areas, with legend and notations identifying extent and type of all proposed glazing and cladding materials;
 - (ii) Different vertical planes differentiated with shadows;
 - (iii) Finish grades;
 - (iv) Major floor elevations, including those below grade;
 - (v) Sections when elevation is shown by taking vertical cut-through another space;
 - (vi) Significant plantings/Site elements when important in defining space and volume, such as bodies of water, hills, earth berms; and
 - (vii) Identification of locations for exterior building signage;
- (n) Exterior design drawings – (prepared at 1:50 scale)

Provide plans, sections and elevations of selected site and exterior elements, indicating development of exterior design intent and showing architectural features and construction assemblies of exterior spaces such as entries, and canopies;
- (o) Exterior wall sections (prepared at 1:50 scale);

Describe typical wall assemblies and indicate relationship of materials. Include annotation describing proposed wall assembly types;

- (p) Preliminary typical envelope / cladding details (prepared at 1:10 scale), provided with a building science report reviewing envelope design and details;

Provide representative section and plan details of exterior wall, roof and floor slab assemblies. Show features such as atrium skylight, sun shading, etc. Details will indicate proposed components of assemblies and will be referenced to other drawings;

- (q) Interior elevations (prepared at 1:100) for public entrances and all other major public spaces, including New Main Lobby, Donnelly Lobby, Open/Interactive Space (Atrium), North/South Circulation Corridor, New Bond Lobby (and existing heritage lobby).
- (r) Preliminary door, window/glazing schedules;
- (s) Preliminary lighting design submittals;
- (t) Preliminary security systems floor plan layouts;
- (u) Preliminary drawings of all millwork/systems furniture elements identified in the Room Data Sheets and shown in the Room Templates in the Output Specifications, including all dimensions and key elevations;
- (v) Preliminary single line audio/visual distribution diagrams;
- (w) Preliminary single line information technology distribution diagrams;

2.2 Construction specifications related to exterior building envelope identifying all systems, materials, and construction execution methods proposed to be used in the Project;

2.3 Design packages for proposed full scale mock-ups with all specified finishes and equipment, in accordance with the SMH design requirements, including fully resolved construction details and methods, for the spaces listed below. Design packages to be prepared and submitted in BIM format (Revit 2013 or later):

- (a) Typical Acute Care Patient Room;
- (b) Typical Acute Care Airborne Isolation Room ("AIR");
- (c) Typical MSICU Patient Room;
- (d) Typical CICU Patient Room;
- (e) Typical MISCU/CICU AIR Room;
- (f) Typical Hybrid Operating Suite, complete with interoperable MRI;
- (g) Typical PACU bay;
- (h) Typical Examination Room (Generic Ambulatory Clinic);
- (i) Typical Treatment Room (Emergency Department);

- (j) Typical Treatment Room (Emergency Department Mental Health);
 - (k) Trauma Room (Emergency Department);
- 2.4 Clinical Functionality Report, providing detail level appropriate to the documentation provided in this submission stage, and addressing all issues of Clinical Functionality found in Part 2 of the Output Specifications, in particular, the Clinical Functionality requirements of the key clinical areas listed in Section 1.1 of this Appendix A. As a minimum, the following components shall form part of the Clinical Functionality Report:
- (a) Space Reconciliation Table including net and component gross comparison to the space tables contained in Part 2 (Whole Clinical Statement) of the Output Specifications (net areas to be +/- 10% compared with the space tables, component gross areas to be +/- 5%);
 - (b) Circulation diagrams illustrating proposed intra- and inter-departmental routes for patient access/transport, visitors, staff and supplies;
 - (c) Zoning Diagrams illustrating strategies (physical, visual cues, etc) for creating distinct zones for patients, families and staff (including hand-washing) within individual rooms and /or within the department as applicable;
 - (d) Infection Prevention and Control Diagrams illustrating locations of AIR access to AIRs, strategies for separating clean and soiled flows, handwashing/hand hygiene stations, personal protective equipment accommodations, etc.;
 - (e) Pandemic Planning Diagrams illustrating how each program or department, as well as the overall facility, will operate during an outbreak situation;
 - (f) Surge Capacity Diagrams illustrating the degree to which each program is safely and efficiently able to accommodate an increased number of patients within the space; and
 - (g) Security Planning Diagrams (i.e. illustrating strategies for controlling access to each program area/department, maximizing staff ability for visual oversight through clear sightlines and eliminating blind spots., CCTV camera points, etc.);
- 2.5 Updated Construction Quality Plan;
- 2.6 Updated Phasing Plan (phasing and construction implementation analysis), including demolition, construction, decanting and occupancy;
- 2.7 Updated approvals strategy coordinated with the Phasing Plan;
- 2.8 Comprehensive acoustical and vibration control report reviewing all proposed assemblies, acoustical conditions, and noise and vibration control measures;
- 2.9 Environmental services design report;
- 2.10 Vertical transportation analysis, reviewing vertical transportation strategy with reference to service volumes, flow, and security considerations;

- 2.11 *Ontario Building Code and Ontarians with Disabilities Act* analysis and compliance strategy and accessibility measures report;
- 2.12 *Updated Space Program* which:
- (a) Identifies net area of each room and department, listed by floor levels;
 - (b) Lists line by line area variance, departmental area variance and grossing factor, and building area and grossing factor in comparison with the Space Program described in the Output Specifications;
 - (c) Lists mechanical and electrical spaces outside of departmental areas;
 - (d) Utilizes the alphanumeric Room Codes used in the Space Allocation Tables and Room Data Sheets in Part 2 of the Output Specifications; and
 - (e) Lists additional rooms not previously identified with additional sequential Room Codes as required.
- 2.13 Preliminary micro-climate report to confirm that the findings and anticipated conditions are consistent with the micro-climate studies based on the Indicative Design scheme included in the Output Specifications. The report will address exhaust re-entrainment, pedestrian level wind and snow studies using water flume and wind tunnel testing to provide a visual indication of snow accumulation, wind patterns, wind flows and emission paths on and around the building(s) to demonstrate that the development will not create unacceptable wind forces, noise levels, air quality concerns, or snow fall and accumulation conditions at building entrances, exits, landscaped open spaces and street sidewalks; and
- 2.14 Follow-up to LEED registration with CaGBC, and LEED credits tracking documentation.

3. MINIMUM SUBMITTAL REQUIREMENTS FOR THE 100% DESIGN DEVELOPMENT STAGE

Construction Contractor shall provide the following updated Design Development Submittals to SMH for review and comment in accordance with this Schedule 10:

- 3.1 Updated design development documents in accordance with the requirements set forth in Section 11.1 of this Project Agreement including:
- (a) Updated Site plan (prepared at 1:500 scale) showing all previously listed requirements.
 - (b) Updated Site servicing plan (prepared at 1:500 or as appropriate) showing all previously listed requirements.
 - (c) Updated and augmented Site and landscape details (prepared at 1:10 scale).
 - (d) Updated whole Facility plans (prepared at 1:500 scale) showing all previously listed requirements.

- (e) Updated architectural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements and:
- (i) Overall dimensions;
 - (ii) Indication of fire areas, fire walls, and smoke zones;
 - (iii) All millwork/systems furniture and workstation layouts;
 - (iv) All equipment;
 - (v) Floor finishes;
 - (vi) Floor elevations; and
 - (vii) Capacity information (number of beds, seating, etc.).
- (f) Updated enlarged architectural plan, details (prepared at 1:50 scale) for key clinical and other areas including all previously listed areas at 1.1 (e) public entrances and all other major public spaces.
- (g) Interior design – (prepared at 1: 50 scale).

Provide sections and elevations, indicating development of interior design intent and showing architectural features and construction assemblies, including:

- (i) New main lobby; Donnelly lobby; open interactive space and atrium and associated seating areas; north/south circulation path; new Bond Lobby and existing historic lobby; emergency entrance, triage and waiting areas; and
 - (ii) One (1) conference room; patient family waiting room; admitting waiting area.
- (h) Interior Plan and Section Details – (prepared at 1:10 scale).

Provide detail plans, sections and elevations of feature elements, including:

- (i) New main lobby; Donnelly lobby; open interactive space and atrium and associated seating areas; north/south circulation path; new Bond Lobby and existing historic lobby; emergency entrance, triage and waiting areas; and
 - (ii) Representative wall sections at spaces adjacent to the atrium; guardrails; atrium skylight.
- (i) Stair and elevator plans, sections and details (scales as appropriate).
- (j) Updated structural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements and:
- (i) Foundation plan showing finalized locations and elevations of footings;

- (ii) Column schedules;
 - (iii) Foundation details;
 - (iv) Typical framing details;
 - (v) Provisions for any equipment requirements; and
 - (vi) Updated structural loads.
- (k) Updated mechanical floor plans (prepared at 1:100 scale) of every level, both new construction and renovation, including penthouse(s) and roof(s), showing all previously listed requirements for both new construction and areas of renovation and:
- (i) Detailed floor layouts showing locations of all major mechanical equipment items, pipe mains, risers and branch mains, duct mains including supply return and exhaust;
 - (ii) Preliminary interior building section details coordinating and confirming preliminary fit of structural/electrical/mechanical;
 - (iii) Updated provisions for any equipment requirements;
 - (iv) Updated load estimates for storm and sanitary sewers, potable water supply, heating and cooling plants;
 - (v) Updated flow estimates for heating and cooling systems, air supply, return and exhaust systems;
 - (vi) Updated plumbing fixture schedules; and
 - (vii) Updated estimate of annual energy use.
- (l) Updated electrical floor plans (prepared at 1:100 scale) of every level, both new construction and renovation, including penthouse(s) and roof(s), showing all previously listed requirements for both new construction and renovations and:
- (i) Floor layouts showing locations of electrical equipment items, normal and emergency, major feeders and branch feeders, and locations of major pathways for all systems;
 - (ii) Preliminary interior building section details coordinating and confirming preliminary fit of structural/electrical/mechanical;
 - (iii) Provisions for adaptability, flexibility and expandability, removal and replacement of building and medical systems and equipment;
 - (iv) Provisions for any equipment requirements in the clinical areas for which architectural plan details have been prepared; and
 - (v) Finalized load estimates.

- (m) Reflected ceiling plans (prepared at 1:100 scale) for all levels mechanical penthouse, showing all typical rooms and special interest areas with location of major components shown.
- (n) Updated building sections (prepared at 1:100 scale) showing all previously listed requirements and preliminary ceiling space coordination diagram(s).
- (o) Updated detail building sections (prepared at 1:50 scale) showing all previously listed requirements and preliminary ceiling space coordination diagram(s).
- (p) Updated and augmented exterior design drawings and wall sections (prepared at 1:50 scale) and envelope cladding details (prepared at 1:10 scale), with updated building science report reviewing envelope design and details.
- (q) Updated stair, elevator and escalator plans, sections and details (scales as appropriate).
- (r) Updated exterior elevations (prepared at 1:100) showing all previously listed requirements and significant mechanical and electrical equipment such as roof-top units, chimneys, louvers, transformers, pole lines, etc.
- (s) Updated interior elevations (prepared at 1:50) for all previously listed areas and:
 - A. Typical Acute Care Floor;
 - B. Medical/Surgical ICU;
 - C. Coronary Care ICU;
 - D. Peri-Operative Services – Surgical Suite;
 - E. Emergency Department;
 - F. Advanced Ambulatory Services – Infusions Centre;
 - G. Diagnostics Waiting Areas;
 - H. Pre-admission Facility;
 - I. Generic Ambulatory Clinic;
 - J. Typical Administrative suite; and
 - K. Security Office;
- (t) Interior Design – 1:10 scale.

Updated detail plans, sections and elevations of feature elements, including all items previously listed.
- (u) Preliminary interior finishes colour and materials selection boards and preliminary room finishes schedule.

- (v) Updated door, window/glazing and hardware schedules and preliminary hardware cut sheets. Identify separately new construction and all areas of renovation.
 - (w) Updated lighting design submittals, including fixture cut sheets and illumination level analysis.
 - (x) Updated security systems floor plans and equipment details, locations of all security systems equipment, connection points and control points.
 - (y) Updated drawings of all millwork/systems furniture elements identified in the Room Data Sheets and shown in the Room Templates in the Output Specifications, including all dimensions, key elevations, and all fixed and moving elements (1:50 scale) and details as appropriate (1:10 or 1:20 scale, as appropriate).
 - (z) Updated and augmented audio/visual drawings and details.
 - (aa) Updated and augmented information technology drawings and details.
- 3.2** Updated construction specifications, identifying all systems, materials, and construction execution methods proposed to be used in the Project.
- 3.3** Report on review and adjustments of proposed mock-ups.
- 3.4** Updated Clinical Functionality Report, if there are any changes to the previous version, providing detail level appropriate to the documentation provided in this submission stage, and addressing all issues of Clinical Functionality found in Part 2 of the Output Specifications, in particular, the Clinical Functionality requirements of the key clinical areas listed in Section 1.1(a) of this Appendix A.
- 3.5** Updated building vibration analysis as it relates to relevant medical equipment, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 3.6** Preliminary medical equipment procurement and coordination plan and equipment list.
- 3.7** Updated Construction Quality Plan, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 3.8** Updated Phasing Plan (phasing and construction implementation analysis), including demolition, construction, decanting and occupancy.
- 3.9** Updated approvals strategy coordinated with the Phasing Plan.
- 3.10** Updated acoustical report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 3.11** Wayfinding and signage standards proposal, describing wayfinding strategy and its integration with the overall architecture. Illustrating proposed signage standards, including approach to graphics and text, hierarchy of signage, proposed specifications for materials and installation, and maintenance and updating of information.

- 3.12 Updated environmental services design report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 3.13 Updated vertical transportation analysis, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 3.14 Updated *Ontario Building Code and Ontarians with Disabilities Act* analysis, and report from an independent Building Code consultant providing detailed review of the drawings and documentation and confirming compliance with the above regulatory documents including *Fire Code*.
- 3.15 Updated Space Program, including all previously listed requirements.
- 3.16 Report on review and adjustments of micro-climate report.
- 3.17 Progress report on LEED credits tracking documentation.
- 3.18 Outline Commissioning Program, indicating the commissioning plan for each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program.
- 3.19 Completed full-size mock-ups for the spaces listed below, ready for review by SMH user groups.
- (a) Typical Acute Care Patient Room;
 - (b) Typical Acute Care Airborne Isolation Room;
 - (c) Typical MSICU Patient Room;
 - (d) Typical CICU Patient Room;
 - (e) Typical MSICU/CICU AIR Room;
 - (f) Typical Operating Suite, interoperable MRI;
 - (g) Typical PACU bay;
 - (h) Typical Examination Room (Generic Ambulatory Clinic);
 - (i) Typical Treatment Room (Emergency Department);
 - (j) Typical Treatment Room (Emergency Department Mental Health); and
Trauma Room (Emergency Department).
- 3.20 Mock ups must be full scale using materials that conform to materials specified, including work of all trades required to finish work and the placement of all In-Contact Equipment and Not-In-Contract Equipment. In addition, the installation of any furniture and/or accessories supplied by SMH but not otherwise part of the Design and Construction Work, must allow SMH to properly visualize the space and confirm clearances and operational parameters.

3.21 Any other Submittals required or requested by SMH, acting reasonably, in order to understand the Design and Construction Work.

4. MINIMUM SUBMITTAL REQUIREMENTS FOR THE 50% CONSTRUCTION DOCUMENTS STAGE

Construction Contractor shall provide the following Construction Document Submittals to SMH for review and comment in accordance with this Schedule 10:

- 4.1 Updated construction documents in accordance with the requirements set forth in Section 11.1 of the Design and Construction Contract including:
- (a) Updated Site plan (prepared at 1:500 scale) showing all previously listed requirements and planting schedule.
 - (b) Updated Site servicing plan (prepared at 1:500) showing all previously listed requirements.
 - (c) Updated and augmented Site and landscape details (prepared at 1:10 scale).
 - (d) Whole facility plans (prepared at 1:500 scale) showing all previously listed requirements.
 - (e) Architectural floor plans (prepared at 1:100 scale) of every department, including basements, penthouse(s) and roof(s), showing all previously listed requirements and:
 - (i) Layout of all spaces;
 - (ii) Fire and life safety plans;
 - (iii) Preliminary material symbols;
 - (iv) Door symbols;
 - (v) Glazed sidelight symbols;
 - (vi) Window types and numbers;
 - (vii) Floor material changes;
 - (viii) Pits, trenches, etc.;
 - (ix) Depressed floor for terrazzo, tile, etc.;
 - (x) Lead and other shielding indications;
 - (xi) Curbs for mechanical room penetrations;
 - (xii) Sump pits, gratings;
 - (xiii) Recessed mats;

- (xiv) Expansion joints;
 - (xv) Pipe trench;
 - (xvi) Convectors;
 - (xvii) Low partitions; and
 - (xviii) Folding partitions.
- (f) Updated and augmented enlarged architectural plan details (prepared at 1:50 scale) for all areas required to explain the design intent.
- (g) Updated structural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements and:
- (i) Sections/elevations showing all structural elements;
 - (ii) All legends and schedules; and
 - (iii) Finalized structural loads.
- (h) Updated mechanical floor plans (prepared at 1:100 scale) of every level for both new and existing construction, including penthouse(s) and roof(s), showing all previously listed requirements and "in progress" drawings or reports, as applicable, illustrating:
- (i) Interior building section details coordinating and confirming finalized fit of structural/electrical/mechanical;
 - (ii) All legends and schedules;
 - (iii) HVAC, plumbing and medical gas details;
 - (iv) Enlarged equipment room and toilet plans;
 - (v) Mechanical room plans;
 - (vi) Chilled Water Schematics;
 - (vii) Heating Schematics;
 - (viii) Ventilation Schematics;
 - (ix) Supply air flow diagrams;
 - (x) Control schematics; and
 - (xi) Finalized estimate of annual energy use.
- (i) Updated electrical floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements and:

- (i) Interior building section details coordinating and confirming finalized fit of structural/electrical/mechanical;
 - (ii) All legends and schedules;
 - (iii) Grounding details;
 - (iv) Fire alarm riser diagram;
 - (v) Nurse call riser diagram;
 - (vi) Telephone riser diagram;
 - (vii) Paging riser diagram;
 - (viii) Television riser diagram;
 - (ix) Preliminary control schematics; and
 - (x) Electrical details.
- (j) Updated reflected ceiling plans (prepared at 1:100 scale) for all areas, showing:
- (i) Light fixtures;
 - (ii) Grilles;
 - (iii) Diffusers;
 - (iv) Soffits (dotted);
 - (v) Folding partitions;
 - (vi) Cubicle tracks;
 - (vii) Curtain tracks;
 - (viii) Skylights;
 - (ix) Major structural members (if sight exposed);
 - (x) Surgical lights (dotted);
 - (xi) Patient lifts;
 - (xii) Other ceiling-mounted equipment;
 - (xiii) Hoods;
 - (xiv) Gas columns; and
 - (xv) Room numbers.

- (k) Updated building sections (prepared at 1:100 scale) showing all previously listed requirements and:
- (i) Completed ceiling space coordination diagram(s);
 - (ii) Vertical dimensions;
 - (iii) Floor elevations;
 - (iv) Column lines;
 - (v) Room numbers/names;
 - (vi) Rooftop equipment; and
 - (vii) Wall section designations.
- (l) Updated and augmented exterior wall sections (prepared at 1:50 scale) and envelope/cladding details (prepared at 1:10 scale), with updated building science report reviewing envelope design and details as appropriate.
- (m) Updated and augmented stair and elevator plans, sections and details (scales as required).
- (n) Updated exterior elevations (prepared at 1:100) showing all previously listed requirements and:
- (i) Window types and numbers;
 - (ii) Entrance types and numbers;
 - (iii) Door types and numbers;
 - (iv) Wall material indication;
 - (v) Coping materials;
 - (vi) Overhead fascia materials;
 - (vii) Top of foundation wall line;
 - (viii) Footing and foundation line;
 - (ix) Floor lines;
 - (x) Vertical dimensions;
 - (xi) Signage;
 - (xii) Section lines;

- (xiii) Column centerlines;
 - (xiv) Louvers;
 - (xv) Stairs and ramps;
 - (xvi) Chimneys;
 - (xvii) Stacks;
 - (xviii) Light fixtures; and
 - (xix) Other mechanical or electrical equipment.
- (o) Updated interior elevations (prepared at 1:50) for all previously listed areas and showing:
- (i) Hospital casework indications;
 - (ii) Millwork and detail designations;
 - (iii) Shelving;
 - (iv) Tack board;
 - (v) Whiteboard;
 - (vi) Interior glazed panels (dimensions and details);
 - (vii) Base indication;
 - (viii) Mechanical grilles, thermostats, gas outlets, etc.;
 - (ix) Wall handrails;
 - (x) Graphics;
 - (xi) Interior finishes;
 - (xii) Wall-mounted accessories; and
 - (xiii) Plumbing fixture foot controls, etc.
- (p) Interior details (scaled as appropriate) showing:
- (i) Base types;
 - (ii) Soffits;
 - (iii) Curbs for mechanical penetrations;
 - (iv) Door details;

- (v) Hollow metal glazed panels;
 - (vi) Expansion joints;
 - (vii) Fireproofing at beams and columns;
 - (viii) Low walls;
 - (ix) Folding partitions
 - (x) Rolling doors;
 - (xi) Dressing compartments;
 - (xii) Automatic sliding/swing door details;
 - (xiii) Expansion joint details;
 - (xiv) Typical partition construction;
 - (xv) Exhaust hood details; and
 - (xvi) Corner guard details.
- (q) Preliminary room finish schedule.
 - (r) Updated door, window/glazing and hardware schedules and preliminary hardware cut sheets.
 - (s) Updated lighting design submittals, including fixture cut sheets.
 - (t) Updated and augmented security systems floor plans and equipment details.
 - (u) Updated drawings of all millwork/systems furniture elements identified in the Room Data Sheets and shown in the Room Templates in the Output Specifications, including all dimensions, key elevations, and all fixed and moving elements (1:50 scale) and details (1:10 or 1:20 scale, as appropriate).
 - (v) Updated and augmented audio/visual drawings and details.
 - (w) Updated and augmented information technology drawings and details
- 4.2** Updated construction specifications, including all previously listed requirements.
- 4.3** Report on review and adjustments of mock-ups.
- 4.4** Updated Clinical Functionality Report as appropriate, providing detail level appropriate to the documentation provided in this submission stage, and addressing all issues of Clinical Functionality found in Part 2 of the Output Specifications, in particular, the Clinical Functionality requirements of the key clinical areas listed in Section 1.1(a) of this Appendix A.

- 4.5 Updated building vibration analysis as it relates to relevant medical equipment, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 4.6 Updated medical equipment procurement and coordination plan and equipment list.
- 4.7 Updated Construction Quality Plan, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 4.8 Updated Phasing Plan (phasing and construction implementation analysis), including demolition, construction, decanting and occupancy.
- 4.9 Updated approvals strategy coordinated with the Phasing Plan.
- 4.10 Updated acoustical report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 4.11 Updated environmental services design report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 4.12 Updated vertical transportation analysis, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 4.13 Updated *Ontario Building Code* and *Ontarians with Disabilities Act* analysis and compliance strategy.
- 4.14 Updated wayfinding and signage standards, design, layout and specifications for materials and installation, including detail drawings of typical conditions.
- 4.15 Updated Space Program, including all previously listed requirements.
- 4.16 Report on review and adjustments of micro-climate report.
- 4.17 Progress report on LEED credits tracking documentation.
- 4.18 Updated Outline Commissioning Program indicating the commissioning plan for each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program.
- 4.19 BIM model in native format, in accordance with the BIM requirements and approved BIM Execution Plan as outlined in the Output Specifications, for both new construction and renovations.
- 4.20 Any other Submittals required or requested by SMH, acting reasonably, in order to understand the Design and Construction Work.

5. MINIMUM SUBMITTAL REQUIREMENTS FOR THE 100% CONSTRUCTION DOCUMENTS STAGE

Construction Contractor shall provide the following Construction Document Submittals to SMH for review and comment in accordance with this Schedule 10:

- 5.1** Updated construction documents in accordance with the requirements set forth in Section 11.1 of the Project Agreement including all previously listed requirements and:
- (a) Whole Facility floor plans (prepared at 1:500 scale) of every level including basements, penthouse(s) and roof(s) indicating all areas of renovation and building addition.
 - (b) Architectural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements and:
 - (i) Full dimensions;
 - (ii) Material symbols;
 - (iii) Furring notes; and
 - (iv) Hatch walls and partitions.
 - (c) Updated and augmented enlarged architectural plan details (prepared at 1:50 scale) for all areas required to explain the design intent.
 - (d) Updated structural floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements.
 - (e) Updated mechanical floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements.
 - (f) Updated electrical floor plans (prepared at 1:100 scale) of every level, including penthouse(s) and roof(s), showing all previously listed requirements.
 - (g) Updated reflected ceiling plans (prepared at 1:100 scale) for all areas, showing all previously listed requirements and:
 - (i) Heat detectors;
 - (ii) Smoke detectors;
 - (iii) Exit signs;
 - (iv) Access panels; and
 - (v) Hatches.
 - (h) Updated building sections (prepared at 1:100 scale) showing all previously listed requirements.

- (i) Updated and augmented exterior wall sections (prepared at 1:50 scale) and envelope/cladding details (prepared at 1:10 scale), with updated building science report reviewing envelope design and details as appropriate.
 - (j) Updated and augmented stair and elevator plans, sections and details (scales as required).
 - (k) Updated exterior elevations (prepared at 1:100) showing all previously listed requirements.
 - (l) Updated interior elevations (prepared at 1:50) for all previously listed areas and showing all previously listed requirements and:
 - (i) Equipment; and
 - (ii) Electrical receptacles, speakers, clocks, light fixtures, etc.
 - (m) Interior details (scaled as appropriate) showing all previously listed requirements and:
 - (i) Pass-windows; and
 - (ii) Supports – patient lifts.
 - (n) Updated room finish schedule.
 - (o) Updated door, window/glazing and hardware schedules and hardware cut sheets.
 - (p) Updated drawings of all millwork/systems furniture elements identified in the Room Data Sheets and shown in the Room Templates in the Output Specifications, including all dimensions, key elevations, and all fixed and moving elements (1:50 scale) and details (1:10 or 1:20 scale, as appropriate).
 - (q) Updated and augmented audio/visual drawings and details.
 - (r) Updated and augmented information technology drawings and details.
- 5.2** Updated construction specifications, including all previously listed requirements.
- 5.3** Updated building vibration analysis as it relates to relevant medical equipment, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 5.4** Updated medical equipment procurement and coordination plan and equipment list.
- 5.5** Updated Construction Quality Plan, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 5.6** Updated Phasing Plan (phasing and construction implementation analysis), including demolition, construction, decanting and occupancy.
- 5.7** Updated Approvals Strategy coordinated with the Phasing Plan.

- 5.8 Updated acoustical report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 5.9 Updated environmental services design report, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 5.10 Updated vertical transportation analysis, if there are any changes to previous version, including a statement of how the proposed matter has changed from the previous matter reviewed by SMH.
- 5.11 Updated Ontario Building Code and Ontarians with Disabilities Act analysis and compliance strategy.
- 5.12 Updated wayfinding and signage standards, design, layout and specifications for materials and installation, including detail drawings of typical conditions.
- 5.13 Updated Space Program, including all previously listed requirements.
- 5.14 Report on review and adjustments of micro-climate report.
- 5.15 Progress report on LEED credits tracking documentation.
- 5.16 Updated Outline Commissioning Program indicating the commissioning plan for each Phase Commissioning Program, the Tower Interim Completion Commissioning Program and the Final Commissioning Program.
- 5.17 BIM model in native format, in accordance with the BIM requirements and approved BIM Execution Plan as outlined in the Output Specifications, for both new construction and renovations.
- 5.18 Any other Submittals required or requested by SMH, acting reasonably, in order to understand Design and Construction Work.

6. PHASED DEVELOPMENT OF DESIGN SUBMISSIONS

- 6.1 In recognition of the phased approach to the project construction and the requirements of Site clearing and enabling works, the development of design submissions will follow a similar phased approach, based on the project phases numbered 1-3 contained in Part 3.9 of the Output Specifications. Submission of Design Documents shall be as follows:

- (a) **Design Submission #1**

- (i) Phase 1 projects: 100% Design Development; and
- (ii) Phase 2 and 3 projects: 50% Design Development.

Note that it is expected that this Design Submission will be completed and submitted immediately following Financial Close.

- (b) **Design Submission #2**

- (i) Phase 1 projects: 100% Construction Documents; and
- (ii) Phase 2 and 3 projects: 75% Design Development documents.
- (c) **Design Submission #3**
 - (i) Phase 4 projects: 50% DD; and
 - (ii) Phase 2 and 3 projects: 100% Design Development documents.
- (d) **Design Submission #4**
 - (i) Phase 4 projects: 100% DD; and
- (e) **Design Submission #5**
 - (i) Phase 4 projects: 50% CD
 - (ii) Phase 2 and 3 projects: 50% CD.
- (f) **Design Submission #6**
 - (i) Phase 4 projects: 100% CD
 - (ii) Phase 2 and 3 projects: 100% CD.

7. MINIMUM SUBMITTAL REQUIREMENTS FOR THE CONSTRUCTION STAGE

Construction Contractor shall provide the following Construction Document Submittals to SMH for review and comment in accordance with this Schedule 10:

- 7.1** The Design and Construction Work Schedule in electronic native file format, which must be updated monthly by Construction Contractor and show the complete sequence of construction by activity, identifying Design and Construction Work of separate stages and other logically grouped activities, and indicate the:
- (a) dates for submission, review time, resubmission time and last date for meeting fabrication schedule of all required Shop Drawings and samples;
 - (b) the early and late start, early and late finish, float dates and duration of all activities;
 - (c) estimated percentage of completion for each item of the Design and Construction Work at each submission of schedule;
 - (d) a graphical comparison of the new start and finish dates for activities and events (including Design and Construction Work Milestones) in the Design and Construction Work Schedule with those in the last approved version of the Design and Construction Work Schedule;
 - (e) changes occurring since the previous submission of the Design and Construction Work Schedule, including:

- (i) the addition or deletion of activity relationships;
- (ii) the addition or deletion of activities;
- (iii) changes to activity durations;
- (iv) changes to milestone dates, including to the Design and Construction Work Milestones;
- (v) other identifiable changes; and
- (f) a narrative report defining:
 - (i) problem areas, anticipated delays, and impact on schedule;
 - (ii) corrective action recommended and its effect; and
 - (iii) effect of changes on schedules of the Construction Contractor Parties.

7.2 Shop Drawings and samples which will be processed by SMH include:

- (a) Coordination drawings of all millwork, casework and modular systems furniture will be reviewed for harmonization of ergonomics, equipment layout and mechanical/electrical outlet locations;
- (b) All in-contract medical equipment;
- (c) Security systems;
- (d) Signage and wayfinding systems;
- (e) Architectural feature elements and assemblies such as handrails, guardrails, feature stairs, canopies, etc.
- (f) Pharmacy medication systems;
- (g) All major mechanical equipment and systems; and
- (h) All major electrical equipment and systems, electrical coordination study and arc flash study.

7.3 All review comments from submissions to building authorities, insurance authorities and inspection authorities.

7.4 Progress photographs, updated monthly, from four vantage points, locations to be determined by SMH and/or the SMH Representative.

7.5 Material and finish samples (all exterior and interior finishes) and mock-ups, as noted in the construction specifications, including (but not limited to) mock-ups of the following:

- (a) Typical exterior glazing (curtain wall, structural glazing);

- (b) Typical cladding module, including curtain wall/glazing integrated with glass cladding or other cladding components;
 - (c) Sunshading devices (fins, louvers etc.);
 - (d) Handrails or guardrails in public spaces; and
 - (e) Significant feature elements, such as convenience stairs and escalators.
- 7.6 Mock ups must be full scale using materials that conform to materials specified, including work of all trades required to finish work and placement of all medical equipment and furniture, unless otherwise specified, supplied by owner.
- 7.7 Testing and inspection reports.
- 7.8 Construction Contractor proposed substitutions.
- 7.9 Deficiency reports, updated monthly.
- 7.10 Draft of Phase Commissioning Program.
- 7.11 Draft of the Tower Interim Completion Commissioning Program.
- 7.12 Draft of Final Commissioning Program.
- 7.13 Draft Scheduled Maintenance Plan.
- 7.14 Revised Lifecycle Replacement Schedule.
- 7.15 Draft Thirty Year Maintenance Plan.
- 7.16 Phase Commissioning Program.
- 7.17 Tower Interim Completion Commissioning Program.
- 7.18 Final Commissioning Plan.
- 7.19 Phase Completion Certificate.
- 7.20 Tower Interim Completion Certificate.
- 7.21 Substantial Completion Certificate.
- 7.22 Any other Submittals required or requested by SMH, acting reasonably, in order to understand the Design and Construction Work.
- 8. OTHER WORKS DOCUMENTS OR SUBMITTALS**
- 8.1 If Construction Contractor provides SMH with a document or submittal in respect of the Design and Construction Work that is not listed in this Appendix A (except as Construction Contractor is otherwise required to provide pursuant to the Design and Construction Contract or at the request

of SMH), then such document or submittal shall not constitute a "Design and Construction Work Submittal" as defined in Section 1 of this Schedule 10 – Review Procedure. SMH may in its discretion, in respect of such document or submittal, respond to or review all or any part of such document or submittal, including pursuant to the procedure set out in Schedule 10 – Review Procedure.

9. SUBMISSION READINESS MEETINGS

- 9.1** No fewer than 10 days prior to the scheduled date of the submission of each Design and Construction Work Submittal, the Construction Contractor Representative shall meet with the SMH Representative and representatives from IO and the PDC Team to review the progress and validate the content of the Design and Construction Work Submittal scheduled to be submitted. The SMH Representative, acting reasonably, may adjust the date of the scheduled submission of the Design and Construction Work Submittal if, in the reasonable opinion of the SMH Representative, such Design and Construction Work Submittal does not or is unlikely to not meet the requirements of the Design and Construction Contract by the date it is scheduled to be submitted.

SCHEDULE 11**DESIGN QUALITY PLAN AND CONSTRUCTION QUALITY PLAN**

1. The Parties acknowledge and agree that the Design Quality Plan and the outline of the Construction Quality Plan do not conflict with, reduce or otherwise modify or amend Project Co or SMH's right to review documents, and are subject to the Review Procedure and are, therefore, not yet in final form.
2. The Parties further acknowledge and agree that any provision of this Schedule 11 that is in conflict with or is non-compliant with any other provision of the Design and Construction Contract (including, for clarity, any provision of Schedule 15 – Output Specifications in general and any quality control provision of Schedule 15 – Output Specifications in particular) identified by Project Co or SMH pursuant to the Review Procedure or otherwise shall be corrected and rectified by Construction Contractor and brought into compliance with the Design and Construction Contract at the sole cost and expense of Construction Contractor and without any amendment to the Design and Construction Contract or the Design and Construction Work Schedule.

PART I - DESIGN QUALITY PLAN

Design and Construction Contract

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1. The Design Quality Plan provides the framework for Quality Assurance/Quality Control ("QA/QC") procedures during the development of the design in compliance with the requirements of the Design and Construction Contract.
2. Construction Contractor will follow Good Industry Practices in implementing QA/QC for the proper coordination and consistency of the Project.
3. Construction Contractor will implement specific measures in respect of the quality of work meeting the Design and Construction Contract requirements. These measures extend to the development and implementation of documentation checklists, Project QA/QC databases, ongoing peer reviews, internal coordination meetings, appropriate communication and reporting protocols and risk management procedures.
4. The Design Quality Plan shall ensure that the design development process is conducted in accordance with the Design and Construction Work Schedule and the requirements set out in Schedule 3 – Design and Construction Work Scheduling Requirements of the Design and Construction Contract.
5. The QA/QC procedures provide for or include the following:
 - (a) meeting the quality required by the Design and Construction Contract;
 - (b) minimize errors and omissions through design quality peer review process;
 - (c) continuity of personnel throughout all phases of design and construction;
 - (d) provide a structured means to integrate relevant stakeholders input while maintaining the design consistency through the use of tools such as minutes and the track compliance spreadsheet;
 - (e) QA/QC reviews are undertaken prior to submissions;
 - (f) responses to applicable comments with required documentation and follow-up meetings to achieve agreement prior to moving forward;
 - (g) implement checklists to assist in organizing design items and having technical submission that meet the requirements of the Design and Construction Contract. The checklists will be cross-referenced to the document register when amendments are made during the development phases in order to track changes and monitor compliance;
 - (h) confirm design quality control procedures;
 - (i) establish clear organizational structure which incorporates all relevant committees and communication requisite protocols;

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- (j) maintain an internal compliance checklist, which will be updated and used during each stage of the Project to review all items for compliance and comment and identify the final resolution of all items;
- (k) the level of design completion will be mutually agreed upon prior to submission using benchmarks developed by the Ontario Architectural Association ("OAA") in the Canadian Handbook of Practice for Architects and Schedule 10 of the Design and Construction Contract;
- (l) maintain the required level of consistency, compliance and feedback by using a set of rigorous technical reviews which are agreed to between design principals and senior staff and sub-consultants. Comments and revisions will be incorporated prior to each submittal;
- (m) during the construction document phase, architectural, engineering and landscape design information input will be gathered and acted upon to evolve the design process. A specified time frame shall be established in accordance with the requirements of Schedule 3 – Design and Construction Work Scheduling Requirements of the Design and Construction Contract, to allow the team ample opportunity to review submitted documents without delaying the municipal permitting process;
- (n) communicate with the CaGBC, the construction team and the municipality;
- (o) maintain communication and requirement logs with municipal authorities and CaGBC to monitor applicable code, planning regulations and LEED credits which are being satisfied prior to and during construction;
- (p) without limiting any other provision of the Design and Construction Contract, maintain an energy model throughout the design development and construction document stages to monitor Project energy goals;
- (q) document decisions with appropriate cross-references as well as any resolved discrepancies with the Design and Construction Contract requirements;
- (r) cooperate and coordinate to provide timely delivery of design packages and coordinate by division to mirror the construction phased process;
- (s) maintain quality control practices, such as photographs, documentation of changes, improvements or incidents, weekly inspections, a maintenance log, and the waste tracking log;
- (t) keep an updated document registry to record all project drawings, specifications, sketches, reports and amendments thereto;
- (u) establish a secure, encrypted FTP/project collaboration website, with a built in tracking feature, allowing all requisite team members, to access most recent documents, reports, drawings and other project related materials as well as meeting minutes and correspondence. The meeting minutes with action required/taken will be readily available;

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- (v) include a revision tracking component with a description of the revision and the reason for it in the document registry. The document registry coordinated with the revision tracking will be cross-referenced with the compliance checklist;
 - (w) utilize tools and processes to monitor and improve the quality of the design concepts, drawings and specifications, constructability and schedule timelines and provide assurance of compliance with the project documents and maximize interdisciplinary coordination;
 - (x) regular internal Project coordination meetings to establish production goals for that period;
 - (y) highlight staffing requirements/conflicts, ethical issues and inter-discipline coordination;
 - (z) interact on a regular basis with various disciplines to resolve coordination issues. Ad hoc coordination meetings to ensure that all disciplines provide the required input to solving problems promptly;
 - (aa) design checklists and construction practice memos to be regularly reviewed and updated;
 - (bb) the design team and construction team to conduct regular peer review meetings in respect of quality standards. Formal peer reviews will be documented with action items and deliverable/ completion dates;
 - (cc) implement a communication matrix that will identify the lines of communication amongst Project team members and a corresponding communications log to track Project communications. This log will act as a means to avoid issues or items from circumventing communication lines and will be the foundation upon which all project communication will be tracked and monitored;
 - (dd) implement a risk management plan and risk register to identify critical path items during the design development and construction stages that could affect the schedule or a design/construction task from proceeding. When a risk is identified, a responsible team member will be assigned to that item to minimize/resolve it; and
 - (ee) the matters and activities provided for in Appendix A
6. The following Table 1 identifies the key individuals who will be involved in design development throughout all stages of the Project:

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Table 1 Contribution Matrix—Key Resources Deployed during Design Development

Robert D'Errico	Construction Contractor Design Team Director	<ul style="list-style-type: none"> ▪ Provide leadership and management of the Design Team ▪ Oversee implementation of the PSOS planning requirements ▪ Primary point of contact for Construction Contractor ▪ Oversee the implementation of the design vision ▪ Lead design workshops with Design Manager and SMH 	Centralized & on-Site	100%	100%	25%
Frank Panici	NORR Design Team Manager	<ul style="list-style-type: none"> ▪ Provide leadership and management of the Design Team ▪ Oversee implementation of the PSOS planning requirements ▪ Primary point of contact for NORR ▪ Oversee the implementation of the design vision 	Centralized & on-Site	80%	60%	10%
David Clusiau	NORR Design Lead	<ul style="list-style-type: none"> ▪ Lead the design vision for the project ▪ Oversee design work shops 	Centralized & on-Site	30%	20%	10%
George Bitsakakis	NORR Lead Clinical Planner	<ul style="list-style-type: none"> ▪ Lead the clinical planning ▪ Oversee the implementation of the PSOS requirements ▪ Lead design workshops for clinical planning. ▪ Primary point of contact for clinical planning coordination for NORR 	Centralized & on-Site	30%	25%	10%

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Luke Lee	NORR Design Project Manager— Renovations	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the renovation sub. ▪ projects scope to support the design and construction process. ▪ Support approvals process. ▪ Ensure the design quality control procedures are implemented. 	Centralized & on-Site	40%	95%	30%
Aaron Smith	NORR Design Project Manager – PCT and New Shuter Wing	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the building envelope scope to support the design and construction process. ▪ Support approvals process. ▪ Ensure the design quality control procedures are implemented. 	Centralized & on-Site	40%	95%	30%
Attilio Labriola	NORR Senior Interior Designer for Public Spaces	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the interior design of the public spaces to support the design and construction process. ▪ Support approval process. ▪ Attend workshops related to interior design. ▪ Ensure design quality control procedures are implemented. 	Centralized & on-Site	50%	40%	10%
Mike Nătescu	MMM Lead Mechanical Designer	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the mechanical scope to support the design and construction process. ▪ Support approvals process and oversee implementation of PSOS requirements. ▪ Attend workshops related to the mechanical design. ▪ Ensure the design quality control procedures are implemented. 	Centralized & on-Site	35%	35%	15%

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Kevin Cassidy	MMM Lead Electrical Designer	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the electrical scope to support the design and construction process. ▪ Support approvals process and oversee implementation of the PSOS requirements. ▪ Attend workshops related to the electrical design. ▪ Ensure the design quality control procedures are implemented. 	Centralized & on-Site	25%	25%	10%
Christopher Minerva	MMM Lead Structural Designer	<ul style="list-style-type: none"> ▪ Oversee the preparation of design data for the structural scope to support the design and construction process. ▪ Support approvals process and oversee implementation of the PSOS requirements. ▪ Ensure the design quality control procedures are implemented. ▪ Attend workshops related to the structural design. 	Centralized & on-Site	25%	25%	10%
Corrie Mooney	MMM Lead for Sustainability and LEED	<ul style="list-style-type: none"> ▪ Oversee the sustainable design of the PCT and New Shuter Wing. ▪ Implement the LEED strategy and prepare LEED status reports for the Design and Construction Work Report. 	Centralized & on-Site	15%	15%	5%
Ali Husain	MMM Structural Project Manager	<ul style="list-style-type: none"> ▪ Produce structural design and construction documents. ▪ Coordinate structural design with other disciplines and user requirements. 	Centralized & on-Site	100%	100%	25%
Stephen Tang Fong	MMM Mechanical Project Manager	<ul style="list-style-type: none"> ▪ Produce mechanical design and construction documents. ▪ Coordinate mechanical design with other disciplines and user requirements. 	Centralized & on-Site	100%	100%	25%

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Lee Hyland	Commissioning Authority	<ul style="list-style-type: none"> ▪ Undertake and manage the commissioning process. ▪ Perform design and shop drawing reviews. ▪ Verify and minimize the impacts on existing mech/elec systems. ▪ Witness equipment testing and inspections and issue reports. 	Centralized & on-Site	20%	35%	40%	

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Appendix A

1. Maintenance of rigour over the design objectives during all phases.
2. Design consultations as required by the Design and Construction Contract.
3. Clear organization of documents for ease of access by all team members.
4. Schedule control within a multi-phase project delivery approach.
5. Harness the committed and intensive effort of an integrated team of architects, interior designers, engineers, specialist consultants, contractor and subcontractors.
6. Undertake a series of steps in partnership to provide for the design development meeting the requirements set out in the Design and Construction Contract.
7. Process for submission of design development documents including format, and both general and specific content.
8. Establish the make-up and decision-making hierarchy, the size and membership of the user groups, the scope and responsibilities of each group, and determine how issues arising from the user process can be resolved by Construction Contractor.
9. The agreed upon design development process will be recorded in a User Group Process manual.
10. Develop a road map to address compliance issues and provide for action and resolution.
11. Establish a task group to discuss equipment and the integration of specific equipment requirements into the design. Design of areas that require equipment will be refined to further address equipment criteria (i.e., space planning, capacity; mechanical, electrical, and data requirements; etc.). The equipment planner will be the prime point of contact for equipment information and functionality.
12. Specific design development and construction documents submittal milestones will be tracked and reviewed.
13. Regularly review their work in conjunction with the Design Quality Plan. Elements such as the building envelope, interior design, exterior areas and mechanical and electrical systems will be reviewed. During the development of contract documents, the detailed technical aspects will be reviewed in a manner similar to the review process for design development. Formal reviews will be undertaken prior to milestone design development and construction documents submittals.
14. A detailed work breakdown structure will be confirmed for the design, construction and commissioning phases of the work. The works submittals will incorporate all applicable

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design activities along with associated timelines, past achievements and future objectives. This will allow the design team to properly manage resources.

15. A detailed submittal list to be reviewed and approved by SMH or Project Co in accordance with Schedule 10 – Review Procedure of the Design and Construction Contract.
16. Key components of the design process to include: a defined schedule for the work breakdown structure and submittals, organized communication, a clear user group process, a step by step process for confirming compliance with the Output Specifications, a schedule of workshops, and a rigorous submittal and review process.
17. The work breakdown structure will be incorporated into the design work plan. A record log will be maintained to track the works submittals, date of receipt and Construction Contractor comments provided for each submittal. Construction Contractor will undertake the required works submittals in accordance with the review procedure set out in Schedule 10 of the Design and Construction Contract.
18. Confirming all necessary information is submitted to enable effective and efficient reviews. Key aspects of any works submittal will be the organization of the information, design compliance solutions as may be required and electronic versions of our overall compliance log and area reconciliation reports. Following the 100% design development works submittal, Construction Contractor proposes an interactive presentation and workshop session to clarify any outstanding or perceived compliance/design issues or questions. This interactive workshop will be effective and efficient in communicating and concluding compliance review responses and solutions.
19. Develop and confirm the appropriate communication protocol for the user group process. An effective consensus-building communication structure will be achieved by:
 - (a) Establishing an understood hierarchy of decision making within the user groups and within the overall organization of these groups;
 - (b) identifying the methodology for resolving issues; and
 - (c) Clarifying the roles and responsibilities of Construction Contractor as they pertain to each phase of the Project.
20. Explain communication protocol to all parties at the kick-off meeting in order to avoid misunderstandings and misconceptions as well as to establish a level of ease with the process.
21. Monitor the design quality. Design quality goals are more critical when one component must be fully complete before a closely related component is finished. The tendering schedule will allow the design team to focus on specific work that needs to be accomplished to meet the schedule milestones for design. This will also apply to the application and receipt of permits, licenses, approvals and agreements. To manage the process, Construction Contractor will allow for efficient management of internal priorities and appropriate allocation of staff and

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resources when required. The design team leaders will coordinate their staff resources to work within the requirements of the works schedule.

22. Monthly Project Progress Reports will be developed and distributed for review. The reports will include: current state of design, procurement, construction and start-up milestones; future milestones and approvals; current overall works schedule with progress and variance identified; and a critical path monitoring process. Construction Contractor will develop a "report card" to measure and report schedule, safety and quality metrics, which will be reviewed at the regular Works Committee meetings.
23. Consult and collaborate with Project Co or SMH to develop the schedule of actual design meetings and design workshops to include all matters listed in the Design and Construction Contract. The design meetings are subject-driven, focused meetings that include the participation of Project Co or SMH.
24. The design review meetings and design workshops are recorded as meeting notes and distributed by the Design Team. These meeting notes will provide an auditable record of the decision making process. The notes will be distributed for review by all attendees prior to formal distribution. They will identify:
 - (a) all key decisions and acceptance of the design requirements;
 - (b) follow-up actions and timelines;
 - (c) any additional information required of either SMH or Project Co or the Design Team;
 - (d) equipment issues including their coordination with building systems; and
 - (e) supporting documentation required to incorporate materials, finishes, equipment and services integration for items discussed in the design review meetings and design workshops.
25. The documentation and actions from both the design review meetings and design workshops will provide the Design Team with feedback to enable the design to proceed. The records of these meetings are an integral part of the design process and will be used to track decisions and issues for clarification. The following tools will be used by Construction Contractor to communicate design options:
 - (a) The ability of Design Team members to produce 2D and 3D sketches and at design workshops to help communicate ideas in order to expedite the development of solutions;
 - (b) The laying out of room sizes and proportions to scale with tape on the floor where required to demonstrate real scale, indicate clearances and functionality;
 - (c) Flow and functional diagrams to illustrate operational aspects of various components;

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- (d) During key stages of the Project, there will be formal evaluations of the design under development against the Output Specifications to identify any remaining variances or to identify preferred options with the following objectives:
- (i) the most efficient translation of the functional program;
 - (ii) optimize construction opportunities; and
 - (iii) meet the design, procurement, and construction schedules.
26. Establish and implement specific focus groups for sustainability and accessibility, who will focus on specific design issues related to sustainability and accessibility. The focus groups will be monitored, recorded, and tracked in the same manner as the design workshops and distributed to the appropriate team members as applicable. The agenda will focus on issues that require detailed follow-up and will be tracked through to resolution. During focus groups the requirements for SMH or Project Co will be reviewed in detail and the design solutions will be communicated to the user groups and incorporated into works submittals.
27. The **distribution of documents** will be controlled by recording a series of numbering designations in sequence (ex. Issued for Permit/Review/Construction, etc. "1", Issued for Permit/Review/Construction etc. "2", etc.) for formal issuance of document packages such as the Issued for Construction Drawings and Tender Packages. Subsequent revisions would be sequentially numbered. The date of the revision will be tracked in the document as well; on drawings, the date and reason for issue are tracked in the drawing title block for ease of reference. A schedule of anticipated document packages with clearly defined scopes of work will be developed at the Project start.
28. The **review process** for document reviews will use standardized terminology (i.e., Reviewed, Reviewed as Noted, and Rejected) and will allow for text explanation regarding such directions.
29. A **document register** will be used to document and track all documents submitted and distributed for record and review including re-issuance of documents to accommodate amendments to the Output Specifications or construction and operational requirements. The document register will be reviewed at weekly or bi-weekly Project meetings as required depending upon the stage, and included in the formal monthly reports and works report. The document register will track revisions including the subject of the revision, the reason for the revision, and stakeholders responsible for initiating or requesting the revision. All design data including plans, sketches, meeting notes, data, specifications, and photographs will be distributed and filed in accordance with the established filing system as documented in the approved Design Quality Plan.
30. Quality Management is implemented by Construction Contractor to support the design development process and provide ongoing design quality control, and compliance with the requirements of the Output Specifications. Monitor the auditing process of design and assist the design team to minimize risks as the Project proceeds through documentation,

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construction, commissioning, and transition and manage the overall coordination of the quality assurance program and the efforts of key members with respect to design and contract documentation. This includes participation in the design process, reviewing and monitoring progress of the design, and ensuring the design is compliant with the submission requirements, codes, and standards.

31. For objectivity and oversight, the peer review team will be comprised of experienced planners and designers who are not actively involved in the Project. Led by the Design Team architect, peer reviews will take place prior to all work submittals in Schedule 10 of the Design and Construction Contract, for compliance with applicable codes, technical standards, and practices. Members of Construction Contractor's architectural and engineering consultants will conduct reviews of all applicable building systems and construction assemblies. This review is conducted internally amongst the Design Team to provide further quality assurance. Outcomes of the reviews will highlight areas of design that may require further refinement prior to the works submittals.
32. The leader for design workshops will chair the sessions and ensure the workshops stay on topic and obtain design direction and consensus in a timely manner.
33. A team comprised of major consultants (structural, mechanical, electrical, landscape and LEED) will meet on a monthly basis throughout the duration of the Project, as required, to review the progress of the Project. This meeting will monitor any potential issues delaying completion of the works submittals.
34. **Pre-Review of 100% Construction Documents Submittal**—Prior to release of the final documents, the design team will confirm that all necessary reviews have been completed and the results of those reviews are incorporated into the design documents and will present and describe any revisions to the 'Issued for Construction' drawings with SMH or Project Co prior to formal issue in 100% construction documents submission.
35. **Bid Package Review**—The Design Team will be comprised of personnel assigned to review and verify that Construction Contractor has complied with the Design Quality Plan and shall review all tender packages prior to release to subcontractors and/or suppliers for construction bids.
36. The design team will work together with user groups using an integrated, multi-disciplinary design team approach

PART II – OUTLINE OF CONSTRUCTION QUALITY PLAN

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1. Construction Contractor will implement a Construction Quality Plan in respect of construction quality management for the Project.
2. The Construction Quality Plan will identify guidelines, controls, procedures and checklists for maintaining and providing construction quality throughout the Project. The Construction Quality Plan will comply with the requirements of the Design and Construction Contract and shall be submitted to SMH or Project Co within 60 days following Financial Close pursuant to Section 15.1(d) of the Design and Construction Contract. It will be the basis for quality review throughout the Project. Implementation of the Construction Quality Plan through scheduled Design Team meetings, regular inspections by testing and inspection agencies, and on site monitoring, will provide for consistent workmanship and enforcement of defined QA/QC measures.
3. The following key roles and responsibilities of each construction QA/QC team member form part of the Construction Quality Plan.

Role	Responsibility
Build Team Director	<ul style="list-style-type: none"> • Is responsible to coordinate and manage overall construction activities on site.
John Aquino	<ul style="list-style-type: none"> • Will report to Construction Contractor, and be responsible for communication of QA/QC activities to the Works Committee; • Will approve final Construction Quality Plan for implementation; • Will report status and progress of Construction Quality Plan to the Works Committee; • Will issue directives for correction of non-conformance to the QA/QC Manager; • Will participate in regularly scheduled Construction Quality Plan meetings with the QA/QC Manager and the Quality Manager; and • Will review results of internal audits and issues directives for corrective action required due to audit findings.
Quality Manager	<ul style="list-style-type: none"> • Is responsible for tracking reports and enforcing adherence to procedures, methods and specification for the site.
Claudio Ruoso	<ul style="list-style-type: none"> • Will take action and implement directives from the Build Team Director; • Will provide a single point of contact for the Build Team Director to obtain information related to the progress and implementation of the Construction Quality Plan and defining directives for corrective action; • Will, through the QA/QC Manager, conduct site audits on an as needed basis to ensure conformance to the Construction Quality Plan, policies and procedures; • Will complete required QA/QC reports and documentation and forward for review to the Build Team Director and the Works Committee; and • Will monitor and report on the overall progress on all sites for resolving non-conformances resulting from internal audits.

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Project Manager Faisal Gaya	<ul style="list-style-type: none"> • On QA/QC matters, will report directly to the Quality Manager regarding site management; • Will work collaboratively with the Site Manager/Superintendent and QA/QC Manager to monitor and confirm adherence to the Construction Quality Plan; • In cooperation with the Site Manager/Superintendent and QA/QC Manager, is responsible for maintaining accurate and complete QA/QC records, including inspection/audit reports, checklists and issues resolutions reports; • Will confirm quality of workmanship meets defined quality standards through daily/weekly inspection and audits; • Will confirm adherence to construction drawings and specifications, schedules and timelines through regular audits and inspections; • In collaboration with the Site Manager/Superintendent, will address Site personnel, supplier and subcontractor non-conformances and corrective actions as required, and forward related information and reports to the Quality Manager; • Will chair the Site specific meetings, record and distribute meeting minutes, as required.
Site Quality Assurance/ Quality Control Manager (QA/QC Manager) Claudio Ruoso	<ul style="list-style-type: none"> • Reports directly to the Quality Manager. • Will oversee QA/QC implementation and monitor QA/QC conformance at the site levels, and work collaboratively with the Project Manager and Site Manager/Superintendent to implement the Construction Quality Plan and expectations defined in the Construction Quality Plan through regularly scheduled meetings and through a formal audit and inspection program; • Will monitor and report on progress of non-conformance resulting from internal audits at site level to QA/QC Manager • Will complete required QA/QC reports and documentation and forward for review to the Quality Manager; and • Will monitor and report on the progress of resolving non-conformances resulting from internal audits specific to the Site • Will track and review the effectiveness of any corrective and preventive actions taken
Site Manager/ Superintendent Bill Verhoog	<ul style="list-style-type: none"> • Will work collaboratively with the respective Project Manager to ensure all on-site personnel and subcontractors are aware of their QA/QC roles and responsibilities; • Is responsible for maintaining accurate and complete records in cooperation with the Construction Manager, and ensuring timely delivery of reports to the QA/QC Manager; • Will verify that products and services are consistent with conditions set out in the issued for construction drawings and purchase orders; • Will monitor quality of workmanship in respect of the Design and Construction Contract requirements including specifications, schedules and timelines through regular audits, daily inspections, communications and formal and informal meetings with site personnel and subcontractors; • Will confirm and record monitoring and testing is performed according to the Design and Construction Contract requirements and accepted standards and

practices;

- Will review issues of non-conformances with the Project Manager, and develop and implement plans for corrective actions if and as required; and
 - Will manage and confirm the implementation of corrective actions, as agreed to, by conducting inspections and audits and documenting results through checklists and reports.
 - Will affirm that quality of workmanship meets the standards and specifications set out in the Design and Construction Contract.
-

4. Construction Contractor will:

- (a) undertake a methodical and organized review process of drawing and design document submittals;
- (b) attend regular design review meetings, as a fully integrated part of the design process, to confirm the development program meets the overall Project requirements; and
- (c) assist in maintaining design production schedules by promptly resolving questions of design compliance with a cooperative approach

5. Outline of Construction Team's Quality Management System:

- (a) Construction Contractor will develop a Quality Procedures Manual to provide a comprehensive description of all required reporting, quality procedures, inspection and test plan templates, inspection reports and sign-off sheets. The site documentation will be developed by the QA/QC Manager and approved by the Build Team Director, and site-specific documents will be monitored by the Project Manager and Site Manager/Superintendent.
- (b) Specific elements of the Quality Control Procedures Manual will provide for the following:
 - (i) document and record control;
 - (ii) design control;
 - (iii) procurement;
 - (iv) shop drawing and mock up processes;
 - (v) identification and traceability;
 - (vi) preservation of site;
 - (vii) testing and control of monitoring and test devices;
 - (viii) Operation and Maintenance Manual development;
 - (ix) internal quality audits;

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- (x) control of non-conforming materials;
 - (xi) corrective and preventive action;
 - (xii) warranty process; and
 - (xiii) training processes.
- (c) For clarity, subject to and without limiting any provision of Schedule 15 – Output Specifications, (A) Construction Contractor will engage independent testing agencies to provide professional testing inspection services and to review materials and methods utilized on site in respect of conformance with the Design and Construction Contract requirements; and (B) the inspections that will be carried out include the following:
- (i) excavation, backfill and compaction;
 - (ii) founding soils;
 - (iii) foundation drainage;
 - (iv) paving;
 - (v) concrete and concrete reinforcement;
 - (vi) precast concrete structural steel and steel deck;
 - (vii) waterproofing;
 - (viii) roofing;
 - (ix) air and vapour barriers;
 - (x) glazing systems;
 - (xi) manufacturer inspection and certification where required;
 - (xii) sheet metals;
 - (xiii) sealants;
 - (xiv) fireproofing;
 - (xv) off gas & air quality;
 - (xvi) fire stopping; and
 - (xvii) M&E
- (d) Various Inspections

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- (i) During the final stages of the design phase, selected Construction Contractor's subcontractors will be engaged, as required, to provide input on matters including the availability of materials, practicality of design details and suggested alternatives relating to the requirements defined in the Design and Construction Contract. Material samples and/or specification materials will be submitted to the Design Team for approval. This quality assurance step will deal with the material specifications (including color) meeting the overall Project Agreements requirements.
- (ii) Inspection of samples or 'mock ups' will be undertaken by the Site Manager/Superintendent to establish and document a standard of acceptance relative to the quality of workmanship for specific subcontractors.
- (iii) When the work is completed, a completion inspection will be performed and the work will be signed-off by the Site Manager/Superintendent and/or the Project Manager and Build Team Director, as appropriate.
- (iv) At least two weeks prior to the completion inspection a pre-inspection will be undertaken by the Site Manager/Superintendent and subcontractor to generate a completion punch-list and associated deficiency completion schedule.
- (v) A formal sign-off sheet and report will be completed and included in the QA / QC documentation, which will be issued to the QA/QC Manager.
- (vi) Each building system will be tested and adjusted, as required, to achieve system performance in conformance with operational requirements, as defined by the performance specifications and confirmed by the Design Team.
- (vii) Testing and inspections will be carried out in accordance with the Design and Construction Contract requirements.
 - (A) Independent consultants retained by the Construction Contractor will conduct tests and inspections.
 - (B) Non-compliance issues, noted during the testing and inspection phase and/or during quality control reviews, will be reported to the QA/QC Manager. Quality Control reviews of compiled test data will be conducted on an on-going basis by the Site Manager/Superintendent and Project Manager, as test data becomes available. Corrective actions will be defined and implementation confirmed through a follow-up inspection undertaken by the Site Manager/Superintendent and Project Manager.
- (e) During construction, the Design Team will regularly visit the site and support the on-site team.
 - (i) The Design Team will be provided with ongoing QA/QC reports to review the progress of the Project delivery program and to monitor compliance with the Project.

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- (ii) The Design Team will prepare and submit inspection reports to the QA/QC Manager. Reports identifying corrective actions will be noted in subsequent inspection reports to monitor implementation of corrective actions.
- (iii) During site visits, record drawings will be reviewed for deviation from the issued for construction drawings.
- (f) Construction Contractor will verify design conformance and compatibility and:
 - (i) obtain mill test reports for verification of fabrication standards;
 - (ii) require shipping is planned in suitable packaging and containers to adequately protect materials from damage (weather or otherwise); and
 - (iii) conduct an inspection of the fabrication premises to monitor work is in progress.
- (g) Prior to installation of all partitions and acoustic caulking, to establish a standard of acceptance Construction Contractor will:
 - (i) construct mock-ups, where required, using installers, equipment, tools and processes that will be utilized during the actual installation process; and
 - (ii) construct mock-ups well in advance of final installation dates to allow sufficient time to review and modify details, if and as required.
- (h) To maintain required quality standards and consistent workmanship throughout the Project, Construction Contractor will:
 - (i) require all installers hold the appropriate qualifications (e.g. welding certificates)—this will be confirmed and monitored at the site level;
 - (ii) review the installation procedures with site superintendents, subcontractors and manufactures prior to installation;
 - (iii) reconfirm rough openings, critical field dimensions, anchorage and conduit locations with a qualified surveyor prior to commencing installation;
 - (iv) audit subcontractor quality control processes; and
 - (v) maintain a proper record of installation process (including photographs, as appropriate)
- (i) Construction Contractor will cause Design Team, through regular site visits, meetings and design input, to review the ongoing construction in respect the facility being constructed in accordance with Design and Construction Contract requirements.
- (j) Construction Contractor will implement specific procedures and special site-specific measures that will form part of the QA/QC Plan and minimize the potential of unintentional indoor contamination.

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- (1) Construction Contractor will implement an Indoor air quality plan to mitigate the potential for unintentional contamination, which includes:

Refer to chart on following page

Objective	Activities Include
Prohibit Smoking	<ul style="list-style-type: none"> • Smoking will be prohibited in the facility during construction to minimize exposure of tobacco smoke to building occupants, indoor surfaces and ventilation air distribution systems.
HVAC Protection	<ul style="list-style-type: none"> • During construction, the HVAC equipment will be protected to minimize dust and odour collection. • During construction the HVAC system will be shut down whenever possible. • As soon as equipment and ducts have been installed, openings will be sealed with plastic to prevent potential contamination (when the system is non-operational). • Ducts, diffusers and windows are cleaned following construction. • If the HVAC system is used during construction for temporary building heating, MERV 8 filters will be used on all HVAC grills, maintained regularly and replaced following construction. • Mold protocol will be monitored (see below).
Source Control	<ul style="list-style-type: none"> • All finish material (paints, sealants, carpets, etc.) will have low VOC levels as per LEED® Canada-NC EQ Credits 4.1-4.3 (Site Manager/Superintendent will verify only pre-approved products are used at each site). • Operation of heavy equipment will be controlled and monitored by Site Manager/Superintendent (operation will be restricted near building openings where emissions could be drawn in to occupied areas, electric or bottled gas powered equipment will be used where feasible, equipment will shut-off when not in use). • Good Industry Practices will be employed to minimize airborne dust and odour typically associated with activities such as demolition, cleaning and painting.

- Pollution sources will be vented directly outdoors and away from intakes in compliance with applicable regulations (if exhaust to the exterior is not feasible, re-circulation through a portable air filter will be employed).
 - Reduce emissions from exposed surfaces by enclosing tankers used for roofing, covering or sealing waste materials, or applying sealer to surfaces having a persistent source of odour.
- Pathway Interruption
- Prevent air movement from contaminated areas to clean areas through depressurization of the work area and pressurization of clean areas.
 - Erect barriers and dust hoarding to contain construction areas, temporarily seal the building if required and relocate pollutant sources as appropriate.
- Housekeeping
- Suppress dust with wetting agents or sweeping compounds.
 - Clean spills as soon as possible and only use low-odour emitting cleaning agents.
- Scheduling
- The construction sequence should minimize the potential for absorption of volatile organic compounds by porous materials (e.g. Painting prior to furniture and carpet installation).

(k) Coordination and Management of Multiple Quality Assurance Systems

- (i) Construction Contractor will appoint a Quality Manager. The Quality Manager will monitor compliance with the overall Construction Quality Plan. The Quality Manager will be responsible for monitoring all QA/QC activities throughout the construction progress on-site. Construction Contractor will establish a monitoring program to oversee the effectiveness of the Construction Quality Plan and monitor compliance, including:
- (A) implementing the use of checklists to verify compliance, with sign-off by the Quality Manager
 - (B) regular site inspections by the Quality Manager to monitor field conformances and the proper use and implementation of the Construction Quality Plan; and

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- (C) performing regular reporting to the Project Manager in respect of the Construction Quality Plan and its use, deficiencies are adequately identified, and corrective actions have been implemented.
- (ii) It will be the responsibility of the Construction Manager to provide the required reporting and documentation to the Quality Manager to monitor compliance to the Construction Quality Plan during the construction process.

6. Procurement Process

When procuring products and installation services related to Equipment and components, Construction Contractor will:

- (a) select suppliers and manufactures on the basis of their ability to deliver the product and services reliably and consistent with the requirements as set out in the PSOS and quality assurance requirements;
- (b) obtain qualifications and references from manufactures and suppliers to assess previous related work, applicable welding and manufacturing standards and certifications, in addition to the ability deliver material on schedule;
- (c) determine availability of replacement parts;
- (d) obtain qualifications installers of all components; and
- (e) conduct post-tender interviews of suppliers and manufactures to confirm understanding of Project performance specifications, scope and delivery schedule and associated milestones.

7. Schedule and Delivery Milestone

The delivery and installation of Equipment is expected to be part of the critical path for the construction of the Facility. To avoid unforeseen schedule delays, the Quality Manager will work with the Project Manager and Site Manager/Superintendents to:

- (a) list particular Equipment as individual line items on the detailed construction schedule, to indicate milestone dates for each of: procurement, delivery and installation;
- (b) define schedule requirements and milestone dates for supplier and manufacturer purchase orders; and
- (c) ensure the scheduled delivery dates consider when lockable, weather tight, secure storage areas are available for receipt of goods.

The Construction Contractor will, in conjunction with Project Co, work diligently through the Project Co Representative in the Equipment Steering Committee to coordinate the procurement and installation of all Not-In-Contract Equipment, in accordance with the Design and Construction Work Schedule.

8. Mock-Ups

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In order to ensure an acceptable level of quality of workmanship, the Construction Contractor will, in accordance with Schedule 15 of the Design and Construction Contract:

- (a) prepare a schedule for mock-up review; and
- (b) construct and maintain mock-ups during construction in an undisturbed condition.

Mock-ups will serve as a standard for judging the remaining Design and Construction Work. For further clarity the mock-ups is not a design tool, but rather for verification of fit and finish and, according to the type of mock-up listed, Construction Contractor will prepare and provide transportable or site mock-ups to SMH in accordance with Schedule 15 – Output Specifications of the Design and Construction Contract.

9. Installation Process / Subcontractor Management

To maintain high quality standards and consistent workmanship throughout the Project, Construction Contractor will:

- (a) ensure all installers have obtained and hold the appropriate qualifications (i.e. welding certificates) – this will be confirmed and monitored at the Site;
- (b) review the installation procedures with Site Superintendents, subcontractors and manufactures prior to installation;
- (c) reconfirm rough openings, critical field dimensions, anchorage and conduit locations with a qualified surveyor as required prior to commencing installation;
- (d) audit subcontractor quality control processes; and
- (e) ensure a proper record of installation process is maintained (including photographs, as appropriate).

10. Role of Project Design Consultant

Construction Contractor recognizes the value and need for a professional design consultant ("PDC"), through both design and construction, to bridge the gap between competing interests. The PDC shall assist in mitigating and resolving any perceived disputes as they relate to design conformance issues. Ultimately, the role of the PDC will be to deliver Project efficiencies, facilitate the delivery of a high quality product, and to contribute to the reduction of delivery costs and scheduling risk.

Through a systematic approach to documentation review, the PDC will seek to resolve open design issues and foster an atmosphere of awareness and open communication between Construction Contractor, Project Co, SMH, and other Project stakeholders. In performing this role, the PDC shall:

- (a) undertake a methodical and organized review process of drawing and design document submittals;
- (b) attend regular design review meetings, as a fully integrated part of the design process, to confirm the development program meets the overall Project requirements; and

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- (c) assist in maintaining the Design and Construction Work Schedule by promptly resolving questions of design compliance with a cooperative approach; and
- (d) attend meeting of the Works Committee as required.

11. Design Team Integration

The involvement of the Design Team and commissioning agents will be required throughout the construction process. Through regular site visits, meetings and design input, the Design Team review of the ongoing construction will be critical to ensuring that the Facility is constructed smoothly and homogenously. The Design Team input will assist in avoiding any errors or issues that may arise due to lack of coordination that might be encountered during the construction process and will provide SMH with the highest quality Facility possible.

12. Erosion and Sediment Control

The following objectives define the intent of the erosion and sedimentation control plan for the Project:

- (a) control erosion to reduce negative impacts on surrounding water quality;
- (b) prevent loss of soil during construction by storm water runoff and/or wind erosion;
- (c) protect areas of exposed soil;
- (d) protect topsoil by stockpiling for reuse;
- (e) prevent sedimentation from entering into storm sewers or receiving streams;
- (f) control surface water runoff and trap sediment through use of silt fences, straw bales, etc.;
- (g) identify, implement and document measures to achieve the erosion and sedimentation control objectives listed above, when and where necessary on Site;
- (h) conduct regular inspections of the erosion and sedimentation control measures; and
- (i) assess the serviceability of the control measures in place on the site and, when necessary, document the remediation required and action taken.

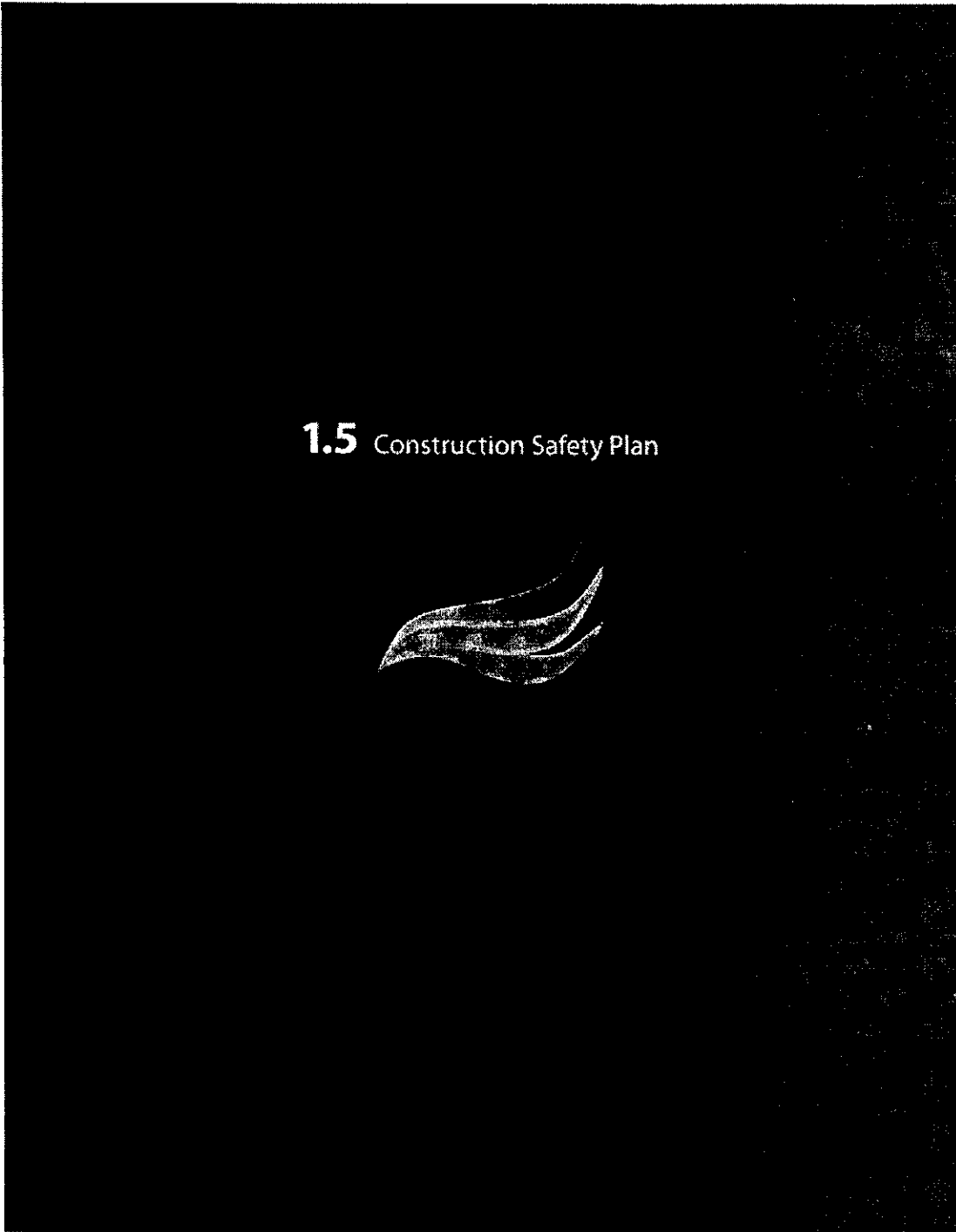
SCHEDULE 13

CONSTRUCTION CONTRACTOR PROPOSAL EXTRACTS

1. For the purpose of the Design and Construction Contract, the “**Construction Contractor Proposal Extracts**” collectively, means:
 - (a) the construction safety plan attached hereto as Appendix A – Construction Safety Plan (the “**Construction Safety Plan**”); and
 - (b) the equipment sub-plan to be submitted pursuant to Appendix B – Equipment Sub-Plan attached hereto (the “**Equipment Sub-Plan**”).
2. The Parties acknowledge and agree that the Construction Contractor Proposal Extracts are in the nature of clarifications, interpretations and/or enhancements to the Design and Construction Contract (including, for certainty, the Output Specifications) and, as such, are not intended to and do not conflict with, reduce or otherwise modify or amend the Design and Construction Contract.
3. The Parties acknowledge and agree that the Construction Contractor Proposal Extracts:
 - (a) do not conflict with, reduce or otherwise modify or amend SMH or Project Co’s right to review documents; and
 - (b) are subject to the Review Procedure and are, therefore, not yet in final form.
4. Construction Contractor agrees that any non-compliant items identified by SMH or Project Co pursuant to the Review Procedure shall be brought into compliance with the Design and Construction Contract by Construction Contractor at the sole cost and expense of Construction Contractor and without any amendment to the Design and Construction Work Schedule.

APPENDIX A – CONSTRUCTION SAFETY PLAN

- Please see the attached plan -





St. Michael's Hospital Redevelopment Project

Design - dated February 1, 2009 No. 13-159P

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1.5 Construction Safety Plan

1.5.1 Construction Safety

The St. Michael's Hospital Partnership (SMP)'s Safety Team's main priority from Financial Close to Project Completion of the St. Michael's Hospital Redevelopment Project (SMHRP) will be to implement, execute and monitor a Construction Safety Plan that recognizes and understands that the health and safety of the patients, staff and visitors to the Facility is paramount.

Our team's commitment to safety was demonstrated during construction of the St. Michael's Hospital Victoria Street Addition. The project, successfully completed in 2002 by Bondfield Construction, was a complicated project executed within a working hospital, with no safety issues recorded.

SMP's Construction Safety Plan brings Bondfield Construction's (BCCL) well-recognized health, safety and environmental program, which have been referred to as a "standard in Health and Safety" by the Ontario General Contractors Association ("OGCA") and the Workplace Safety and Insurance Board ("WSIB"). SMP's Health & Safety Program meets or exceeds the requirements of the Occupational Health & Safety Act of Ontario. Safety is a number one priority on each and every project of our Safety Team and we commit to bringing that SMP's Safety Team is well versed in the design / build delivery mode for major infrastructure projects, with current portfolio of Infrastructure Ontario projects, such as:

- ☒ Women's College Hospital (joint venture with Walsh Construction)
- ☒ Credit Valley Hospital
- ☒ Windsor Regional Hospital
- ☒ Runnymede Healthcare Centre
- ☒ South West Detention Centre

Lessons learned on these projects, as well as other projects form the basis for best practices for construction safety

Statement of Commitment to Construction Safety

While Section 11.20 of the Project Agreement describes Safety Responsibility, during various phases of construction, SMP's Safety Team is committed to a Construction Safety Plan that meets or exceeds these requirements. Our Safety Team is committed to provide an injury free environment to all workers, visitors and immediate neighbours. Recognizing that everyone is entitled to work in a safe and healthy workplace, SMP's Construction Safety Plan shall stipulate all work be conducted in a safe manner using appropriate means. Short cuts and achieving progress by ignoring safe practices shall not be tolerated at any cost. Performing tasks safely and ensuring that these actions do not result in accidents or create unsafe conditions, requires knowledge of identifying potential hazards, pre-planning and individual responsibility.

St. Michael's Partnership 

All site based workers, including employees, supervisors, managers and subcontractors shall have the responsibility to ensure a safe workplace and are expected to follow the requirements of SMP's Construction Safety Plan that has zero tolerance policy.

Our team believes that health and safety in the workplace, is an integral aspect of our business and everyday lives. These principles are communicated to all members of SMP, subcontractors, suppliers and others, who conduct work on or in our workplace. In order to prevent workplace accidents and maintain safe and healthy working conditions throughout the SMHRP, we commit ourselves to the following:

- ☒ Promote health and safety awareness, training and education.
- ☒ Work closely with the health and safety professional in the prevention of accidents and reduction of risk
- ☒ Encourage a pro-active approach to all health and safety issues
- ☒ Monitor the workplace conditions and implement corrective measures where required
- ☒ Provide assistance to Health and Safety Representatives and Joint Health and Safety Committees.
- ☒ Consider legislative health and safety requirements as the minimum standard
- ☒ Take every reasonable effort to provide suitable safe and early return to work opportunities for every employee who is unable to perform his or her regular duties following a work-related injury or illness.
- ☒ Require that subcontractors commit themselves to the above
- ☒ Evaluate employees and subcontractors' safety performance.

Safety Training for the Construction Team

On every construction project, construction safety is a high priority. To ensure this goal is achieved, all subcontractors will be required to carry cards recognized by the Work Safety and Insurance Board for WHMIS, and fall protection. In addition all construction staff will be required to formally confirm compliance with defined safety standards as set out in the safety program and reviewed at the safety orientation, and weekly and monthly safety meetings.

All SMP construction staff, visitors and subcontractors will attend a project specific orientation training program presented by SMP's Health and Safety Coordinator. This training session will be ongoing throughout all four phases of the Project as new construction staff and subcontractors are engaged. The following topics are covered in this training session:

- ☒ explanation of workplace and expected duties;
- ☒ reference of company safety policy and safety program;
- ☒ personal protective equipment requirements;

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- ☐ reporting requirements, accidents, injuries and discomforts;
- ☐ reporting unsafe conditions or acts;
- ☐ first aid stations and attendants;
- ☐ Emergency Response Procedures;
- ☐ workplace safety personnel identification;
- ☐ specific hazards identified; and
- ☐ Site safety signage.

This training will ensure the all construction staff and subcontractors understand their expected duties on Site; knowing and understanding SMP's Construction Safety Plan and its requirements. The safety orientation will also stress heavily on the site rules for working within the existing hospital during the sub renovation projects. SMH's document "Site Rules for Contractors" will be discussed and reviewed point by point during the safety orientations to ensure that everyone working in the existing facility understands and respects the challenges associated in executing construction work in a working hospital.

Monthly Safety Meetings

Monthly safety meetings will take place at the Site and will be delivered by SMP's Health and Safety Officer. Meeting minutes will be taken and reviewed during the Joint Health and Safety Meetings, which will be held every three months. Construction staff and subcontractors will be required to attend the meetings, which will address:

- ☐ potential hazards that will be encountered within the month to follow;
- ☐ review of safe work procedures for identified tasks.
- ☐ review of daily/weekly inspection reports, including discussions regarding ongoing concerns
- ☐ create a forum to raise safety questions and concerns, while also providing an opportunity for workers to come up with new ideas and procedures to solve a problem

Local Ministry of Labour inspectors are welcome and encouraged to attend and participate in these meetings to inform the subcontractor safety representatives of any concerns or encouragements they may have. Monthly Safety Meetings create a forum to raise safety questions and concerns, while also providing a place for the trades to implement new ideas and procedures from current and/or modified best practices.

Weekly Safety Toolbox Meeting

Weekly safety toolbox meetings will be conducted on site and attended by construction staff and subcontractors. Topics will vary weekly to address current issues or changes to current practice. Additionally, the following items will be addressed consistently:

- ☐ meeting minutes will be discussed (from the previous week and the monthly Safety Meetings, as needed);

- ☐ review of any future potential safety hazards or concerns and resolution approaches;
- ☐ near miss trending, monthly Labour of Labour or Management Inspections, reward and recognition programs for good safety
- ☐ trade specific safety regulations impacted by upcoming construction activities; and
- ☐ questions and answer period to review observed safety concerns.

Safety Monitoring, Inspections and Record Keeping

The common link between Site Safety Evaluation and training is the SMP Health and Safety Officer. This key contact will be available to the site and management personnel, and to SMH, to address issues relating to safety and will play a key role in the inspection, record keeping and monitoring processes for each phase and project. Information gained by the Health and Safety Officer will be shared through regularly scheduled meetings and formally through the Joint Health and Safety Committee. The Site Superintendents will oversee all on-site, day-to-day activities and ensure all relevant safety related information is shared on-site and is communicated quickly and appropriately for wider dissemination.

Workplace Safety Inspections will be used to evaluate compliance and the effectiveness of the Construction Safety Plan. The inspections are intended to identify work practices, site conditions and situations that could cause or contribute to accidental loss. These inspections occur informally everyday but formal inspections are performed once a week by the Site Superintendent or once a month by the Health and Safety Officer. Prior to starting the inspection, participants will meet to review the inspection criteria and previous inspection report, and identify outstanding items to be reassigned if necessary. The inspection process will include:

- ☐ documenting the inspection team's attendance;
- ☐ observing and documenting deficiencies and correcting imminent danger and high hazard items immediately;
- ☐ assigning corrective action responsibilities as quickly as possible (including report back from personnel assigned corrective actions); and
- ☐ preparing the final inspection report, which will be reviewed at the Joint Health and Safety Committee meetings.

The Health and Safety Officer is responsible for investigating and correcting any observed or reported unsafe conditions. Record keeping is a key aspect to the delivery of a safe work environment. Records will be kept and presented at the Joint Health and Safety Committee meeting every three months. If there is an accident on Site, an Accident Investigation Report will be completed, which includes a description of the event and associated analysis and prevention recommendations.

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Description of Role of Staff Dedicated to Site and Facility Safety

To control and monitor safety on the Site and throughout the project, the Health and Safety Committee will meet every three months, or as needed, to review all safety related policies, procedures and site safety related incidents reported by the Health and Safety Officer, Project Managers or Site Superintendent.

☒ The Health and Safety Officer will be responsible for managing the overall Safety Program for the Projects, including the distributing of safety material, as well as performing and documenting formal safety inspections. The Health and Safety Officer will report directly to the Health and Safety Committee and Build Team Director.

☒ The Site Manager/Superintendent is responsible for performing the day-to-day safety reviews and inspections, and reporting any adverse findings to the Construction Manager.

The following table (Table 1.5.1-1) provides a summary description of the roles and responsibilities of SMP's dedicated project Health and Safety Team:

Accident and Incident Reporting and Response

The Health and Safety Officer will have to be notified immediately of all accident/incident occurring and investigated and documented on a safety form as soon as possible.

Investigations are required to be completed and reports submitted to the Health and Safety Officer for their review to ensure appropriate action is implemented to prevent future accidents / incidents from occurring. A benefit of this system is to take lessons learned and use them to improve activities in a constant process to improve incident and injury free work space.

The Health and Safety Officer has the responsibility to investigate and correct unsafe conditions observed or reported by anyone. Records of all inspection will be presented to the Health and Safety Committee. These records will also be kept as part of the construction document management program, using an FTP web based system where site safety personnel will enter data, reports and other pertinent documentation (e.g. toolbox talks, safety inspections, incident reports).

Table 1.5.1-1: Occupational Health and Safety Responsibilities

Role	Responsibilities
Health and Safety Committee	<ul style="list-style-type: none"> ☒ Committee to review all safety related policies, procedures and Site safety related incidents reported by the Health and Safety Officer ☒ Reports directly to the Project Director
Health and Safety Officer	<ul style="list-style-type: none"> ☒ Assigned to oversee safety at project level and report to Health and Safety Committee and the Build Manager Director. ☒ Respond to and investigate Site accidents. ☒ Distribute safety material to Site personnel and help implement accident prevention procedures. ☒ Liaise with local Safety Associations of Ontario ☒ Visit Sites and assist in implementation of Safety Plan.
Project and Health Safety Coordinator	<ul style="list-style-type: none"> ☒ Provides safety orientation and training throughout the project life as required ☒ Monitors on-site health and safety compliance, enforcing when/where necessary ☒ Prepares/contributes to a monthly safety report
Site Manager / Superintendent	<ul style="list-style-type: none"> ☒ Oversees and monitors compliance with project safety, environmental and security policies and procedures. ☒ Enforce compliance as required ☒ Provide input into internal and external safety reporting requirements ☒ Conducts scheduled and ad hoc site health and safety inspections

If there is an incident on the site, the following steps will be carried out:

- ☒ Secure the area and attend to the injured (911 or on-site first aid);
- ☒ Complete an Accident Investigation Report by the site representative or the Site Superintendent
- ☒ Ministry of Labour ("MOL") is notified;

- ☒ Health and Safety Officer and the MOL will prepare respective reports;
- ☒ reports copied to the Health and Safety Officer to be presented to the Health and Safety Committee for review and action; and
- ☒ results of the accident investigation will be reviewed and discussed at the next Health and Safety Meeting and Toolbox meeting

St. Michael's Hospital Redevelopment Project

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Construction Team's Safety Record

The following table (Table 1.5-1) summarizes BCCL's overall safety record for the past five years;

Table 1.5-1—BCCL Safety Record (Five Years History)

wsib
ONTARIO

WSIB Services
As of: Jan 31, 2014

Workplace Injury Summary Report

By: FIRM

SONOFIELD CONSTRUCTION COMPANY LIMITED
407 SASALIC RD
CONCORD ON L4K 4W8

Firm Number: 2486438A
Account Number: 2055015
Firm Earliest Start Date: Jan 01, 1930

723 - INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL CONSTRUCTION
 Earnest Coverage Start Date: Jan 01, 1893
 Latest Coverage End Date:

Year	Fatal Diseases	Fatal Traumatic	# LTI	# NLTJ	*LTI Freq.	NLTJ Freq.	**YTD Days Lost	**Yr. Days Lost	*FTE Workers	Severity Rate	NEER Perf. Index	Rate Group LTI Freq.	Rate Group NLTJ Freq.
YTD 2014	0	0	0	0							N/A		
2013	0	0	0	0	0.00	0.00	0.00	0.00	87.30	0.00	N/A	0.86	4.02
2012	0	0	0	0	0.00	0.00	0.00	0.00	79.99	0.00	N/A	1.00	4.01
2011	0	0	0	0	0.00	0.00	0.00	0.00	75.73	0.00	N/A	1.19	4.62
2010	0	0	0	1	0.00	1.37	0.00	0.00	73.10	0.00	N/A	1.12	4.47

FIRM TOTAL

Year	Fatal Diseases	Fatal Traumatic	# LTI	# NLTJ	*LTI Freq.	NLTJ Freq.	**YTD Days Lost	**Yr. Days Lost	*FTE Workers	Severity Rate	CADT Perf. Index	MAP Adj. Result
YTD 2014	0	0	0	0							N/A	N/A
2013	0	0	0	0	0.00	0.00	0.00	0.00	87.30	0.00	N/A	N/A
2012	0	0	0	0	0.00	0.00	0.00	0.00	78.00	0.00	1.000	N/A
2011	0	0	0	0	0.00	0.00	0.00	0.00	75.73	0.00	0.987	N/A
2010	0	0	0	1	0.00	1.37	0.00	0.00	73.10	0.00	1.000	N/A

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* Current Year Injury Frequency, Days Lost, FTE, Severity, and Performance Index will be available in Your File

N/A: Not Applicable

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Infection Control Plans and Monitoring Procedures

SMP are well aware of the infection control risks associated with hospital renovation and construction projects. Infection prevention and control will be a predominant principle in all aspects of planning, design and construction of the SMHRP, especially in the planning and execution of the sub renovation projects and the IURUA scope of work. There is no room for error on infection control so it's critical to get the details right, with planning and executing the work in conformance to the requirements of CSA Z317-13-07 and all of SMH's Infection Control standards and precautions including in the "Site Rules for Contractors".

Infection Control Risk Assessment (ICRA)

SMH will remain in full operation during the construction of the PCT, sub-renovation projects, IURUA scope and the demolition of the existing Shuter Wing and construction of the New Shuter Wing. It will be important to establish protocols and procedures before the construction team steps foot on site and even before the design team commences the drawings and specifications. Once identified as Preferred Proponent, SMP will commence the process and planning by coordinating and completing an Infection Control Risk Assessment (ICRA), which will require input by SMP's Construction, Safety and Design Teams as well as input by SMH's Infection Prevention and Control personnel and practitioners. The Completion of the ICRA will serve as the important first step and provide valuable information for design, construction and mitigation.

The completed ICRA will provide information on the following:

- ☒ Risk identification
- ☒ Risk analysis
- ☒ Risk mitigation
- ☒ Preventative measures
- ☒ Monitoring

Planning, Execution and Monitoring (IPAC Plans)

Planning and communicating Infection Control and Prevention procedures and protocols to the SMP Construction Team and to the subcontractors will be a key factor. All construction personnel will follow and complete education sessions in infection control before commencing demolition or new construction work in the facility. These training sessions will also occur prior to starting each renovation project in the existing wings and will include the involvement of SMH's Infection Control personnel. This will ensure that everyone involved is intimately aware of the risks, the preventative measures, execution of these measures and monitoring procedures.

Each demolition and renovation project will begin by a pre-construction Infection Control and Prevention (IPAC) meeting that will include representation by SMP's Construction and Project Management Team, sub-contractors and by SMH's major stakeholders

with an interest in infection prevention and control issues and practices. SMP's Existing Infrastructure Advisor Gordon Russell will participate in each of these meetings. Each of the meetings will be followed by the issuance of Infection Control and Prevention Plan authored by SMP that will itemize and describe how each sub-renovation project will incorporate all topics discussed in the pre-construction IPAC meetings. These IPAC Plans will include but not limited to the following:

- ☒ Identifying the areas anticipated to be affected by the Work—perimeter of work
- ☒ Patient location/relocation
- ☒ Control and migration of dust
- ☒ Storage of materials
- ☒ Determination of the specific hazards and protection levels for each
- ☒ Location of patients by susceptibility to infection and definition of risks to each
- ☒ Impact of potential outages or emergencies and protection of patients during planned or unplanned outages, movement of debris, traffic flow, cleanup, and testing and certification
- ☒ Assessment of external as well as internal construction activities
- ☒ Location of known hazards and verification of deliveries
- ☒ Cleanup methods and procedures (during and post construction)
- ☒ Protocols and procedures for inspection and monitoring
- ☒ Training and communication
- ☒ Ventilation systems
- ☒ Negative pressure
- ☒ Mould prevention, practices and procedures.
- ☒ Protocols and procedures to deal with infectious outbreaks

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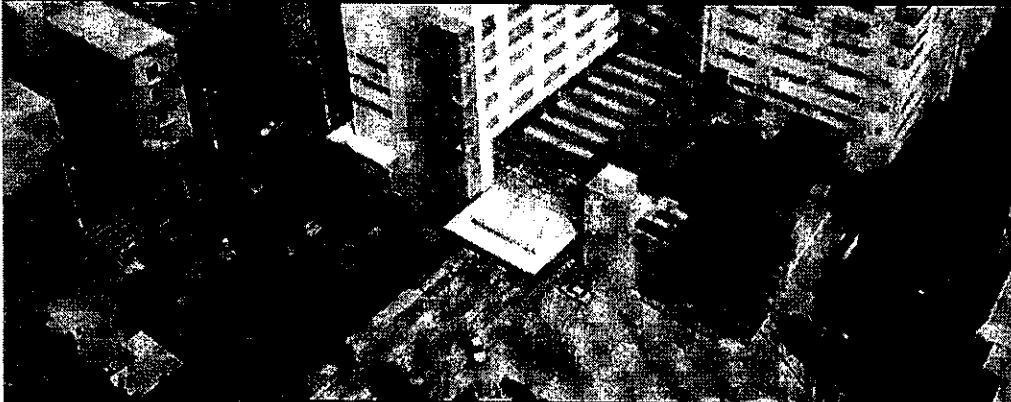
APPENDIX B – EQUIPMENT SUB-PLAN

The Parties acknowledge that the following plan is not entirely consistent with the applicable requirements of the Design and Construction Contract (including, but not limited to, Section 21 of the Design and Construction Contract and Schedule 15 – Output Specifications). As such, Construction Contractor shall, within 60 days of the date of the Design and Construction Contract, submit to Project Co, as a replacement, a revised version of the following plan, which shall meet all of the applicable requirements of the Design and Construction Contract.

- Please see the attached plan -

ST. MICHAEL'S HOSPITAL REDEVELOPMENT PROJECT RFP No. 13-159P

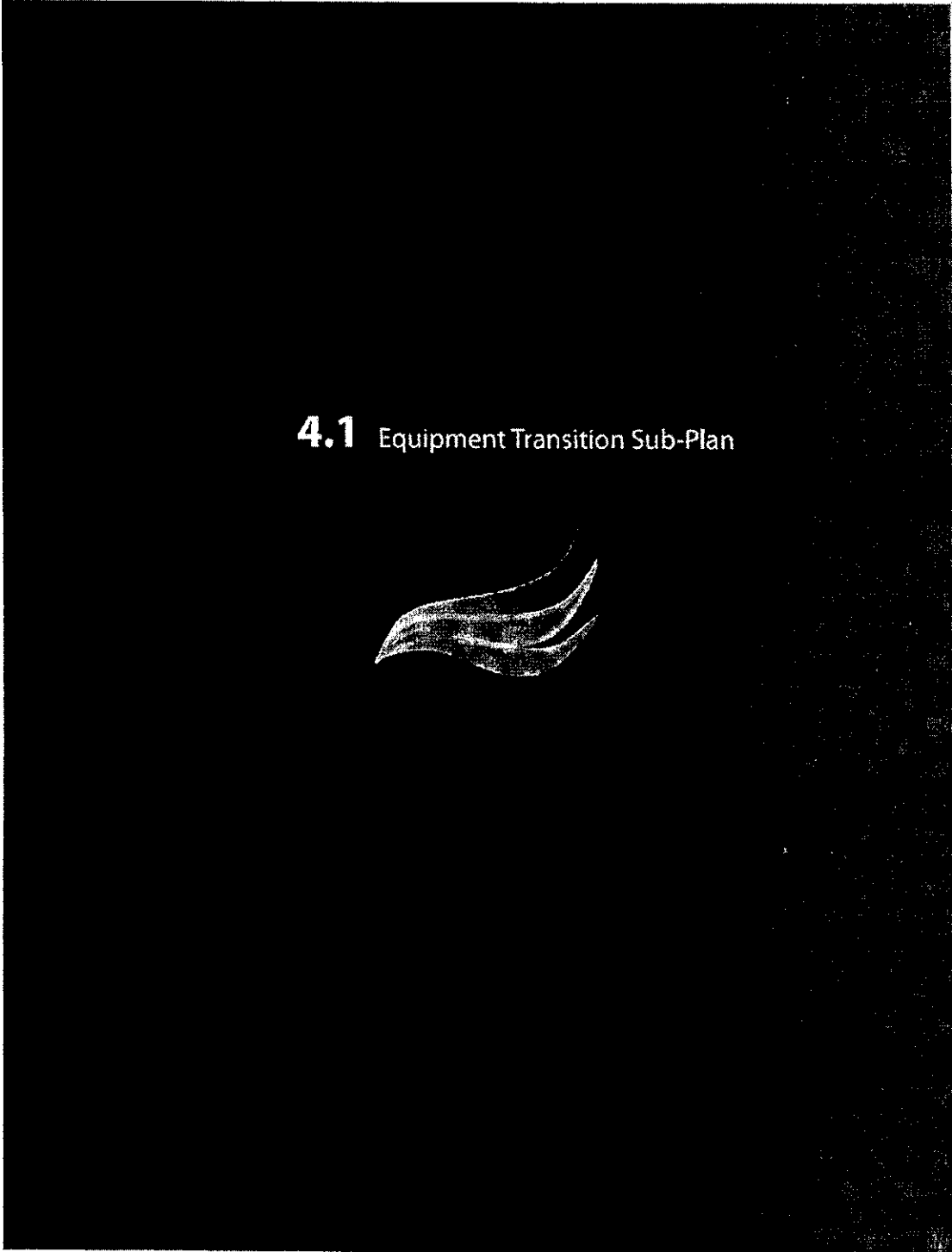
B **Volume B.1**
Technical Submission Requirements (Part B)
Design Submission Requirements (Part C)



B. General Technical Submission Requirements
4.0 Equipment and Coordination Plan

4.0 Equipment and Coordination Plan







4.1 Equipment Transition Sub-Plan

General Approach to Planning, Procurement, Installation and Commissioning

Furniture, Fixtures and Equipment

SMP recognizes that the Furniture, Fixtures and Equipment (FF&E) must seamlessly integrate into the overall planning process. Our experience dictates the importance in providing critical technical information on time, for all consultants, throughout the project. To accomplish this, SMP will coordinate the timing of planning decisions and specification of FF&E to coincide with the four planned phases of the SMH project while clearly indicating to SMH and its planning stakeholders key decision points throughout the process.

The SMP team provides a unique FF&E expertise in coordinating user meetings to validate requirements, such as those set out in the *SMH Output Specification, Part 4 Equipment & Furniture*, provide FF&E space plan layouts, product evaluations, FF&E specifications, fabric and finish selections for furniture, tender documentation for FF&E RFPs, commissioning, post-occupancy audits and final reviews. The combined expertise of the SMP team in FF&E planning, procurement, and design will provide SMH with a "best practice" FF&E solution tailored specifically to the SMH Redevelopment.

SMP recognizes the importance of validation as part of the transition from the PDC team to the SMP team. Our teams' understanding and knowledge of the process has shown to lead to efficient and effective, on time deliverables. The key outcomes of a validation and review process are a final integrated FF&E list, preliminary recommendations for FF&E bundling for tendering purposes, and budget development.

One of the first tasks the SMP team will undertake is the establishment of an Equipment Steering Committee (ESC). As a cornerstone to past successful equipment procurement and fundamental to our FF&E approach, the ESC will establish and evaluate specific objectives tailored to the unique qualities of the SMH Redevelopment project.

As an example, SMP will formalize a detailed Responsibility Matrix to identify the accountability of each of the project participants in the FF&E planning, procurement and commissioning process. Responsibilities will be assigned appropriately, based on a number of factors, such as the status, type or application of a piece of FF&E. The Responsibility Matrix then becomes the baseline for other planning tools relating to FF&E planning.

Finally, the ESC will coordinate user testing and training to ensure that all users are educated on how to properly and efficiently operate and maintain the FF&E up to the day the new facility opens.

Medical Equipment

When information relative to specified equipment required for the project has been approved by SMH, it will be entered into a database on a room-by-room basis. This information will include model numbers and estimated prices. This information will be used as the basis for specifying equipment for all major and minor equipment. SMP will

prepare detailed room-by-room lists incorporating all major equipment for use by the A/E team in completing documents required for construction. These lists will include specifications containing catalog data, diagrams, rough-in details, installation instructions, and various manufacturers' equipment layouts where required.

All activities will be executed in concert with the project schedule. The schedule is the leader by which the subsequent activities will be carried out. Because of this subservient relationship to the schedule, the equipment activities will inherently integrate from interim, substantial, and acceptance completion phases. Our constant vigilance in adherence to the project schedule will keep the installation and commissioning process smooth and optimal in terms of disruption and completeness.

Prior to the installation of new equipment (In-Contract or Not-In-Contract), SMP will meet with SMH to determine turnover and occupancy dates for specific areas of the various phases. Once confirmed SMP will notify the SMH Equipment Steering Committee of the schedule. Some level of pre-planning is required in terms of placement of new and existing equipment and in coordination with the transition/demitting activities.

Decision-making Process, Interaction with Stakeholders

Furniture, Fixtures and Equipment

Together the SMP and the ESC will provide oversight and feedback on the overall FF&E planning and procurement. The development of recommendations for FF&E will be made and coordinated with the construction, building and systems commissioning to deliver a seamless integration into the schedule.

Comprised of a multidisciplinary team, the ESC will facilitate an organized and systematic approach to FF&E through standardization, evaluations and trials, all in support of achieving the best value. In addition, the ESC provides a forum for the planning, review and approval of FF&E; develops comprehensive guidelines for the selection of products; reviews products comply with current health, safety and environmental standards; provides assurance of full disclosure and input from designated decision makers and stakeholders during the procurement process and sign-off on all stages.

Through the ESC, FF&E decision making will occur at the identified phases/milestones:

- ☐ Phase 1: Furniture & Furnishings Start-up;
- ☐ Phase 2: Furniture Gap Analysis & Validation;
- ☐ Phase 3: Planning & Design Development;
- ☐ Phase 4: Furniture Tender Specifications & Evaluation;
- ☐ Phase 5: Procurement, Selection, Delivery & Installation;
- ☐ Phase 6: Commissioning & Occupancy Planning.

Medical Equipment

Throughout all phases, the mandate of the SMP team is to provide sound information and recommendations so that the Equipment Steering Committee at SMH can make effective business decisions related to the procurement of FF&E.

The Construction Schedule will be monitored by SMP's Team to determine the Delivery Schedule for major equipment and long lead minor moveable equipment. The Delivery Schedule will be reviewed with the SMH to discuss and determine preliminary installation dates for all equipment.

The scope of work identified will be fulfilled in accordance with the overall project schedule. SMP and SMH will be able to monitor the completion of activities through the project schedule. This is how individual tasks will be managed.

All reporting, before publishing, will be made available to the internal team for review as a quality control check. Random but regular quality assurance checks throughout planning, procurement, and commissioning are the SMP methodology trademarks.

Key Planning Activities

Furniture, Fixtures and Equipment

The SMP team has a history of successfully overseeing, guiding and integrating the unique FF&E requirements throughout of both new and redevelopment healthcare projects. The following Project Planning Activities breakdown will be coordinated and aligned with both the design and construction documents developed for the building construction. Please note, the series of user group / stakeholder meetings, which will confirm that the final furniture requirements (i.e., the "needs list", the budget, and the technical specifications) are tailored specifically for SMH.

Table 4.1.1: Project Planning Activities—Phase Description

Phase	Description	Activities
Phase 1	Initiation & Finalizing Start-up	<ul style="list-style-type: none"> Establishing the ESC, FF&E planning parameters, database requirements, schedule, and responsibility matrix. User group round #1 meetings.
Phase 2	Finalizing Gap Analysis & Validation	<ul style="list-style-type: none"> Undertaking an analysis to identify gaps in the FF&E needs. User group round #2 meetings. Updating the FF&E reports, including the budget.
Phase 3	Finalizing FF&E Requirements	<ul style="list-style-type: none"> Development of FF&E specifications for mechanical, electrical and structural requirements. Significant attention paid to architecturally significant pieces where design specifications will be needed to accommodate construction schedules, manufacturing, delivery and installation. Final FF&E drawings and budget.
Phase 4	Finalizing Tender Packages, RFP Management & Evaluation	<ul style="list-style-type: none"> Review and approval of tender packages. Issue RFPs for vendor submission. Administration and RFP management. Review, evaluation and recommendation of RFP submissions. Vendor approval and award.
Phase 5	Finalizing Installation & Commissioning	<ul style="list-style-type: none"> Coordinate second round of shop drawings, procurement and installation schedule. Finalize and integrate installation with transition schedule. Coordinate delivery and installation of FF&E.

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Table 4.1-1: Project Planning Activities—Phase Description	
Phase: Commissioning & Occupancy Planning	
<p>Involves:</p> <ul style="list-style-type: none"> ■ Commissioning, testing and utilization of all FF&E items. ■ Deficiency check and corrections list. 	<ul style="list-style-type: none"> ■ Prepare closeout reports and FF&E manuals. ■ Turnover database. ■ Final building occupancy for the delivery of the healthcare services intended.

Medical Equipment

The key planning activities leading up to the procurement stage include fully coordinated efforts with architecture, engineering, and vendors. SMP will acquire required shop drawing from the appropriate vendors. In addition to obtaining the drawings, we will also confirm delivery lead times and vendor installation schedules as required. Shop drawing will be reviewed by SMP, both the architects and engineers on the team will mark up any changes and review / impact analysis and confirmation.

SMP will confirm that the shop drawings with all mark ups are complete with approval signatures. SMP will then obtain approved shop drawings in concert with vendor and distribute to the team for global documentation and agreement confirmation. This review process will include the confirmation of all utilities and appropriate notations as required.

A Preliminary Major Equipment Schedule will be issued to the Design-Build Team so that the In-Contract and Not-In-Contract equipment can be placed accordingly on the architectural drawings. This report will also be reviewed with SMH to ensure the equipment suits their needs and hospital standards and code. Any necessary

changes will be made and coordinated with the SMP. After revisions are made then an Approved Major Equipment Schedule will be issued to the architect and the Equipment Steering Committee.

Project Management Tasks Performed by Project Co

Furniture, Fixtures and Equipment

SMP will schedule and monitor all key tasks and deliverables related to the FF&E procurement and commissioning. The following chart delineates specific project management tasks SMP will perform. In addition to the project management tasks identified below, SMP will coordinate with the overall Works Schedule and transition plan to develop and manage a separate FF&E Project Schedule insuring all project participants understand when decisions must be made and how decisions impact overall timelines. Our schedule is shared and integrated on a monthly basis and has been commended by past clients as an effective management tool to communicate and maintain an accurate and timely project.

Table 4.1-2: Project Management Tasks—Phase Description	
Phase: Furniture, Fixtures and Planning Aspects	
<p>Involves:</p> <ul style="list-style-type: none"> ■ Risk management - Furniture. ■ Develop committee 'Terms of Reference' to define and manage project objectives, scope, structure (roles and responsibilities), activities, and resources required. ■ Issue status reports on the progress, issues and risks for FF&E related aspects to ensure advance planning is performed and managed. 	<ul style="list-style-type: none"> ■ Issue updates to FF&E Project Schedule to ensure all project parties are kept aware of critical paths, scope of work, responsibilities and milestones. ■ Final building occupancy for the delivery of the healthcare services intended.
<p>Involves:</p> <ul style="list-style-type: none"> ■ Issue meeting agendas and documentation in advance to allow for adequate preparation and to communicate meeting goals and objectives to ensure effective use of time during user sessions. 	<ul style="list-style-type: none"> ■ Issue meeting minutes within three business days to efficiently keep track of action items and responsible parties in addition to documenting rationale for decisions made. ■ Obtain User Group sign-off on proposed furniture selections. ■ Maintain and oversee the FF&E scope as it relates to ensuring compliance to the approved scope and finalized requirements.

Table 4.1-2: Project Management Tasks—Phase Description

<p>1.0 Overall Program</p> <p>Involves:</p> <ul style="list-style-type: none"> Cost management. Budget pricing is referenced through SMP's Resource Centre and later verified through manufacturers to identify any potential quantity discount structure to confirm accurate costing is established (i.e., negotiation of contracts for the three phases of the project).
<p>2.0 Acceptance</p> <p>Involves:</p> <ul style="list-style-type: none"> Acceptance management. ESC's evaluation scorecards to manage selection outcomes and record decision-making rationale to promote transparency and insure the process stays on track as selections are justified and validated to uncover any errors or omissions.
<p>3.0 Procurement</p> <p>Involves:</p> <ul style="list-style-type: none"> Procurement management. SMP will establish a central point of contact with the SMH Furniture Procurement Coordinator during the procurement process to ensure clarifications and information are tracked, documented and monitored.
<p>4.0 Transition Planning</p> <p>Involves:</p> <ul style="list-style-type: none"> Schedule development and management. Planning for the move of hospital equipment and furniture and incorporating requirement for Infection Control, biomedical engineering and other special constraints. Creating a scope of work and soliciting pricing for specialized vendor assistance. Initiation of 'practice' move activities with the assigned move team and staff to identify issues and develop contingency plans before the actual physical move insuring a seamless transition and improved overall efficiency during the actual move. Initiation of 'practice' move activities with the assigned move team and staff to identify issues and develop contingency plans before the actual physical move insuring a seamless transition and improved overall efficiency during the actual move.

Medical Equipment

SMP will develop and prepare bid specifications for the Equipment. Specifications will be presented to SMH for approval, and will be structured to facilitate the bidding process. Subsequently SMP will send requests for quotations to the designated bidders. SMP will undertake a review and analysis of all quotations received and will provide a detailed assessment to SMH. These bid packages will incorporate any special terms and conditions, including prices, by manufacturer and equipment model numbers, accessories, warranty information, maintenance contracts and delivery terms for the equipment. The bid package will also include provisions guaranteeing delivery of the latest version /technology available at the time of shipment.

Once manufacturers bids are received, all specifics including costs, terms and conditions, options and recommendations are entered, by manufacturer, into spreadsheets so that accurate comparisons can be made between the various manufacturers' offers. Using this tool, SMP will consult with SMH to analyze the received bids. Based on its extensive experience with the operation and function of virtually all major hospital equipment, SMP will advise and make recommendations as to the most cost effective selections. Once all the equipment information is presented and analyzed, SMH will be able to make the

final decision on each purchase. After SMH equipment decisions have been made, SMH will grant SMP authority to negotiate final terms on behalf of SMH. When the final terms have been negotiated, SMH will review and approve those terms. SMP will prepare, for SMH review, all purchase order documents required by each manufacturer. After purchase orders have been approved, SMP, as the agent of SMH will issue, and copy all appropriate and authorized parties. Timing for issuing requests for quotations is based on its knowledge of projected lead times for different categories of Equipment. SMP will focus on minimizing lead times for these purchases.

Risk Management

Furniture, Fixtures and Equipment

The primary risk to SMH is ensuring that the FF&E is accommodated by the design, supported by the building utilities and in line with the project schedules. SMP delivers an experienced team who identifies the critical timelines and issues unique to the FF&E procurement and installation, which offers SMH a unique ability to manage risk in the best possible way, proactively. SMP will endeavour to ensure that the FF&E needs are clearly defined planned and implemented

TECHNICAL SPECIFICATIONS

so SMH can focus on what they do best: Providing the community with the best possible healthcare, SMP accomplishes this by clearly outlining expectations and milestones to avoid and mitigate associated risks and insure an efficient and timely procurement and delivery process.

MEDICAL EQUIPMENT

The Equipment Steering Committee and the Transition Sub-committee are the integration points in the partnership between SMP and SMH. Through these committees, strategies are developed for communication,

decision-making and joint management of risk-management. These forums facilitate the review of mitigation strategies proposed for various risk factors. Our team will support these teams with monthly reports to the committees, to review key risk factors for the different phases of the project and make any necessary adjustments required to keep the project on track. Through the process of risk mitigation, avoidance, or acceptance, SMP along with SMH will guide the project through risk items. Typically, the three most fundamental risks borne out of a project such as this are in the Risk Description table:

Table 4.1-3: Risks Matrix

Risk #	Risk Description	Risk Change	Risk Impact	Risk Priority	Risk Owner
1.	Timely decision making by SMH with regard to equipment	Medium	High	High	SMP/SMH/Steering Committee
2.	Late changes made to equipment or budget	Medium	High	High	SMP/SMH/Steering Committee
3.	Delivery matched with construction schedule	Medium	High	High	SMP
4.	If there is a specification change by the manufacturer after the list has been given to the architect for incorporation into design documents and for contractor construction documents, there is no provision in the current scope for the equipment planner to work with the contractor to update the construction plan.	High	High	High	SMP

SMP is quite familiar with the art and science of risk management, mitigation, and avoidance. We have a history of turning risk into reward by applying a numeric or monetary value to a particular risk. This allows the team (SMH and SMP) to see the value of time spent assessing and working on risks. If the value of the risk is very low, then the team can then spend little time on that risk and move on to other risks and issues with a higher value and/or impact to the project.

Planning, Procurement and Commissioning Milestones and Responsibilities

Furniture, Fixtures and Equipment

The SMP team will be working together to further integrate the FF&E Planning Schedule with the overall Works Schedule as it develops and to confirm that all interdependencies are identified and all phases of the project are properly coordinated. Proper definition of activity dependencies and FF&E location in relation to building design will enable priorities to be established upon the award of the project. Please refer to the preliminary Figure 4.1-1 FF&E Planning Schedule located in Part B, Volume 2 for a breakdown of planned activities and tasks and identification of key milestones.

Medical Equipment

Based on the projected delivery dates, SMP will issue Requests for Proposals (RFPs) for the required major and long lead minor equipment. To guard against additional costs and misaligned requirements, these requests will be issued to Manufacturers/Suppliers whose equipment meets the design criteria of the equipment.

Further, SMP will provide to the Equipment Steering Committee with the equipment list to confirm the bid list or sole source vendors. Working with the SMH Purchasing group, we will confirm, if any, preferred vendors. If there are only two sources provided, then SMP will add a third to ensure three competitive bids.

SMP has outlined its strategy for Equipment Procurement and provided a schedule breakdown of equipment selection, followed by the bid process, shop drawing approval, procurement/fabrication time tables, installation and commissioning. SMP has broken the medical equipment into six categories in order to better manage the different specialties and types of equipment. The six categories are:

1. Imaging Equipment
2. Major Equipment requiring Rough – In
3. Lab Equipment
4. Minor Equipment with Long Lead times
5. Minor Equipment with short Lead times
6. Physiological Monitoring Equipment

Detailed Schedule for Equipment Selection

Furniture, Fixtures and Equipment

SMP has prepared a detailed preliminary schedule for FF&E (In-Contract Equipment and Not-In-Contract Equipment) selection which endeavours to maximize the time available within the overall project schedule for the selection and purchase of the preferred equipment with the latest technology. SMP's schedule will be further

refined as the overall project schedule is confirmed and will consider the requirements for Equipment procurement, delivery, installation, testing, training and SMH acceptance in co-ordination with the design, construction and commissioning of the various project phases. Please refer to the preliminary **Figure 4.1-1 FF&E Planning Schedule** located in **Part B, Volume 2** for a breakdown of planned activities and tasks and identification of key milestones.

Medical Equipment

In particular, SMP understands the need for delaying selection as long as possible to ensure that latest technological advancements are included within equipment selection. SMP has scheduled selection dates at the last responsible moment to incorporate the latest equipment without delay to the schedule. The dates scheduled for selection take into consideration the many steps and considerations that lead to the decision. Our schedule allows for user review, equipment demonstrations and detailed information gathering ensuring that the most current technologies are incorporated into the facility.

Equipment Installation and Commissioning Processes | Phase Completions

Furniture, Fixtures and Equipment

FF&E installation and commissioning processes will be fully integrated with each project phase completion and SMH's acceptance.

Please refer to the preliminary **Figure 4.1-1 FF&E Planning Schedule** located in **Part B, Volume 2** for a breakdown of planned activities and tasks and identification of key milestones.

Medical Equipment

First SMP will develop a Commissioning Plan at a high level. This will be done in concert with the SMH Commissioning Agent as well as the design team. As part of our rigor, we will review commissioning specifications, design documents, shop drawings and submittals. We will then develop acceptance procedures and training requirements for staff (Operations and Maintenance) and obtain and store the Systems Manual. We will write and distribute commissioning checklists for all applicable equipment. These checklists shall include static inspections, pre-functional tests, functional tests and any set-point adjustments.

As part of our scope, SMP will organize a commissioning team, which will then develop and coordinate a commissioning schedule. Our team will perform the inspections and supervise acceptance tests. We will organize operation and maintenance personnel training. Once complete we will prepare the Final Commissioning Report for SMH Commissioning Agent and Equipment Steering Committee. Lastly, all system / equipment documentation will be turned over, which includes warranty information and manuals and contact numbers and coordinates for support.

The approach to commissioning, regardless of the phase is essentially the same process. This means that there is the establishment of a

standard process for commissioning. Commissioning requires repetition of the same process from interim to final phasing. There should be very little difference in the tolerance level of commissioning from interim to final phase after substantial completion.

The role of the Commissioning Agent must remain quantitative and binary and not qualitative and subjective. This would disturb the very goal of the Agent, and SMP. Because we maintain the relationship at the data level; does the equipment pass or fail upon commissioning; we can all be fully satisfied with the results. Though we will never forget the Commissioning Agent is an agent of SMH, we will ensure we develop a strong working and data-driven relationship that will lead to a successful commissioning program.

That being said, we will maintain a fully open and cooperative environment, providing the data and tools necessary for the Commissioning Agent to fully discharge and execute their role effectively. All deliverables from SMP will be provided to the SMH Commissioning Agent for verification and acceptance and we will provide our status reports through the Agent to the Equipment Steering Committee.

Such deliverables may include:

- ☒ Progress and status reports, including deficiencies
- ☒ Minutes from all meetings
- ☒ Pre-start, and start-up procedures, where needed
- ☒ Training agenda and materials where needed
- ☒ Commissioning report with as-built data for base-lining
- ☒ Operational and Maintenance manuals
- ☒ Testing schedule for Agent witness, where needed
 - ☒ We will not conduct a test, where the Commissioning Agent is to attend and is not present
 - ☒ We will reschedule the test.

Equipment Installation and Commissioning Processes | Tower Interim Completion

Furniture, Fixtures and Equipment

SMP will be diligent in ensuring that equipment installation and commissioning processes are fully integrated with Tower Interim Completion and SMH's acceptance. Our FF&E team will work closely with the design, construction planning and commissioning teams throughout the project lifecycle ensure that all Furniture, Fixtures and Equipment (In-Contract and Not-In-Contract) installation, commissioning and acceptance processes are logically integrated into the overall project schedule to minimize or eliminate impacts on project progress and on-going hospital operations. Please refer to the preliminary **Figure 4.1-1 FF&E Planning Schedule** located in **Part B, Volume 2** for a breakdown of planned activities and schedule for the integration of equipment installation and commissioning with Tower interim completion and SMH acceptance.

Medical Equipment

SMP will develop a Commissioning Program which reflects all the obligations of the Project Agreement and accommodates all Equipment Commissioning. SMP believes that planning for the commissioning of any facility must commence at the beginning of the construction phase and Equipment Commissioning will be incorporated into the complete Hospital Commissioning Program.

SMP will take a holistic and inclusive approach to commissioning ensuring that all stakeholders – SMH and its Commissioning Agent, the SMP Commissioning Agent, contractors; subcontractors; Engineers of Record; Independent Certifiers, users and operators – participate in the commissioning process and form the Commissioning Team. The involvement of all stakeholders ensures it is well understood that the facility has been constructed to the required performance and is operating at that optimum level.

Equipment Installation and Commissioning Processes - Substantial Completion**Furniture, Fixtures and Equipment**

Please refer to the preliminary Figure 4.1-1 FF&E Planning Schedule located in Part B, Volume 2 for a breakdown of planned activities and schedule demonstrating how the equipment installation and commissioning processes will integrate with Substantial Performance and SMH acceptance.

Medical Equipment

SMP will determine optimal location for logistics of new equipment, specific routes within the new facility, elevator availability, and facility protection (i.e. Floor) requirements. In addition to contracting for required installation services for SMH equipment, SMP will monitor all such services, as well as coordinate supplier supervision. After installation, we will inspect the condition and operation of the equipment and coordinate any modifications, or replacements necessary to comply with purchase order terms and conditions.

Working in close collaboration with SMH representatives, SMP will determine which equipment requires staff training. Consideration will be given to web based training and training prior to occupancy of the new building. Training may also be required at the new facility just prior to or after occupancy. SMP will keep a log by department of all equipment requiring in-service or training, training dates and follow up dates if required. SMP will manage the calibration and testing of all of the medical equipment to ensure proper operation. We will coordinate all appropriate resources and validate completion.

SMP will provide management with respect to the routing and review of equipment invoices or requests for payments. All such actions will be subject to the Equipment Steering Committee approval.

SMP will prepare final room-by-room lists of equipment and furnishings purchased for the project. These lists will contain purchase

descriptions, model numbers, purchase order numbers, suppliers, and pricing, where applicable.

- ☒ Can be used by independent certifier for substantial completion assessment and obtaining of permit/licence, where needed.
- ☒ Reference for equipment that may need replacement in the future.

Key Personnel - Equipment Planning, Procurement and Commissioning Process**Furniture, Fixtures and Equipment**

The SMP Team includes expertise in FF&E, planning, procurement, and transition management. Our extensive FF&E planning software informs our computer aided design drawings (AutoCAD/Revit) to provide accurate and thorough reports. The following personnel comprise the SMP furniture team.

Elizabeth DiFrangia, B.A. | Principal

Elizabeth has an extensive understanding of healthcare planning, operations and design, and brings a grass roots knowledge of over 30 years of experience. She has worked across Canada and implemented modular solutions for many healthcare facilities, including innovative solutions for pharmacies, laboratories, materials management and inpatient units. She has worked on a multitude of recent DBF projects over the past 5-10 years including *St. Joseph's Health Centre, Toronto; St. Joseph's Health Centre, London; William Osler Health Centre, Brampton; Bluewater Health, Sarnia*; and many others. She is highly recognized for her passionate and innovative approach to FF&E Planning.

**Brenda Sexsmith, PMP | Manager,
Project Management and Transition Planning**

Brenda is an accomplished Project Manager and Transition Advisor with a multitude of healthcare experience in Acute Care settings. She has been providing FF&E Project Management and Transitional services for 20 years and has enjoyed a great working relationship for more than 10 years. Brenda has successfully relocated and commissioned numerous hospitals inclusive of patient and staff moves, facilitated user group meetings for input to design layout, equipping, and transition management.

Anna Stranks, BID, IDC, ARIDO, LEEDAP | Modular Clinical and Non-clinical Systems

Anna is an Interior Designer with extensive experience in residential, commercial, institutional and healthcare projects. She has been working in Interior Design for over 30 years and has successfully worked on an extensive list of healthcare projects; her most recent work includes *Hamad Medical City, Doha; Bridgepoint Palliative Care Hospital, Toronto; Tabor Manor Long Term Care, St. Catharines; Algoma Public Health Unit, South St. Marie; Meno Ya Win Healthcare, Sioux Lookout; Bluewater Healthcare, Sarnia*; and many others. Anna is highly recognized for her knowledge in modular clinical and non-clinical systems.

Natasha Thexton, DID, IDC, Intern ARIDO | Furniture Planning and Design Coordinator

Natasha is a design coordinator with experience in residential, commercial and institutional projects. Her portfolio includes work in healthcare and educational facilities varying in scale from 2000 to 350,000 square feet. She has recently completed projects for the *Listowel Family Health Clinic*, *Waypoint Centre for Mental Health*, *Colchester Regional Hospital Nova Scotia*, *Bridgepoint Health Toronto*, and is currently completing works on the new *Ryerson Student Learning Centre* in Toronto.

Terry Cyr | Transition Coordinator

Terry has successfully provided transition Project Management and on-site expertise to migrate operating courts and administrative departments into newly constructed and renovated space. He has substantial experience facilitating user group meetings and preparing groups and individuals for their upcoming transitions. His experience includes working with transition and project steering and user committees to identify and confirm transferable furniture and equipment, assisting in issue resolution, development of Move Guides for occupants, developing an RFP / RFT for Move Services, evaluating mover proposals and recommending the award, conducting transition information sessions with occupants and others, ensuring security of highly sensitive transferables and managing of the movers and relocation process during relocation.

Humberto Rodriguez, CET, OACETT | Architectural Technologist (Revit Specialist)

Humberto is an Architectural Technologist and Revit Specialist with 10 years of experience. He specializes in design development, 3D models, perspective rendering and working drawings for large healthcare and institutional LEED projects.

Medical Equipment**Nancy Wagner | Senior Project Director**

Nancy has nearly 30 years of experience in a hospital environment. She has been responsible for construction management, contracts and negotiations, project management, budget preparation and management and facilities planning. Nancy has been involved with providing equipment planning, purchasing and installation management services on more than 20 healthcare facility construction projects, including both renovation and replacement facilities both in North America and abroad. Her specialty is in the programming, planning, and specification of equipment for paediatric facilities.

Kelley Bennett | Project Director

Kelley has exceptional domestic and international experience, having done healthcare facilities around the world including Canada, Puerto Rico, Saudi Arabia, and Qatar. Kelley has been involved in the healthcare industry for 23 years. Her experiences include a variety of roles and responsibilities beginning as a sales account executive with major medical device companies where she was responsible for sales, education, training and development of various medical devices.

Jeffrey Grazel | Equipment Planner

Jeffrey has 16 years of experience in transition management, equipment planning, and purchasing services. Many of Jeffrey's project engagements include senior level management experience in hospital operations. He is considered an industry expert in equipment planning and consulting for Oncology and Imaging disciplines.

Installation of Not-In-Contract Emergency Department CT Scanner

To install the Not-In-Contract CT Scanner within the Emergency Department (ED), SMP will coordinate with the Equipment Steering Committee (ESC) to ensure that there is buy-in from SMH to the overall approach and ensure there will be no impact on the overall project schedule. The turnover and occupancy dates for this specific area within the ED will be agreed upon by both SMH and SMP. SMP's primary objective during the installation will be to minimize operational impacts within the ED through proactive and collaborative planning and communication with ED and SMH operations staff, and detailed logistical planning, scheduling and coordination of the process.

Once the preliminary installation date is established, the delivery schedule for the CT Scanner will be coordinated. SMP will review the optimal location and installation logistics for the new CT Scanner and associated equipment; defining the specific route within the SMH ED facility and confirming elevator availability and facility protection requirements (i.e. corridor floors, walls, fixtures etc.) with SMH operations staff and other ED personnel that may be impacted during the installation process.

Upon completion of the equipment installation, SMP will inspect the condition of the equipment, verify operation, identify and ensure remediation of installation deficiencies (if any), and coordinate the completion/resolution of any other items to ensure full compliance with terms and conditions set out in the contract/purchase order. SMP will provide oversight and management of the CT Scanner calibration and testing process to verify specified functionality and operational capabilities and to validate the successful completion of this milestone task.

SMP will facilitate and coordinate the SMH staff equipment operation and maintenance training program by the vendor, ensuring that it is delivered as contacted.

SCHEDULE 14

OUTLINE COMMISSIONING PROGRAM

1A. DEFINITIONS

In this Schedule 14, unless the context indicates a contrary intention, terms which are defined in the Design and Construction Contract (and not otherwise defined in this Schedule 14) shall have the meanings given to them in the Design and Construction Contract and the following terms shall have the following meanings:

- (a) **"BAS"** means building automation system.
- (b) **"Balancing Subcontractor"** means the air and water balancing Subcontractor(s) that provides the balancing requirements that will be specified by Construction Contractor's mechanical consultant. The Balancing Subcontractor will be a member of the Commissioning Team and will assist with the systems verification process.
- (c) **"BAS Subcontractor"** means the Subcontractor(s) for the building automation system.
- (d) **"Building Code"** means the regulations made under Section 34 of the *Building Code Act, 1992* (Ontario), as amended or replaced from time to time.
- (e) **"Commissioning Manuals"** has the meaning given in Section 6.4.
- (f) **"Commissioning Plan"** has the meaning given in Section 3.7.
- (g) **"Commissioning Process Acceptance Stage"** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.9 must be performed and completed.
- (h) **"Commissioning Schedule"** has the meaning given in Section 3.6.
- (i) **"Commissioning Team"** has the meaning given in Section 4.1.
- (j) **"Construction Stage"** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.5 must be performed and completed and, for clarity, is the stage of the Design and Construction Work where the construction of the Facility is completed.
- (k) **"CPM Forms"** has the meaning given in 5.5(f).
- (l) **"Design Brief"** means the document prepared by Construction Contractor which briefly describes the mechanical and electrical systems' design and performance

requirements. That document shall identify and include all of the applicable requirements set out in Schedule 15 – Output Specifications.

- (m) **“Design Intent”** means the “Owner’s Project Requirements” (as described in CaGBC LEED-NC 2009 and as set out in Schedule 15 – Output Specifications) and shall identify the performance requirements for each of SMH’s applicable mechanical, electrical and other building systems. The Construction Contractor Commissioning Authority shall prepare the performance verification procedures and documentation to verify that the performance of the Design Intent has been achieved by the building systems.
- (n) **“Design Stage”** means, the stage of the Design and Construction Work where the activities and matters set out in Section 5.4 must be performed and completed and, for clarity, is the stage of the Design and Construction Work where the Facility’s design is completed.
- (o) **“Documentation Stage”** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.7 must be performed and completed.
- (p) **“Electrical Testing Subcontractor”** means the Subcontractor(s) to Construction Contractor’s electrical contractor who will conduct the testing requirements for the normal and emergency power systems.
- (q) **“Fire Alarm System Testing Subcontractor”** means the Subcontractor(s) to Construction Contractor’s electrical contractor who will conduct the life safety testing requirements required by the Building Code.
- (r) **“Form of Commissioning Plan”** has the meaning given in Section 3.7.
- (s) **“O&M Manuals”** has the meaning given in Section 5.7(a).
- (t) **“Performance Verification Stage”** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.6 must be performed and completed.
- (u) **“Post Construction Commissioning Stage”** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.10 must be performed and completed.
- (v) **“Pre-Commissioning Audit”** has the meaning given in Section 3.11.
- (w) **“Pre-Commission Summary”** has the meaning given in Section 3.11.
- (x) **“Pre-Commissioning Stage”** means the stage of the Design and Construction Work where the activities and matters set out in Section 3.11 must be performed and completed and, for clarity, is a testing process designed to determine the current or as-found condition of all existing equipment and building systems to

determine their suitability to support the hospital's phased and/ or final operational requirements.

- (y) **"Project Co Commissioning Authority"** has the meaning given in Section 2.1.
- (z) **"Training Stage"** means the stage of the Design and Construction Work where the activities and matters set out in Section 5.8 must be performed and completed.

1. APPLICABLE STANDARDS

- 1.1. Construction Contractor shall plan, schedule, coordinate and execute the commissioning of each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work in accordance with the following standards:
 - (a) CSA Z8001 - 13 Commissioning of Health Care Facilities;
 - (b) 2011 ASHRAE Handbook – HVAC Applications Chapter 42 HVAC Commissioning;
 - (c) ASHRAE Guideline 1.1 – 2007 – The HVAC&R Technical Requirements for the Commissioning Process;
 - (d) CaGBC LEED EA Prerequisite 1 Fundamental Commissioning and EA Credit 3 Enhanced Commissioning Credit Requirements; and
 - (e) CSA Z320-11 Building Commissioning Standard & Check Sheets
- 1.2. CSA Z8001-13 shall govern the commissioning process. The requirements of the other standards shall be in addition to CSA Z8001-13.
- 1.3. Construction Contractor shall ensure that all regulation and code references in this Schedule 14 and in Schedule 15 - Output Specifications are current and applicable at time of commissioning.

2. CONSTRUCTION CONTRACTOR COMMISSIONING AUTHORITY

- 2.1. Construction Contractor shall appoint a commissioning authority (the **"Construction Contractor Commissioning Authority"**) to perform the obligations of the Construction Contractor Commissioning Authority set out in this Schedule 14 and to undertake the role described in CSA Z8001-13.
- 2.2. The Construction Contractor Commissioning Authority shall be:
 - (a) a person having a minimum of five years' experience in the commissioning of mechanical, electrical automation and information technology systems in similar health care facilities, shall be licensed or authorized by the Association of

Professional Engineers of the Province of Ontario; and shall be familiar with and knowledgeable about each of the standards set out in this Schedule 14.

- (b) meet the CaGBC LEED-NC 2009 Independent Commissioning Authority (CxA) requirements.

3. COMMISSIONING PARAMETERS

- 3.1. Commissioning activities shall be planned and implemented in accordance with this Schedule 14 as well as all the requirements set out in Schedule 15 – Output Specifications.
- 3.2. Commissioning activities shall take into account each and every item of existing equipment (including Existing Equipment) and building system in its “as found” condition, which shall be determined by the Pre-Commissioning Audit set out in Section 3.11.
- 3.3. Interim commissioning shall be provided for all temporary works or modifications, which are required in support of the Design and Construction Work (or any part or phase thereof) to ensure that SMH’s operational requirements are met at all times.
- 3.4. Any Design and Construction Work that requires the temporary loss of utilities or other services to the Facility or the Existing Facilities must be pre-scheduled with SMH and must receive the prior written approval of SMH.
- 3.5. The Construction Contractor Commissioning Authority shall convene a meeting of the Commissioning Team to set commissioning parameters, designate the responsibilities of the various parties and establish the documentation requirements for the Design and Construction Work, the Phase Construction Contractor Commissioning, the Tower Interim Completion Construction Contractor Commissioning and the Construction Contractor Commissioning.
- 3.6. For clarity, Construction Contractor shall create a detailed schedule of commissioning activities (the “**Commissioning Schedule**”) and shall incorporate the Commissioning Schedule into the Design and Construction Work Schedule.
- 3.7. A template form of commissioning plan for the Project is attached hereto as Appendix “A”– Form of Commissioning Plan (the “**Form of Commissioning Plan**”). Construction Contractor shall submit to SMH and the PDC Team for review and comment a fully developed commissioning plan for the Project (the “**Commissioning Plan**”), which may be (but is not required to be) substantially in the Form of Commissioning Plan. For clarity, any amendments to the Form of Commissioning Plan made by Construction Contractor, or any other form of commissioning plan used by Construction Contractor, during the preparation of the Commissioning Plan must meet all of the applicable requirements of the Design and Construction Contract, including but not limited to, Section 5.4 of this Schedule 14 and Schedule 15 – Output Specifications.

- 3.8. The Construction Contractor Commissioning Authority shall submit reports to the Works Committee regarding the progress of the Phase Construction Contractor Commissioning, the Tower Interim Completion Construction Contractor Commissioning, and the Construction Contractor Commissioning on a monthly basis, or on a bi-weekly basis if requested by SMH.
- 3.9. Without limiting any other provision of the Design and Construction Contract, Construction Contractor is responsible for, as applicable, the procurement, transfer, supply, installation, start-up, testing, adjustment and cleaning of each item of Equipment and Existing Equipment and of any and all building systems provided or modified as part of the Design and Construction Work. Where applicable, commissioning shall be completed in accordance with the equipment vendor's guidance or other instructions.
- 3.10. For clarity, Construction Contractor shall supply and collect the maintenance information that will be used to populate the CMMS in accordance with Sections 23A.5A, 23B.5A and 24.5A of the Design and Construction Contract.
- 3.11. **Pre-Commissioning Audit and Pre-Commissioning Summary**
- (a) During the Design Stage, Construction Contractor shall perform a pre-commissioning or as-found audit of existing equipment (including Existing Equipment) and building systems (the "**Pre-Commissioning Audit**") to identify and eliminate any previously unknown mechanical and electrical issues that will or could arise as a result of or in connection with the performance of the Design and Construction Work and impact the operation of the Facility and/or the Existing Facilities (or any part or parts thereof).
- (b) For the purpose of the Pre-Commissioning Audit, Construction Contractor shall, as further described in Section 3.11(c), collect data with respect to the physical condition of existing equipment (including Existing Equipment) and building systems and their capacity and adaptability and provide a written report to Project Co and SMH of its findings and recommendations arising from the Pre-Commissioning Audit (the "**Pre-Commissioning Summary**").
- (c) The scope of the Pre-Commissioning Audit and the Pre-Conditioning Summary shall include the criteria identified in **Appendix "B" – Pre-Commissioning Summary** of this Schedule 14, the following criteria and other industry accepted reporting criteria reasonably required by SMH or Construction Contractor:
- (i) air and water balance;
 - (ii) point verification;
 - (iii) calibration verification;
 - (iv) sequence verification; and

- (v) asset condition reporting.
 - (d) If the Pre-Commissioning Audit determines that any item of existing equipment or any building system will not meet the interim or final Project requirements set out in Schedule 15 – Output Specifications, Construction Contractor shall promptly recommend one or more applicable and reasonable cost and time effective corrective or other actions to SMH, which, if approved by SMH, shall be implemented by Construction Contractor as part of the Design and Construction Work.
 - (e) The Pre-Commissioning Audit shall be completed during the Design Stage to allow for the implementation of corrective or other actions as described in Section 3.11(d) without disruption to the Design and Construction Work Schedule.
 - (f) Construction Contractor shall provide SMH with 21 Business Days prior written notice of its intention to commence the Pre-Commissioning Audit. The form of the Pre-Commissioning Summary must be submitted by Construction Contractor to SMH for SMH's approval, acting reasonably, on or before that time and may be, but is not required to be, generally in the form attached as Appendix "B" – Pre-Commissioning Summary. Construction Contractor shall not commence the Pre-Commissioning Audit until the form of Pre-Commissioning Summary has been agreed to by SMH and Project Co.
- 3.12. Once the Pre-Commissioning Audit has been completed during the Design Stage, Construction Contractor shall provide the Pre-Commission Summary to SMH, which shall be a Works Submittal and be reviewed, commented on and approved in accordance with Schedule 10 – Review Procedure of the Design and Construction Contract.

4. COMMISSIONING TEAM

- 4.1. The commissioning team pursuant to the Project Agreement ("**Commissioning Team**") shall be comprised of:
- (a) a representative of Project Co;
 - (b) four representatives of SMH, including the SMH Representative;
 - (c) a representative of IO;
 - (d) the Construction Contractor Commissioning Authority;
 - (e) the SMH Commissioning Consultant;
 - (f) the Independent Certifier;
 - (g) representatives of the Design Team, Construction Contractor, Suppliers and Subcontractors, as required;

- (h) representatives of the PDC Team;
 - (i) representatives of the relevant equipment manufacturers, as required; and
 - (j) representatives of the testing agencies, such as the Balancing Subcontractor, the third party independent Electrical Testing Subcontractor and the Fire Alarm System Testing Subcontractor, as required.
- 4.2. Construction Contractor and each relevant Construction Contractor Party shall assign an individual from each relevant trade to the Commissioning Team and shall ensure that representatives of the relevant equipment and systems manufacturers are present during the relevant Phase Construction Contractor Commissioning, Tower Interim Completion Construction Contractor Commissioning and Construction Contractor Commissioning meetings and activities.
- 4.3. Construction Contractor shall provide all necessary labour, materials, equipment, testing apparatus and incidentals necessary to completely start-up, verify, performance test and commission each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work.
- 4.4. Unless otherwise agreed by SMH and Project Co, pursuant to the Project Agreement, the Commissioning Team shall be assembled within 30 days of Financial Close and shall meet monthly to review the progress of the Phase Construction Contractor Commissioning, the Tower Interim Completion Construction Contractor Commissioning and the Construction Contractor Commissioning. Notwithstanding the foregoing, any member of the Commissioning Team, pursuant to the Project Agreement, may call a commissioning meeting as applicable to their field of expertise and commissioning activities. Each meeting of the Commissioning Team shall be chaired by the Construction Contractor Commissioning Authority.

5. COMMISSIONING PROCEDURES

- 5.1. Pursuant to the Project Agreement, the Commissioning Team shall ensure that all regulation and code references in the construction documents are current and applicable.
- 5.2. Construction Contractor shall meet all of the testing, balancing, commissioning and verification requirements outlined in Schedule 15 – Output Specifications.
- 5.3. Construction Contractor and the Construction Contractor Commissioning Authority shall plan and prepare documentation and execute all commissioning processes and procedures. Phase Construction Contractor Commissioning, Tower Interim Completion Construction Contractor Commissioning, and Construction Contractor Commissioning shall each be sub-divided into the following components:
- (a) the Pre-Commissioning Stage,

- (b) the Design Stage,
- (c) the Construction Stage,
- (d) the Performance Verification Stage,
- (e) the Documentation Stage,
- (f) the Training Stage,
- (g) the Commissioning Process Acceptance Stage, and
- (h) the Post Construction Commissioning Stage.

For clarity, each of the foregoing stages is described in Sections 5.4 to 5.10 below.

5.4. The Design Stage

- (a) During the Design Stage, Construction Contractor shall prepare and submit the Design Brief to Project Co and SMH, which, for clarity, shall include a schematic design of the mechanical and electrical systems of the Facility, Construction Contractor's design criteria and assumptions and a reference to all standards and codes applicable to the Project. Construction Contractor shall submit the Design Brief to Project Co and SMH for review in accordance with Schedule 10 – Review Procedure of the Project Agreement.
- (b) Construction Contractor shall prepare the Commissioning Plan in accordance with Section 3.7, which shall, amongst other things, (A) identify Construction Contractor's commissioning processes, responsibilities, testing procedures, reporting procedures and co-ordination responsibilities and (B) incorporate the commissioning specifications for the general, mechanical, electrical and specialty requirements of Schedule 15 – Output Specifications. Without limiting the generality of the foregoing, the Commissioning Plan must include the following:
 - (i) a list of the members of the Commissioning Team and the name of each Subcontractor testing agency and manufacturer project leader;
 - (ii) the responsibilities of the Commissioning Team and its members;
 - (iii) a summary of Construction Contractor's commissioning process;
 - (iv) the reporting methodology for Construction Contractor's commissioning;
 - (v) the Commissioning Schedule, including an associated commissioning schedule developed by each Subcontractor;
 - (vi) an explanation of the commissioning static tests and start-up tests with reference to the applicable Output Specifications sections which identify

- the requirements of each test (including a listing of each of the tests and sample forms);
- (vii) an explanation of the verification process for installation inspections by Construction Contractor and the documentation to be completed;
 - (viii) a summary of the systems' Design Intent and data to be provided by Subcontractors and an explanation of the performance testing procedures to be used to verify the data underlying the Design Intent;
 - (ix) the training requirements and a training schedule;
 - (x) an explanation of the documentation requirements that shall be included in the O&M Manuals, commissioning manuals, system operating manuals, re-commissioning manual and As Built Drawings;
 - (xi) the performance testing and the summary form to be used for the monthly reports;
 - (xii) the identification of the requirements of commissioning during the Post Construction Commissioning Stage; and
 - (xiii) the identification of the seasonal performance testing process as contained in 2011 ASHRAE Handbook – HVAC Applications Chapter 42 HVAC Commissioning.
- (c) The Commissioning Plan shall be reviewed by the Commissioning Team, pursuant to the Project Agreement, during the Design Stage. The Commissioning Plan shall be updated by Construction Contractor during the commissioning process to include any required or desired changes as they occur. Construction Contractor shall submit the Commissioning Plan and all test scripts to the Commissioning Team for review in accordance with Schedule 10 – Review Procedure of the Design and Construction Contract.
- (d) The Construction Contractor Commissioning Authority shall review the documents provided to SMH during the design of the Facility and shall certify in writing that all the commissioning requirements have been included in the drawings and specifications.
- (e) The Construction Contractor Commissioning Authority shall prepare the Design Stage report required by LEED.

5.5. The Construction Stage

- (a) Construction Contractor shall prepare construction drawings and specifications in accordance with the terms and conditions of the Design and Construction Contract. The Construction Contractor Commissioning Authority shall review the

- construction drawings and specifications to verify that all of the commissioning requirements have been clearly identified.
- (b) The Construction Contractor Commissioning Authority shall prepare the Construction Stage report required by LEED.
 - (c) The Construction Contractor Commissioning Authority shall implement the Commissioning Plan and lead the Commissioning Team through the start-up, verification, performance testing, training, documentation preparation, and post construction commissioning.
 - (d) The Construction Contractor Commissioning Authority shall prepare the static test forms and procedures identified in the Output Specifications. Static tests shall be conducted on, including but not limited to, all piping systems, ductwork systems, electrical cables and bus ducts, and all electrical switchboards and panels.
 - (e) The Construction Contractor Commissioning Authority shall utilize the start-up test forms and procedures provided by the equipment manufacturers. Where manufacturer's forms are not available, the Construction Contractor Commissioning Authority will create such forms using procedures identified in the Output Specifications. Start-up tests shall be conducted on all applicable equipment (including Existing Equipment).
 - (f) The Construction Contractor Commissioning Authority shall prepare the commissioning progress management forms identified in the Output Specifications ("CPM Forms"). There shall be a form for each building system which shall identify the applicable equipment (including Existing Equipment) associated with that system and the commissioning process to be completed by Construction Contractor. The Construction Contractor Commissioning Authority shall provide monthly reports to identify the progress of commissioning for each system.
 - (g) The Construction Contractor Commissioning Authority shall include the aforementioned static tests and start-up tests in the Commissioning Schedule and shall identify any co-ordination required between Subcontractors and equipment manufacturers. The Construction Contractor Commissioning Authority shall update the Commissioning Schedule throughout the commissioning process.
 - (h) The Construction Contractor Commissioning Authority shall update the CPM Forms to ensure that all systems and equipment (including Existing Equipment) for systems have been identified.
 - (i) The Construction Contractor Commissioning Authority shall notify Project Co, SMH and the SMH Commissioning Consultant in advance of any and all equipment (including Existing Equipment) and building system start-up, testing, balancing, and training activities taking place. Such notice shall be delivered a

minimum of ten Business Days prior to such activity taking place or as may be required by SMH to accommodate SMH's operations.

- (j) Construction Contractor shall start and bring to normal operating condition or to the level described in the respective testing section of the specification for each applicable item of equipment (including Existing Equipment) and for the building system provided or modified as part of the Design and Construction Work. Construction Contractor shall modify or replace, re-adjust, re-test, re-balance and re-start any item of equipment (including Existing Equipment) or building system(s) provided as part of the Design and Construction Work that fail(s) to perform as required.
- (k) The Construction Contractor Commissioning Authority shall prepare and issue start-up, verification and performance testing check sheets for each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work. Check sheets shall be prepared in accordance with the standards listed in Section 1.1 and shall be modified to reflect the particular needs of the Project.
- (l) The Construction Contractor Commissioning Authority shall lead the Commissioning Team through the start-up, verification and performance testing check sheets appropriate to each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work.
- (m) Pursuant to the Project Agreement, various members of the Commissioning Team shall complete the various check sheets as they pertain to their field of expertise. Members of the Commissioning Team that have direct knowledge and expertise of specific check sheets shall review the check sheets on completion and shall initial each check sheet to indicate their acceptance.
- (n) Independent testing and inspection contractors are to be used for all required testing and inspections for each item of equipment (including Existing Equipment) and building systems provided or modified as part of the Design and Construction Work.
- (o) The Construction Contractor Commissioning Authority shall witness all static tests and start-up tests and complete the applicable testing forms. As tests are completed, the CPM Forms shall be updated. Copies of the completed test forms and updated CPM Forms shall be forwarded to the Commissioning Team on a monthly basis.
- (p) The Construction Contractor Commissioning Authority shall attend all construction meetings, as required by Project Co and/or SMH, and review the progress of commissioning. During the Performance Verification Stage, pursuant to the Project Agreement, separate meetings of the Commissioning Team shall be scheduled.

- (q) The Construction Contractor Commissioning Authority shall review the Shop Drawings that have been prepared by each Subcontractor. The review shall identify any commissioning, Design Intent, operational or maintenance issues. The Construction Contractor Commissioning Authority shall prepare a report in respect of the foregoing and submit such report to the Commissioning Team for review.
- (r) The Construction Contractor Commissioning Authority shall review all site instructions and Variations and update the Commissioning Plan, test forms, CPM Forms and the test procedures, as necessary, to include them. Updated documentation shall be submitted to the Commissioning Team for review.
- (s) The Construction Contractor Commissioning Authority and each applicable Subcontractor shall inspect the installation of equipment (including Existing Equipment), piping, ductwork, electrical wiring, security doors, security hardware, and bus ducts to verify that the installations meet the requirements of the Design and Construction Contract and all manufacturer's instructions, including access requirements. The Construction Contractor Commissioning Authority shall prepare verification forms for each system and complete these forms during the survey. The Construction Contractor Commissioning Authority shall submit a report to the Commissioning Team in respect of the foregoing. Construction Contractor shall prepare the Facility and equipment (including Existing Equipment) for continual operation. The associated areas of the Facility must be clean to allow air handling units to operate without contaminating duct work. Construction Contractor shall conduct a quality control survey to ensure the requirements of LEED are achieved and maintained. The Construction Contractor Commissioning Authority shall lead this survey and prepare the necessary documentation.
- (t) Construction Contractor shall prepare a maintenance plan for any equipment (including Existing Equipment) that has been started and will remain operational during the next stage in the commissioning process. The maintenance plan shall include the manufacturer's requirements.

5.6. The Performance Verification Stage

- (a) Construction Contractor shall include all performance verification requirements in the Commissioning Schedule. The detailed requirements of the performance verification process shall be included in the Commissioning Plan.
- (b) The Construction Contractor Commissioning Authority shall prepare the performance testing procedures and forms to be used. The Design Data, extracted from the Design Intent documents, shall be identified.
- (c) The Balancing Subcontractor shall complete the balancing process identified in Schedule 15 – Output Specifications. The Construction Contractor Commissioning Authority shall co-ordinate with the Balancing Subcontractor, the

BAS Subcontractor, the mechanical and electrical Subcontractor, and manufacturers during the balancing process. The Balancing Subcontractor shall issue reports during the process and at the completion of the process. The Construction Contractor Commissioning Authority and the mechanical and electrical Subcontractor shall verify that the balancing measurements meet the requirements of the Design Intent and the Design and Construction Contract.

- (d) The Construction Contractor Commissioning Authority and the BAS Subcontractor shall verify the operation of every BAS device and program from the device to the operator workstation. Every control point in the BAS system shall be verified.
- (e) The Construction Contractor Commissioning Authority shall lead the Commissioning Team in the verification of the operation of the complete mechanical system. Utilizing the BAS, pursuant to the Project Agreement, the Commissioning Team shall verify the performance of the mechanical system at the equipment through to each area within the building. Any discrepancy with recorded results and the Design Intent shall be documented by Construction Contractor. Construction Contractor shall rectify the problem creating the discrepancy and the Commissioning Team shall retest the system. Construction Contractor shall establish applicable BAS graphical trending to outline the proper operation of all system control loops, print the operation of major system graphical trends for inclusion in final report, establish applicable BAS alarm limits and review for proper operation. Construction Contractor shall review alarms throughout the commissioning period to validate proper operation and shall prepare a final report to include an alarm log to illustrate proper operation.
- (f) The Electrical Testing Subcontractor shall conduct tests on the complete electrical system, normal and emergency power. When all tests have been completed and all mechanical equipment (including Existing Equipment) and building systems are operating the electrical distribution systems shall be tested for harmonics and phase balance. Bus duct and switchboards shall be infrared tested. Test forms shall be prepared by such Subcontractor who shall also issue the completed forms to the Commissioning Team. The Construction Contractor Commissioning Authority shall witness the electrical system tests.
- (g) The Construction Contractor Commissioning Authority shall lead the Commissioning Team in verifying the operation of each electrical system, including, but not limited to, the normal and uninterruptable power supplies and emergency power, fire alarm and security systems (see Sections 8.1(i), (j) and (k)). This shall include every device's operation and operational programming. The Construction Contractor Commissioning Authority shall also prepare test forms and issue completed forms to the Commissioning Team.
- (h) The Fire Alarm System Testing Subcontractor shall verify the operation of the life safety system. The Construction Contractor Commissioning Authority shall coordinate with the applicable Governmental Authority having jurisdiction over

fire inspection and shall lead the Commissioning Team in the final verification. Test forms shall be prepared by such Subcontractor who shall also issue the completed forms to the Commissioning Team.

5.7. The Documentation Stage

- (a) Construction Contractor shall prepare the operating and maintenance manuals (“O&M Manuals”) in accordance with Schedule 15 – Output Specifications. The Construction Contractor Commissioning Authority shall review the O&M Manuals to ensure all of the commissioning requirements have been addressed. A report shall be prepared by Construction Contractor as a requirement of LEED.
- (b) The Construction Contractor Commissioning Authority shall assemble the commissioning documentation and include it in a commissioning manual in accordance with Section 6. Construction Contractor shall provide separate manuals in respect of the mechanical and electrical divisions of Schedule 15 – Output Specifications.
- (c) The Construction Contractor Commissioning Authority shall prepare a systems operational manual in respect of the mechanical and electrical divisions of Schedule 15 – Output Specifications. These manuals shall be sub-divided into systems, i.e. the heating system, the emergency power system, etc. Each system shall be formatted with a description of the Design Intent of the system, location, areas in the building of the system services, how the system operates and all emergency procedures.
- (d) The Construction Contractor Commissioning Authority shall prepare the re-commissioning manual for the electrical and mechanical systems as a requirement of LEED. These manuals shall describe the re-commissioning process required for each system and include the performance data that is required to be achieved. Each re-commissioning manual shall provide cross references to the As Built Drawings, Shop Drawings, balancing reports, and the systems operational manuals.
- (e) The Construction Contractor Commissioning Authority shall update the Commissioning Plan during the commissioning process. The final version shall be provided at the end of the Performance Verification Stage and shall be updated at the end of the Post Construction Commissioning Stage.
- (f) Construction Contractor shall prepare As Built Drawings as required by Schedule 15 – Output Specifications. The Construction Contractor Commissioning Authority shall provide Construction Contractor with any data and information obtained during the commissioning process that should be included in the As Built Drawings.
- (g) Construction Contractor shall submit an as-built record of all software set-point values and other settings necessary for correct programming should an element

require replacement in future years. Construction Contractor shall also provide soft copies of programs for backup purposes as appropriate.

5.8. The Training Stage

- (a) Construction Contractor shall provide a training schedule and agenda for each training session. Operational and maintenance training shall be provided for all equipment (including Existing Equipment) and systems. Construction Contractor shall provide a minimum of two dates for each training session to accommodate the availability of SMH staff and different shifts.
- (b) The Construction Contractor Commissioning Authority shall co-ordinate with Project Co and the SMH Representative, or its designate, to schedule the training and to review the training agendas.
- (c) The Construction Contractor Commissioning Authority shall attend every training session to ensure the agenda is maintained and that quality training is provided. One training session for each category shall be video recorded in digital format. The disks shall be submitted to Project Co and SMH and labelled accordingly. The training video shall be in a format that is easily uploaded to BIM.
- (d) Construction Contractor's design consultants shall provide an overview of the building systems, including an explanation for why types of systems and equipment were selected, the identification of the Design Intent and a discussion of the operating procedures required to maintain the Design Intent. These sessions shall be video recorded in digital format.
- (e) The training sessions for equipment (including Existing Equipment) shall include a review of the installed equipment at its installed location after functional testing.
- (f) The training sessions for systems shall be conducted at the systems operating stations (workstations).
- (g) Construction Contractor shall include a training evaluation process to ensure material is suitably delivered and received by SMH. Additional sessions will be delivered until suitable evaluation scores are received from SMH staff.

5.9. The Commissioning Process Acceptance Stage

- (a) The Construction Contractor Commissioning Authority shall provide assistance to Construction Contractor during each stage of the Design and Construction Work where the commissioning of one or more applicable parts of the Facility is believed to be completed, including with respect to verifying that:
 - (i) the commissioning processes have been completed;
 - (ii) the commissioning documentation has been provided;

- (iii) the performance of the systems meets the Design Intent requirements;
 - (iv) training that meets the requirements of the Design and Construction Contract has been provided;
 - (v) all information required for data entry into the SMH CMMS has been provided in the appropriate format; and
 - (vi) all deficiencies have been completed.
- (b) The Construction Contractor Commissioning Authority shall prepare a LEED certified commissioning report.

5.10. The Post Construction Commissioning Stage

- (a) The post construction commissioning stage shall commence within one year after the Substantial Completion Date. Construction Contractor shall develop a schedule for the commissioning process to be conducted during the Post Construction Commissioning Stage (which schedule shall be approved by SMH, acting reasonably) and shall perform the post construction commissioning activities described in this Section 5.10 in accordance with such schedule. The commissioning process conducted in the Post Construction Commissioning Stage shall include seasonal performance testing, re-testing of warranty repairs and continuation of operator training.
- (b) The Construction Contractor Commissioning Authority shall develop a seasonal performance testing plan in accordance with 2011 ASHRAE Handbook – HVAC Applications Chapter 42 HVAC Commissioning. The mechanical systems shall be tested over the four seasons to verify that the systems are providing the performance required by the Design Intent during each season. The normal and emergency power electrical systems shall be tested during the summer and winter seasons to verify the required performance of the systems during these seasons. The electrical building systems, including but not limited to, the lighting control system, security, fire alarm systems, etc., shall be tested ten months after the Substantial Completion Date. Performance testing forms shall be developed and completed by Construction Contractor during the process and completed forms shall be issued by Construction Contractor to the Commissioning Team.
- (c) Construction Contractor shall schedule all warranty repairs or replacements. When such work has been completed, the Construction Contractor Commissioning Authority shall lead the Commissioning Team in the conduct of performance testing to verify the operation of the associated systems.
- (d) The Construction Contractor Commissioning Authority shall schedule further training for SMH's operation staff as may be required for Post Construction Commissioning Stage activities. The training agenda shall be based on operational procedures for all mechanical and electrical equipment (including

Existing Equipment) and systems. The schedule shall include two sessions for each system to accommodate the shift operators.

- (e) The Construction Contractor Commissioning Authority shall develop an Operational Quality Control Plan with the building operators. The purpose of this plan is to ensure that SMH carries out, at a minimum, all preventative maintenance inspections and servicing to protect equipment (including Existing Equipment) warranties.
- (f) The Construction Contractor Commissioning Authority shall prepare a final LEED certified commissioning report. The report will address issues outstanding from the first report. The report will identify the results and issues resulting from the post construction commissioning process.

6. COMMISSIONING SUBMITTALS

- 6.1. Construction Contractor shall prepare a commissioning brief describing all systems design and performance requirements to be commissioned, prior to the beginning of construction.
- 6.2. Construction Contractor shall prepare and submit to Project Co, the SMH Commissioning Consultant and the Independent Certifier detailed commissioning plans for each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work in accordance with this Schedule 14.
- 6.3. Construction Contractor shall prepare and submit to Project Co and the SMH Commissioning Consultant test forms, verification forms and performance test forms for each building system and the commissioning summary form to be used for monthly reporting by Construction Contractor.
- 6.4. Construction Contractor shall prepare and submit to Project Co, the SMH Commissioning Consultant and the Independent Certifier detailed commissioning manuals for each item of equipment (including Existing Equipment) and building system provided or modified as part of the Design and Construction Work ("**Commissioning Manuals**").
- 6.5. All Commissioning Manuals shall be available in hardcopy, softcopy and also in a format that can be easily uploaded to BIM. The hardcopy shall be in D-ring binders with transparent cover on front and spine. The format must include the following:
 - (a) the name and logo of SMH;
 - (b) the name of the Project;
 - (c) the Project number;

- (d) the identification of each item of equipment (including Existing Equipment) and building system commissioned; and
 - (e) the date each item of equipment (including Existing Equipment) or building system was commissioned.
- 6.6. All Commissioning Manuals (both hard and soft copies) shall be organized by item of equipment (including Existing Equipment) or by building system and by commissioning stage and shall include all:
- (a) test reports;
 - (b) equipment check sheets (start-up, verification and performance) for each item of equipment (including Existing Equipment); and
 - (c) building system check sheets (start-up, verification and performance) for each building system provided as part of the Design and Construction Work, interim and final acceptance check sheets for each item of equipment and building system provided as part of the Design and Construction Work.

7. COORDINATION WITH SMH

- 7.1. The Construction Contractor Commissioning Authority shall co-ordinate and cooperate with Project Co and SMH, throughout the commissioning process. This co-ordination shall include but not limited to:
- (a) review of test, verification and performance test forms;
 - (b) review of commissioning progress management forms and performance testing;
 - (c) review of the Commissioning Plan;
 - (d) review of the Commissioning Schedule;
 - (e) sample witnessing of tests and performance testing;
 - (f) review of the training agenda, evaluation form and scheduling;
 - (g) review of the O&M Manuals,
 - (h) review of maintenance data forms required for entry into SMH's CMMS;
 - (i) sample witnessing of seasonal performance testing;
 - (j) review of the monthly and other commissioning reports;
 - (k) attending commissioning meetings; and

- (l) regular reporting to Project Co, SMH and IO regarding the progress of commissioning.

- 7.2. For greater clarity, the Project Co and SMH shall not bear any responsibility other than, in respect of (pursuant to the Project Agreement) the Phase SMH Commissioning, the Tower Interim Completion SMH Commissioning and the SMH Commissioning with respect to the proper commissioning of the Facility.
- 7.3. For clarity, SMH Commissioning shall include the commissioning of equipment supplied by SMH to the Facility after Substantial Completion and installed by SMH's own forces but shall exclude the Design and Construction Work performed by Construction Contractor.

8. BUILDING SYSTEMS TO BE COMMISSIONED

- 8.1. The Phase Construction Contractor Commissioning, Tower Interim Completion Construction Contractor Commissioning and the Construction Contractor Commissioning will include the commissioning of all items of equipment (including Existing Equipment) and all building systems including, but not limited to, the following:

- (a) Site Development:
- (i) Storm Sewers & Structures
 - (ii) Sanitary Sewers & Structures
 - (iii) Natural Gas Service
 - (iv) Electrical Power Service
 - (v) Underground Communications Services
 - (vi) Irrigation Sprinkler Systems
 - (vii) Water mains and appurtenances
 - (viii) Domestic and fire mains
- (b) Building Envelope:
- (i) Air/Vapour Barrier
 - (ii) Roofing
 - (iii) Thermal Scan

- (c) Elevators and Lifts:
 - (i) Elevators
 - (ii) Lifts
- (d) Fire Protection Systems:
 - (i) Wet Sprinkler
 - (ii) Dry Sprinkler
 - (iii) Pre-action Sprinkler
 - (iv) Gaseous Fire Protection Systems
 - (v) Total Flooding – FM200/NOVEC 1230
 - (vi) Standpipe & Hose - Systems
 - (vii) Fire Pump / Standby Pump
 - (viii) Portable Fire Extinguishers
- (e) Plumbing Systems:
 - (i) Domestic water pressure booster set
 - (ii) Domestic water distribution
 - (iii) Domestic water heating
 - (iv) Hot water recirculating
 - (v) Compressed air supply
 - (vi) Sanitary fixtures
 - (vii) Safety (emergency) fixtures
 - (viii) Storm pumps
 - (ix) Sanitary pumps
 - (x) Grey / Gray Water System
 - (xi) Automatic flushing devices
 - (xii) Proximity flushing devices

- (f) Medical Gas Systems
 - (i) Medical Air
 - (ii) Medical Vacuum
 - (iii) Oxygen
 - (iv) Carbon Dioxide
 - (v) Nitrogen
 - (vi) Nitrous Oxide
 - (vii) Anaesthetic Gas Scavenging
- (g) HVAC Systems:
 - (i) Fuel supply
 - (ii) Standby fuel storage and supply
 - (iii) Heating Plant
 - (iv) Steam distribution systems
 - (v) Condensation collection & return
 - (vi) Feedwater supply & treatment
 - (vii) Heat recovery systems
 - (viii) Flue gas heat recovery
 - (ix) Heat exchangers
 - (x) Hot water heating – radiation
 - (xi) Hot water heating – reheat
 - (xii) Hot water/glycol heating – AHU
 - (xiii) Snow melting
 - (xiv) Soffit heating
 - (xv) Chillers
 - (xvi) Cooling towers

- (xvii) Chilled water distribution
 - (xviii) Condenser water distribution
 - (xix) Direct expansion refrigeration
 - (xx) Supply air distribution
 - (xxi) Return air collection
 - (xxii) Outdoor air intake
 - (xxiii) Air filtration
 - (xxiv) Air humidification
 - (xxv) Air de-humidification
 - (xxvi) Air heating
 - (xxvii) Air cooling
 - (xxviii) Exhaust air collection
 - (xxix) Exhaust air discharge
 - (xxx) Energy recovery
 - (xxxi) Pressurization fans
 - (xxxii) Smoke control systems
 - (xxxiii) Water filtration
 - (xxxiv) Chemical treatment
- (h) Building Automation Systems:
- (i) Operator Workstations
 - (ii) Field panels
 - (iii) Network cabling
 - (iv) Valves, dampers and actuators
 - (v) Pumps
 - (vi) Fans

- (vii) Meters
- (viii) Heating systems
- (ix) Ventilating systems
- (x) Air conditioning systems
- (xi) Pressurization systems
- (xii) Humidification systems
- (xiii) De-humidification systems
- (i) Electrical System:
 - (i) Utility owned HV feeders
 - (ii) Utility owned HV switchgear
 - (iii) Utility owned HV transformers
 - (iv) High-voltage bus
 - (v) 600-V bus
 - (vi) 600-V switchgear
 - (vii) 600-V feeders
 - (viii) 600-V panel boards
 - (ix) 600-V Motor control centers
 - (x) 600-V Transformers
 - (xi) Low-voltage feeders
 - (xii) Low-voltage panel boards
 - (xiii) Low-voltage Motor control centers
 - (xiv) Wiring & Equipment connections
 - (xv) Electrical devices
 - (xvi) Diesel-engine generator sets
 - (xvii) Diesel-engine generator controls

- (xviii) Associated systems
- (xix) Automatic Transfer switches
- (xx) Power conditioners
- (xxi) UPS systems
- (xxii) Power factor correction
- (xxiii) Lighting fixtures
- (xxiv) Emergency lighting fixtures
- (xxv) Lighting controls
- (xxvi) Variable frequency drives
- (xxvii) Transient Voltage Surge Suppression
- (xxviii) Fire Detection and Alarm
- (j) Communications Systems:
 - (i) Voice (telephone) cabling
 - (ii) Data (computer) cabling
 - (iii) Cable Television cabling
 - (iv) Satellite TV cabling
- (k) Security & Safety Systems:
 - (i) Nurse Call
 - (ii) Real Time Locating Systems (RTLS)
 - (iii) Infant Abduction
 - (iv) Patient Wandering
 - (v) Asset Tracking
 - (vi) Paging
 - (vii) Intercom
 - (viii) Closed-circuit TV

- (ix) Magnetic door locks
- (x) Card readers
- (xi) Systems monitors
- (xii) Crisis Alarm
- (xiii) Registries
- (xiv) Audio monitoring system
- (xv) Master Clock System

9. EQUIPMENT COMMISSIONING

- 9.1. Construction Contractor shall coordinate with and provide reasonable assistance to Project Co and SMH in implementing and coordinating all Equipment and Existing Equipment commissioning activities.
- 9.2. Construction Contractor shall be solely responsible for implementing and carrying out all the commissioning activities in relation to Equipment and Existing Equipment as described in Section 21 of Appendix A of the Design and Construction Contract, and including, for certainty, all activities relating to training set out in Section 21 of Appendix A of the Design and Construction Contract.
- 9.3. Construction Contractor shall coordinate with Project Co and SMH on Phase SMH Commissioning, Tower Interim Completion SMH Commissioning and SMH Commissioning activities. Accordingly, Construction Contractor shall:
 - (a) ensure that the Design and Construction Work enables applicable Phase SMH Commissioning, Tower Interim Completion SMH Commissioning and SMH Commissioning to be completed in time for the scheduled Phase SMH Commissioning, Tower Interim Completion SMH Commissioning and SMH Commissioning dates;
 - (b) work with SMH to appropriately schedule each Phase SMH Commissioning, the Tower Interim Completion SMH Commissioning and the SMH Commissioning activities; and
 - (c) provide support to SMH during each Phase SMH Commissioning, the Tower Interim Completion SMH Commissioning and the SMH Commissioning activities, especially as it relates to the interface between the Design and Construction Work and the Equipment and Existing Equipment.

Appendix "A"**FORM OF COMMISSIONING PLAN**

The following APPENDIX "A" – FORM OF COMMISSIONING PLAN is based on the RFP proposal of the preferred proponent under the RFP, St. Michael's Partnership, which will be used by the Parties as Construction Contractor's Form of Commissioning Plan for the purpose of the Design and Construction Contract.

- Please see attached document –

Appendix "B"

PRE COMMISSIONING SUMMARY

- Please see attached document -

SCHEDULE 15

OUTPUT SPECIFICATIONS

-Please see attached CD-

SCHEDULE 16

TITLE ENCUMBRANCES

"Title Encumbrances" means:

1. Instrument No. CT310267, registered August 4, 1978, is a development agreement dated April 27, 1978 between The Sisters of St. Joseph, for the Diocese of Toronto, In Upper Canada (the "Sisters") and The Corporation of the City of Toronto (the "City").
2. Instrument No. CT549393, registered September 8, 1982, is an agreement dated August 16, 1982 between the Sisters and the City, which is an amendment to the development agreement registered as Instrument No. CT310267.
3. Instrument No. AT992277, registered November 29, 2005, is a Land Registrar's Order correcting reference to the unmanned lane in the last line of the thumbnail description from by-law EP6307 to by-law EP4307.
4. Instrument No. AT1057440, registered February 7, 2006, is a charge from SMH in favour the Sisters securing the original principal sum of \$14,000,000 (the "Sisters First Mortgage").
5. Instrument No. AT1057441, registered February 7, 2006, is a charge from SMH in favour of the Sisters, securing the original principal sum of \$21,000,000 (the "Sisters Second Mortgage").
6. Instrument No. AT1078127, registered March 2, 2006, is a Land Registrar's Order amending Instrument No. AT992277 to correct reference from by-law EP4307 to by-law EP3407 in the last line of the thumbnail description.
7. Instrument No. AT2420898, registered June 23, 2010, is notice of an agreement dated June 10, 2010 between SMH and the Sisters amending the Sisters First Mortgage.
8. Instrument No. AT2420899, registered June 23, 2010, is notice of an agreement dated June 10, 2010 between SMH and the Sisters amending the Sisters Second Mortgage.
9. Instrument No. AT2445023, registered July 13, 2010, is notice of an encroachment agreement dated July 2, 2010 between the City and SMH.
10. Instrument No. AT2445024, registered July 13, 2010, is notice of an encroachment agreement dated July 2, 2010 between the City and SMH.
11. Instrument No. AT2679790, registered May 2, 2011, is notice of a second mortgage amending agreement between SMH and the Sisters, amending the Sisters First Mortgage.

12. Instrument No. AT2679791, registered May 2, 2011, is notice of a second mortgage amending agreement between SMH and the Sisters, amending the Sisters Second Mortgage.
13. Instrument No. AT2694691, registered May 2, 2011 is notice of an encroachment agreement dated October 22, 2010 between the City and SMH.
14. Instrument No. AT2714120, registered June 7, 2011 is notice of a site plan agreement dated January 24, 2011 between SMH and the City.
15. Liens, charges or prior claims for taxes (which term includes charges, rates and assessments) or utilities (including levies or imposts for sewers and other municipal utility services) not yet due or if due, the validity of which is being contested in good faith, and liens or charges for the excess of the amount of any past due taxes or utilities charges for which a final assessment or account has not been received over the amount of such taxes or utilities charges as estimated and paid by SMH.
16. Inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Site or of which notice in writing shall not at the time have been given to SMH pursuant to the CLA or otherwise or any lien or charge, a claim for which, although registered, or notice of which, although given, relates to obligations not overdue or delinquent and in respect of any of the foregoing cases, SMH has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts so as to protect the Site therefrom.
17. The rights reserved to or vested in any municipality or governmental or other public authority by any statutory provision.
18. Any subsisting reservations, limitations, provisions and conditions contained in any original grants from the Crown of any land or interests therein, reservations of undersurface rights to mines and minerals of any kind.
19. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations as to the use of the Site, which do not materially impair the value of the Site or materially interfere with the use of the Site for the purposes of the Project.
20. Any encroachments, easements, rights of way or similar interests which would be revealed by an up-to-date survey of the Site.
21. Servitudes, easements, rights-of-way, or other similar rights in land for sewers, electric lines, telegraphs and telephone lines and other utilities and services which do not materially impair the value of the Site or materially interfere with the use of the Site for the purposes of the Project.

22. Minor encroachments onto or from neighboring lands which are permitted under agreements with the owners of such lands and which do not materially impair the value of the Site or materially interfere with the use of the Site for the purposes of the Project.
23. Registered subdivision, site-plan, development or other municipal agreements, if any, provided such are complied with and which do not materially impair the value of the Site or materially interfere with the use of the Site for the purposes of the Project.
24. The exceptions and qualifications contained in subsection 44(1) of the *Land Titles Act* (Ontario) except for paragraphs 11 and 14, Provincial Succession Duties and Escheats or Forfeiture to the Crown; and (b) the rights of any person who would, but for the *Land Titles Act*, be entitled to the land or any part of it through length of adverse possession, prescription, misdescription, or boundaries settled by convention.

SCHEDULE 17**DESIGN AND CONSTRUCTION WORK REPORT REQUIREMENTS**

- 1 The Design and Construction Work Report shall include the following:
 - (a) an executive summary;
 - (b) design status;
 - (c) Design and Construction Work Schedule summary, including:
 - (i) permits;
 - (ii) construction progress;
 - (iii) progress photos;
 - (iv) planned requests for service or infrastructure shut-downs;
 - (v) update to construction phasing and sequencing activities;
 - (vi) construction milestones; and
 - (vii) submissions schedule;
 - (d) update to construction infection control plan;
 - (e) update to construction access and hoarding plans;
 - (f) contractual outstanding decisions;
 - (g) quality assurance and quality control;
 - (h) organization/staffing changes and additions for Construction Contractor;
 - (i) health and safety, including:
 - (i) lost time injuries; and
 - (ii) accidents with no lost time;
 - (j) Subcontract status, including:
 - (i) consultants;

- (ii) Subcontracts awarded;
- (iii) tenders;
- (iv) shop drawing submittals status; and
- (v) labour report (average workforce per sub-trade and the total workforce including own forces for the period reporting);
- (k) financial status, including:
 - (i) progress and Variations;
 - (ii) insurance summary;
 - (iii) Construction Contractor default status; and
 - (iv) cash flow projection (capital cost components); -
- (l) risk management, including:
 - (i) claims;
 - (ii) liens;
 - (iii) environmental issues;
 - (iv) labour;
 - (v) market conditions;
 - (vi) outstanding disputes;
 - (vii) operational risks; and
 - (viii) other risks;
- (m) commissioning, occupancy and completion; and
- (n) Equipment status reporting, including:
 - (i) RFP release and close dates;
 - (ii) pending Equipment selections;
 - (iii) financial analysis; and

- (iv) delivery, installation, commissioning and training dates; and
- (o) reporting on Cash Allowance Items, including financial reporting on Cash Allowance Items in accordance with Section 3.2 of the body of the Design and Construction Contract.

SCHEDULE 18**COMMUNICATIONS PROTOCOL****1 GENERAL****1.1 Communications Principles**

The Project represents an important infrastructure commitment by the Province. Accordingly, a comprehensive communications and stakeholder relations plan is required to ensure the public is informed and engaged where necessary and to meet SMH's communications requirements. This plan will support effective communications between Construction Contractor, Project Co and SMH, and with SMH stakeholders, including the SMH community.

2 SMH RESPONSIBILITIES**2.1 Lead Communications Role**

Pursuant to the Project Agreement, SMH will assume the lead communications role. SMH will take primary responsibility for all communications matters and will be responsible for:

- (a) providing identified, dedicated lead communications contacts with applicable skills and experience with 24/7 availability on applicable aspects of communications and issues management;
- (b) providing an identified, dedicated media-trained lead media spokesperson, with back-up media-trained personnel, as required with 24/7 availability on applicable aspects of communications;
- (c) acting as primary media contact for the Project;
- (d) providing final review and approval of all public communications materials;
- (e) communicating promptly with all relevant parties on crisis issues and communicating within 24 hours on general issues;
- (f) maintaining and updating the Project website, as required; and
- (g) providing coordinated updates to internal/ external stakeholders, as required.

2.2 SMH Communications Responsibilities

Pursuant to the Project Agreement, SMH will be responsible for the following matters:

- (a) **Communications:** To develop a comprehensive communications strategy and program that includes community relations, media relations, marketing, special events, employee communications and government relations regarding issues related to the Project.
- (b) **Crisis Communications:** To undertake, in cooperation with Project Co, required planning for potential crisis issues related to the Project. A plan will be developed within 30 days following Financial Close outlining the roles and responsibilities of both SMH and Project Co during a crisis situation.
- (c) **SMH Related Communication:** To provide all communications related to the provision of SMH Activities.
- (d) **Performance Review:** To review, on a periodic basis, Project Co's performance in providing communications support as outlined in Section 3 of this Schedule 18.

The Construction Contractor shall provide cooperation at the request of Project Co, to support the activities described in Section 2 of this Schedule 18. Project Co may review Construction Contractor's performance under Section 2 of this Schedule 18.

3 CONSTRUCTION CONTRACTOR RESPONSIBILITIES

3.1 Support Communications Role

Construction Contractor will assume a supporting role with respect to communications related to the Project. Construction Contractor will be responsible for:

- (a) providing identified, dedicated media-trained lead media spokesperson (with back-up media-trained personnel, as required) with 24/7 availability on applicable aspects of communications;
- (b) responding to communications issues in accordance with agreed timeframes;
- (c) reviewing and/ or providing communications and/ or technical materials reasonably requested by SMH for website content;
- (d) updating, in collaboration with Project Co and SMH, internal/ external stakeholders, as required, including involvement and participation in community events, including SMH Activities;
- (e) providing the public/ media reasonable access to the Site for milestone events;

- (f) directing all media enquiries and interview requests to SMH's lead communications contact;
- (g) maintaining a written record of all material public enquiries, complaints and communications and providing copies to SMH's lead communications contact on a weekly basis (or immediately if urgent);
- (h) reporting to SMH on communications matters on an agreed upon basis;
- (i) participating in SMH communications meetings, as required; and
- (j) during a crisis situation, ensuring and making available sufficient resources to work effectively with SMH and proactively manage and perform its communications responsibilities.

3.2 Construction Contractor Communications Responsibilities

Construction Contractor will:

- (a) within 30 days following Financial Close and in collaboration with Project Co and SMH, develop, maintain and implement a construction liaison and communications plan that includes:
 - (i) a description of Construction Contractor's approach to all communications aspects of the Project;
 - (ii) a description of Construction Contractor's communications team, including the roles and responsibilities for each team member and any Construction Contractor Parties who will provide any aspect of the communications program; and
 - (iii) the identification of proposed communication tools to be used to keep the community and other stakeholders (including the SMH community) informed with respect to the progress of the Project;
- (b) update the construction liaison and communications plan on an annual basis or as reasonably requested by SMH or Project Co;
- (c) coordinate with Project Co and SMH in the implementation of the construction liaison and communications plan;
- (d) attend regular meetings with Project Co and SMH to discuss communication issues and developments;

- (e) produce monthly progress reports, which will include information on activities, public and media enquiries, any emerging issues, and actions taken in response to issues;
- (f) through SMH or Project Co, provide regular updates to the immediately affected property owners and neighbourhoods on Design and Construction Work related issues with particular attention to communicating the scope, schedule and status of the Design and Construction Work. This will include processes to proactively address any Design and Construction Work related enquiries and issues (e.g., public enquiries and complaints re noise, hours of work, dust, etc.);
- (g) provide regular updates to Project Co or SMH related to the management of local traffic during the Design and Construction Work;
- (h) develop, in collaboration with Project Co and SMH, a crisis communication plan outlining roles and responsibilities for a list of potential crisis issues that could develop during the Design and Construction Work; and
- (i) follow any guidelines provided by Project Co or SMH related to signage or advertising at the Site.

4 PUBLIC DISCLOSURE AND MEDIA RELEASES

4.1 Public Disclosure and Media Releases

- (a) Construction Contractor shall not, and shall ensure that no Construction Contractor Party shall, issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) relating to the Project, this Design and Construction Contract, the Project Agreement, the SMH Activities or any matters related thereto, without the prior written consent of Project Co and SMH.
- (b) Unless otherwise required by Applicable Law (but only to that extent), the Construction Contractor shall not use Project Co's name or SMH's name or refer to SMH, directly or indirectly, in any media release, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) relating to the Project, this Design and Construction Contract, the Project Agreement, the SMH Activities or any matter related thereto, without the prior written consent of Project Co or SMH, as the case may be.
- (c) Construction Contractor shall, and shall ensure that all Construction Contractor Parties and its and their subcontractors, agents, employees, officers and directors,

in each case, comply, at all times, with SMH or Project Co's media release and publicity protocols or guidelines, as such protocols and/or guidelines are updated by SMH or Project Co from time to time.

5 CONSTRUCTION SIGNAGE

5.1 Construction Signage Guidelines

With respect to any signage that may be erected and maintained at or on the Site or Project, Construction Contractor, Construction Contractor Parties and/or the Lenders, as applicable, shall:

- (a) include the SMH logo on the sign;
- (b) ensure that the signage is no larger than the larger of: (i) an existing government project sign on the Site; or (ii) 16 feet by 8 feet;
- (c) adhere to local by-laws including by-laws regarding placement and size;
- (d) consider signage material suitable for long-term outdoor exposure;
- (e) provide a mock-up of the signage to the SMH Representative for approval prior to printing; and
- (f) be responsible for installation, maintenance and removal of the signage.

SCHEDULE 20**PROCUREMENT MONITORING AND IMPLEMENTATION PLAN**

The following Schedule 20 is based on the RFP proposal of the preferred proponent under the RFP, St. Michael's Partnership, which will be used by the Parties as Construction Contractor's Procurement Monitoring and Implementation Plan for the purpose of the Design and Construction Contract.

5.0 Procurement Monitoring and Implementation Plan

This Procurement Monitoring and Implementation Plan is prepared and submitted by the St. Michael's Partnership (SMP) a consortium representing all legal entities and their respective owners and employees, agents and consultants engaged for the St. Michael's Hospital Redevelopment Project (SMHRP), in which SMP acknowledges, understands and shall adhere to each of the following criteria:

- all procurement practices undertaken by SMP and the SMP Team Members comply with Applicable Law;
- all Subcontractor bid submissions are kept confidential by the SMP and by each SMP Team Member;
- all employees and representatives of the SMP and the SMP Team Members who are involved in procurement processes on behalf of the SMP and the SMP Team Members are appropriately trained in their legal obligations with respect to procurement in Ontario and Canada;
- SMP and each of the SMP Team Members engages in regular monitoring and reporting of the procurement practices of each of their organizations to ensure compliance with the Procurement monitoring and Implementation Plan;
- SMP and the SMP Team Members confirm that each of their respective Subcontractors (at all levels of subcontracting) is contractually obliged to adhere to Applicable Law in respect of its procurement practices;
- that a complaints system was in place for the RFP Process and will be in place for the project which will address complaints brought by Subcontractors (at all levels of subcontracting) as to the procurement practices of SMP, SMP Team Members, and any Subcontractor;
- the Procurement Monitoring and Implementation Plan of SMP will be included as contractual obligation in the Project Agreement.

The SMP procurement team has procured hundreds of millions dollars of equipment in the public tender process. The team members have participated in more numerous IO AFP and other P3 projects. SMP has developed the following process that will form part of the Project Agreement for Procurement Monitoring and Implementation.

SMP will select a team of experienced procurement agents and they will undergo an awareness and training program to update their understanding of the legal obligation. They will comply with Applicable Law and follow Broader Public Guidelines published by Ministry of Finance of Ontario as well as other ongoing contract obligations to the SMHRP. They will ensure that this compliance is applicable to the SMP Team Members as well as the subcontractors and/or vendors.

St. Michael's Partnership 

All members will sign a non-disclosure agreement as well as a conflict of interest declaration. All bids including tender submissions and tender analyses will be kept confidential. The front end of each tender will include the processes for inquiries and for complaints by the subcontractors and/or vendors during the tendering process as well as post awards. There will be 'letters of regret' issued to the unsuccessful bidders and a debriefing session will be provided, as required. The complaint process will usually, unless decided otherwise by IO and/or the Sponsor, go through the SMP Executive Committee.

Subcontractors

SMP will develop a plan that identifies and highlights the guidelines and restrictions set out by the applicable laws surrounding procurement. The plan will be circulated to all applicable subcontractors. A presentation will be provided to each subcontractor to further explain and clarify the rules and regulations associated with procurement in Ontario and Canada. The presentation will act as a training session and the participating subcontractors will be documented and deemed trained upon completion of the presentation.

SMP will also have all subcontractors submit a procurement implementation and monitoring plan that will be reviewed internally to ensure they are with aware of and in compliance with all applicable laws and rules/regulations set out by those laws. This plan will be updated monthly by the subcontractors and reviewed by SMP to ensure that compliance is maintained.

Additionally, SMP will provide the subcontractor with a legal agreement binding them to comply with all applicable laws related to procurement in Ontario and Canada. Once the document is executed the presentation and training process will be provided and the established mechanisms to address any suggestions and/or complaints the subcontractors may have during the procurement process will be clearly outlined.

Process Monitoring and Response Mechanism

The SMP procurement coordinator will monitor the procurement implementation process and will report to the SMP Executive Committee regularly on all written complaints. An unscheduled Executive Committee may meet with quorum due to the urgent nature that needs to be addressed. The SMP Executive Committee will have the mandate to respond to the complaints, either through a written document prepared by SMP, the Sponsor, or other means, namely through a legal counselor. All documents will be filed and turned over to St. Michael's Hospital (SMH) as part of the facility acceptance and turnover of facilities information. Complaints for preventative maintenance will be filed as part of the operation.

APPENDIX 1

**DECLARATION OF A DIRECTOR OR OFFICER OF
BONDFIELD CONSTRUCTION COMPANY LIMITED.
("Construction Contractor")**

TO: ST. MICHAEL'S HOSPITAL, a non-share capital corporation incorporated under the laws of Ontario

I, John Aquino, being the Vice-President of Construction Contractor and an authorized signatory of Construction Contractor and being duly authorized by Construction Contractor to deliver this declaration, hereby make the following declaration and confirmation for and on behalf of Construction Contractor and without incurring personal liability and that the same may be relied upon by you without further inquiry:

Construction Contractor has made the proper inquiries and has determined that the requirements of the Procurement Monitoring and Implementation Plan have been complied with by Construction Contractor and its Subcontractors in the immediately previous year.

DATED this ____ day of _____, 20__.

Name: John Aquino

Title: Vice-President

SCHEDULE 22

VARIATION PROCEDURE

1. VARIATIONS

1.1 Definitions

- (a) The following terms shall have the following meanings:
- (i) **“Capital Expenditure”** means a capital expenditure as interpreted in accordance with Canadian GAAP.
 - (ii) **“Construction Contractor Variation Notice”** has the meaning given in Section 2.1(a) of this Schedule 22.
 - (iii) **“Direct Cost”** has the meaning given in Appendix A of this Schedule 22.
 - (iv) **“Estimate”** has the meaning given in Section 1.4(a) of this Schedule 22.
 - (v) **“Variation”** means a variation, addition, reduction, substitution, omission, modification, deletion, removal or other change to the whole or any part of the Design and Construction Work.
 - (vi) **“Variation Confirmation”** has the meaning given in Section 1.7(a)(ii) of this Schedule 22.
 - (vii) **“Variation Directive”** means a written instruction which is issued on a form designated as a “Variation Directive Form” and signed by Project Co directing Construction Contractor to immediately proceed with a Variation pending the finalization and issuance of a Variation Confirmation for that Variation.
 - (viii) **“Variation Enquiry”** has the meaning given in Section 1.3(a) of this Schedule 22.

1.2 General

- (a) Notwithstanding anything herein contained, Construction Contractor agrees that (i) a Variation Confirmation or Variation Directive shall only be issued and implemented hereunder to the extent that a corresponding Variation Confirmation or Variation Directive (each as defined in the Project Agreement) is issued and required to be implemented under the Project Agreement and subject to Section 14 of the body of the Design and Construction Contract, and (ii) the Construction Contractor, will perform all obligations pursuant to a Variation Confirmation or Variation Directive (each as defined in the Project Agreement) to the extent that such Variation Confirmation or Variation Directive relates to the Design and Construction Work

- (b) Project Co has the right from time to time to propose and require Construction Contractor to carry out and implement a Variation, and any such Variation shall be subject to the provisions of this Schedule 22, provided that Project Co shall not be permitted to withdraw a Variation Enquiry (nor will a Variation Enquiry be deemed to have been withdrawn) with respect to those circumstances specified in the Design and Construction Contract for which Project Co is obligated to proceed with a Variation.
- (c) Project Co shall be obligated to proceed with a Variation in certain circumstances specified in this Design and Construction Contract, and any such Variation shall be subject to the provisions of this Schedule 22.
- (d) Construction Contractor will not be entitled to any payment, compensation or extension of time for a Variation except to the extent provided in a Variation Confirmation or Variation Directive in accordance with this Schedule 22.
- (e) Construction Contractor shall not be entitled to claim any ownership of the Schedule Cushion as a result of any Variation Confirmation or Variation Directive issued pursuant to this Schedule 22.

1.3 Variation Enquiry

- (a) If Project Co proposes or is obligated pursuant to the terms of this Design and Construction Contract or Applicable Law to initiate a Variation it shall deliver to Construction Contractor a written notice of the proposed Variation (a "Variation Enquiry").
- (b) A Variation Enquiry shall:
 - (i) describe the proposed Variation with sufficient detail to enable Construction Contractor to prepare a detailed Estimate;
 - (ii) state whether Project Co intends to pay for the Variation by way of lump sum payment or payments, adjustment to the Guaranteed Price; and
 - (iii) provide a preliminary indication of any provisions of this Design and Construction Contract (including the Output Specifications or the Construction Contractor Proposal Extracts) that will be affected by the proposed Variation, as well as the amendments to this Design and Construction Contract (including the Output Specifications or the Construction Contractor Proposal Extracts) that may be necessary to accommodate the Variation.

1.4 Delivery of Estimate

- (a) As soon as practicable and in any event within 15 Business Days after receipt of a Variation Enquiry, or such longer period as the Parties agree acting reasonably, Construction Contractor shall deliver its detailed breakdown, estimate and other

information (an "Estimate") prepared in accordance with and meeting the requirements of Section 1.6.

1.5 Construction Contractor Grounds for Objection

- (a) Construction Contractor may only refuse to deliver an Estimate if Construction Contractor can demonstrate to Project Co's satisfaction, acting reasonably, within the period for delivery of an Estimate specified or agreed pursuant to Section 1.4(a), that:
- (i) the implementation of the Variation would materially and adversely affect the health and safety of any person;
 - (ii) the implementation of the Variation would:
 - (A) infringe Applicable Law;
 - (B) cause to be revoked any of the existing Permits, Licences, Approvals and Agreements required by Construction Contractor to perform the Design and Construction Work, and any such Permits, Licences, Approvals and Agreements is not, using commercially reasonable efforts, capable of amendment or renewal; or
 - (C) require any new Permits, Licences, Approvals and Agreements for Construction Contractor to perform the Design and Construction Work, any of which Permits, Licences, Approvals and Agreements will not, using commercially reasonable efforts by Construction Contractor or SMH, as applicable, be obtainable;
 - (iii) the proposed Variation would have a material and adverse effect on performance of the Design and Construction Work (except those Design and Construction Work which have been specified as requiring amendment in the Variation Enquiry) in a manner not compensated pursuant to this Schedule 22;
 - (iv) the implementation of the Variation would be a departure from Good Industry Practice;
 - (v) Project Co does not have the legal power or capacity to require the Variation to be implemented or to do anything envisaged by this Schedule 22 in respect of or in connection with the Variation or SMH does not have the legal power or capacity to require the Variation to be implemented or to do anything envisaged by Schedule 22 in respect of or in connection with the Variation, pursuant to Schedule 22 of the Project Agreement;
 - (vi) the Variation would, if implemented, result in a change in the essential nature of the Facility;

- (vii) the Variation Enquiry does not comply with the requirements of Section 1.3 (including a failure to include adequate information therein to enable Construction Contractor to prepare an Estimate in respect thereof); or
 - (viii) in the case of a Variation relating to the Design and Construction Work, the time specified for commencement and/or completion of such Variation cannot be achieved by Construction Contractor despite commercially reasonable efforts.
- (b) If Construction Contractor refuses to provide an Estimate on the grounds set out in Section 1.5(a), Construction Contractor shall, within the period for delivery of an Estimate specified or agreed pursuant to Section 1.4(a), deliver to SMH, on behalf of Project Co, a written notice specifying the grounds upon which Construction Contractor rejects the Variation and the details thereof.

1.6 Estimate Requirements

- (a) Unless Project Co in a Variation Enquiry requires only specified limited information, each Estimate shall include the following information, sufficient to demonstrate to Project Co's, and SMH's, reasonable satisfaction:
- (i) the steps Construction Contractor will take to implement the Variation, in such detail as is reasonable and appropriate in the circumstances;
 - (ii) any impact on a Scheduled Phase Completion Date, the Scheduled Tower Interim Completion Date or the Scheduled Substantial Completion Date and any other schedule impact on the provision of any Phase of the Works or the remainder of the Facility and completion of the Design and Construction Work (including for certainty, any impact of the proposed Variation after taking into consideration other Variations);
 - (iii) any impact on the performance of the Design and Construction Work and any other impact on this Design and Construction Contract (including for certainty, any impact of the proposed Variation after taking into consideration other Variations);
 - (iv) any amendments to this Design and Construction Contract or any Project Document required as a consequence of the Variation, the objective of such amendments being to ensure that (save for the obligation of Project Co to make payments or altered payments in respect of the Variation) the Parties are in no better and no worse position in relation to the Project than they would have been in if the Variation had not been implemented and, in particular, that there will be no material adverse change to the risk profile of the Project as a result of the Variation;
 - (v) any impact on the Direct Costs of Construction Contractor and the Subcontractors, including costs that will be incurred, reduced or avoided and the

impact on Construction Contractor's cash flows from incurring, reducing or avoiding such costs;

- (vi) Construction Contractor's preliminary indication of the potential increase or decrease, if any, to the Guaranteed Price; and
- (vii) any Permits, Licences, Approvals and Agreements that must be obtained or amended for the Variation to be implemented, and the latest date by which Construction Contractor must receive a Variation Confirmation and obtain or amend such Permits, Licences, Approvals and Agreements for the Estimate to remain valid; and
- (viii) the proposed methods of certification of any construction or operational aspect of the Design and Construction Work required by the Variation if not covered by the provisions of this Design and Construction Contract,

in each case, together with such supporting information and justification as is reasonably required.

- (b) In preparing its Estimate, Construction Contractor shall include sufficient information to demonstrate to Project Co's and SMH's satisfaction, acting reasonably, that:
 - (i) Construction Contractor has used or has obliged each Subcontractor (or will oblige any Subcontractor not yet selected) to use commercially reasonable efforts, including the use of competitive quotes or tenders (if appropriate or required by Sections 1.6(c) and 1.6(e)), to minimize any increase in costs and to maximize any reduction in costs;
 - (ii) all costs of Construction Contractor and the Subcontractors are limited to Direct Costs;
 - (iii) Construction Contractor shall charge only the margins for overhead and profit as set out in Appendix B hereto (such margins each calculated on the basis of the applicable Direct Costs so that no margin of the Construction Contractor is calculated on any other margin of Construction Contractor), and no other margins or mark-ups;
 - (iv) the margins for overheads and profit as set out in Appendix B hereto as applicable to Construction Contractor's Direct Costs shall only be chargeable on Direct Costs of Construction Contractor;
 - (v) all costs of providing Design and Construction Work including, Capital Expenditures reflect:
 - (A) labour rates applying in the open market to providers of services similar to those required by the Variation;

- (B) any and all changes in the Output Specifications arising out of the proposed Variation; and
 - (C) any and all changes in risk allocation;
 - (vi) the full amount of any and all expenditures that have been reduced or avoided (including for any Capital Expenditure) and that all such expenditures, including all applicable margins for overhead and profit anticipated to be incurred but for the Variation, have been taken into account and applied in total to reduce the amount of all costs; and
 - (vii) Construction Contractor has mitigated or will mitigate the impact of the Variation, including on the Design and Construction Work Schedule, the performance of the Design and Construction Work, the expected usage of utilities and the Direct Costs to be incurred.
- (c) Construction Contractor will use commercially reasonable efforts to obtain the best value for money when procuring any work, services, supplies, materials or equipment required by the Variation and will comply with all Good Industry Practice in relation to any such procurement, to a standard no less than Construction Contractor would apply if all costs incurred were to its own account without recourse to Project Co, including using commercially reasonable efforts to mitigate such costs.
 - (d) As soon as practicable, and in any event not more than 15 Business Days after Project Co receives an Estimate, Construction Contractor and Project Co shall discuss (with, at the request of Project Co, SMH) and seek to agree on the Estimate, including any amendments to the Estimate agreed to by the Parties.
 - (e) If Project Co or SMH would be required by Applicable Law or any policy applicable to Project Co or SMH to competitively tender any contract in relation to the proposed Variation, Project Co may require Construction Contractor to seek and evaluate competitive tenders for the proposed Variation in accordance with such Applicable Law or policy.
 - (f) Project Co may modify a Variation Enquiry in writing at any time for any matter relating to the Estimate or the discussions in relation thereto, in which case Construction Contractor shall, as soon as practicable and in any event not more than 10 Business Days after receipt of such modification, notify SMH, on behalf of Project Co, in writing of any consequential changes to the Estimate.
 - (g) If the Parties cannot agree on an Estimate pursuant to Section 1.6(d), then any Dispute will be determined in accordance with Schedule 27 – Dispute Resolution Procedure.
 - (h) The Construction Contractor based on consultation and feedback from Project Co shall also include such information in the Estimate as required to fulfill Project Co's obligations in respect of Section 1.6 and 1.7 of Schedule 22 of the Project Agreement

1.7 Variation Confirmation

- (a) As soon as practicable, and in any event within 15 Business Days after the later of the date the Estimate was delivered and the date the Estimate was either agreed to or any Dispute in respect thereof was determined in accordance with Schedule 27 - Dispute Resolution Procedure, Project Co shall either:
- (i) subject to Sections 1.2(c) and 1.7(e), withdraw the Variation Enquiry by written notice to Construction Contractor; or
 - (ii) issue a written confirmation (the "**Variation Confirmation**") of the Estimate, including any agreed modifications thereto or any modifications resulting for the determination of a Dispute in respect thereof, which Variation Confirmation may be subject to Project Co obtaining financing pursuant to Section 1.8 of Schedule 22 of the Project Agreement.
- (b) If Project Co does not issue a Variation Confirmation within such 15 Business Days, then, subject to Sections 1.2(c) and 1.7(e), the Variation Enquiry shall be deemed to have been withdrawn.
- (c) Upon the Variation Confirmation being issued, and if applicable upon Project Co obtaining financing pursuant to Section 1.8 of Schedule 22 of the Project Agreement:
- (i) the Parties shall as soon as practicable thereafter do all acts and execute all documents to amend this Design and Construction Contract necessary to implement the Variation, including in respect of any required extension of time and including provision for payment to Construction Contractor as provided in Section 1.10;
 - (ii) Construction Contractor shall implement the Variation as provided for in the Variation Confirmation, and subject to amendments pursuant to Section 1.7(c)(i), all provisions of this Design and Construction Contract applicable to the Design and Construction Work shall apply to the Design and Construction Work as thereby changed and no additional claim with respect to the Variation or Variation Confirmation will be considered; and
 - (iii) payment in relation to the Variation shall be as provided for in Section 1.10 and pursuant to any amendments pursuant to Section 1.7(c)(i).
- (d) If a Variation Confirmation is subject to Project Co obtaining financing pursuant to Section 1.8 of Schedule 22 of the Project Agreement, then the Variation Confirmation shall not be effective until:
- (i) Project Co obtains such financing acceptable to SMH in its sole discretion pursuant to the Project Agreement; or

- (ii) SMH in its sole discretion waives such requirement pursuant to the Project Agreement.
- (e) Except as hereinafter provided, until a Variation Confirmation has been issued:
 - (i) the determination of whether or not to proceed with a Variation shall at all times be at Project Co's sole discretion, despite any Dispute or any other matter in relation to a Variation being referred to or determined by Schedule 27 - Dispute Resolution Procedure; and
 - (ii) Project Co may at any time withdraw a Variation Enquiry and, subject to Section 1.7(f), Project Co shall not be obligated to Construction Contractor in respect of a Variation until such time as Project Co in its sole discretion issues a Variation Confirmation and, if applicable, pursuant to the Project Agreement, Project Co has obtained the financing requested by SMH or SMH has waived such requirement,

provided that Project Co may not withdraw (or be deemed to have withdrawn) a Variation Enquiry in circumstances where Project Co is obligated pursuant to the terms of this Design and Construction Contract to proceed with a Variation. In such circumstances Schedule 27 - Dispute Resolution Procedure shall be employed to finalize any aspects of the Variation which cannot otherwise be agreed to in accordance with the terms of this Schedule 22.

- (f) If a Variation Confirmation is not issued for any Variation Enquiry in respect of which Construction Contractor has used commercially reasonable efforts to produce a fair and accurate Estimate, Project Co shall reimburse Construction Contractor for all Direct Costs reasonably and properly incurred by Construction Contractor in connection with preparing the Estimate.

1.8 Financing

- (a) If pursuant to Section 1.8 of Schedule 22 of the Project Agreement SMH waives the requirement for financing or if Project Co has no further obligation to obtain financing for the Variation (as defined in the Project Agreement) pursuant to Sections 1.8(b), 1.8(c) or 1.8(d) of the Project Agreement, then Project Co shall proceed with such Variation as set out in the Variation Confirmation (as defined in the Project Agreement) and Project Co shall pay for the Variation as provided for in Section 1.10(a)(ii).

1.9 Increase or Decrease in the Cost of the Financing

- (a) For greater certainty, subject to Section 1.9(b) of the Project Agreement and notwithstanding Section 31.2(b) of the Project Agreement, where, pursuant to the Project Agreement SMH elects to apply all or any portion of the number of days of the Schedule Cushion, Construction Contractor shall only be entitled to compensation valued pursuant to Section 1.6(b) of the Project Agreement, provided, however, the margins for overhead

and profit as set out in Appendix B hereto shall be reduced by twenty percent (20%) and applied to the entire scope of the applicable Variation. This provision shall apply to Construction Contractor to the extent SMH applies the Schedule Cushion pursuant to Section 1.09(c) of Schedule 22 of the Project Agreement.

1.10 Payment

- (a) If a Variation Confirmation has been issued and is not subject to financing pursuant to the Project Agreement, or if the requirement for financing has been satisfied by Project Co or has been waived by SMH pursuant to the Project Agreement, a price adjustment for the Variation, as set out in the Estimate and as adjusted and confirmed by the Variation Confirmation, shall be made as follows:
- (i) the Guaranteed Price shall be adjusted as set out in the Variation Confirmation;
 - (ii) payment for Capital Expenditures as set out in the Variation Confirmation and not financed by Project Co shall be paid as follows:
 - (A) Project Co shall pay such Capital Expenditures in lump sum payments based on a payment schedule agreed by Project Co and Construction Contractor, acting reasonably, to reflect the amount and timing of the Capital Expenditures to be incurred by Construction Contractor in carrying out the Variation to the extent borne by Project Co; and
 - (B) where payment for part of the Variation reflects the carrying out of, or specific progress towards, an element within the Variation, Construction Contractor shall provide satisfactory evidence confirming that the part of the Variation corresponding to each occasion when payment is due under the payment schedule has been duly carried out.

In the event Project Co and Construction Contractor fail to agree as to the terms of the payment schedule, the payment schedule shall be determined in accordance with Schedule 27 - Dispute Resolution Procedure, provided that, where all or any part of the Variation is being carried out by a third party under a contract with Construction Contractor, subject to the terms of any contract between Construction Contractor and that third party in relation to the implementation of the Variation having been approved by Project Co (such approval not to be unreasonably withheld or delayed), the process under Schedule 27 - Dispute Resolution Procedure shall determine a payment schedule which would enable Construction Contractor to be funded by Project Co in time to make payments to that third party in accordance with its contract with Construction Contractor.

- (b) Construction Contractor acknowledges and agrees that pursuant to Section 1.10(b) of the Project Agreement, SMH shall make payment to Project Co within 20 Business Days of receipt by SMH of invoices presented to SMH in accordance with the agreed payment schedule accompanied (where applicable) by the relevant evidence that the relevant part of the Variation (as defined in the Project Agreement) has been carried out.

- (c) Payments by Project Co in respect of a Variation shall be subject to applicable holdback provisions of the CLA, as applicable.
- (d) Construction Contractor shall not be entitled to any amount in excess of the amount of the Estimate confirmed in the Variation Confirmation.
- (e) Upon request by Construction Contractor, Project Co shall provide to Construction Contractor copies of any consent or approval issued by MOHLTC, SMH and/or SMH's board of directors in connection with a proposed Variation.

1.11 Reduction in Design and Construction Work

- (a) If a Variation involves any reduction in Design and Construction Work which results in savings in Direct Costs to Construction Contractor, such savings shall result in a reduction in the compensation payable to Construction Contractor under this Design and Construction Contract in an amount equal to such reduction in Direct Costs and the Cost of the Design and Construction Work (as applicable, at Project Co's discretion) shall be reduced accordingly.

1.12 Variation Directive

- (a) If an Estimate is not promptly agreed upon by Project Co and Construction Contractor or if there is a Dispute in relation thereto or if Project Co, in its sole discretion, requires a Variation to be implemented prior to issuing a Variation Confirmation, then Project Co may issue a Variation Directive and, following receipt of the Variation Directive:
 - (i) Construction Contractor shall promptly proceed with the Variation;
 - (ii) the determination of the valuation and time extensions, if any, required in connection with such Variation, shall be made as soon as reasonably possible after commencement of the implementation of the Variation; and
 - (iii) pending final determination of the valuation and time extensions, if any, required in connection with such Variation, the Independent Certifier, acting reasonably, shall determine the valuation in accordance with Appendices A and B hereto, with any Dispute to be determined in accordance with Schedule 27 - Dispute Resolution Procedure,

provided that, Project Co shall fund all Variations implemented by way of a Variation Directive as provided for in Section 1.10(a)(ii).

2. CONSTRUCTION CONTRACTOR VARIATIONS**2.1 General**

- (a) Construction Contractor shall deliver to Project Co a written notice (a "**Construction Contractor Variation Notice**") for each Variation proposed by Construction Contractor.

2.2 Construction Contractor Variation Notice

- (a) A Construction Contractor Variation Notice shall:
- (i) set out details of the proposed Variation in sufficient detail to enable Project Co to evaluate it in full;
 - (ii) specify Construction Contractor's reasons for proposing the Variation;
 - (iii) indicate all reasonably foreseeable implications of the Variation, including whether there are any costs or cost savings to Project Co; and
 - (iv) indicate the latest date by which a Variation Enquiry must be issued.
- (b) If Project Co, in its sole discretion, elects to consider the Variation proposed by Construction Contractor, Project Co may issue to Construction Contractor a Variation Enquiry and the procedure set out in Section 1 will apply.
- (c) Construction Contractor shall, promptly upon demand, reimburse Project Co for all costs and expenses reasonably incurred by Project Co in connection with Project Co's consideration of any Variation proposed by Construction Contractor pursuant to Article 2 of this Schedule 22, including, without limitation, legal and consulting fees and disbursements, regardless of whether (i) a Variation Enquiry or Estimate is issued in connection therewith or (ii) such Variation is implemented.

APPENDIX A

CALCULATION OF DIRECT COSTS

1. DIRECT COSTS

1.1 Subject to Section 1.2 of this Appendix A, the term "Direct Cost" means the cumulative total, without duplication, of only the following amounts, as paid or incurred by Construction Contractor or the Subcontractors, as applicable, to the extent that they specifically relate to, and are attributable to, the Variation under which Construction Contractor is expressly entitled to its Direct Cost and would not otherwise have been incurred:

- (i) wages and benefits paid for labour in the direct employ of Construction Contractor or the Subcontractors while performing that part of the Design and Construction Work on Site;
- (ii) salaries, wages and benefits of Construction Contractor's or the Subcontractors' personnel when stationed at the Site office in whatever capacity employed, or personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment;
- (iii) salaries, wages and benefits of Construction Contractor's or the Subcontractors' office personnel engaged in a technical capacity;
- (iv) without limiting Sections 1.1(i), 1.1(ii) and 1.1(iii) of this Appendix A, contributions, assessments or taxes incurred for such items as employment insurance, provincial health insurance, workers' compensation, and Canada Pension Plan, insofar as such costs are based on the wages, salaries, or other remuneration paid to Construction Contractor for employees pursuant to Sections 1.1(i), 1.1(ii) and 1.1(iii) of this Appendix A, but excluding for certainty all income taxes on such wages, salaries and other remuneration;
- (v) travel and subsistence expenses of Construction Contractor's or the Subcontractors' officers or employees referred to in Sections 1.1(i), 1.1(ii) and 1.1(iii) of this Appendix A;
- (vi) the cost of materials (including hand tools which have a retail value of \$2000 or less), products, supplies, equipment, temporary services and facilities, including transportation and maintenance thereof, which are consumed in the performance of the Variation;
- (vii) the rental costs of all tools (excluding hand tools which have a retail value of \$2000 or less), machinery, and equipment used in the performance of the Variation, whether rented from or provided by Construction Contractor or others,

- including installation, minor repair and replacement, dismantling, removal, transportation and delivery costs thereof;
- (viii) deposits lost;
 - (ix) the amount of all Subcontracts with the Subcontractors;
 - (x) the amount paid for any design services;
 - (xi) the cost of third party quality assurance required by Project Co, such as independent inspection and testing services;
 - (xii) charges levied by Governmental Authorities, but excluding fines or penalties not related to the implementation of the Variation;
 - (xiii) subject to Section 1.1(iv) of this Appendix A, Taxes and without limiting the obligation of Project Co to pay HST under the Design and Construction Contract, but excluding:
 - (A) HST;
 - (B) taxes imposed on Construction Contractor or a Subcontractor based on or measured by income or profit or otherwise imposed under the Income Tax Act (Canada), the Income Tax Act (Ontario) or any similar statute in any other jurisdiction;
 - (C) capital taxes based on or measured by the capital of Construction Contractor or a Subcontractor;
 - (D) taxes relating to withholdings on any payments by Construction Contractor or a Subcontractor; and
 - (E) taxes relating to any business or activity other than the business or activities related to, and conducted for, the purposes of the Design and Construction Work;
 - (xiv) the cost of removal and disposal of contaminants, hazardous substances, waste products and debris for which Construction Contractor is not responsible under this Design and Construction Contract;
 - (xv) termination payments which are required under Applicable Law to be made to employees of Construction Contractor reasonably and properly incurred by Construction Contractor arising as a direct result of any Variation reducing the scope of the Design and Construction Work, except to the extent that such termination payments are provided for in contracts of employment, agreements or arrangements that were not entered into in the ordinary course of business and on commercial arm's length terms;

- (xvi) the cost of competitively tendering any contract in relation to the proposed Variation which is required by Applicable Law or any policy applicable to Project Co;
- (xvii) the cost of any additional insurance or performance security required or approved by Project Co;
- (xviii) the cost of obtaining all Permits, Licences, Approvals and Agreements; and
- (xix) reasonable fees and disbursements of Construction Contractor's legal advisors.

1.2 The Direct Cost otherwise payable shall be subject to and limited by the following:

- (i) the Direct Cost shall be net of all discounts, rebates and other price reductions and benefits, which relate to the Direct Cost incurred;
- (ii) the amount paid for materials, products, supplies and equipment incorporated into the Design and Construction Work as a result of the Variation shall not exceed commercially competitive rates available in the Province for such materials, products, supplies and equipment from arms-length third party suppliers;
- (iii) the amount paid for any design services included in the Direct Cost, whether provided by Construction Contractor's personnel, consultants, manufacturers or manufacturers' consultants, for hourly paid personnel shall not exceed two times the actual salary received by those personnel (actual salary to be inclusive of all benefits, statutory remittances and holidays), and for salaried personnel, the actual salary per hour shall be calculated by dividing the annual salary (inclusive of all benefits, statutory remittances and holidays) by 2080 hours;
- (iv) the amount paid for machinery and equipment rental costs shall not exceed the prevailing competitive commercial rate for which such equipment or machinery can be obtained in Toronto, Ontario; and
- (v) the Direct Cost shall not include any cost incurred due to the failure on the part of Construction Contractor to exercise reasonable care and diligence in its attention to the prosecution of that part of the Design and Construction Work.

APPENDIX B
APPLICABLE MARGINS

Party	Total Overhead and Profit Margin (as % of Direct Cost)		
	<i>For projects under \$100,000</i>	<i>For projects between \$100,000 and \$1,000,000</i>	<i>For projects over \$1,000,000</i>
Construction Contractor (Own Work)	15%	10%	8%
Construction Contractor Subcontracted Work	10%	7%	5%

SCHEDULE 23

COMPENSATION ON TERMINATION

1 DEFINITIONS

1.1 Definitions

The following terms shall have the following meanings:

- (a) **“Construction Contractor Amount”** means any amount payable to Construction Contractor as a return and/or profit to Construction Contractor shown in the Financial Model, including for greater certainty any loans made or capital contributed to Construction Contractor by any Affiliate of Construction Contractor or a Construction Contractor Party, prorated by a fraction, the numerator of which is the period between the date of commencement of the Design and Construction Work and the Termination Date, and the denominator of which is the period between the date of commencement of the Design and Construction Work and the Scheduled Substantial Completion Date.
- (b) **“Construction Contractor Default Termination Sum”** has the meaning given to it in Section 3.1(b) of this Schedule 23.
- (c) **“Demobilization Costs”** means all reasonable costs of Construction Contractor associated with the demobilization of the Design and Construction Work as a result of the termination of the Design and Construction Contract.
- (d) **“Invoice Date”** means the date that is the later of:
 - (i) the date on which a Party receives an invoice from the other Party for the relevant termination sum; and
 - (ii) the date on which Project Co receives the supporting evidence required pursuant to Section 5.1(a) of this Schedule 23.
- (e) **“Party”** has the meaning given in Schedule 1 – Definitions and Interpretations.
- (f) **“Project Co Default Termination Sum”** has the meaning given in Section 2.1(c) of this Schedule 23.
- (g) **“Senior Debt Amount”** has the meaning given in the Project Agreement.
- (h) **“Senior Debt Makewhole”** has the meaning given in the Project Agreement.

2 COMPENSATION ON TERMINATION FOR PROJECT CO DEFAULT OR CONVENIENCE**2.1 Compensation**

- (a) Notwithstanding anything herein contained, Construction Contractor shall not be entitled to receive any Compensation Payment or other amount under this Schedule 23 of this Design and Construction Contract until satisfaction in full by Project Co of the Senior Debt Amount, as defined in the Project Agreement, and the Senior Debt Makewhole, as defined in the Project Agreement, and subject to Section 14 of the body of the Design and Construction Contract.
- (b) If Construction Contractor terminates this Design and Construction Contract pursuant to Section 35 of Appendix A – General Conditions of the Design and Construction Contract or Project Co terminates this Design and Construction Contract pursuant to Section 36.3 of Appendix A – General Conditions of the Design and Construction Contract, Project Co shall pay to Construction Contractor the Project Co Default Termination Sum.
- (c) The “Project Co Default Termination Sum” shall be an amount equal to the aggregate of (without duplication):
- (i) value, proportionate to the Cost of the Design and Construction Work, of the Design and Construction Work performed forming part of the Cost of the Design and Construction Work, including Products delivered to the Site at the Termination Date;
 - (ii) all Demobilization Costs;
 - (iii) the Construction Contractor Amount calculated as at the date of payment of the Project Co Default Termination Sum to Construction Contractor; and
 - (iv) all other Direct Losses suffered, sustained or incurred by the Construction Contractor as a result of, or arising out of, the event or events which have resulted in the termination of the Construction Contract and out of the termination,
- less (A) of this Section 2.1(c),
- (A) any amounts paid by Project Co on or before the Termination Date on account of the amounts in (i), (ii), (iii) and (iv).
- (d) Project Co shall pay the Project Co Default Termination Sum in accordance with Article 5 of this Schedule 23.

**3 COMPENSATION ON TERMINATION FOR CONSTRUCTION CONTRACTOR
DEFAULT****3.1 Compensation**

- (a) If Project Co terminates this Design and Construction Contract pursuant to Section 34 of Appendix A – General Conditions of the Design and Construction Contract, Project Co shall pay to Construction Contractor the Construction Contractor Default Termination Sum.
- (b) The “Construction Contractor Default Termination Sum” shall be an amount equal to the Guaranteed Price, as adjusted in accordance with the terms of this Design and Construction Contract as of the Termination Date, less the aggregate, without duplication, of each of the following:
- (i) Any amounts paid by Project Co on or before the Termination Date;
 - (ii) Estimate of the cost to complete the Design and Construction Work by Project Co or other applicable party, including the cost to remedy any defective or deficient Design and Construction Work determined on a reasonable basis in consultation with the Lenders' Consultant and other consultants and including all reasonable and proper costs incurred by Project Co or other applicable party in re-tendering the Design and Construction Work or any portion thereof;
 - (iii) Project Co's estimate of the aggregate of all Direct Losses suffered, sustained or incurred by Project Co as a result of, in respect of, or arising out of the event or events which resulted in the termination of the Design and Construction Contract and out of the termination together with all costs of entering into a new construction contract to complete the Design and Construction Work, including any warranty obligations for the Design and Construction Work in place and to be performed, on substantially the same terms and conditions as the Design and Construction Contract;
 - (iv) (A) the Completion Holdback and (B) the Tower Interim Completion Holdback, in each case as at the time the Construction Contractor Default Termination Sum is required to be made; and
 - (v) the Legislative Holdback required to be maintained by Project Co as at the time the Construction Contractor Default Termination Sum is required to be made, which amount will be paid by Project Co in accordance with the Construction Lien Act (Ontario).
- (c) To the extent that any amounts that Project Co has estimated or determined pursuant to Sections 3.1(b)(ii), 3.1(b)(iii), 3.1(b)(iv) or 3.1(b)(v) of this Schedule 23, are in excess of what is required by Project Co to complete the Design and Construction Work or compensate for Direct Losses, the Completion Holdback, the Tower Interim Completion

Holdback or the Legislative Holdback, as applicable, Project Co shall promptly return such excess amounts to Construction Contractor.

- (d) Project Co shall pay the Construction Contractor Default Termination Sum in accordance with Section 5 of this Schedule 23.

4 CONSEQUENCES OF TERMINATION AND TERMINATION FOR RELIEF EVENT

4.1 Consequences

- (a) If either Party terminates this Design and Construction Contract pursuant to Section 36.1 of Appendix A – General Conditions of the Design and Construction Contract or if either Party terminates this Design and Construction Contract pursuant to Section 36.2 of Appendix A – General Conditions of the Design and Construction Contract, Project Co shall pay to Construction Contractor the Project Co Default Termination Sum (but excluding therefrom any claims for loss of profit).
- (b) Project Co shall pay the Project Co Default Termination Sum in accordance with Section 5 of this Schedule 23.

5 GENERAL

5.1 Payment and Interest Following Termination

- (a) In respect of the termination payments to be made pursuant to either Section 2 or 4 of this Schedule 23, as soon as practicable after, and, in any event, within 30 days after, the Termination Date, Construction Contractor shall give to Project Co an invoice for the relevant termination sum and sufficient supporting evidence, reasonably satisfactory to Project Co, justifying the amount of the relevant termination sum including a detailed breakdown of each of the individual items comprising such sum.
- (b) In respect of the termination payments to be made pursuant to Section 3 of this Schedule 23, as soon as practicable, and in any event, within 120 days after the Termination Date, Project Co shall calculate and notify Construction Contractor of the Construction Contractor Default Termination Sum under Section 3.1(b) of this Schedule 23, such notification to include an invoice from Project Co, as applicable, and shall deliver to Construction Contractor sufficient supporting evidence reasonably satisfactory to Construction Contractor.
- (c) Project Co shall:
- (i) subject to Section 5.1(e) of this Schedule 23, pay to Construction Contractor the relevant termination sum within 60 days after the Invoice Date or the date of delivery of the notice described in Section 5.1(b) of this Schedule 23, as applicable, and so long as all of demobilization of the Design and Construction Work has been completed; and

- (ii) indemnify Construction Contractor as provided in Section 44.2(c) of Appendix A – General Conditions of the Design and Construction Contract in respect of any damages suffered or incurred as a result of the relevant termination sum (or any part of such sum that remains outstanding) not being received on the Termination Date:
 - (A) in an amount equivalent to the No Default Payment Compensation Amount for the period from (but excluding) the Termination Date to (and including) the date which is 60 days after the Invoice Date or the date of delivery of the notice described in Section 5.1(b) of this Schedule 23, as applicable; and
 - (B) thereafter, in an amount equivalent to the Payment Compensation Amount until the date of payment.
- (d) In respect of the termination payments to be made pursuant to Section 3 of this Schedule 23, if the applicable termination sum is negative, Project Co shall have no obligation to make any payment to Construction Contractor and Construction Contractor shall also thereafter indemnify Project Co as provided in Section 44.1(e) of Appendix A – General Conditions of the Design and Construction Contract in respect of any damages suffered or incurred on such amount on the basis that the due date for the payment of the negative termination sum amount was the date 60 days after the Invoice Date until the date of payment in an amount equivalent to the Payment Compensation Amount.
- (e) In respect of the termination payments to be made pursuant to this Schedule 23, payment shall be made by Project Co on the later of (A) the time period provided for in Section 5.1(c)(i) of this Schedule 23; or (B) as applicable, two (2) Business Days after Project Co's receipt of the applicable funds from SMH pursuant to Schedule 23 under the Project Agreement.

5.2 Costs

- (a) The costs and expenses to be taken into account in the calculation of all termination sums due pursuant to this Schedule 23 shall only be such costs and expenses to the extent that they are reasonable and proper in quantum and shall have been or will be reasonably and properly incurred.

5.3 Undisputed Amounts

- (a) If the calculation of any termination amount is disputed then any undisputed amount shall be paid in accordance with this Section 5 and the disputed amount shall be dealt with in accordance with Schedule 27 – Dispute Resolution Procedure.

SCHEDULE 25**INSURANCE AND PERFORMANCE SECURITY REQUIREMENTS****1. WORKS PHASE INSURANCE COVERAGE**

1.1 Subject to Section 7, from and after execution of the Project Agreement and until the Substantial Completion Date, Construction Contractor shall, at its own expense, obtain and maintain, exclusively through the IO Construction Insurance Program ("IOICIP") the following insurances as further described in Appendix A to this Schedule 25:

- (a) "All Risks" Course of Construction Property, including Boiler and Machinery;
- (b) "Wrap-Up" Commercial General Liability and Non-Owned Automobile Liability;
- (c) Project Specific Pollution Liability (combined Contractors' Pollution Liability and Pollution Legal Liability); and
- (d) Project Specific Professional Liability.

1.2 Subject to Section 7, from and after execution of the Project Agreement and until the Substantial Completion Date, Construction Contractor shall, at its own expense, obtain and maintain, the following insurances as further described in Appendix A to this Schedule 25:

- (a) Automobile Liability;
- (b) Commercial General Liability and Non-Owned Automobile Liability (to be maintained by each of the Subcontractors involved in the Design and Construction Work) with respect to off-site operations and activities;
- (c) Aircraft and Watercraft Liability (if any exposure);
- (d) "All Risks" Marine Cargo (if any exposure);
- (e) "All Risks" Contractors' Equipment;
- (f) Comprehensive Crime; and
- (g) WSIB.

2. NO LIMIT ON RECOVERY

2.1 Notwithstanding any other provision of the Design and Construction Contract, it is hereby agreed that the limits of liability specified in this Schedule 25 for insurance policies, whether such policies are required to be obtained (or caused to be obtained) by SMH, Project Co or by Construction Contractor, shall in no way limit Construction

Contractor's liability or obligations to SMH or Project Co or Project Co's liability or obligations to Construction Contractor, as applicable.

3. ADDITIONAL COVER

- 3.1 Without prejudice to the other provisions of this Schedule 25, Project Co and Construction Contractor shall, at all relevant times and at their own expense, obtain and maintain (or cause to be obtained and maintained) those insurances which they are required to obtain and maintain (or cause to be obtained and maintained) by Applicable Law, or that they consider necessary.
- 3.2 Project Co reserves the right to require Construction Contractor to purchase such additional insurance coverage as Project Co may reasonably require. Project Co also reserves the right to request such higher or lower limits of insurance or otherwise alter the types of coverage requirements, their minimum amounts and deductibles (taking into consideration such matters as the nature of the Design and Construction Work, contract value, industry standards and availability of insurance) as Project Co may reasonably require from time to time. Any additional costs of such additional and/or amended insurance shall be borne by Project Co and any cost savings resulting from the implementation of such additional and/or amended insurance shall be for the account of Project Co.

4. RESPONSIBILITY FOR DEDUCTIBLES

- 4.1 The Party responsible for the matter giving rise to a claim, to the extent responsible therefor, shall be responsible and liable for the payment of deductibles under any policy of insurance under which it is an insured party or under any policy of insurance Construction Contractor is required to maintain (or cause to be maintained) under this Schedule 25. In the event that responsibility for the matter giving rise to the claim is indeterminable, the First Named Insured under the policy of insurance is responsible and liable for the payment of deductibles.

5. COOPERATION WITH INSURER'S CONSULTANT

- 5.1 If an insurer or an insurer's appointed consultant, for underwriting purposes or as a term of an insurance policy, needs to review any part of the performance of the Design and Construction Contract, then Project Co and Construction Contractor shall, and shall require Project Co Parties and the Construction Contractor Parties, respectively, to:
- (a) cooperate with the insurer and its consultant, including providing them with such information and documentation as they may reasonably require; and
 - (b) allow the insurer and its consultant to attend meetings between Construction Contractor and Project Co (or, as applicable, and if reasonably required by the insurer, between Construction Contractor and those engaged by or through Construction Contractor).

6. UNINSURABLE RISKS

- 6.1 The term "**Uninsurable Risk**" means a risk, or any component of a risk, against which Construction Contractor is required to insure pursuant to this Schedule 25 and for which, at any time after the date of the Project Agreement, either:
- (a) the insurance required pursuant to this Schedule 25 (including the terms and conditions specified for such insurance herein) is not available in relation to that risk:
 - (i) where Applicable Laws require that the insurance be licensed in the Province of Ontario to insure such a risk, by insurers licensed in the Province of Ontario; or
 - (ii) where Applicable Laws do not require that the insurance be licensed in the Province of Ontario to insure such a risk, by any insurer otherwise permitted under the terms of the Project Agreement; or
 - (b) the insurance premium payable or the terms and conditions for insuring that risk are such that the risk is not generally being insured against in the worldwide insurance market.

Construction Contractor has the onus of demonstrating, to Project Co's and SMH's reasonable satisfaction that the foregoing definition applies to a particular risk.

- 6.2 Construction Contractor shall notify SMH and Project Co as soon as possible and, in any event, within 15 Business Days of becoming aware of same, that a risk, or any component of a risk, has become an Uninsurable Risk, and shall provide SMH and Project Co with all relevant details in relation to such risk, including a copy of the relevant insurance policy.
- 6.3 Construction Contractor, SMH and Project Co shall, as soon as possible following the provision of the notice referred to in Section 6.2, meet to discuss, in good faith, the appropriate means by which the Uninsurable Risk should be managed and, if SMH, Construction Contractor and Project Co are able to agree to alternative arrangements, the Uninsurable Risk shall be managed in accordance with such alternative arrangements.
- 6.4 In the event that SMH and Project Co, each acting in good faith, are unable to agree to alternative arrangements with respect to the management of an Uninsurable Risk within 15 Business Days of the expiry of the period referred to in Section 6.2, SMH, pursuant to the Project Agreement, may, in its absolute discretion, either:
- (a) elect to assume responsibility for the Uninsurable Risk and, in respect of the year in which the relevant risk becomes an Uninsurable Risk and every year thereafter, withhold, in equal instalments over the course of such year, from the payment or payments otherwise due to Project Co, with a corresponding withholding by Project Co from Contractor, an amount equal to the annual premium (index

linked) relating to the Uninsurable Risk as was current on the date immediately prior to the date on which the relevant risk became an Uninsurable Risk, in which case the Project Agreement and the Design and Construction Contract shall continue in full force and effect; or

- (b) terminate the Project Agreement, with a corresponding termination of the Construction Contract in accordance with Section 4.9 of Appendix A of the Design and Construction Contract as if such termination had occurred as a result of the Parties having failed to reach agreement in accordance with Section 4.9 of Appendix A of the Design and Construction Contract following the occurrence of an event of Force Majeure, and, in accordance with the provisions of Schedule 23 – Compensation on Termination, Project Co shall, subject to Section 14 of the body of the Construction Contract, pay to Construction Contractor an amount equal to the Project Co Default Termination Sum.

6.5 On the occurrence of an Uninsurable Risk, SMH, pursuant to the Project Agreement, may, in its absolute discretion, either:

- (a) pay to Project Co, with a corresponding payment to, Construction Contractor of an amount equal to the insurance proceeds that would have been payable to Construction Contractor in connection with such Uninsurable Risk had the relevant insurance continued to be available, in which case the Project Agreement and the Design and Construction Contract shall continue in full force and effect; or
- (b) terminate the Project Agreement, with a corresponding termination of the Design and Construction Contract in accordance with Section 4.9 of Appendix A of the Design and Construction Contract as if such termination had occurred as a result of the Parties having failed to reach agreement in accordance with Section 4.9 of Appendix A of the Design and Construction Contract following the occurrence of an event of Force Majeure, and, in accordance with the provisions of Schedule 23 – Compensation on Termination, and Project Co shall, subject to Section 14 of the body of the Design and Construction Contract, pay to Construction Contractor an amount equal to the Project Co Default Termination Sum.

6.6 With respect to any Uninsurable Risk:

- (a) Construction Contractor shall continue to approach the insurance market on a regular basis and, in any event, at intervals of not less than 180 days and use reasonable efforts to obtain (or cause to be obtained) insurance to cover as much or all of the Uninsurable Risk as can be insured in the available insurance market from time to time; and
- (b) Subject to Section 6.6(a), Construction Contractor shall be relieved of its obligation to maintain (or cause to be maintained) insurance in respect of the Uninsurable Risk.

6.7 Where a risk which was previously an Uninsurable Risk ceases to be so, Construction Contractor shall, at its own expense, obtain and maintain insurance in accordance with the requirements of this Schedule 25 in respect of the risk and the provisions of this Section 6 shall no longer apply to such risk.

7. TOTAL OR SUBSTANTIAL DESTRUCTION

7.1 In the event of damage to, or destruction of, all or substantially all of the Facility for which there is coverage under an insurance policy, any insurance proceeds received by Construction Contractor shall first be applied so as to ensure the performance by Construction Contractor of its obligations under the Design and Construction Contract, including, where appropriate, the reinstatement, restoration or replacement of the Facility or any other assets, materials or goods necessary or desirable for the carrying out of the Design and Construction Work, all in accordance with the terms of the Insurance Trust Agreement (as defined in the Project Agreement).

8. SUBCONTRACTORS

8.1 Construction Contractor shall require that all Subcontractors are covered by, or obtain, the insurance described in this Schedule 25, provided that Construction Contractor shall determine the applicable limits to be obtained for such insurance. Construction Contractor shall be solely responsible and liable for any damages which Project Co or SMH may suffer as a direct result of Construction Contractor's failure to comply with the foregoing.

8.2 If Construction Contractor receives notice that any Subcontractor employed by or through Construction Contractor is not covered by any insurance required by this Schedule 25 to be obtained (or cause to be obtained) by Construction Contractor, Construction Contractor shall:

- (a) ensure that such insurance coverage is put in place;
- (b) remove the Subcontractor from the Site and ensure that such Subcontractor does not perform any further part of the Design and Construction Work until after such insurance coverage is put in place; or
- (c) if the Subcontractor cannot be covered by a particular policy as required by this Schedule 25, replace the Subcontractor with a new Subcontractor who can obtain the required insurance coverage; it being acknowledged by Construction Contractor that the requirements and restrictions set forth in the Design and Construction Contract regarding new and replaced Subcontractors shall be complied with.

9. RENEWAL

9.1 Construction Contractor shall provide to SMH, at least 5 Business Days prior to the expiry date of any policy of insurance required to be obtained (or cause to be obtained)

by Construction Contractor pursuant to this Schedule 25, evidence of the renewal of each such policy satisfactory to Project Co and SMH, acting reasonably.

10. NAMED AND ADDITIONAL INSUREDS AND WAIVER OF SUBROGATION

10.1 All insurance provided by Construction Contractor, shall:

- (a) include Construction Contractor, Project Co, SMH and IO as Named Insureds to the extent specified in Appendix A of this Schedule 25;
- (b) include Project Co, SMH, IO, MOHLTC, the Lenders and the Lenders' Agent as Additional Insureds, or loss payees to the extent of their respective insurable interests to the extent specified in Appendix A of this Schedule 25;
- (c) except with respect to the Project Specific Professional Liability, Automobile Liability, Comprehensive Crime and WSIB specified in Appendix A to this Schedule 25, contain a waiver of subrogation as against SMH, SMH Parties, IO and their respective shareholders, officials, directors, officers, employees, servants, consultants (other than Design Consultants) and agents;
- (d) contain a breach of warranty provision whereby a breach of a condition by Project Co or Construction Contractor will not eliminate or reduce coverage for any other insured; and
- (e) be primary insurance with respect to any similar coverage provided by any insurance obtained by or available to Project Co, SMH or IO without any right of contribution of any insurance carried by Project Co, SMH or IO.

11. CERTIFICATES OF INSURANCE AND CERTIFIED COPIES OF POLICIES

11.1 Prior to the commencement of any part of the Design and Construction Work, Construction Contractor will provide SMH with certified copies of policies, confirming that the insurances specified in Section 1.1 and Section 1.2 have been obtained and are in full force and effect.

11.2 Prior to the commencement of any part of the Design and Construction Work, Construction Contractor will provide SMH with certificates of insurance or certified copies of policies, confirming that the insurances specified in Section 1.2 have been obtained and are in full force and effect. If certificates of insurance are provided, certified copies of the entire contents of all relevant insurance policies will be subsequently provided to SMH no later than 90 days after execution of the Project Agreement.

12. FAILURE TO MEET INSURANCE REQUIREMENTS

12.1 If Construction Contractor fails to obtain or maintain the insurance required by this Schedule 25, fails to furnish to SMH a certified copy of each policy required to be obtained by this Schedule 25 or if, after furnishing such certified copy, the policy lapses,

is cancelled, or is materially altered, then SMH or Project Co shall have the right, without obligation to do so, to obtain and maintain such insurance itself in the name of Construction Contractor, and the cost thereof shall either, at Project Co's option, be payable by Construction Contractor to Project Co (including all costs incurred by SMH, to the extent the responsibility of Project Co under the Project Agreement) on demand or be deducted by Project Co from the next payment or payments otherwise due to Construction Contractor.

- 12.2 If coverage under any insurance policy required to be obtained by Construction Contractor should lapse, be terminated or be cancelled, then, if directed by Project Co or SMH, all work by Construction Contractor shall immediately cease until satisfactory evidence of renewal is produced.

13. MODIFICATION OR CANCELLATION OF POLICIES

- 13.1 Except as noted in Appendix A to this Schedule 25, all insurance provided by Construction Contractor shall contain endorsements confirming that the policy will not be cancelled, adversely reduced, adversely materially altered or adversely materially amended without the insurer(s) giving at least ninety (90) days prior written notice by registered mail, at the address specified, to Project Co, SMH, the Lenders' Agent and IO. For greater certainty, the terms "adversely reduced", "adversely materially altered" and "adversely materially amended" as used in this provision shall mean any decrease or reduction in policy limits, aggregate limits or sub-limits (other than as a result of claims under the policy), any increase in any policy deductible or self-insured retention, any reduction in the policy coverage period, cancellation or suspension of coverage with respect to any insured parties from the time the policy was issued for that policy period, addition of any exclusions or restrictions from the time the policy was issued for that policy period and any reduction or restriction in the scope of coverage provided under the policy, in all cases when such adverse reduction, adverse material alteration or adverse material amendment is initiated by the insurer.
- 13.2 All insurance provided by Construction Contractor shall contain endorsements confirming that, in the event of cancellation for non-payment of premium, the insurer(s) will give at least fifteen (15) days prior written notice by registered mail, at the address specified, to the Project Co, SMH, the Lenders' Agent and IO.
- 13.3 With respect to insurances described in Section 1.1(a), (b) and (c), and Section 1.2(d), breach of any of the terms or conditions of the policies required to be provided by Construction Contractor, or any negligence or wilful act or omission or false representation by an Insured under these policies, shall not invalidate the insurance with respect to Project Co, IO, SMH, the Lenders or any other Insured, but only to the extent that such breach is not known to these parties.

14. INSURERS

- 14.1 All policies of insurance to be obtained by Construction Contractor in accordance with this Schedule 25 shall be issued by financially sound insurers acceptable to Project Co,

SMH and Lenders, acting reasonably, and, where required by statute, be licensed to insure such risk in the Province of Ontario.

- 14.2 To be eligible to provide insurance, an insurer must have the capacity to provide the particular insurance and shall have current ratings from time to time of either:
- (a) a Financial Strength Rating of not lower than "A-" for three out of the previous five years but not lower than "B" at any time during those five years, and a Financial Size Category not lower than VII, such ratings being those established by A.M. Best Company (**Best**); or
 - (b) a Long-Term Financial Strength Rating of not lower than "A-" for three out of the past five years but not less than "BBB" at any time during those five years, a Short-Term Financial Strength Rating of not lower than "A-3" for three out of the previous five years and a Financial Enhancement Rating of not lower than "A-" for three out of the previous five years but not less than "BB+" at any time during those five years, such ratings being those established by Standard and Poor's (**S&P**); or
 - (c) if the insurer is not rated by Best or S&P, an insurer that is acceptable to Project Co, SMH and Lenders, acting reasonably, with respect to the insurances required by this Schedule 25

15. POLICY TERMS AND CONDITIONS

- 15.1 All policies of insurance to be obtained by Construction Contractor in accordance with this Schedule 25 shall be in form and substance satisfactory to SMH, its insurance advisors, Project Co and Lenders, acting reasonably.
- 15.2 To achieve the minimum limits for any type of insurance required under Appendix A, it is permissible to arrange the insurance under a single policy, or by a combination of primary, umbrella and/or excess policies.

16. FAILURE TO COMPLY

- 16.1 Neither failure to comply nor full compliance by Construction Contractor with the insurance provisions of this Schedule 25 shall relieve Construction Contractor of its liabilities and obligations under the Design and Construction Contract.

17. PERFORMANCE SECURITY REQUIREMENTS

- 17.1 Construction Contractor shall obtain and deliver to Project Co and SMH, original executed and sealed Bonds in the forms attached as Appendices B and C respectively, to this Schedule 25 on the Financial Close Target Date (as defined in the Project Agreement), each in an amount equal to 50% of the Cost of the Works (as defined in the Project Agreement). Each of the Bonds shall be properly executed by a Surety or by an agent or attorney in fact for the Surety, in which latter case, Construction Contractor is

required to submit with such Bonds a power of attorney to the signatory agent or the attorney in fact executed by the Surety in a form satisfactory to SMH to evidence the authority of the agent or the attorney in fact.

- 17.2 Such Bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the Province of Ontario and shall be maintained in good standing until the fulfilment of the Design and Construction Contract.
- 17.3 For greater certainty, the obligations of the Surety under the Bonds shall not extend to or include any obligations relating to the Financing or Cost of the Financing, and it is agreed that the Parties intend to benefit the Surety by this Section 17.3 and that the Surety may rely upon and enforce the provisions of this Section 17.3.

18. INSURANCE TRUST AGREEMENT

- 18.1 Construction Contractor acknowledges the provisions of Section 18 of Schedule 25 of the Project Agreement pursuant to which all losses under the "All Risks" Course of Construction Property Insurance policy, including Boiler & Machinery Insurance carried by Project Co or Construction Contractor, as applicable, prior to Substantial Completion of the Works (as defined in the Project Agreement) which relate to equipment purchased by SMH shall be payable solely to SMH and shall not be payable to the Account Trustee (as defined in the Project Agreement) or distributed pursuant to the Insurance Trust Agreement.

APPENDIX A TO SCHEDULE 25
INSURANCE REQUIREMENTS

Works Insurance – St. Michael's Hospital Redevelopment Project

From First Access to Site until the Substantial Completion Date

Insurances to be provided by Construction Contractor and arranged through the IOCIP program

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
"All Risks" Course of Construction Property Including Boiler and Machinery	Value declared to be equal to the estimated completed project value of the Facility, including Property of Every Description and all other property supplied by the SMH Parties for incorporation into the Facility.	3% of loss value / \$100,000 minimum Earthquake \$25,000 Flood \$25,000 Testing and Commissioning	"All Risks" Course of Construction Property Insurance covering the full insurable replacement cost of the Works including cold and hot testing / commissioning, of Boiler & Machinery equipment, including HVAC, Delay in Start-Up, Soft Costs, with no early occupancy restriction.	TBD
	All Existing Equipment from the start of decommissioning or removal from its original location, by or on behalf of Construction Contractor, until such existing equipment has been relocated to the Facility and has become SMH's responsibility.	\$25,000 All other losses 30 days waiting period applicable to time element coverages	This coverage shall be primary with respect to the Facility without right of contribution of any insurance carried by Project Co, IO, the Lenders or SMH.	
	Soft Costs \$30 million (representing 100% of Recurring / Continuing Soft Costs)	48 hour waiting period applicable to Off Premises Services Service Interruption		
	Extra and Expediting Expense (minimum \$10 million sub-limit)			
	Principal Extensions:			
	<ul style="list-style-type: none"> Replacement Cost Valuation (Property) Most Recent Technology Replacement Cost Valuation (Equipment or Machinery) Flood (to policy limit with annual aggregate) Natural or man-made earth movement, including earthquake, 			

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
•	landslide or subsidence (to policy limit with annual aggregate)			
•	Electronic Data Processing equipment and media, including data restoration and re-creation costs			
•	Transit			
•	Unnamed locations			
•	Bylaws (with respect to Existing or Renovated Buildings) (minimum \$25 million sub-limit)			
•	Debris Removal (minimum \$15 million sub-limit)			
•	Off Premises Services (\$15 million sub-limit)			
•	Professional Fees (minimum \$10 million sub-limit)			
•	Fire Fighting Expenses (minimum \$10 million sub-limit)			
•	Valuable Papers (minimum \$5 million sub-limit)			
•	Accounts Receivable (minimum \$5 million sub-limit)			
•	Defence Costs (subject to a \$5 million sub-limit)			
•	Radioactive contamination caused by sudden and accidental release of radioactive isotopes (resulting from an accident to measuring, testing or medical equipment and subject to a \$5 million sub-limit)			
•	Contamination Clean-up or Removal (minimum \$1 million sub-limit)			
•	Ammonia Contamination (minimum \$1 million sub-limit)			
•	Civil Authority Access			
•	Prevention of Ingress/Egress (8 weeks)			
•	Permission for Partial Occupancy prior to Substantial Completion			

**St Michael's Hospital
Redevelopment Project**

**Design and Construction Contract
Schedule 25**

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
<ul style="list-style-type: none"> • Cost of Carrying Project Financing (12 Months), included in Delayed Start-Up or Soft Costs coverage • Margin of Profit Extension for Contractors • Testing and Commissioning (120 limitation each component) 				
	Permitted Exclusions:			
	<ul style="list-style-type: none"> • Cyber risk • Mould, fungi and fungal derivatives • Faulty workmanship, materials construction, or design but resultant damage to be insured to a minimum DE4 standard • War risk • Terrorism • Nuclear or radioactive contamination, except re radioactive isotopes intended for scientific, medical, industrial or commercial use • Contractors' equipment 			
<i>Comments</i>	<ul style="list-style-type: none"> • Named Insured includes Construction Contractor, Lender's Agent, SMH, subcontractors, sub-subcontractors, consultants, sub-consultants, Project Co, IO or the Lenders as their respective interests may appear • No provision permitted allowing a coinsurance penalty • Insurance shall be primary without right of contribution of any other insurance carried by any Named Insured • Additional key extensions of coverage: <ul style="list-style-type: none"> - Underground services, temporary works involved in the Project such as scaffolding, hoarding, etc., site preparation, including excavation and associated improvements, landscaping and property of others used in the Project - Losses payable in accordance with the Insurance Trust Agreement - Waiver of subrogation against all Named and Unnamed Insureds, including but not limited to Construction Contractor, IO, Project Co, SMH, subcontractors, professional consultants (other than for their professional liability), Lenders, Lenders' Agent, as well as officers, directors and employees, servants, and agents of the foregoing - Frost or freezing to concrete – but only resultant damage from a peril not otherwise excluded - Liberalization Clause - Errors and Omissions 			

- Breach of Conditions

Underwriters Principal underwriters in compliance with Clause 14 of this Schedule 25.

Works Insurance – St. Michael's Hospital Redevelopment Project

From First Access to Site until the Substantial Completion Date

Insurances to be provided by Construction Contractor and arranged through the IOCIP program

Type	Amount	Maximum Deductible(s)	Principal Cover	Estimated Premium
"Wrap-Up" Commercial General Liability and Non-Owned Automobile Liability	\$100 million each occurrence, and in the annual aggregate with respect to Broad Form Products and Completed Operations	\$25,000 per occurrence	"Wrap-Up" Commercial General Liability and Non-Owned Automobile Liability insurance covering all construction operations on an occurrence basis against claims for Bodily Injury (including Death), Personal Injury, Property Damage (including Loss of Use), and including Products and Completed Operations Liability extension for a period of not less than 24 months, effective from the date of Substantial Completion of the Works.	TBD
Sub-limits:		\$100,000 per claim with respect to Contractors Rework		
• \$100 million Non-Owned Automobile Liability		\$ 1,000 per claim with respect to each SEF 94, Tenants' Legal Liability, Employee Benefits		
• \$50 million Sudden and Accidental Pollution and Hostile Fire Pollution Liability		Administrative Errors and Omissions and Prairie or Forest Fire Fighting Expenses		
• \$5 million "All Risks" Tenants' Legal Liability				
• \$5 million Prairie or Forest Fire Fighting Expenses				
• \$5 million Employee Benefits Administrative Errors and Omissions				
• \$500,000 Contractors Rework				
• \$100,000 Legal Liability for Damages To Non-owned Automobiles (SEF 94)				
• \$10,000/\$50,000 Medical Payments				
Principal Extensions:				
• SMH's and Contractor's Protective				
• Blanket Contractual (written and oral)				
• Direct and Contingent Employers Liability				
• Employee Benefits Administrative Errors and Omissions				
• Personal Injury (nil participation)				
• Cross Liability and Severability of Interest with respect to each insured party				
• Blasting/demolition/excavating/underpinning/pile driving/shoring/caisson work/work below ground surface/tunnelling/grading, and similar operations associated with the Works, as applicable				
• Elevator and Hoist Collision Liability				
• Liberalized Notice of Claim Requirement, i.e., requirement to report with commence when knowledge is held by a designated project				
			Sudden and Accidental Pollution and Hostile Fire Pollution coverage to be not less than IBC 2313 form (240 hours detection/240 hours notice coverage structure).	
			This coverage shall be primary with respect to the Facility without right of contribution of any insurance carried by Project Co, SMH, IO or the Lenders.	

Type	Amount	Maximum Deductible(s)	Principal Cover	Estimated Premium
<ul style="list-style-type: none"> • person(s) – to be identified by Construction Contractor 				
<ul style="list-style-type: none"> • Non-Owned Automobile Liability 				
<ul style="list-style-type: none"> • Tenants' Legal Liability (All Risks) – subject to sub-limit 				
<ul style="list-style-type: none"> • Medical Expenses – subject to sub-limit 				
<ul style="list-style-type: none"> • Prairie or Forest Fire Fighting Expenses – subject to sub-limit 				
<ul style="list-style-type: none"> • Sudden and Accidental Pollution and Hostile Fire Pollution – subject to sub-limit 				
<ul style="list-style-type: none"> • Permission for Unlicensed Vehicles (partial road use) 				
<ul style="list-style-type: none"> • Unlicensed Equipment 				
<ul style="list-style-type: none"> • Loss of Use Without Property Damage 				
<ul style="list-style-type: none"> • Loading and Unloading of Automobiles 				
<ul style="list-style-type: none"> • Broad Form Property Damage 				
<ul style="list-style-type: none"> • Broad Form Completed Operations 				
<ul style="list-style-type: none"> • Intentional Injury, committed to Protect Persons or Property 				
<ul style="list-style-type: none"> • Accident Benefits 				
<ul style="list-style-type: none"> • Worldwide Territory, subject to suits being brought in Canada or the US 				
<ul style="list-style-type: none"> • Aggregate Reinstatement (in the event that the policy aggregate is eroded between any Phase Completion and Substantial Completion) 				
<p>Permitted Exclusions:</p>				
<ul style="list-style-type: none"> • Injury to employees, where WSIB provides valid coverage 				
<ul style="list-style-type: none"> • Property in the care, custody or control of the insured, except as provided under Broad Form Products and Completed Operations 				
<ul style="list-style-type: none"> • Operation of licensed motor vehicles, other than attached machinery while used for its purpose, at the Project Site 				
<ul style="list-style-type: none"> • Physical damage to the Project, except during Broad Form Products and Completed Operations extension period 				
<ul style="list-style-type: none"> • Cyber risk 				
<ul style="list-style-type: none"> • Mould, fungi and fungal derivatives 				
<ul style="list-style-type: none"> • Professional liability of engineers, architects, and other professional consultants 				

**St Michael's Hospital
Redevelopment Project**

**Design and Construction Contract
Schedule 25**

Type	Amount	Maximum Deductible(s)	Principal Cover	Estimated Premium
<ul style="list-style-type: none"> Nuclear or radioactive contamination, except release radioactive isotopes intended for scientific, medical, industrial or commercial use 				
<i>Comments</i>	<ul style="list-style-type: none"> Named Insured includes Project Co and its Affiliates, SMH, IO, the Lenders, Project Co parties involved in the Works, including the Construction Contractor, all subcontractors, sub-subcontractors, suppliers while working on Site, tradesmen while working on Site, engineers, architects, consultants and sub-consultants, (other than for professional liability), others as Additional Insureds, as may be required from time to time, arising from all operations and activities pertaining to the Works and the control and use of the Site Directors, officers, shareholders, employees of the insured parties involved in the Works covered as Additional Insureds MOHLIC is added as an Additional Insured. Insurance shall be primary without right of contribution of any other insurance carried by any Named Insured Aggregate limits will be permitted for Products and Completed Operations, Prairie and Forest Fire Fighting Expenses, Sudden and Accidental Pollution and Hostile Fire Pollution and Employee Benefits Administrative Errors & Omissions Liability; no policy general aggregate will be permitted Professional service activities integral to the project, but not covering engineers, architects or other professional consultants, i.e., incidental professional liability risk of a Named Insured and their employed professionals is to be covered, but not the professional liability of independent fee-for-service professional consultants, architects or engineers Waiver of subrogation of insurers' rights of recovery, against all Named and/or Additional Insureds, including Construction Contractor, Project Co, IO, SMH, subcontractors, sub-subcontractors, professional consultants, engineers, architects (other than for their professional liability), Lenders, Lenders' Agent, as well as officers, directors, employees, servants and agents of the foregoing 			
<i>Underwriters</i>			Principal underwriters in compliance with Clause 14 of this Schedule 25.	

Works Insurance - St. Michael's Hospital Redevelopment Project

**From First Access to Site (Insurance for Works) until the Substantial Completion Date
Insurances to be provided by Construction Contractor and arranged through the IOCIP program**

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
Project Specific Pollution Liability (combined Contractors' Pollution Liability and Pollution Legal Liability):	\$10 million per claim and \$20 million in the aggregate for all claims, inclusive of defense and all costs and expenses	\$100,000 per claim inclusive of defense and all costs and expenses	Pollution Liability insurance covering third party bodily injury, property damage consequential loss or damage, including clean-up and restoration costs, both at the Site and off-Site, as required.	
Principal Extensions:			Extended Reporting Period: Minimum of 36 months after the Substantial Completion Date.	
<ul style="list-style-type: none"> • Hazardous Substances occurring at or emanating from the Facility or Site during the Policy Period • Microbial Matter (including Fungus/Mould) • Underground / above ground storage tanks • First Party Restoration and Clean-up Costs • Disposal Site Extension, including Transportation (reporting required) • Duty to Defend • Canada and US Territory • Contractual Liability • Emergency Response Costs 			This coverage shall be primary with respect to the Facility without right of contribution of any insurance carried by Project Co, SMH, IO or the Lenders.	
Permitted Exclusions:				
<ul style="list-style-type: none"> • Terrorism • War • Intentional Non-compliance • Prior Knowledge • WSIB • Employers' Liability • Professional Liability • Nuclear Liability • Property Damage to Motor 				

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
<p>Vehicles during Transportation</p>	<p>• Named Insured will include Project Co, its Affiliates, Project Co parties and all other parties engaged in the Works, including the Construction Contractor, sub-contractors, sub-subcontractors, consultants and sub-consultants</p>	<p>• SMH, IO, MOHLTC and the Lenders will be identified as Additional Insureds or insured clients of Project Co and its Affiliates</p>	<p>• The directors, officers, shareholders, and employees of the foregoing shall be Additional Insureds</p>	<p>Principal underwriters in compliance with Clause 14 of this Schedule 25.</p>

Works Insurance – St. Michael's Hospital Redevelopment Project

From First Access to Site (Insurance for Works) until the Substantial Completion Date

Insurances to be provided by Construction Contractor and arranged through the IOCIP program

Type	Amount	Self-Insured	Principal Cover	Estimated Premium
Project Specific Professional Liability	<p>\$10 million minimum per claim / \$10 million in the aggregate (inclusive of defence and related costs and supplementary payments).</p> <p>Principal Extensions:</p> <ul style="list-style-type: none"> • Primary insurance extension • Automatic addition of firms • Present, former partner, executive officer, director or shareholder of Named Insureds while acting within their scope of duties for the Named Insured • Any individuals or personal corporations retained by the Named Insured under a personal services contract • Claim defined as a written or oral demand for money or a written or oral allegation in breach in the rendering or failure to render professional services received by the Insured or Named Insured and resulting from a single error, omission or negligent act • Lawyer fees and associated expenses incurred in the investigation, defence, settlement, arbitration or litigation of claims • Duty to defend, even if the allegations are groundless, false or fraudulent • Worldwide Territory, subject to suits brought in Canada • Aggregate Reinstatement (in the event that the policy aggregate is eroded between any Phase Completion and Substantial Completion) 	\$100,000 per claim	<p>Project Specific Professional Liability Insurance in connection with the design and construction of the Project from beginning of first design, through the entire construction period plus coverage for an extended reporting period of not less than 36 months immediately following each of the Phase Completion Dates, the Tower Interim Completion Date and the Substantial Completion Date, as applicable.</p> <p>This coverage shall be primary with respect to the Project without right of contribution of any insurance carried by Project Co, SMH, IO or the Lenders.</p>	

Type	Amount	Self-Insured	Principal Cover	Estimated Premium
	Permitted Exclusions:			
	<ul style="list-style-type: none"> Express warranties or guarantees Estimates on profit, return Faulty workmanship, construction or work which is alleged or in fact not constructed in accordance with the design of the Project or the construction documents Design or manufacture of any good or products sold or supplied by the Named Insured Terrorism Nuclear Liability Judgments and awards deemed uninsurable by law Liability assumed under design contract, unless such liability would have attached to the Named Insured by law in the absence of such agreement Punitive or exemplary damages, fines, penalties or interest or liquidated punitive or exemplary damages or fees Refusal to employ, termination of employment, humiliation or discrimination on any basis or other employment related practices or policies 			
	<i>Comments</i>			
	<ul style="list-style-type: none"> Named Insured: Construction Contractor (as applicable), all engineers, architects, and other professional consultants that provide professional design services in connection with the Project Professional Services covered: All architectural, engineering, land surveying, environmental, landscape architectural, interior design/space planning, soil and material testing services, geotechnical services, and procurement services, including their replacements and/or sub-consultants of any tier Retrospective Date: Full retroactive coverage from date of first design activity Policy to be non-cancellable except for premium non-payment, material misrepresentation or concealment of facts, or a material breach of any condition of the policy 			
	<i>Underwriters</i>			
	<ul style="list-style-type: none"> Principal underwriters in compliance with Clause 14 of this Schedule 25. 			

Works Insurance – St. Michael's Hospital Redevelopment Project

From First Access to Site until the Substantial Completion Date

Insurances to be provided by Construction Contractor

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
Automobile Liability	<p>\$5 million (Minimum) for Project Co and Construction Contractor's vehicles</p> <p>\$2 million (Minimum) for vehicles of any other subcontractors, sub-subcontractors, consultants, and sub-consultants, and workmen, tradesmen or other persons working on or at the Site</p>		<p>Standard Ontario Owners Form for all vehicles operated by Project Co, the Construction Contractor, all subcontractors, sub-subcontractors, consultants and sub-consultants in connection with the Project.</p> <p>Business Automobile Liability insurance covering third party property damage and bodily injury liability (including accident benefits) arising out of any licensed vehicle.</p> <p>Policies shall be endorsed to preclude cancellation, except upon 60 days prior written notice provided to Project Co, SMH, IO and the Lenders.</p>	
Commercial General Liability and Non-Owned Automobile Liability	<p>\$25 million each occurrence, and in the annual aggregate with respect to Broad Form Products and Completed Operations for Project Co and Construction Contractor</p> <p>\$5 million each occurrence and in the annual aggregate with respect to Broad Form Completed Operations for any other contractor, subcontractors, sub-subcontractors, consultants and sub-consultants, workmen, tradesmen, or other persons involved in the Works</p> <p>In both instances, limits of liability may be structured as any combination of primary plus supplementary layers and Umbrella and/or Excess, or primary plus Umbrella and/or Excess</p> <p>Sub-limits (Project Co and Construction Contractor):</p> <ul style="list-style-type: none"> • Full policy limits with respect to Non-Owned Automobile Liability 		<p>Commercial General Liability insurance covering all operations on an occurrence basis against claims for Bodily Injury (including Death), Broad Form Property Damage (including Loss of Use), and including Broad Form Products and Completed Operations Liability.</p> <p>This Commercial General Liability insurance will cover off-site activities connected to the Project and Products and Completed Operations Liability beyond the "Wrap-Up" Commercial General Liability Insurance policy's Products and Completed Operations extension period.</p> <p>This insurance shall be maintained in effect during the Works phase until twelve (12) months following the earlier of the termination of the insured's person's involvement in the Works and Substantial Completion Date.</p> <p>Policies shall be endorsed to preclude cancellation,</p>	

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
Owner's and Contractor's Protective extensions	<ul style="list-style-type: none"> \$1 million Prairie or Forest Fire Fighting Expenses <p>Principal Extensions (required to be provided by the Project Co and the Construction Contractor; shall be endeavoured to be provided by any other contractor, sub-contractors, sub-subcontractors, consultants, sub-consultants, workmen, tradesmen or other persons involved in the Works):</p> <ul style="list-style-type: none"> Owner's and Contractor's Protective Blanket Contractual (written) Direct and Contingent Employers Liability Personal Injury (nil participation) Cross Liability and Severability of Interest with respect to each insured party Blasting/demolition/excavating/underpinning/pile driving/shoring/caisson work/work below ground surface/tunnelling/grading, and similar operations associated with the Works as applicable Elevator and Hoist Collision Liability Non-Owned Automobile Liability Prairie or Forest Fire Fighting Expenses – subject to sub-limit Permission for Unlicensed Vehicles* (partial road use) Unlicensed Equipment Loss of Use Without Property Damage Loading and Unloading of Automobiles Broad Form Property Damage Broad Form Completed Operations Intentional Injury, committed to Protect Persons or Property Worldwide Territory, subject to suits being brought in Canada or the US 		except upon 90 days prior written notice provided to Project Co, SMF, IO and the Lenders.	
			Permitted Exclusions:	
			<ul style="list-style-type: none"> Injury to employees, where WSIB provides valid coverage Property in the care, custody or control of the 	

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
<ul style="list-style-type: none"> insured, except as provided under Broad Form Products and Completed Operations Operation of licensed motor vehicles, other than attached machinery while used for its purpose, or at the Project Site Cyber risk Mould, fungi and fungal derivatives Professional liability of engineers, architects, and other professional consultants Nuclear or radioactive contamination, except release of radioactive isotopes intended for scientific, medical, industrial or commercial use 				
<i>Comments</i>	<ul style="list-style-type: none"> Project Co, SMH, IO and the Lenders will be identified as Additional Insureds or insured clients of Construction Contractor and its Affiliates 			
Aircraft and Watercraft Liability (If any exposure)	<ul style="list-style-type: none"> Minimum \$ 50 million inclusive, including \$10 million passenger hazard – Owned Aircraft Minimum \$10 million inclusive – Non-Owned Aircraft Minimum \$10 million inclusive Owned or Non-Owned Watercraft 	To be determined	Policies shall be endorsed to preclude cancellation, except upon 90 days prior written notice provided to Project Co, SMH, IO and the Lenders.	
<i>Comments</i>	<ul style="list-style-type: none"> SMH, IO and the Lenders will be identified as Additional Insureds or insured clients of Project Co and its Affiliates 			
"All Risks" Ocean Marine Cargo (If any exposure)	100% Replacement Cost Valuation basis	\$25,000	Property of Every description destined for incorporation into the Facility during marine transit, on a full replacement value basis, with no co-insurance provision. This coverage shall be primary with respect to the Facility without right of contribution of any insurance carried by Project Co, SMH or the Lenders.	

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
Comments	<ul style="list-style-type: none"> Named Insured includes Construction Contractor, Lenders, Lender's Agent, IO, SMH, subcontractors, sub-subcontractors, consultants and sub-consultants and Project Co, as their respective interests may appear. 			
"All Risks" Contractors' Equipment	<p>If Site equipment is three years old or less the sum insured shall be equal to 100% of the replacement value of all contractors equipment used at the project.</p> <p>If Site equipment is more than three years old, actual cash value basis of loss settlement is acceptable.</p>		"All Risks" coverage on all owned, rented, leased or borrowed contractors' equipment used at the Project Site.	
To cover Project Co, the Construction Contractor, subcontractors, sub-subcontractors consultants and sub-consultants				
Comments	<ul style="list-style-type: none"> Waiver of subrogation rights against Construction Contractor, Project Co, IO, SMH, subcontractors, sub-subcontractors, consultants, sub-consultants, Lenders, Lenders' Agent as well as officers, directors, shareholders and employees of the foregoing 			
Comprehensive Crime	\$1 million per loss with respect to Employee Dishonesty		Employee Dishonesty insurance against the fraudulent/dishonest acts of employees of Project Co and Project Co Parties (as defined in the Project Agreement) including additional coverage for Broad Form Money and Securities, Money Orders and Counterfeit Paper, Depositors' Forgery, Computer Fraud and Funds Transfer Fraud, Audit Expenses and Credit Card Forgery.	
			Custodial endorsement extending protection to third parties.	
			Insurance primary without right of contribution of any other insurance carried by Project Co, SMH or the Lenders.	
Underwriters (All non-IOCIP Works)	Principal underwriters in compliance with Clause 14 of this Schedule 25.			

Type	Amount	Maximum Deductible	Principal Cover	Estimated Premium
<p>Phase insurances that are to be provided or caused to be provided by Project Co)</p>				
<p>WSIB</p>	<p>In accordance with Ontario Act's established benefits and schedules</p>	<p>Not Applicable</p>	<p>(i) Construction Contractor and its Affiliates shall obtain and maintain at Construction Contractor's expense, WSIB Insurance, in accordance with the Province of Ontario requirements. (ii) Construction Contractor shall ensure that satisfactory evidence of WSIB Insurance is provided by all Construction Contractor Parties, including all other consultants, sub consultants, contractors, subcontractors, suppliers and tradesmen working at the Site.</p> <p>Prior to commencement of the work, each of the foregoing shall provide satisfactory written confirmation of compliance, from the appropriate authority, including confirmation that all required assessments have been paid to date.</p> <p>Upon Substantial Completion of the Facility, Construction Contractor shall be provided with satisfactory written confirmation that all required assessments have been paid to date.</p> <p>On request, within 30 days of such request, Construction Contractor shall deliver to Project Co and SMH evidence of the WSIB coverage maintained by any person involved in the Design and Construction Work, or confirmation of that person's exemption from WSIB coverage.</p>	

**APPENDIX B TO SCHEDULE 25
PUBLIC PRIVATE PARTNERSHIP PERFORMANCE BOND**

With Attached Multiple Obligee Rider and Credit Downgrade Rider

Bond Amount: \$[●]

Bondfield Construction Company Limited as Principal, ("**Principal**"), and Zurich Insurance Company Ltd, a corporation created and existing under the laws of Switzerland having a place of business in Canada and duly authorized to transact the business of Suretyship in the Province of Ontario, Canada as Surety, ("**Surety**"), are bound unto 2442931 Ontario Inc. as Obligee, ("**Obligee**"), in the amount of \$[●] lawful money of Canada (the "**Bond Amount**", as further defined below), for the payment of which sum the Principal and the Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

WHEREAS,

- (a) The Principal has entered into a written contract with the Obligee (the "**Design and Construction Contract**") dated [●] for the design and construction of St. Michael's Hospital (the "**Project**");
- (b) The Surety has agreed to enter into this Public Private Partnership Performance Bond ("**Bond**") to guarantee the performance of all of the obligations of the Principal under the Design and Construction Contract, subject to the Excluded Liabilities (as defined below) and all other terms and conditions herein (the "**Bonded Obligations**");
- (c) The Principal and the Surety have agreed that a maximum of [●] (\$[●]) of the Bond Amount (the "**Advance Payment**", as more fully defined below) will be available to the Obligee upon demand and receipt of the Obligee's Advance Payment Demand (as defined below) which shall include the Obligee's certification of the Principal's liability for Liquidated Damages (as defined in the Design and Construction Contract), and with the balance of the Bond Amount to remain available pursuant and subject to the terms and conditions herein.

Now, the condition of this obligation is such that if the Principal shall promptly and faithfully perform the Bonded Obligations of the Design and Construction Contract then this Bond shall be null and void; otherwise it shall remain in full force subject to the terms hereof.

Advance Payment

1. The Surety and Principal agree that the Surety will make an Advance Payment(s) to the Obligee for Liquidated Damages, up to an aggregate maximum of [●] (\$[●]) of the Bond Amount (the "**Advance Payment Maximum**"), no later than 5 business days after Surety's receipt of a demand from any of the Obligees for the Advance Payment (the "**Advance Payment Demand**"), provided that the Obligee's Advance Payment Demand is received by

the Surety at its Office (as defined below) by hand or courier before the Expiry Date (as defined below) and includes:

1.1 (a) The Obligee's written declaration of the Principal's default in performance of the Bonded Obligations and consequent liability for Liquidated Damages arising from such default in performance of the Bonded Obligations (the "**Advance Payment Declaration of Default**"); and

1.1 (b) The Obligee's certification, executed by two authorized signing officers of the Obligee, that the Principal is thus liable for Liquidated Damages in the amount set out in the Advance Payment Demand.

1.2. The Advance Payment Demand shall be accepted by the Principal and the Surety as conclusive evidence that the amount of the Advance Payment Demand is payable to the Obligee; and all payments shall be made free and clear without deduction, setoff or withholding unless and to the extent required by law.

1.3 The Advance Payment(s) made by the Surety can be made in increments up to the Advance Payment Maximum specified above, and the sum of the Advance Payment(s) shall reduce the Advance Payment Maximum and the Bond Amount accordingly such that the Surety's remaining obligations under the Bond shall be limited to the balance of the Advance Payment Maximum with respect to Advance Payments, and the Bond Amount with respect to the Surety's aggregate maximum liability. There can be no Advance Payment Demand from any of the Obligees after the date that is thirty days following Substantial Completion of the Design and Construction Contract).

1.4 The Surety will make the Advance Payment upon compliance by the Obligee with this section 1, notwithstanding any other then current dispute between the Surety and the Obligee or the Principal related to provisions of this Bond apart from section 1.

Performance Obligation

2. Whenever the Principal shall be and is declared by the Obligee to be in default in the performance of the Bonded Obligations under the Design and Construction Contract, ("**Performance Obligation Declaration of Default**") and the Obligee, not being in Material Default under the Design and Construction Contract including the agreement to pay the balance of the Design and Construction Contract price (herein defined as the total amount payable by the Obligee to the Principal under the Design and Construction Contract less the amount properly paid by the Obligee to the Principal in accordance with the terms of the Design and Construction Contract, the "Balance of the Bonded Design and Construction Contract Price"), the Surety shall within twenty-one (21) days of the Surety's receipt of the Performance Obligation Declaration of Default, elect one of the following four options:

- 2.1 Arrange to remedy the default where such default is capable of remedy; or
- 2.2. Complete the Bonded Obligations in accordance with the Design and Construction Contract through its agents or through independent contractors; or
- 2.3 Obtain a bid or bids for submission to the Obligee for completing the Bonded Obligations and upon determination by the Surety and the Obligee, acting reasonably, of the lowest responsible bidder, arrange for a contract between such bidder and the Obligee and make available as work progresses sufficient funds to pay to complete such Bonded Obligations in accordance with the terms and conditions of the Design and Construction Contract and to pay Obligee's expenses incurred as a result of the Principal's default, relating directly to the performance of said Bonded Obligations, less the Balance of the Bonded Design and Construction Contract Price; but not exceeding the remaining Bond Amount; or
- 2.4 Pay the Obligee the lesser of (a) the remaining balance of the Bond Amount (subject to the limitation in Section 10); or (b) the Obligee's reasonable estimate of the cost to complete the Bonded Obligations under the Design and Construction Contract in accordance with its terms and conditions, less the Balance of the Bonded Design and Construction Contract Price.

Waiver

3. The Surety shall not be discharged or released from liability hereunder and such liability shall not be in any way affected by any changes, alterations, additions or variations to the Design and Construction Contract, the taking or receiving of security between the Principal and the Obligee, the extension of time or by the exercise by the Obligee of any of the rights or powers reserved to it under the Design and Construction Contract, or by its forbearance to exercise any such rights or powers, provided that foregoing is provided for in, or reasonably contemplated and permitted under the terms of the Design and Construction Contract and that the Obligee has promptly given notice to the Surety of any variation that results, individually or when aggregated with other variations, in an increase to the contract price under the Design and Construction Contract in excess of twenty-five per cent (25%) of the original contract price under the Design and Construction Contract.

Expiry Date

4. This Bond shall cease to have effect and be terminated and the Surety shall be released and discharged except in respect of any outstanding suits or actions, upon the expiration of twenty-four months which shall begin on the earlier of: (a) the date of substantial

completion of the Bonded Obligations of the Design and Construction Contract or (b) the date of the Performance Obligation Declaration of Default (the "Expiry Date").

5. NOT USED

Excluded Liabilities

6. This Bond shall not respond to nor shall the Surety under this Bond be liable for any sums payable by the Principal to the Oblige in respect of claims relating to any of the following (the "Excluded Liabilities"):

- (i) Financing obligations of the Oblige under any and all credit or loan agreements, and, for greater certainty, any debt obligations under any loan agreement or any obligations under any hedging agreements or to the hedge providers, credit enhancements, funding arrangements, the fixing of interest rates or for any other variable rate or variable cost of financing;
- (ii) Liabilities of the Principal under any other collateral or ancillary agreements or in respect of any obligation to procure the entry into any ancillary or collateral agreements by any third parties;
- (iii) Liabilities of the Principal to pay or provide any indemnity in respect of sums due following a failure to procure or the non-availability of any insurance contemplated by the Design and Construction Contract;
- (iv) Liabilities of the Principal arising from any credit downgrade or rating revision of any person or entity including, but not limited to, the Surety (except, for greater certainty, with respect to the Advance Payment, as otherwise set out in the Credit Downgrade Rider attached hereto).

Liquidated Damages under the Design and Construction Contract and the obligation of the Principal to post the Warranty Letter of Credit (as defined in the Design and Construction Contract) pursuant to and in accordance with Section 11.16A of the Design and Construction Contract shall not be Excluded Liabilities; provided that, if the nature of the default by the Principal under the Design and Construction Contract is a failure to deliver the Warranty Letter of Credit pursuant to and in accordance with Section 11.16A of the Design and Construction Contract, then the Surety will (provided that the Performance Obligation Declaration of Default is received by the Surety at least thirty (30) days prior to "Substantial Completion" under the Project Agreement (as defined in the Design and Construction Contract)), either (i) by the date that is sixty (60) days after

St. Michael's Hospital Redevelopment Project

"Substantial Completion Date" under the Project Agreement issue a warranty bond in an amount and in a form acceptable to SMH (as defined in the Design and Construction Contract) in satisfaction of the Principal's obligation to deliver the Warranty Letter of Credit, or (ii) twenty-five (25) days after SMH makes the "Substantial Completion Payment" under the Project Agreement, pay to the Obligee the amount withheld from the "Substantial Completion Payment" under the Project Agreement by SMH up to a maximum of the amount of the Warranty Letter of Credit that the Principal has failed to deliver.

Surety Office

7. Surety's Office for notice and service: **ZURICH INSURANCE COMPANY LTD
FIRST CANADIAN PLACE, 100 KING STREET WEST, SUITE 5500,
TORONTO, ON M5X 1C9**

Suit Limitation

8. It is a condition of this Bond that any suit or action under this Bond must be commenced before the Expiry Date.

No Third Party Beneficiaries

9. No right of action shall accrue on this Bond, to or for the use of, any person or corporation other than the Obligee named herein, or the heirs, executors, administrators, successors of the Obligee and the parties to the Multiple Obligee Rider and their respective successors and assigns.

Reduction of Bond Amount and Advance Payment Maximum Amount

10. The Bond Amount shall be reduced to \$[●] and the Advance Payment Maximum reduced to \$[●] upon execution by the Obligee and the applicable parties to the Multiple Obligee Rider of a Step-Down Rider in the form attached as Rider 1 hereto (the "**Step-Down Rider**"). It is a condition of this Bond that, upon execution of the Step-Down Rider by the Obligee and the applicable parties to the Multiple Obligee Rider, the Surety shall promptly execute and deliver the Step-Down Rider. Following execution of the Step-Down Rider, all references to the Bond Amount herein shall be deemed to be referenced to the reduced Bond Amount set out in this section 10 and all references to the Advance Payment Maximum shall be deemed to be references to the reduced Advance Payment Maximum set out in this Section 10, and the executed Step-Down Rider shall form a part of this Bond.

Aggregate Liability

11. For the purpose of greater certainty, in no event shall the Surety be liable in the aggregate for a greater sum than the Bond Amount, which is further limited as follows: in no event shall the Surety be liable for an Advance Payment for a greater sum than the

Advance Payment Maximum, and in no event shall the Surety be liable for a Performance Obligation (other than the Advance Payment) for a greater sum than the Bond Amount less the Advance Payment Maximum.

Choice of Law

12. This Bond shall be governed and construed in accordance with the laws of Ontario and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of Ontario without regard to conflict of laws principles.

Counterparts

13. This Bond may be executed in counterparts, all of which when taken together shall constitute the Bond.

St. Michael's Hospital Redevelopment Project

**Design and Construction Contract
Schedule 25**

IN WITNESS WHEREOF, the Principal and the Surety have signed this Bond dated of _____, in the year _____.

SIGNED and DELIVERED:

**BONDFIELD CONSTRUCTION COMPANY
LIMITED**

By: _____
Signature

Name of person signing on behalf of Principal

ZURICH INSURANCE COMPANY LTD.

By: _____
Signature

Name of person signing on behalf of Surety

EXHIBIT 1 TO APPENDIX B

RIDER NO. 1 TO PUBLIC PRIVATE PARTNERSHIP
PERFORMANCE BOND

BOND AMOUNT STEP-DOWN RIDER

TO BE ATTACHED TO AND FORM A PART OF
BOND NO. _____

TO BE ATTACHED TO AND FORM PART OF THE PUBLIC PRIVATE PARTNERSHIP PERFORMANCE BOND NO. [Bond No.] dated [●] (the "Bond"), issued by ZURICH INSURANCE COMPANY LTD, as Surety (the "Surety"), on behalf of Bondfield Construction Company Limited, as Principal (the "Principal"), and in favour of 2442931 Ontario Inc., St. Michael's Hospital and Bank of Montreal, as Obligees, (the "Obligees").

NOW THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, the undersigned hereby agree as follows:

1. Effective [Step-Down Date] [NTD: Insert date upon which the Agent has received the Tower Interim Completion Payment] the Bond Amount shall be and is hereby reduced from \$[●] to \$[●] and the Advance Payment Maximum shall be and is hereby reduced from \$[●] to \$[●].
2. Effective [Step-Down Date] [NTD: Insert date upon which the Agent has received the Tower Interim Completion Payment] the past, present and future aggregate liability of the Surety with respect to the Bond Amount is reduced to \$[●], and the past, present and future aggregate liability of the Surety in respect of the Advance Payment is reduced to \$[●].
3. Capitalized terms used in this Step-Down Rider without definition shall have the respective meanings attributed to them in the Bond and the Design and Construction Contract.
4. All of the terms, conditions and provisions of the Bond including the Multiple Obligee Rider and Credit Downgrade Rider are hereby incorporated herein by reference as if fully set forth herein.

5. In the event of any ambiguity, conflict or inconsistency, the Bond and this Step-Down Rider shall prevail over the Design and Construction Contract and/or any other project documents.
6. This Step-Down Rider may be executed in counterpart, all of which when taken together shall constitute the Step-Down Rider.

[signature pages follow]

St. Michael's Hospital Redevelopment Project

**Design and Construction Contract
Schedule 25**

Lender/ Co-Obligee:
BANK OF MONTREAL

By: _____

[Signature]

Name and Title of Person signing

By: _____

[Signature]

Name and Title of Person signing

**EXHIBIT 2 TO APPENDIX B
RIDER NO. 2 TO PUBLIC PRIVATE PARTNERSHIP
PERFORMANCE BOND**

CREDIT DOWNGRADE RIDER

TO BE ATTACHED TO AND FORM PART OF
BOND NO. _____

TO BE ATTACHED TO AND FORM PART OF THE PUBLIC PRIVATE PARTNERSHIP PERFORMANCE BOND NO. [Insert Bond No.] dated [●] (the "**Bond**") concurrently with the execution of this Credit Downgrade Rider, issued by **ZURICH INSURANCE COMPANY LTD**, as Surety (hereinafter called the "**Surety**"), on behalf of **BONDFIELD CONSTRUCTION COMPANY LIMITED**, as Principal (hereinafter called the "**Principal**"), and in favour of **2442931 ONTARIO INC.**, as Obligee (hereinafter called the "**Obligee**").

WHEREAS the Surety been requested to provide the Bond for the above referenced Construction Contract; and

WHEREAS the Parties have asked that the Surety acknowledge possible rights of the Obligee(s) as to an Advance Payment under the Bond if the Surety's credit rating is downgraded in accordance with the terms of this Rider; and

NOW THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, the undersigned hereby agree as follows:

1. In the event that the Surety's Standard & Poors Long Term Insurer Financial Strength Rating is downgraded to an A- or lower or the Moody's Investors Service Long Term Insurance Financial Strength Rating is downgraded to an A3 or lower then, pursuant to the terms of the Design and Construction Contract, the downgrade will be a default under said Design and Construction Contract, thereby giving the Obligee the right to make a demand upon the Principal for a replacement letter of credit in the maximum amount of the Advance Payment under the Bond within five days; and, if the letter of credit in said amount is not provided, the Obligee may make demand upon the Surety for an immediate draw on the Bond in an amount equal to the Advance Payment (as defined in the Bond), and the Surety will accept an Advance Payment Demand for the whole of the Advance Payment (without any requirement to deliver an Advance Payment Declaration of Default or any certification that the Principal is liable for Liquidated Damages notwithstanding Section 1.1(a) and Section 1.1(b) of the Bond) and the Surety will pay the Advance Payment to the Obligee in accordance with the Bond.

2. Capitalized terms used in this Credit Downgrade Rider without definition shall have the respective meanings attributed to them in the Bond and the Design and Construction Contract.
3. All of the terms, conditions and provisions of the Bond including the Multiple Obligee Rider attached thereto are hereby incorporated herein by reference as if fully set forth herein.
4. In the event of any ambiguity, conflict or inconsistency, the Bond and this Credit Downgrade Rider shall prevail over the Design and Construction Contract and the other Project Documents.
5. Nothing herein shall alter or affect the amount of the aggregate liability of the Surety with respect to the Bond Amount, or the sub-limits of liability of the Surety with respect to the Advance Payment and with respect to the Performance Obligation other than the Advance Payment, all as described in the Bond.
6. This Credit Downgrade Rider may be executed in counterpart.

[signature page follows]

St. Michael's Hospital Redevelopment Project

**Design and Construction Contract
Schedule 25**

IN WITNESS WHEREOF, the Principal and the Surety have signed and sealed this Credit Downgrade Rider dated this _____ day of _____ 20__.

SIGNED, SEALED AND DELIVERED in the presence of:

Principal:
BONDFIELD CONSTRUCTION COMPANY
LIMITED

By: _____

[Signature]

Name and Title of Person signing

Surety:
ZURICH INSURANCE COMPANY LTD

By: _____

[Signature]

Name and Title of Person signing

**EXHIBIT 3 TO APPENDIX B
RIDER NO. 3 TO PUBLIC PRIVATE PARTNERSHIP
PERFORMANCE BOND**

MULTIPLE OBLIGEE RIDER

TO BE ATTACHED TO AND FORM A PART OF
BOND NO. _____

TO BE ATTACHED TO AND FORM PART OF THE PUBLIC PRIVATE PARTNERSHIP PERFORMANCE BOND NO. [Bond No.] dated [●] (the "**Bond**") concurrently with the execution of this Multiple Obligee Rider, issued by **ZURICH INSURANCE COMPANY LTD**, as Surety (the "Surety"), on behalf of Bondfield Construction Company Limited, as Principal (the "Principal"), and in favour of 2442931 Ontario Inc., as Obligee, hereinafter called the "Obligee".

NOW THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, the undersigned hereby agree as follows:

1. The Bond shall be and is hereby amended to add St. Michael's Hospital and Bank of Montreal in their respective capacities as assignees of the Design and Construction Contract, as Additional Named Obligees, which Additional Named Obligees (hereinafter may be referred to simply as "Obligee(s)") or either of them, shall, subject to the terms of the Bond and this Multiple Obligee Rider, be entitled to enforce the obligations of the Principal and the Surety under the Bond and this Multiple Obligee Rider, as though such Additional Named Obligees were named as an Obligee in the Bond.
2. Capitalized terms used in this Multiple Obligee Rider without definition shall have the respective meanings attributed to them in the Bond and the Design and Construction Contract.
3. If there is an event of default of the Principal in the performance of the Bonded Obligations under the Design and Construction Contract (a "**Bonded Obligations Event of Default**") and Bank of Montreal or St. Michael's Hospital makes a claim under the Bond other than in respect of the Advance Payment, Bank of Montreal or St. Michael's Hospital, as the case may be, shall make available to the Surety in accordance with the terms of the Design and Construction Contract the Balance of the Bonded Design and Construction Contract Price. Bank of Montreal and St. Michael's Hospital shall have no obligations under this paragraph in respect of a claim for all or part of the Advance Payment.

4. All of the terms, conditions and provisions of the Bond are hereby incorporated herein by reference as if fully set forth herein.
5. No alteration or material change in the Design and Construction Contract or any conduct of the Principal, Obligees or Bank of Montreal, prior to the Principal being declared in default, shall prejudice the rights or interest of St. Michael's Hospital under the Bond or this Multiple Obligees Rider provided that St. Michael's Hospital has not caused such alteration or material change without the prior written consent of the Surety.
6. The Obligees, Principal, Surety and Bank of Montreal acknowledge and agree that they will not remedy any default, settle, waive, reduce or otherwise compromise any claims under the Bond without the prior written approval of St. Michael's Hospital, acting reasonably, and the Surety shall provide reasonable notice to St. Michael's Hospital and the Lender prior to remedying any default, settling, waiving, reducing or otherwise compromising any claim or making any payment under the Bond (other than an Advance Payment) and provided in respect of demands or claims under the Bond other than Advance Payment Demands that the Surety shall not be precluded from tendering upon the Obligees(s) performance pursuant to one of the four numbered options in the Bond.
7. The Surety acknowledges the process in the Lender's Direct Agreement for making a claim against the Bond, including, but not limited to, the Lender's Step In Period (as defined in the Lender's Direct Agreement); provided that such acknowledgement shall in no way limit or otherwise abrogate the Surety's rights under the Bond or this Multiple Obligees Rider.
8. St. Michael's Hospital acknowledges and agrees that (i) the provisions of Section 1 of the Bond are solely for the benefit of 2442931 Ontario Inc. and Bank of Montreal, (ii) St. Michael's Hospital shall have no right to make any Advance Payment Demands and (iii) the portion of the Bond Amount equal to the Advance Payment shall not otherwise be available to St. Michael's Hospital in respect of any demand or claim by St. Michael's Hospital under the Bond. The Parties to this Multiple Obligees Rider agree that the Bond Amount and the Advance Payment Maximum may, by execution of a Step-Down Rider by the Obligees, Principal, Bank of Montreal and the Surety only, be reduced as set out in Section 10 of the Bond, without requirement for any execution of the Step-Down Rider by St. Michael's Hospital or any further consent or approval of St. Michael's Hospital, provided, for greater certainty, that any reduction in any amount in respect of the Bond or other modification to the Bond other than as expressly set out in Section 10 of the Bond and the Step-Down Rider would require a written amendment to the Bond signed by all parties to this Multiple Obligees Rider.
9. In the event of any ambiguity, conflict or inconsistency, the Bond and this Multiple Obligees Rider shall prevail over the Design and Construction Contract and/or any other project documents.

10. Nothing herein shall alter or affect the aggregate liability of the Surety with respect to the Bond Amount, or the sub-limits of liability of the Surety with respect to the Advance Payment and with respect to the Performance Obligation other than the Advance Payment, all as described in the Bond.

[signature page follows]

IN WITNESS WHEREOF, the Principal, Surety, Obligee, St. Michael's Hospital and Bank of Montreal have signed and sealed this Multiple Obligee Rider dated this _____ day of _____ 2015. This Rider may be executed in counterparts, all of which taken together shall constitute the Rider.

SIGNED, SEALED AND DELIVERED in the presence of:

Contractor/Principal: Obligee:
BONDFIELD CONSTRUCTION COMPANY 2442931 ONTARIO INC.
LIMITED

By: _____

[Signature]

Name and Title of Person signing

By: _____

[Signature]

Name and Title of Person signing

Surety:
ZURICH INSURANCE COMPANY LTD

By: _____

[Signature]

Name and Title of Person signing

St. Michael's Hospital Redevelopment Project

Owner/ Co-Obligee:
ST. MICHAEL'S HOSPITAL

By: _____

[Signature]

Name and Title of Person signing

By: _____

[Signature]

Name and Title of Person signing

Lender/ Co-Obligee:
BANK OF MONTREAL

By: _____

[Signature]

Name and Title of Person signing

By: _____

[Signature]

Name and Title of Person signing

**APPENDIX C TO SCHEDULE 25
FORM OF LABOUR AND MATERIAL PAYMENT BOND**

NOTE: This Bond is issued simultaneously with a Performance Bond and Multiple Obligee Rider and is subject to the terms and conditions of the Labour and Material Payment Bond Multiple Obligee Rider attached hereto

Bond No. _____ **Bond Amount:** _____

BONDFIELD CONSTRUCTION COMPANY LIMITED as Principal (hereinafter called the "Principal"), and **ZURICH INSURANCE COMPANY LTD.** a corporation created and existing under the laws of Canada and duly authorized to transact the business of Suretyship in Canada as Surety, (hereinafter called the "Surety") are subject to the conditions hereinafter contained, held and firmly bound unto **2442931 ONTARIO INC.**, as Trustee (hereinafter called the "Obligee"), for the use and benefit of the Claimants, their and each of their heirs, executors, administrators, successors and assigns, in the amount of [•]• DOLLARS (\$[•]) of lawful money of Canada for the payment of which sum well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written contract entitled Design and Construction Contract with Obligee dated [*Insert Date*] for the St. Michael's Hospital Redevelopment Project (such contract as so amended, and as the same may hereinafter be further amended, whether by way of change, alteration, addition or other modification, and including all of its terms and provisions without limitation, is hereinafter called the Design and Construction Contract and by reference made part hereof). Capitalized terms used in this Bond without definition shall have their respective meanings attributed thereto in the Design and Construction Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Design and Construction Contract, then this obligation shall be null and void; and otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Design and Construction Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Design and Construction Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Design and Construction Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof, shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Design and Construction Contract. The prevailing industrial rental value of equipment

shall be determined, insofar as it is practical to do so, in accordance with and in the manner provided for in the latest revised edition of the publication of the Canadian Construction Association titled "Rental Rates on Construction Equipment" published prior to the period during which the equipment was used in the performance of the Design and Construction Contract.

2. The Principal and the Surety hereby jointly and severally agree with the Obligee, as Trustee, that every Claimant who has not been paid as provided for under the terms of his or her contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of his or her contract with the Principal and have execution thereon. Provided that the Obligee is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Obligee or by joining the Obligee as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants or any of them, who take such act, action or proceeding shall indemnify and save harmless the Obligee against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Obligee by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants, or any of them may use the name of the Obligee to sue on and enforce the provisions of this Bond.
3. It is a condition precedent to the liability of the Surety under this Bond that such Claimant shall have given written notice as hereinafter set forth to each of the Principal, the Surety and the Obligee, stating with substantial accuracy the amount claimed, and that such Claimant shall have brought suit or action in accordance with this Bond, as set out in sub-clauses 3(b) and 3(c) below. Accordingly, no suit or action shall be commenced hereunder by any Claimant:
 - (a) unless such Claimant shall have given written notice within the time limits hereinafter set forth to each of the Principal, the Surety and the Obligee, stating with substantial accuracy the amount claimed. Such notice shall be served by mailing the same by registered mail to the Principal, the Surety and the Obligee, at any place where an office is regularly maintained for the transaction of business by such persons or served in any manner in which legal process may be served in the Province or other part of Canada in which the subject matter of the Design and Construction Contract is located. Such notice shall be given:
 - (i) in respect of any claim for the amount or any portion thereof, required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal, or under the construction lien legislation applicable to the Claimant's contract with the Principal, whichever is greater, within one hundred and twenty (120) days after such

Claimant should have been paid in full under the Claimant's contract with the Principal;

- (ii) in respect of any claim other than for the holdback, or portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or labour or furnished the last of the materials for which such claim is made under the Claimant's contract with the Principal;
 - (b) after the expiration of one (1) year following the date on which the Principal ceased work on the Design and Construction Contract, including work performed under the guarantees provided in the Design and Construction Contract;
 - (c) other than in a Court of competent jurisdiction in the Province or District of Canada in which the subject matter of the Design and Construction Contract, or any part thereof, is situated and not elsewhere, and the parties hereto agree to submit to the jurisdiction of such Court.
4. The Surety agrees not to take advantage of Article 1959 of the Civil Code of the Province of Quebec in the event that, by an act or an omission of a Claimant, the Surety can no longer be subrogated in the rights, hypothecs and privileges of said Claimant.
 5. Any material change in the Design and Construction Contract between the Principal and the Obligee shall not prejudice the rights or interest of any Claimant under this Bond, who is not instrumental in bringing about or has not caused such change.
 6. The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith and in accordance with the provisions hereof, inclusive of the payment by the Surety of construction liens which may be filed of record against the subject matter of the Design and Construction Contract, whether or not claim for the amount of such lien be presented under and against this Bond.
 7. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
 8. This Bond may be executed in counterpart, all of which when taken together constitute the Labour and Material Payment Bond.

IN WITNESS WHEREOF, the Principal and the Surety have signed and sealed this Bond this _____ day of _____, 20__.

SIGNED, SEALED AND DELIVERED in the presence of:

**BONDFIELD CONSTRUCTION COMPANY
LIMITED**

Signature
Name of person signing

Witness

ZURICH INSURANCE COMPANY LTD.

Signature
Name of person signing

EXHIBIT 1 TO APPENDIX C

LABOUR AND MATERIAL PAYMENT BOND
MULTIPLE OBLIGEE RIDER

No. _____

TO BE ATTACHED TO AND FORM PART OF THE LABOUR AND MATERIAL PAYMENT BOND NO. [Insert Bond No.] dated [Insert Date] (the "L&M Bond") concurrently with the execution of this Labour and Material Payment Bond Multiple Obligee Rider ("L&M Multiple Obligee Rider") issued by ZURICH INSURANCE COMPANY LTD., as Surety (hereinafter called the "Surety"), on behalf of BONDFIELD CONSTRUCTION COMPANY LIMITED, as Principal (hereinafter called the "Principal"), and in favour of 2442931 ONTARIO INC., as Obligee (hereinafter called the "Obligee").

NOW THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, the undersigned hereby agree as follows:

1. The L&M Bond shall and is hereby amended to add **ST. MICHAEL'S HOSPITAL** (hereinafter called the "**Owner**") and **BANK OF MONTREAL** (hereinafter called the "**Lender**") as additional named Obligees, in their respective capacities as assignees of the Design and Construction Contract.
2. Capitalized terms used in this L&M Multiple Obligee Rider without definition shall have the respective meanings attributed to them in the L&M Bond and the Design and Construction Contract.
3. All of the terms, conditions and provisions of the L&M Bond are hereby incorporated herein by reference as if fully set forth herein.
4. No alteration or material change in the Design and Construction Contract or any conduct of the Principal, Obligee or Lender, shall prejudice the rights or interest of Owner or Claimant under the L&M Bond or this L&M Multiple Obligee Rider provided that Owner or Claimant have not caused such alteration or material change without the prior written consent of the Surety.
5. In the event of any ambiguity, conflict or inconsistency, the L&M Bond and the L&M Multiple Obligee Rider shall prevail over the Project Agreement and the other Project Documents.
6. Nothing herein shall alter or affect the aggregate liability of the Surety as described in the L&M Bond.

7. This Bond may be executed in counterpart, all of which when taken together constitute the Labour and Material Payment Bond.

St. Michael's Hospital Redevelopment Project

IN WITNESS WHEREOF, the Principal, Surety, Obligee, Owner and Lender have signed and sealed this L&M Multiple Obligee Rider dated the ____ day of _____, 20__.

SIGNED, SEALED and DELIVERED

BONDFIELD CONSTRUCTION COMPANY LIMITED

in the presence of :

By:

Signature

Name of person signing

ZURICH INSURANCE COMPANY LTD.

By:

Signature

Name of person signing

2442931 ONTARIO INC.

By:

Signature

Name of person signing

BANK OF MONTREAL, as Agent

By:

Signature

Name of person signing

ST. MICHAEL'S HOSPITAL

By:

Signature

Name of person signing

SCHEDULE 26

RECORD PROVISIONS

1. General Requirements

- 1.1 Construction Contractor shall prepare, retain and maintain at its own expense, all the records (including superseded records) referred to in Section 2.1, as follows:
- (a) in accordance with this Section 1;
 - (b) in accordance with the Output Specifications;
 - (c) in accordance with the requirements of Good Industry Practice, which shall include all requirements of the Canadian Institute for Health Information;
 - (d) having due regard to the guidelines and policies of the Office of the Information and Privacy Commissioner of Ontario;
 - (e) in accordance with the most stringent of Project Co's and the Construction Contractor's normal business practices;
 - (f) in accordance with Canadian GAAP;
 - (g) in chronological order;
 - (h) in sufficient detail, in appropriate categories and generally in such a manner as to enable Construction Contractor to comply with Construction Contractor's obligations under Section 26 of Appendix A of the Design and Construction Contract; and
 - (i) in a form that is capable of audit.
- 1.2 Construction Contractor shall retain and maintain all records on the Site.
- 1.3 Wherever practical, original records shall be retained and maintained in a hard copy form. Construction Contractor may retain true copies of original records where it is not practical to retain original records.
- 1.4 Any drawings (including, without limitation, the As Built Drawings) required to be made or supplied pursuant to this Design and Construction Contract shall be of a size appropriate to show the detail to be depicted clearly without magnifying aids, shall be consistent in size and format to drawings previously submitted by Construction Contractor to Project Co or SMH, and shall conform to the Output Specifications and Good Industry Practice. Where by prior agreement Project Co and the Construction Contractor have agreed to accept microfilm, microfiche, CD-ROM or other storage media, Construction Contractor shall make or supply drawings and other documents in such form as has been agreed by the Parties and shall include secure back up facilities.

- 1.5 Records may, with the consent of Project Co, not to be unreasonably withheld or delayed, be stored in electronic form if Project Co and SMH has access thereto and will continue to have access thereto, such that Project Co and SMH will be able to read, copy, download, and search same without licence or payment.
- 1.6 Subject to Sections 1.7 and 1.8, Construction Contractor shall retain and maintain in safe storage, at its expense, all records referred to in Section 2.1 for a period of at least 7 years or such longer period as required by Applicable Law.
- 1.7 Construction Contractor shall notify Project Co if Construction Contractor wishes to destroy any records referred to in this Schedule 26 which are more than 7 years old, or in respect of which the required period under Applicable Law for their retention has expired. The Parties agree that:
- (a) within 60 days of such notice, Project Co may elect to require Construction Contractor to deliver such records to SMH or Project Co, in which case Construction Contractor shall, at the expense of Project Co, deliver such records (with the exception of Sensitive Information) to SMH or Project Co in the manner and to the location as Project Co shall specify; or
 - (b) if Project Co fails to notify Construction Contractor of its election pursuant to Section 1.7(a) within such 60 day period, Construction Contractor may, at its expense, destroy such records.
- 1.8 In the event of termination of this Design and Construction Contract in accordance with its terms, Construction Contractor shall deliver all records that Construction Contractor retains and maintains pursuant to this Schedule 26 to Project Co in the manner and to the location that Project Co shall reasonably specify. The Project Co shall make available to Construction Contractor all the records Construction Contractor delivers pursuant to this Section 1.8 subject to prior reasonable notice. Construction Contractor may deliver true copies of original records required by:
- (a) statute to remain with Construction Contractor;
 - (b) Construction Contractor in connection with its fulfilment of any outstanding obligations under this Design and Construction Contract; or
 - (c) Project Co in connection with its fulfilment of any outstanding obligations under the Lending Agreements.
- 1.9 Where the termination of this Design and Construction Contract arises:
- (a) as a result of a Project Co Event of Default or pursuant to Section 36.3 of Appendix A of this Design and Construction Contract, then the costs of delivering the records and the costs for retaining such records in safe storage will be borne by Project Co; or

- (b) for any other cause, then the costs of delivering the records and the costs for retaining such records in safe storage for a period of at least six years following the Termination Date (unless a longer period is required by Applicable Law), shall be borne by Construction Contractor.
- 1.10 Within 30 days after the end of each year or partial year of the Project Term, Construction Contractor shall deliver to Project Co a report, as reasonably requested by Project Co in connection with Project Co's financial reporting, detailing to the best of Construction Contractor's knowledge at the time of any such report any and all liabilities, claims and demands, including contingent liabilities, claims and demands, that Construction Contractor has or may have against Project Co or that may be owing by Project Co to Construction Contractor. The Parties acknowledge and agree that the contents of any such report or the failure to mention any matter in any such report shall not limit either Party's rights or remedies against the other Party as contemplated by this Design and Construction Contract.
- 1.11 Construction Contractor shall provide to Project Co not later than 60 days after the end of each fiscal quarter in each fiscal year, part or all of which falls in a year of the Project Term, a copy of Construction Contractor's unaudited financial statements in respect of that period, and 120 days after the end of each fiscal year, a copy of Construction Contractor's audited financial statements, in respect of that period, prepared in accordance with Applicable Law and Canadian GAAP, together with copies of all related auditors' reports and, to the extent publicly available, all related directors' reports and other notices and circulars to shareholders or partners, all of which documents, whether or not marked or identified as confidential or proprietary but subject to the exceptions contained in Section 40 of Appendix A of the Design and Construction Contract, shall be treated by Project Co as Confidential Information of the Construction Contractor.

2. Records To Be Kept

- 2.1 Without limiting any other requirement of this Design and Construction Contract, Construction Contractor shall prepare, retain and maintain at its own expense:
- (a) this Design and Construction Contract, its Schedules and the Ancillary Documents, including all amendments to such agreements;
 - (b) all records relating to the appointment and replacement of the Construction Contractor Representative;
 - (c) any documents, drawings (including, without limitation, the As Built Drawings) or submissions in accordance with Schedule 10 - Review Procedure;
 - (d) any documents relating to Development Approvals and other Construction Contractor Permits, Licences, Approvals and Agreements, including any refusals and appeals relating to any applications;

- (e) all records relating to any statutory inspections of the Facility or the Site, including any roadways;
- (f) any notices, reports, results and certificates relating to any Phase Completion, Tower Interim Completion, Substantial Completion, Final Completion, Phase Construction Contractor Commissioning, Tower Interim Completion Construction Contractor Commissioning and Construction Contractor Commissioning;
- (g) all operation and maintenance manuals;
- (h) any documents relating to events of Force Majeure, Delay Events, Compensation Events, Relief Events and Excusing Causes;
- (i) all documents submitted in accordance with Schedule 22 - Variation Procedure;
- (j) any documents related to decisions resulting from the Dispute Resolution Procedure;
- (k) any documents related to a Construction Contractor Change in Ownership or Change in Control;
- (l) all accounts for Taxes and transactions relating to Taxes, including in relation to HST applicable to the Project, but excluding any records for:
 - (i) Construction Contractor's liabilities or payments under the Income Tax Act (Canada), the Income Tax Act (Ontario) or any similar statute in any other jurisdiction;
 - (ii) Construction Contractor's liabilities or payments for capital taxes based on or measured by the capital of Construction Contractor;
 - (iii) the withholdings of any payments by Construction Contractor; or
 - (iv) any business or activity in addition to the business or activities related to, and conducted for, the purpose of the Project;
- (m) the financial accounts of Construction Contractor referred to in Section 1.11;
- (n) all records required by Applicable Law (including in relation to health and safety matters) to be maintained by Construction Contractor with respect to the Design and Construction Work;
- (o) any documents relating to insurance and insurance claims;
- (p) all Jointly Developed Materials; and
- (q) all other records, documents, information, notices or certificates expressly required to be produced or maintained by Construction Contractor pursuant to this Design and Construction Contract.

- 2.2 Either Party and SMH may review the documents required to be prepared, retained and maintained by Construction Contractor pursuant to Section 2.1.

SCHEDULE 27

DISPUTE RESOLUTION PROCEDURE

1. General

- 1.1 All disputes, controversies, or claims arising out of or relating to any provision of this Design and Construction Contract, or the alleged wrongful exercise or failure to exercise by a Party of a discretion or power given to that Party under this Design and Construction Contract, or the interpretation, enforceability, performance, breach, termination, or validity of this Design and Construction Contract, including, without limitation, this Schedule 27, or any matter referred to for resolution pursuant to this Schedule 27 (collectively and individually, a "**Dispute**") shall be resolved in accordance with the provisions of this Schedule 27.
- 1.2 The Parties agree that at all times, both during and after the Project Term, each of them will make bona fide efforts to:
- (a) resolve by amicable negotiations any and all Disputes arising between them on a without prejudice basis; and
 - (b) have all Disputes resolved at the lowest level of management before engaging the dispute resolution processes described in Articles 2 to 9 of this Schedule 27.
- 1.3 If the Parties are unable to resolve a Dispute at the lowest level of management pursuant to Section 1.2(b) of this Schedule 27, either Party may deliver to Project Co or the Construction Contractor Representative, as applicable, a written notice of dispute (the "**Notice of Dispute**"), which Notice of Dispute shall, subject to the terms of this Schedule 27 requiring resolution of a Dispute pursuant to a specific dispute resolution process set forth in this Schedule 27, initiate the dispute resolution process described in Articles 2 to 9 of this Schedule 27, as applicable, as more particularly described in this Schedule 27. To be effective, the Notice of Dispute must expressly state that it is a notice of dispute, set out the particulars of the matter in dispute, describe the remedy or resolution sought by the Party issuing the Notice of Dispute and be signed by Project Co, if given by Project Co, or by the Construction Contractor Representative, if given by Construction Contractor.

2. Amicable Resolution by Party Representatives

- 2.1 On receipt of a Notice of Dispute, a representative designated by Project Co and the Construction Contractor Representative (collectively "**Party Representatives**" and individually "**Party Representative**") shall each promptly and diligently make all reasonable bona fide efforts to resolve the Dispute. Each Party Representative shall provide to the other, on a without prejudice basis, frank, candid and timely disclosure of relevant

facts, information and documents (except such documentation that is subject to legal privilege) as may be required or reasonably requested by the other to facilitate the resolution of the Dispute.

3. Amicable Resolution by Senior Officers of each Party

3.1 If, following the process referred to in Article 2 of this Schedule 27 (or as otherwise agreed to in writing by the Parties pursuant to Section 13.6 of this Schedule 27), a Dispute is not resolved by the Party Representatives within 10 Business Days after receipt by a Party of the applicable Notice of Dispute, or within such longer period of time as the Party Representatives may both expressly agree, then at any time after the expiry of such period of time either Party Representative may, by notice in writing to the other, refer the Dispute to an executive of a Party who:

- (a) is in a position of authority above that of the Construction Contractor Representative, and the Project Co Representative (as defined in the Project Agreement); and
- (b) subject only to approval of the board of directors or similar governing body of the Party, has full authority to resolve and settle the Dispute.

3.2 Once a Dispute is referred to them, the executive of each Party shall promptly and diligently make all reasonable bona fide efforts to resolve the Dispute. All discussions and negotiations, and all documents exchanged, between them related to the Dispute shall be on a without prejudice basis to facilitate the resolution of the Dispute.

4. Independent Certifier

4.1 This Article 4 applies to all Disputes that fall within the description of Section 4.2 of this Schedule 27 that cannot be resolved as provided in Articles 2 and 3 of this Schedule 27 or as otherwise agreed to in writing by the Parties pursuant to Section 13.6 of this Schedule 27.

4.2 All Disputes related to the Design and Construction Work and that:

- (a) arise prior to, or otherwise in relation to a Phase Completion, Tower Interim Completion or Substantial Completion;
- (b) relate to completion of Phase Minor Deficiencies, Tower Interim Completion Minor Deficiencies or Minor Deficiencies;
- (c) relate to whether any proposed work constitutes a Variation;
- (d) relate to a review of Estimates or any other matters relating to Variations as the Independent Certifier is entitled to review and determine pursuant to Article 38 of the Project Agreement; or

- (e) are referred to in this Design and Construction Contract for determination by the Independent Certifier;

shall initially be submitted by Project Co to the Independent Certifier pursuant to the Project Agreement for independent determination by the Independent Certifier within such period as may be specified in the Project Agreement or if no period is specified, within 10 Business Days after submission to the Independent Certifier.

- 4.3 Without limiting any obligations of the parties under the Independent Certifier Agreement, the Parties shall cooperate with the Independent Certifier and provide such information, records and documents as may be required by the Independent Certifier to make the determination within the period referred to in Section 4.2 of Schedule 27 of the Project Agreement.
- 4.4 The Independent Certifier's decision to issue or not to issue:
- (a) the Tower Interim Completion Certificate shall be final and binding on the Parties solely in respect of determining the Tower Interim Completion Payment Date and a Dispute in relation to the Tower Interim Completion Payment Date shall not be subject to resolution pursuant to this Schedule 27; and
- (b) the Substantial Completion Certificate shall be final and binding on the Parties solely in respect of determining the Substantial Completion Payment Date and a Dispute in relation to the Substantial Completion Payment Date shall not be subject to resolution pursuant to this Schedule 27.

Save and except as aforesaid, the Independent Certifier's determinations are not binding on the Parties, and all Disputes in relation to the Independent Certifier's decisions shall be resolved pursuant to this Schedule 27, provided however that Section 6 of this Schedule 27 shall not apply unless otherwise agreed by the Parties on terms acceptable to the Parties.

5. [Intentionally Deleted]

6. Adjudication

- 6.1 If the Parties fail to resolve any Dispute through the process referred to in Section 2 and 3 of this Schedule 27 within 15 Business Days following referral of the Dispute to an executive in accordance with Section 3.1 (or such other period as may be agreed or expressly stipulated in respect of the relevant matter) and it is not a Dispute referred to in Section 4.2 of this Schedule 27 or a Dispute referred to arbitration or litigation pursuant to Section 4.4 of this Schedule 27 (except as otherwise agreed to in writing by the Parties pursuant to Section 13.6 of this Schedule 27), either Party may refer the Dispute to an adjudicator selected in accordance with Section 6.2 of this Schedule 27 (the "Adjudicator").

- 6.2 The Adjudicator nominated by the Party issuing the Notice of Dispute shall be agreed between the Parties or, failing agreement, shall be determined by the Ontario Superior Court of Justice (following an application thereto by the Party issuing the Notice of Dispute) pursuant to the *Arbitration Act* (Ontario) as if the adjudicator was an arbitrator under the *Arbitration Act* (Ontario) and shall:
- (a) be independent of and at arm's length to Project Co and the Construction Contractor, SMH, any Government Entity, the Lenders and any other person having an interest in the Facility or any of the Project Documents;
 - (b) if the Dispute arises during the Project Term, be familiar with building operations and management and hospital activities; and
 - (c) be a person who has the qualifications and experience with respect to the particular issues in Dispute, including, where the issues in Dispute include whether Construction Contractor has or will adversely impact the SMH Activities, then such qualifications and experience should include relevant experience in the provision of activities similar to the SMH Activities in a major acute care hospital..
- 6.3 The Adjudicator shall resolve the Dispute in accordance with the United Kingdom Construction Industry Council's *Model Adjudication Procedure; Fourth Edition* (the "Model Adjudication Procedure") the terms of which are incorporated herein by reference, subject to the following modifications:
- (a) notwithstanding paragraph 14 of the Model Adjudication Procedure, within 7 Business Days of appointment in relation to a particular Dispute, the Adjudicator shall require the Parties to submit in writing their respective arguments; provided that, where necessary, the onus of proving that the Facility is permitting the SMH Activities to proceed in accordance with all relevant specifications and requirements set forth in the Design and Construction Contract is on the Construction Contractor. The Adjudicator shall, in his absolute discretion, determine the procedure of the adjudication proceedings including without limitation, whether a hearing is necessary in order to resolve the Dispute;
 - (b) notwithstanding paragraphs 16 and 24 of the Model Adjudication Procedure, in any event, and subject to Section 6.4 of this Schedule 27, the Adjudicator shall provide to both Parties his written decision on the Dispute, within 10 Business Days of appointment (or within such other period as the Parties may agree after the reference). The Adjudicator shall give detailed reasons for the Adjudicator's decision. The Adjudicator shall be entitled to award compensation to a Party and shall be entitled to state the relief for such Party, which may include deeming the occurrence of any Relief Event, Delay Event and/or Compensation Event. Unless otherwise provided for in this Schedule 27, the Adjudicator's decision shall be binding on the Parties, but not final.

- (c) notwithstanding paragraphs 29 and 30 of the Model Adjudication Procedure, the Adjudicator's costs, including any legal fees, of any reference shall be borne as the Adjudicator shall specify or in default, equally by the Parties. In no circumstances shall the Adjudicator be entitled to order a successful or partially successful Party in an adjudication to pay more than one half of the Adjudicator's fees. Each Party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- (d) the Adjudicator shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the *Arbitration Act* (Ontario) and the law relating to arbitration shall not apply to the Adjudicator (other than as set out in Section 6.2 of this Schedule 27) or his determination or the procedure by which he reached his determination;
- (e) notwithstanding paragraph 26 of the Model Adjudication Procedure, the Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. Unless otherwise expressly provided in this Design and Construction Contract, the Adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given under this Design and Construction Contract. For greater certainty, the Independent Certifier's decision to issue or not to issue:
- (i) the Tower Interim Completion Certificate shall be final and binding solely in respect of determining the Tower Interim Completion Payment Date and a Dispute in relation to the Tower Interim Completion Payment Date shall not be subject to resolution pursuant to this Schedule 27; and
 - (ii) the Substantial Completion Certificate shall be final and binding solely in respect of determining the Substantial Completion Payment Date and a Dispute in relation to the Substantial Completion Payment Date shall not be subject to resolution pursuant to this Schedule 27;
- (f) the Adjudicator shall execute a non-disclosure agreement (the "**Non-Disclosure Agreement**") in a form satisfactory to the Parties, providing that, among other things, all information, data and documentation disclosed or delivered by a Party to the Adjudicator in consequence of or in connection with his appointment as the Adjudicator shall be treated as confidential and without prejudice to any potential litigation proceedings. The Adjudicator shall not, save except as expressly permitted by the Non-Disclosure Agreement, disclose to any person any such information, data or documentation, and all such information, data or documentation shall remain the property of the Party disclosing or delivering the same and all copies shall be returned to such Party on completion of the Adjudicator's mandate with respect to the Dispute; and

- (g) notwithstanding paragraph 34 of the Model Adjudication Procedure, the Adjudicator shall not be liable for anything done or omitted to be done in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.

6.4 Where it is determined by the Adjudicator that:

- (a) corrective measures must be taken by Construction Contractor to resolve a Dispute, those measures must be implemented by Construction Contractor as soon as reasonably practical, without payment by Project Co unless (i) the Adjudicator determines otherwise; or (ii) that determination is subsequently reversed by a binding and final determination made in a court proceeding;
- (b) corrective measures are not required to be taken by Construction Contractor to resolve a Dispute, Project Co may, at its option, require corrective measures to be taken forthwith by the Construction Contractor, in which case those measures must be implemented by Construction Contractor as soon as reasonably practical provided that Project Co undertakes to pay Construction Contractor for Direct Costs, plus reasonable overhead and profit incurred by Construction Contractor as such costs are so incurred; provided that no such costs should exceed the amount Construction Contractor is entitled to receive pursuant to Schedule 22 – Variation Procedure thereby incurred upon completion of those corrective measures, but any such undertaking and payment shall be without prejudice to Project Co's right to contest the determination made by the Adjudicator in a subsequent proceeding. Project Co shall provide Construction Contractor such reasonable extensions of time in respect of Construction Contractor's obligations under this Design and Construction Contract necessary to allow Construction Contractor to effect the corrective measures and such extension of time may be treated as a Delay Event, if so determined by the Adjudicator.

- 6.5 Subject to a right to require the Dispute to be arbitrated or litigated pursuant to Sections 7, 8 and 9 of this Schedule 27 by giving the required notices to arbitrate or litigate within the time periods specified therein, the Parties agree that the Adjudicator's determination is final and binding and not subject to appeal, arbitration, litigation or any other dispute resolution process, and both Parties expressly waive all rights of appeal in connection with the Adjudicator's determination.

7. Referral of Disputes to Arbitration or Litigation

- 7.1 If:

- (a) the amount awarded by the Adjudicator pursuant to Section 6 of this Schedule 27 is more than \$500,000 (index linked) in the aggregate or \$150,000 (index linked) in any one year,
- (b) the Dispute involves issues other than monetary claims by one Party against the other Party and which a Party reasonably believes are material and significant to that Party, or
- (c) a Notice of Dispute has been issued for a Dispute in relation to the Independent Certifier's decisions for which Section 4.4 of this Schedule 27 provides that Section 6 of this Schedule 27 shall not apply to resolve such Dispute,

then, subject to the right of a Party to require litigation of the Dispute pursuant to Section 9.1 of this Schedule 27 or a consolidation of proceedings pursuant to Section 10 of this Schedule 27, either Party may, by written notice signed by their Party Representative, request that the Dispute be resolved by arbitration pursuant to Section 8 of this Schedule 27 upon the written consent of the other Party. Such notice will not be effective unless it indicates it is a notice to arbitrate, is signed by the Party Representative and is delivered to the other Party Representative within 15 Business Days after receipt of the Adjudicator's decision or the Notice of Dispute referred to in Section 7.1(c) of this Schedule 27, as applicable, and provided further that such notice expressly identifies the specific Dispute and decision of the Adjudicator or the Independent Certifier, as applicable, that is to be the subject of the arbitration.

- 7.2 If a Party is entitled to refer a Dispute to which Section 6 of this Schedule 27 applies to arbitration or litigation pursuant to Sections 7.1 or 9.1 of this Schedule 27 then, unless the Parties otherwise expressly agree in writing, all information, documents and submissions prepared by a Party for the Adjudicator which are not business records that would otherwise be kept in the normal course of business by the Party for its business purposes, and all decisions and determinations by the Adjudicator, shall be confidential and inadmissible in any arbitration or litigation proceeding. For greater certainty, the Adjudicator shall not be called as a witness by either party in any arbitration or litigation proceeding.

8. Resolution by Arbitration

8.1 Upon the mutual written consent of the parties,

- (a) where the Parties fail to resolve a Dispute through the process set out in Sections 2, 3, 4 and 6 (to the extent required) of this Schedule 27, and
- (b) all other requirements set out in this Schedule 27 have been satisfied,

such Dispute may be referred to arbitration in accordance with the Arbitration Act, 1991 (Ontario) and this Section 8.

- 8.2 Disputes referred to arbitration shall be resolved by a single arbitrator unless one of the Parties, by notice in writing delivered to the other Party within 5 Business Days after a notice to arbitrate pursuant to Section 7.1 of this Schedule 27 has been delivered, expressly requires that the Dispute that is the subject of that notice to arbitrate be resolved by a three person arbitration tribunal, in which case that particular Dispute shall be resolved by a three person arbitration tribunal.
- 8.3 If the arbitration tribunal is comprised of a single arbitrator, the arbitrator shall be appointed as follows:
- (a) if the Parties agree on the arbitrator, the Parties shall jointly appoint the arbitrator as soon as possible and in any event within 5 Business Days after delivery of the notice to arbitrate pursuant to Section 7 of this Schedule 27; and
 - (b) if the Parties fail to agree or jointly appoint the arbitrator within such 5 Business Day period, either Party may apply to the Ontario Superior Court of Justice for appointment of the arbitrator, in which case the court shall appoint the arbitrator at the earliest opportunity in accordance with the following:
 - (i) from the lists of potential arbitrators submitted to the court by the Parties, provided that potential arbitrators meeting the necessary qualifications and experience set out in this Schedule 27 are on the list; or
 - (ii) if one Party fails to submit its list of potential arbitrators to the court within 5 Business Days of a request from the court to submit a list, from the list submitted by the other Party provided that potential arbitrators meeting the necessary qualifications and experience set out in this Schedule 27 are on the list of that other Party; or
 - (iii) if no list is submitted by either Party, or if the list or lists submitted do not include potential arbitrators with the necessary qualifications and experience, the court shall be entitled at its sole discretion to appoint anyone who meets the requirements set out in this Schedule 27 for the qualifications and experience of the arbitrator.
- 8.4 If the arbitration tribunal is comprised of three arbitrators:
- (a) the arbitrators shall be appointed as follows:
 - (i) each Party shall appoint one arbitrator no later than 5 Business Days after delivery of the notice to arbitrate pursuant to Section 7 of this Schedule 27;
 - (ii) if a Party fails to appoint an arbitrator within 5 Business Days after delivery of the notice to arbitrate, the other Party is entitled to apply to the Ontario Superior Court of Justice to appoint that arbitrator, in which case the court

- shall appoint that arbitrator at the earliest opportunity using a comparable process to that described in Section 8.3(b) of this Schedule 27;
- (iii) the arbitrators appointed in accordance with the foregoing shall, within 5 Business Days after their appointment, jointly appoint a third arbitrator who shall also act as the chair of the arbitration tribunal and who, in addition to all other required qualifications, shall have experience in arbitration or judicial processes and procedures; and
 - (iv) if the two arbitrators appointed by the Parties fail to appoint a third arbitrator within the required time, either of the other two arbitrators may apply to the Ontario Superior Court of Justice for appointment of the third arbitrator, in which case the court shall appoint the third arbitrator at the earliest opportunity using a comparable process to that described in Section 8.3(b) of this Schedule 27; and
- (b) the arbitrators appointed by the Parties shall at all times be neutral and act impartially and shall not act as advocates for the interests of the Party who appointed them.
- 8.5 All arbitrators must have qualifications and experience relevant to the issues in the Dispute and also have qualifications and experience as arbitrators. Where the issues in Dispute include whether Construction Contractor has or will adversely impact the SMH Activities, then such qualifications and experience should include relevant experience in the provision of activities similar to the SMH Activities in a major acute care hospital.
- 8.6 No one shall be nominated or appointed to act as an arbitrator who is or was in any way interested, financially or otherwise, in the conduct of the Design and Construction Work or in the business affairs of Project Co, the Construction Contractor, or any consultant, subconsultant or subcontractor of any of them.
- 8.7 The arbitrator(s) shall have the jurisdiction and power to:
- (a) amend or vary any and all rules under the *Arbitration Act, 1991* (Ontario), including rules relating to time limits, either by express agreement of the Parties or, failing such agreement, as the arbitrator(s) consider appropriate and necessary in the circumstances to resolve the Dispute and render an award;
 - (b) require some or all of the evidence to be provided by affidavit;
 - (c) hold a hearing at which evidence and submissions are presented by the Parties;
 - (d) direct either or both Parties to prepare and provide the arbitrator(s) with such documents, test results or other things as the arbitrator(s) may require to assist them in the resolution of the Dispute and rendering of an award;

- (e) require either Party to supply or prepare for examination by the arbitrator(s) and the other Party, any document or information the arbitrator(s) considers necessary;
 - (f) inspect the Design and Construction Work, giving reasonable notice to each Party of the time when, and the place where, the arbitrator(s) intend(s) to conduct any inspections;
 - (g) award any remedy or relief that a court or judge of the Ontario Superior Court of Justice could order or grant subject to and in accordance with this Design and Construction Contract, including, without limitation, interim orders, interim and permanent injunctions, and specific performance; and
 - (h) require either or both Parties to take and provide to the arbitrator(s) such measurements, perform such tests, perform such audits, or take any and all such other measures or steps as the arbitrator(s) consider necessary or desirable to aid them in making a fair and reasonable award.
- 8.8 The place of arbitration shall be Toronto, Ontario. The language of the arbitration shall be English.
- 8.9 The costs of an arbitration are in the discretion of the arbitrator(s) who, in addition to any jurisdiction and authority under applicable law to award costs, has the jurisdiction and authority to make an order for costs on such basis as the arbitrator(s) considers appropriate in the circumstances, including to award actual legal fees and disbursements and expert witness fees, and to specify or order any or all of the following:
- (a) the Party entitled to costs;
 - (b) the Party who must pay the costs;
 - (c) the amount of the costs or how that amount is to be determined; and
 - (d) how all or part of the costs must be paid.
- 8.10 In exercising discretion to award costs, however, the arbitrator(s) will take into account the desire of the Parties that costs should generally be awarded to each Party in proportion to the relative success that each Party has in the arbitration.
- 8.11 The award of the arbitrator(s) shall be final and binding upon both Parties, and both Parties expressly waive all rights of appeal in connection with the award of the arbitrator(s). Judgment may be entered upon the award in accordance with Applicable Law in any court having jurisdiction.
- 8.12 The Parties agree to and shall co-operate fully with the arbitrator(s) and proceed with the arbitration expeditiously, including in respect of any hearing, in order that an award may be

rendered as soon as practicable by the arbitrator(s), given the nature of the Dispute. The arbitrator(s) shall render a decision as soon as possible and, in any event, shall use all reasonable efforts to render a decision no later than 20 Business Days after the date of the hearing, or such longer period of time as agreed to in writing by the Parties. If the arbitration tribunal is comprised of three arbitrators, the decision of a majority of the arbitration tribunal shall be deemed to be the decision of the arbitration tribunal, and where there is no majority decision, the decision of the chair of the arbitration tribunal shall be deemed to be the decision of the arbitration tribunal.

- 8.13 This Design and Construction Contract, including this Schedule 27, constitutes an agreement to arbitrate that shall be specifically enforceable.
- 8.14 Any arbitrator appointed pursuant to this Section 8 of this Schedule 27 shall keep all information about the Dispute confidential and shall not disclose such information to anyone other than the Parties.

9. Litigation

- 9.1 Notwithstanding that a notice to arbitrate has been delivered pursuant to Section 7.1 of this Schedule 27, following receipt of the Adjudicator's award or determination pursuant to Section 6 of this Schedule 27, or if applicable, a Notice of Dispute has been issued following receipt of a decision of the Independent Certifier if the Dispute is a Dispute in relation to the Independent Certifier's decisions for which Section 4.4 of this Schedule 27 provides that Section 6 of this Schedule 27 shall not apply, if one or more of the following apply then either Party may elect, by written notice signed by their Party Representative, to require that the Dispute be referred to and resolved solely by litigation in the Ontario Superior Court of Justice, and both Parties agree to attorn to the exclusive jurisdiction of the courts of the Province of Ontario in respect of the Dispute:
- (a) if the actual or potential total value or amount at issue in the Dispute (as determined by adding all claims and counterclaims) is more than \$500,000 (index linked) in the aggregate or \$150,000 (index linked) in any one year; or
 - (b) if the Dispute is considered by Project Co to involve material issues of public health or safety.

Such notice will not be effective unless it indicates it is a notice to submit the Dispute to litigation, is signed by the Party Representative and is delivered to the other Party Representative within 15 Business Days after receipt of the Adjudicator's determination, or the Notice of Dispute referred to in Section 7.1(c) of this Schedule 27, as applicable, and provided further that such notice expressly identifies the specific Dispute and determination of the Adjudicator or Independent Certifier, as applicable, that is to be the subject of the litigation.

9.2 If neither Party delivers a notice of election to resolve a particular Dispute by litigation in the manner and within the time specified in Section 9.1 of this Schedule 27, then provided that one Party has, in the manner and within the time period specified in Section 7.1 of this Schedule 27, given notice to the other Party of election to resolve that Dispute by arbitration, and subject to a consolidation of proceedings pursuant to Section 10 of this Schedule 27, that Dispute shall be resolved only by arbitration pursuant to Sections 8.2 to 8.14 of this Schedule 27.

10. Consolidation of Design and Construction Contract Adjudication, Arbitration and Litigation

10.1 For all Disputes in respect of a Phase of the Works that arise prior to the applicable Phase Completion, unless:

- (a) both Parties otherwise agree;
- (b) the issue in a particular Dispute arises in connection with the Review Procedure;
- (c) the issue in a particular Dispute is such that waiting until after the applicable Phase Completion to resolve that Dispute will cause irreparable harm to one of the Parties;
- (d) the issue in a particular Dispute arises in connection with requirements of achieving or deficiencies in not the achieving applicable Phase Completion; or
- (e) in respect to a particular Dispute, the Dispute is consolidated with any Third Arbitration or Third Party Litigation (as hereinafter defined) pursuant to Section 11 of this Schedule 27,

all adjudication, arbitral and litigation proceedings between the Parties prior to such Phase Completion shall be stayed and consolidated into, as applicable, a single adjudication, arbitration and a single litigation proceeding, with the adjudication, arbitration and, if applicable, litigation, proceeding promptly and expeditiously after such Phase Completion.

10.2 For all Disputes in respect of the Tower (for clarity, which are not Phases of the Works) that arise prior to Tower Interim Completion, unless:

- (a) both Parties otherwise agree;
- (b) the issue in a particular Dispute arises in connection with the Review Procedure;
- (c) the issue in a particular Dispute is such that waiting until after Tower Interim Completion to resolve that Dispute will cause irreparable harm to one of the Parties;
- (d) the issue in a particular Dispute arises in connection with requirements of achieving or deficiencies in not achieving Tower Interim Completion; or

- (e) in respect to a particular Dispute, the Dispute is consolidated with any Third Arbitration or Third Party Litigation (as hereinafter defined) pursuant to Section 11 of this Schedule 27,

all adjudication, arbitral and litigation proceedings between the Parties in respect of the Tower prior to Tower Interim Completion shall be stayed and consolidated into, as applicable, a single adjudication, arbitration and a single litigation proceeding, with the adjudication, arbitration and, if applicable, litigation, proceeding promptly and expeditiously after Tower Interim Completion.

- 10.3 For all Disputes in respect of the Facility except for the Tower and any Phase of the Works that arise prior to Substantial Completion, unless:

- (a) both Parties otherwise agree;
- (b) the issue in a particular Dispute arises in connection with the Review Procedure;
- (c) the issue in a particular Dispute is such that waiting until after Substantial Completion to resolve that Dispute will cause irreparable harm to one of the Parties;
- (d) the issue in a particular Dispute arises in connection with requirements of achieving or deficiencies in not achieving Substantial Completion; or
- (e) in respect to a particular Dispute, the Dispute is consolidated with any Third Arbitration or Third Party Litigation (as hereinafter defined) pursuant to Section 11 of this Schedule 27,

all adjudication, arbitral and litigation proceedings between the Parties in respect of the Facility (except for the Tower and any Phase of the Works) prior to Substantial Completion shall be stayed and consolidated into, as applicable, a single adjudication, arbitration and a single litigation proceeding, with the adjudication, arbitration and, if applicable, litigation, proceeding promptly and expeditiously after Substantial Completion.

11. Consolidation with Third Party Disputes

- 11.1 Subject to Section 11.4 of this Schedule 27, if either Party is involved in an arbitration in the Province of Ontario with a third party ("**Third Party Arbitration**"), and if such Third Party Arbitration involves common factual or legal issues (including common issues of damages) which are also the subject of a Dispute between the Parties for which a Notice of Dispute has been given, then any arbitration of the Dispute between the Parties which includes those common factual, legal or damages issues ("**Design and Construction Contract Arbitration**") shall be stayed, consolidated or joined with the Third Party Arbitration(s) but only if Project Co, Construction Contractor and the other Parties all agree or, failing their agreement, if a court in the Province of Ontario on application considers it just and

convenient in all the circumstances that the Design and Construction Contract Arbitration should be stayed or consolidated or joined with the Third Party Arbitration.

11.2 Subject to Section 11.4 of this Schedule 27, if either Party is involved in litigation in the Province of Ontario with a third party ("**Third Party Litigation**") and if:

- (a) such Third Party Litigation involves common factual or legal issues (including common issues of damages) which are the subject of a Design and Construction Contract Arbitration; and
- (b) one of the Parties is brought directly into the Third Party Litigation as a Party to that litigation,

then on the application of either Party to the court in the Province of Ontario having jurisdiction the court may, if it determines that it is just and convenient in all the circumstances, order a stay of either or both the Design and Construction Contract Arbitration proceeding and Third Party Litigation, or order a joinder of the Design and Construction Contract Arbitration and the Third Party Litigation. If such joinder is ordered, the Design and Construction Contract Arbitration and the Third Party Litigation ordered to be joined by the court shall be determined by that court or by another court in Ontario such that the Design and Construction Contract Arbitration and the Third Party Litigation shall be resolved in one forum. For purposes of the foregoing, joinder of the Design and Construction Contract Arbitration and the Third Party Litigation shall be construed to include stays and conditional stays of issues in the Design and Construction Contract Arbitration pending the commencement and completion of third party proceedings by one or both of the Parties in the Third Party Litigation.

11.3 In considering whether to order a stay, consolidation or joinder of a Design and Construction Contract Arbitration with a Third Party Arbitration or Third Party Litigation, the court will be entitled to give substantial weight to the desire by the Parties that all Disputes which are related to Third Party Arbitration or Third Party Litigation be resolved in a single forum to avoid multiplicity of proceedings and the potential for contradictory findings of fact, liability and quantum, and to ensure the arbitrator or court has the advantage of obtaining full evidence and disclosure from the Parties and from the other Parties, as applicable and as required to resolve the Dispute and to make findings of fact, liability and quantum of damages and awards or judgments binding on the Parties based on all available evidence.

11.4 Sections 11.1 and 11.2 of this Schedule 27 only apply:

- (a) if the Dispute between the Parties includes a claim by one Party against the other for contribution or indemnity for that Party's liability or potential liability to the third party where such liability results or will result from an award in the Third Party Arbitration or a judgment in the Third Party Litigation; and

- (b) to those specific issues that are common issues in the Design and Construction Contract Arbitration, the Third Party Arbitration and the Third Party Litigation, such that all other issues in the Dispute shall continue to be resolved by Design and Construction Contract Arbitration and shall not be consolidated with the Third Party Arbitration or Third Party Litigation.

12. [Intentionally Deleted]

13. Miscellaneous

- 13.1 Construction Contractor and Project Co shall diligently carry out their respective obligations under this Design and Construction Contract during the pendency of any Disputes, including, without limitation, adjudication proceedings, arbitration proceedings or litigation proceedings. If during the pendency of any Dispute it is considered necessary by either Party to proceed in respect of the matter that is in Dispute, then without prejudice to Construction Contractor's rights in respect of the Dispute (including in respect of Delay Events, Compensation Events and Variations), Construction Contractor shall proceed in accordance with the direction of Project Co, and in the event the matter in dispute is determined in favour of Construction Contractor, proceeding in accordance with Project Co's position shall: (i) subject to and in accordance with Section 30 of Appendix A of this Design and Construction Contract, be treated as a Delay Event; (ii) subject to and in accordance with Section 31 of Appendix A of this Design and Construction Contract, be treated as a Compensation Event; and (iii) subject to and in accordance with Schedule 22 – Variation Procedure, result in a Variation. For greater certainty, in respect of any Dispute relating to the Design and Construction Work referred to in Section 4.2 of this Schedule 27, the Independent Certifier shall be the decision maker of first instance and the Parties shall comply with the initial decision of the Independent Certifier unless and until it is overturned in a subsequent arbitration or litigation proceeding.
- 13.2 Nothing contained in this Schedule 27 will prevent the Parties from seeking interim protection from the courts of the Province of Ontario, including seeking an interlocutory injunction, if necessary to prevent irreparable harm to a Party.
- 13.3 The Parties shall indemnify each other in respect of any damages suffered or incurred on amounts agreed to be paid pursuant to resolution of a Dispute by the Party Representatives or by the executives of the Parties pursuant to Sections 2 and 3 of this Schedule 27, and on the amount of any award or judgment as follows:
- (a) for amounts payable by Construction Contractor to Project Co, Construction Contractor shall indemnify Project Co as provided for at Section 44.1(e) of Appendix A of this Design and Construction Contract from and against any damages suffered or incurred resulting from any overpayment to Construction Contractor or, as applicable, any underpayment or non-payment by Construction Contractor from the

date of any overpayment to Construction Contractor or, as applicable, from the date on which payment was due under this Design and Construction Contract to Project Co until the date of payment; or

- (b) for amounts payable by Project Co to Construction Contractor, Project Co shall indemnify Construction Contractor as provided for at Section 44.2(c) of Appendix A of this Design and Construction Contract from and against any damages suffered or incurred resulting from any overpayment to Project Co or, as applicable, any underpayment or non-payment by Project Co from the date of any overpayment to Project Co or, as applicable, from the date on which payment was due under this Design and Construction Contract to Construction Contractor until the date of payment.
- 13.4 Construction Contractor shall ensure that any and all documents and other information in the possession or control of any Construction Contractor Party that are available to Construction Contractor and that may be necessary for the resolution of a Dispute on an informed basis by the Party Representatives or by the executives of the Parties pursuant to Sections 2 and 3 of this Schedule 27, or by an expert, an adjudicator, an arbitrator or a court of competent jurisdiction, are made available in a timely manner to Project Co and the representative of Project Co.
- 13.5 Project Co shall ensure that any and all documents and other information in the possession or control of any Project Co Party that are available to Project Co and that may be necessary for the resolution of a Dispute on an informed basis by the Party Representatives or by the executives of the Parties pursuant to Sections 2 and 3 of this Schedule 27, or by an adjudicator, an arbitrator or court of competent jurisdiction, are made available in a timely manner to Construction Contractor and the Construction Contractor Representative.
- 13.6 The Parties can, by written agreement, on a Dispute by Dispute basis:
- (a) extend any or all timelines set out in this Schedule 27;
- (b) agree to waive or by-pass any one or more of the Dispute resolution processes in Sections 2, 3, 4 and 6 of this Schedule 27 and, instead, proceed directly to resolution of the Dispute by arbitration or litigation pursuant to Sections 7, 8 and 9 of this Schedule 27; and
- (c) agree to (i) resolve a Dispute by litigation rather than adjudication or arbitration notwithstanding the requirements of Section 6 and Section 8 of this Schedule 27, or (ii) agree to resolve a Dispute by arbitration rather than adjudication or litigation notwithstanding the requirements of Section 6 and Section 9 of this Schedule 27, or (iii) agree to resolve a Dispute by adjudication rather than arbitration or litigation notwithstanding the requirements of Section 8 and Section 9 of this Schedule 27.

14. Project Agreement

- 14.1 At the request of Project Co, the Construction Contractor shall provide Project Co with assistance, co-operation and support in respect of any disputes under the Project Agreement.
- 14.2 The Construction Contractor consents to being joined in arbitration between SMH and Project Co involving the Design and Construction Work, in accordance with the Project Agreement. Nothing in this Section 14.2 shall create any claim, right or cause of action in favour of the Construction Contractor against SMH.
- 14.3 The dispute resolution procedure in Schedule 27 in respect of adjudication and arbitration shall be suspended pending a final determination of the Dispute under the Project Agreement. The Construction Contractor acknowledges and agrees that the Construction Contractor is bound by the outcome of any dispute resolution proceedings between SMH and Project Co, in respect of the Project Agreement, which relates to a dispute, to the extent and in the manner that Project Co is bound.

**SCHEDULE 30
INSURANCE TRUST AGREEMENT**

Please refer to Schedule 30 – Insurance Trust Agreement
of the Project Agreement.

THIS IS EXHIBIT "C" TO
THE AFFIDAVIT OF EDEN ORBACH
SWORN BEFORE ME THIS 17th
DAY OF DECEMBER, 2018.



A Commissioner etc.

**PROJECT AGREEMENT
(REDACTED VERSION)
TO DESIGN, BUILD AND FINANCE
THE ST. MICHAEL'S HOSPITAL
REDEVELOPMENT PROJECT**

CONFIDENTIAL

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SCHEDULES

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Schedule 2	- Completion Documents
Schedule 3	- Works Scheduling Requirements
Schedule 4	- Lenders' Direct Agreement
Schedule 5	- Construction Contractor's Direct Agreement
Schedule 6	- Independent Certifier Agreement
Schedule 7	- Subcontractor's Direct Agreement
Schedule 8	- Project Co Parties
Schedule 9	- Key Individuals
Schedule 10	- Review Procedure
Schedule 11	- Design Quality Plan and Construction Quality Plan
Schedule 12	- Performance Guarantee of Construction Guarantor
Schedule 13	- Project Co Proposal Extracts
Schedule 14	- Outline Commissioning Program
Schedule 15	- Output Specifications
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Schedule 18	- Communications Protocol
Schedule 19	- INTENTIONALLY DELETED
Schedule 20	- Procurement Monitoring and Implementation Plan
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Schedule 28	- Standby Letter of Credit
Schedule 29	- Refinancing
Schedule 30	- Insurance Trust Agreement
Schedule 31	- Project Co Information
Schedule 32	- Trust Account Agreement
Schedule 33	- Energy Matters

THIS PROJECT AGREEMENT is made as of the • day of •, 2014.

BETWEEN:

ST. MICHAEL'S HOSPITAL, a non-share capital corporation incorporated under the laws of Ontario

("SMH")

AND:

2442931 ONTARIO INC., [REDACTED]

("Project Co")

WHEREAS:

- A. SMH, with the assistance of Ontario Infrastructure and Lands Corporation ("IO"), wishes to procure the design, construction and financing of the Facility (the "Project").
- B. SMH and Project Co wish to enter into this project agreement (the "Project Agreement") which sets out the terms and conditions upon which Project Co shall perform the Works.
- C. The overriding priorities of SMH in entering into and implementing this Project Agreement are the health and safety of the patients of the Facility and the Existing Facilities and their healthcare needs, and the provision of first-rate healthcare services and Project Co recognizes and understands that the health and safety of the patients and staff of the Facility and the Existing Facilities are, at all times, paramount.
- D. The Project will proceed as an alternative financing and procurement project and complies with the principles set out in MEDEI's Building a Better Tomorrow: An Infrastructure Planning, Financing and Procurement Framework for Ontario's Public Sector (the "IPFP Framework").
- E. The IPFP Framework establishes 5 fundamental principles which guide the financing and procurement of public infrastructure projects in Ontario:
 1. The public interest is paramount.
 2. Value for money must be demonstrable.
 3. Appropriate public control/ownership must be preserved.
 4. Accountability must be maintained.
 5. All processes must be fair, transparent and efficient.

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- F. The IPFP Framework states that, consistent with the principle of appropriate public ownership/control, public ownership of assets will be preserved in the hospital sector.
- G. MOHLTC is responsible for the development, coordination, maintenance and funding of health services, including a balanced and integrated system of hospitals, nursing homes, laboratories, ambulances, other health facilities and providers to meet the health needs of the people of Ontario.
- H. There are a number of statutes which govern the operation and administration of hospitals in Ontario. Under the *Public Hospitals Act* (Ontario), certain actions of hospitals can only be undertaken with the approval of the Minister of Health and Long-Term Care. Subsection 4(3) of the *Public Hospitals Act* (Ontario) states that no additional building or facilities shall be added to a hospital until the plans therefore have been approved by the Minister. Under subsection 4(2) of the *Public Hospitals Act* (Ontario), no institution, building or other premises or place shall be operated or used for the purposes of a hospital unless the Minister has approved the operation and or use of the premises or place for that purpose.
- I. The Minister of Health and Long-Term Care has powers to protect the public interest regarding matters relevant to the quality of the management and administration of a hospital, the proper management of the health care system in general, the availability of financial resources for the management and delivery of health care services, the accessibility of services in the community where the hospital is located and the quality of care and treatment of patients.
- J. Project Co recognizes and understands that SMH is a public hospital under the *Public Hospitals Act* (Ontario) and is, therefore, subject to a highly regulated legal and operational environment.
- K. With a view to ensuring that both Parties are able to properly and effectively discharge their respective duties, functions and responsibilities under Applicable Law, it is the intent that SMH and Project Co work collaboratively, responsibly and cooperatively throughout the Project Term.

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions and Interpretation

- (a) This Project Agreement shall be interpreted in accordance with Schedule 1 – Definitions and Interpretation.

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- (b) This Project Agreement is comprised of this executed agreement and the following documents, all of which are hereby incorporated by reference into and form part of this Project Agreement:

Schedule No.	Description
Schedule 1	- Definitions and Interpretation
Schedule 2	- Completion Documents
Schedule 3	- Works Scheduling Requirements
Schedule 4	- Lenders' Direct Agreement
Schedule 5	- Construction Contractor's Direct Agreement
Schedule 6	- Independent Certifier Agreement
Schedule 7	- Subcontractor's Direct Agreement
Schedule 8	- Project Co Parties
Schedule 9	- Key Individuals
Schedule 10	- Review Procedure
Schedule 11	- Design Quality Plan and Construction Quality Plan
Schedule 12	- Performance Guarantee of Construction Guarantor
Schedule 13	- Project Co Proposal Extracts
Schedule 14	- Outline Commissioning Program
Schedule 15	- Output Specifications
Schedule 16	- Title Encumbrances
Schedule 17	- Works Report Requirements
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Schedule 20	- Procurement Monitoring and Implementation Plan
Schedule 21	- INTENTIONALLY DELETED
Schedule 22	- Variation Procedure
Schedule 23	- Compensation on Termination
Schedule 24	- Financial Model
Schedule 25	- Insurance and Performance Security Requirements
Schedule 26	- Record Provisions
Schedule 27	- Dispute Resolution Procedure
Schedule 28	- Standby Letter of Credit
Schedule 29	- Refinancing
Schedule 30	- Insurance Trust Agreement
Schedule 31	- Project Co Information
Schedule 32	- Trust Account Agreement
Schedule 33	- Energy Matters

- (c) The documents comprising this Project Agreement are complementary and what is called for by any one of them shall be interpreted as if called for by all, except in the event of ambiguities, conflicts or inconsistencies, in which case Section 1.2 shall apply.
- (d) Except for those parts of Project Co's proposal which are incorporated by reference into this Project Agreement by the Project Co Proposal Extracts, on Financial Close the

Request for Proposals and Project Co's proposal shall be superseded entirely by this Project Agreement and rendered null and void, and shall not be relied upon or used by Project Co, SMH or anyone else (including anyone pursuant to Schedule 27 – Dispute Resolution Procedure or any arbitral body or any court) in any way to interpret or qualify the scope of the Works, any obligations or liabilities of Project Co, or anything else contained in this Project Agreement.

- (e) Unless it is specifically provided that a consent, approval or satisfaction is in the sole discretion of SMH, no consent, approval or satisfaction of SMH or the SMH Representative shall be unreasonably withheld or delayed.
- (f) Unless it is specifically provided that a consent, approval or satisfaction is in the sole discretion of Project Co, no consent, approval or satisfaction of Project Co or the Project Co Representative shall be unreasonably withheld or delayed.
- (g) The organization of the Output Specifications into divisions, sections and parts shall not control Project Co in dividing the Works among the Project Co Parties or in establishing the extent of the Works to be performed by a trade.

1.2 Conflict of Terms

- (a) In the event of ambiguities, conflicts or inconsistencies between or among any of the provisions of this Project Agreement, the provisions shall govern in the following order of precedence with each taking precedence over those listed subsequently:
 - (i) the provisions of amendments in writing to this Project Agreement signed by the Parties and Variation Confirmations shall govern and take precedence only over those specific provisions of this Project Agreement expressly amended thereby;
 - (ii) any provision establishing a higher standard of safety, reliability, durability, performance or service shall take precedence over a provision establishing a lower standard of safety, reliability, durability, performance or service;
 - (iii) the body of this Project Agreement;
 - (iv) Schedule 1 – Definitions and Interpretation;
 - (v) Schedule 27 – Dispute Resolution Procedure;
 - (vi) Part 4 of Schedule 15 – Output Specifications;
 - (vii) Schedule 15 – Output Specifications (excluding Part 4);
 - (viii) Schedule 25 – Insurance and Performance Security Requirements;
 - (ix) Schedule 22 – Variation Procedure;

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- (x) Schedule 10 – Review Procedure;
 - (xi) Schedule 14 – Outline Commissioning Program;
 - (xii) Schedule 11 – Design Quality Plan and Construction Quality Plan;
 - (xiii) Schedule 29 – Refinancing;
 - (xiv) Schedule 23 – Compensation on Termination;
 - (xv) Schedule 26 – Record Provisions;
 - (xvi) the other Schedules in the order in which they are listed in Section 1.1(b); and
 - (xvii) Schedule 13 – Project Co Proposal Extracts.
- (b) Subject to Section 1.2(a), if the ambiguity, conflict or inconsistency is between a provision of general application and a provision that applies only to a specific part of the Works, the provision that applies to the specific part of the Works shall govern for that specific part of the Works.
- (c) If any ambiguity, conflict or inconsistency is not readily resolved by the foregoing provisions of this Section 1.2, then Project Co or SMH, upon discovery of same, shall immediately give notice to the SMH Representative. The SMH Representative shall, within 10 Business Days after such notice, make a determination of which provision governs and give notice of such determination, in writing, to Project Co.
- (d) SMH and Project Co shall comply with the determination of the SMH Representative pursuant to this Section 1.2 unless SMH or Project Co disputes the decision of the SMH Representative in which event such Dispute may be referred for resolution in accordance with Schedule 27 – Dispute Resolution Procedure.

1.3 Conflict of Documents

- (a) In the event of any ambiguities, conflicts or inconsistencies between this Project Agreement and the Lenders' Direct Agreement, the Lenders' Direct Agreement shall prevail. Notwithstanding the forgoing, if there is any right or remedy in favour of SMH set out in the Lenders' Direct Agreement or any part thereof which is not set out or provided for in the Project Agreement, such additional right or remedy shall not constitute an ambiguity, conflict or inconsistency.

1.4 Legal Requirements

- (a) Whenever standards of Applicable Law differ, the most stringent standards shall govern.

2. COMMERCIAL CLOSE AND FINANCIAL CLOSE**2.1 Effective Date**

- (a) The provisions of Sections 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 3.1, 4.15 to 4.20, 5 to 15, 16.5, 17 to 23, 25 to 29, and 39 to 50 and Schedules 1, 2, 8 to 13, 16, 18, 19, 22, and 24 to 28 of this Project Agreement will come into effect on the date of this Project Agreement ("**Commercial Close**"). All other provisions and schedules will come into effect only on Financial Close.

2.2 Standby Letter of Credit

- (a) On the date of this Project Agreement, Project Co shall deliver, or cause to be delivered, to SMH an irrevocable standby letter of credit (the "**Standby Letter of Credit**") in the amount of \$[REDACTED] substantially in the form of Schedule 28 – Standby Letter of Credit. Project Co may, with the consent of SMH, which consent may be withheld in the sole discretion of SMH, provide multiple irrevocable standby letters of credit delivered from National Bank of Canada as approved and confirmed by SMH (each a "**Letter of Credit Provider**") in an amount totalling \$[REDACTED] and each substantially in the form of Schedule 28 – Standby Letter of Credit. For the purposes of this Section 2.2, each of the multiple irrevocable standby letters of credit is referred to as a Standby Letter of Credit.
- (b) Unless a Standby Letter of Credit is drawn by SMH in accordance with the provisions of this Project Agreement, SMH shall release and deliver the Standby Letters of Credit to Project Co on Financial Close.
- (c) Project Co shall ensure that the Standby Letters of Credit (and any replacement therefor) is renewed prior to its expiry date if, as at such date, Financial Close will not, or may reasonably be expected not to, have occurred.
- (d) If Project Co delivers multiple Standby Letters of Credit from multiple Letter of Credit Providers in accordance with Section 2.2(a) with the delivery of multiple Standby Letters of Credit by Letter of Credit Providers, Project Co acknowledges and agrees that:
- (i) SMH may draw upon any Standby Letter of Credit provided by any Letter of Credit Provider in any specified rateable amount;
 - (ii) SMH may draw on any Standby Letter of Credit provided by any Letter of Credit Provider in a disproportionate amount to such Letter of Credit Providers' contribution to security;
 - (iii) SMH may draw upon any Standby Letter of Credit provided by any Letter of Credit Provider even in the event that such Letter of Credit Provider is no longer a Project Co Party; and

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- (iv) The provision of multiple Standby Letters of Credit shall not in any way prejudice or adversely affect the rights of SMH to draw on the Standby Letter(s) of Credit in accordance with this Project Agreement, including in a circumstance where the default giving rise to SMH's right to draw on the Standby Letter(s) of Credit is not the result of any act or omission of the Letter of Credit Provider(s) whose Standby Letter of Credit is drawn upon.

2.3 Financial Close

- (a) No later than 30 days prior to the Financial Close Target Date, Project Co will deliver to SMH drafts of all documents referred to in Section 1 of Schedule 2 - Completion Documents.
- (b) On or before the Financial Close Target Date:
 - (i) Project Co shall deliver to SMH the documents referred to in Section 1 of Schedule 2 - Completion Documents; and
 - (ii) SMH shall deliver to Project Co the documents referred to in Section 2 of Schedule 2 - Completion Documents.
- (c) If Project Co fails to deliver to SMH any of the documents referred to in Section 1 of Schedule 2 - Completion Documents by the Financial Close Target Date (other than as a direct result of a breach by SMH of its obligations under Section 2.3(b)(ii)) and SMH does not waive such requirement, SMH will be entitled to draw on the Standby Letter of Credit immediately and to retain the lesser of (A) the full amount of the Standby Letter of Credit, and (B) the difference between the Guaranteed Price and the price that SMH is able to obtain from another contractor for the Works, together with all costs reasonably incurred by SMH to enter into binding agreements with such other contractor, and to retain the proceeds thereof as liquidated damages, and may terminate this Project Agreement in its entirety by written notice having immediate effect. The Parties agree that such liquidated damages are not a penalty but represent a genuine and reasonable pre-estimate of the damages that SMH will suffer as a result of the happening of the specified event. Such payment shall constitute full and final settlement of any and all damages that may be claimed by SMH as a result of Project Co not achieving Financial Close. The Parties agree that such liquidated damages shall be payable whether or not SMH incurs or mitigates its damages, and that SMH shall not have any obligation to mitigate any such damages.
- (d) As contemplated under Section 10.3.2 of the Request for Proposals, Project Co shall, no later than 10 days following the receipt of written instructions from SMH given on or after Financial Close, pay the Design and Bid Fee amount plus, for clarity, any applicable HST, to each of the eligible unsuccessful Proponents (as that term is defined in the Request for Proposals) as directed by SMH. If Project Co is directed to pay the Design and Bid Fee to fewer than two Proponents, then Project Co shall revise the Financial Model prior to Financial Close to reflect such change.

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- (e) If SMH fails to deliver to Project Co any of the documents referred to in Section 2 of Schedule 2 - Completion Documents by the Financial Close Target Date (other than as a direct result of a breach by Project Co of its obligations under Section 2.3(b)(i)) and Project Co does not waive such requirement, Project Co will be entitled to the return of the Standby Letter of Credit and to terminate this Project Agreement in its entirety by written notice having immediate effect.

2.4 Disruption in Financial Markets

- (a) If Financial Close cannot be achieved by the Financial Close Target Date by reason solely of a Severe Market Disruption, subject to Project Co's obligation to renew the Standby Letter of Credit pursuant to Section 2.2, the Financial Close Target Date will be extended until the date falling 10 Business Days (or such other period as the Parties agree, acting reasonably) after the date on which such Severe Market Disruption ceases.
- (b) If a Severe Market Disruption exists, then, at any time before such Severe Market Disruption ceases and prior to Financial Close, SMH may in its sole discretion either:
- (i) terminate this Project Agreement in its entirety by written notice having immediate effect; or
 - (ii) direct Project Co to assign to SMH and SMH will assume:
 - (A) the Project Agreement, and all of Project Co's right, title and interest in the Project Data, the Intellectual Property Rights and the Project Co Permits, Licences, Approvals and Agreements; and
 - (B) those contracts between Project Co and any Project Co Party which SMH elects to be assigned.
- (c) If SMH exercises its rights pursuant to Section 2.4(b), and, provided Project Co has, if directed, delivered the assignments provided for in Section 2.4(b)(ii)(A) and (B) above, Project Co will be entitled to the return of its Standby Letter of Credit and to payment of an amount equal to the Design and Bid Fee pursuant to Section 10.3.2 of the Request for Proposals plus [REDACTED] of such fee. SMH's obligation to return the Standby Letter of Credit and to pay such fee shall be contingent on the receipt of a waiver, in form and substance satisfactory to SMH, that such fee represents full and final satisfaction of any obligation or liability of SMH, IO and any other Government Entity to Project Co and any Project Co Parties in connection with the Project Agreement and the Request for Proposals process.

3. GUARANTEED PRICE**3.1 Guaranteed Price and Adjustments**

- (a) Project Co represents and warrants that the Guaranteed Price, exclusive of HST, is **\$301,189,863**, and is equal to the sum of the Cost of the Works and the Cost of the

Financing. The Cost of the Works and the Cost of the Financing are as set out in the Financial Model.

- (b) Project Co represents and warrants that the Project Debt Interest Cost is based upon the Interest Reference Rate. The Project Debt Interest Cost will be adjusted once on, or within the 2 Business Days immediately prior to, Financial Close on the basis of the actual increase or decrease in the Project Debt Interest Cost resulting directly from any change upward or downward in the Interest Reference Rate as compared to the Interest Reference Rate as at the RFP Submission Deadline.
- (c) The Parties:
 - (i) acknowledge that the Project Debt Interest Cost is a component of the Cost of the Financing and that the Project Debt Interest Cost is subject to adjustment under Section 3.1(b) as at the date set out in Section 3.1(b); and
 - (ii) acknowledge and agree that subject to adjustments made in accordance with the provisions of this Project Agreement, the final Guaranteed Price shall be determined on the basis of such final adjusted Cost of the Financing and the final adjusted Cost of the Works as of the date of Financial Close.
- (d) Subject to the provisions of Section 3.1(c), the Parties agree that the Guaranteed Price will not be subject to adjustment despite changes in the Works, unless such changes in the Works arise pursuant to a Variation Confirmation. The Parties further agree that the Guaranteed Price will only be adjusted where the Project Agreement specifically and expressly refers to an adjustment to the Guaranteed Price, and no claim for an adjustment to the Guaranteed Price on any legal or equitable basis outside of the specific and express rights to an adjustment of the Guaranteed Price set out in the Project Agreement will be allowed. In order to be effective, any permitted adjustment to the Guaranteed Price must be provided for in a Variation Confirmation under Schedule 22 – Variation Procedure.

3.2 Cash Allowances

- (a) On or before the date of this Project Agreement, Project Co shall open the Cash Allowance Account. Project Co shall deposit the portion of the applicable Cash Allowance Amount in respect of each applicable Cash Allowance Item into the Cash Allowance Account prior to the scheduled commencement of the portion of the Works relating to such portion of the Cash Allowance Item as set out in the Works Schedule (the “**Cash Allowance Monthly Deposit Amount**”). The Cash Allowance Monthly Deposit Amount shall be equal to the estimated value of the portion of the Works relating to the applicable Cash Allowance Item to be completed in each applicable month. In the event that, at any time and from time to time, it is determined that the actual value of such Works is greater or less than the Cash Allowance Monthly Deposit Amount deposited for such month, Project Co shall adjust the Cash Allowance Monthly Deposit Amount for the following month downwards or upwards, as the case may be, in order to reconcile the Cash Allowance Monthly Deposit Amount for the previous month (each is a “**Cash**

Allowance Monthly Deposit Amount Reconciliation"). For clarity, the intent is that Project Co shall ensure that it has sufficient funds in the Cash Allowance Account to pay the relevant vendors and Project Co Parties from the Cash Allowance Account in respect of the applicable month pursuant to and in accordance with Section 3.2(g) and that the amount of such funds need not exceed the estimated value of the portion of the Works relating to the applicable Cash Allowance Item to be completed in each applicable month.

- (b) Subject to Section 3.2(c)(iv), in the event that at any time and from time to time the actual cost of the Works for a particular Cash Allowance Item (or any portion thereof) exceeds the total Cash Allowance Amount for such Cash Allowance Item, Project Co shall fund the difference between such actual cost of the Works and such Cash Allowance Amount (a "**Cash Allowance Amount Shortfall**") from the then remaining Cash Allowance Amount of any other Cash Allowance Item, such remaining Cash Allowance Amount, for clarity, being an amount equal to the amount of funds in respect of such Cash Allowance Amount that, at that time, has not yet been deposited by Project Co into the Cash Allowance Account (a "**Remaining Cash Allowance Amount**"). Upon Project Co funding the Cash Allowance Amount Shortfall there shall be a corresponding reduction in the Remaining Cash Allowance Amount for such other Cash Allowance Item.
- (c) The Parties agree that Project Co shall manage the Cash Allowance Account and the cash flow process applicable thereto in accordance with the following:
- (i) Project Co will hold and manage all monies in the Cash Allowance Account in trust for, for the benefit of and as directed by SMH;
 - (ii) interest earned on the Cash Allowance Account will accrue in the Cash Allowance Account and will be for the benefit of SMH;
 - (iii) Project Co shall provide a reconciliation of the Cash Allowance Account to SMH on a monthly basis;
 - (iv) in the event that
 - (A) Project Co must deposit a Cash Allowance Monthly Deposit Amount into the Cash Allowance Account pursuant to Section 3.2(a);
 - (B) a Cash Allowance Amount Shortfall exists; and
 - (C) the Cash Allowance Amount Shortfall exceeds the aggregate of all of the Remaining Cash Allowance Amounts, then

SMH shall, at its sole cost and expense, deposit into the Cash Allowance Account (I) the initial Cash Allowance Amount Shortfall up to the aggregate amount of all vendor and Project Co Party invoices that have been approved by SMH pursuant to Section 3.2(f) in respect of the particular Cash Allowance Item to which the Cash Allowance Amount Shortfall relates and that are due for payment that month

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and (II) all future Cash Allowance Monthly Deposit Amounts required to complete the Works for all of the remaining Cash Allowance Items. SMH shall deposit such funds into the Cash Allowance Account on a date that is no later than 2 Business Days before the date that Project Co is required to make each of the applicable payments under each of the invoices approved by SMH pursuant to Section 3.2(f) related to such Works;

- (v) notwithstanding Section 3.2(a), on the Substantial Completion Date, Project Co shall deposit the aggregate of all Remaining Cash Allowance Amounts (if any) into the Cash Allowance Account (including, for clarity, each and every Cash Allowance Amount in respect of any Works for any Cash Allowance Items that are to be completed following the Substantial Completion Date). Following the Substantial Completion Date and on the later of (A) the Substantial Completion Payment Date and (B) the date that the Independent Certifier certifies that all of the Works related to the Cash Allowance Items have been completed, if a positive balance in the Cash Allowance Account exists on such date, such balance will be the property of SMH and will be paid by Project Co to SMH or as SMH directs. If the Termination Date occurs prior to the date described above in terms of items (A) and (B) and if a positive balance in the Cash Allowance Account exists on the Termination Date, such balance will be the property of SMH and will be paid by Project Co to SMH or as SMH directs; and
 - (vi) the Parties agree to mutually review the operation of the Cash Allowance Account on a regular basis and make any appropriate modifications to ensure its efficient operation.
- (d) Project Co shall provide monthly reports to the SMH Representative that include the following information:
- (i) itemized and aggregate amounts committed to date for each Cash Allowance Item separately and all Cash Allowance Items in the aggregate;
 - (ii) itemized and aggregate amounts spent to date for each Cash Allowance Item separately and all Cash Allowance Items in the aggregate;
 - (iii) the projected cost of each remaining Cash Allowance Item, the projected effect of such costs on each Cash Allowance Amount separately and on the aggregate of all of the Cash Allowance Amounts (including any and all anticipated Cash Allowance Amount Shortfalls); and
 - (iv) details and supporting information in respect of any Cash Allowance Monthly Deposit Amount Reconciliations.
- (e) In addition to the monthly reports described in Section 3.2(d), Project Co shall, on a monthly basis, provide to the SMH Representative a request for payment approval (each, a "Request for Payment Approval") that includes the following information:

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- (i) details of all vendor or Project Co Party invoices that are due for payment that month, including relevant supporting documentation in connection with any Cash Allowance Items or portions thereof;
 - (ii) evidence that the commitment by Project Co to purchase any applicable Cash Allowance Items or portions thereof have been approved by SMH; and
 - (iii) any discounts, rebates, refunds, chargebacks, credits, price adjustments and other allowances available to Project Co in connection with any Cash Allowance Item or portion thereof.
- (f) SMH shall, within 10 Business Days of receipt of a Request for Payment Approval, advise Project Co, in writing, whether or not payment of the invoices set out in such Request for Payment Approval is approved. SMH shall only be permitted to withhold its approval if (i) SMH determines that the Request for Payment Approval does not contain the information that SMH requires, acting reasonably, to discharge its obligations under this Section 3.2 and (ii) upon the request of SMH, the Independent Certifier confirms to SMH that any of the Works claimed by Project Co to be in relation to a Cash Allowance Item are not, in fact, in relation to a Cash Allowance Item. If SMH withholds its approval pursuant to this Section 3.2(f) and subsequently receives the information that SMH requires, acting reasonably, to discharge its obligations under this Section 3.2, it shall, within 10 Business Days of its receipt of such information, provide to Project Co, in writing, SMH's approval of the invoices set out in the aforementioned Request for Payment Approval.
- (g) If SMH approves the payment of the invoices set out in a Request for Payment Approval, Project Co shall make payment to the relevant vendors or each Project Co Party from the Cash Allowance Account.
- (h) Project Co acknowledges and agrees that:
- (i) neither it, nor any Project Co Party, shall be entitled to any mark-ups for profit, overhead or other costs associated with the Cash Allowance Items;
 - (ii) all discounts, rebates, refunds, chargebacks, credits, price adjustments and other allowances available to Project Co in connection with the Cash Allowance Items shall be attributed solely to and shall benefit the pricing of the Cash Allowance Items;
 - (iii) all costs and expenses related to the administration of the Cash Allowance Account, including, without limitation, the preparation of Requests for Payment Approval and any required reporting, shall be borne by Project Co and shall not be charged to the Cash Allowance Account; and
 - (iv) subject to SMH's responsibilities under Section 3.2(c)(iv), all of the Cash Allowance Amounts (including all portions thereof) shall be deposited and the Cash Allowance Account will be managed in accordance with the Works

Schedule and any costs, expenses or delays related to funding or managing the Cash Allowance Account are the responsibility of Project Co.

- (i) Notwithstanding anything to the contrary in this Project Agreement, the approval by SMH of the commitment by Project Co to purchase any Discretionary SMH Cash Allowance Item with any portion of the Discretionary SMH Cash Allowance Amount shall be in SMH's sole discretion and shall only be in respect of any obligation of SMH under this Project Agreement, including but not limited to, any matter which is the responsibility of SMH pursuant to Section 18 of the Project Agreement, and, for greater certainty, excluding any matter which is in respect of any obligation of Project Co under this Project Agreement.

4. PAYMENT

4.1 General

- (a) Subject to the provisions of the Project Agreement (including, for clarity Section 3.1(d)) and in accordance with and subject to Applicable Law respecting holdbacks, SMH shall make the payments set out in this Article 4.
- (b) For the purpose of this Project Agreement, payments made by electronic transfer shall be deemed to have been made on the day and at the time the electronic transfer is initiated, as confirmed by the initiating bank by a confirmation setting out the transfer number and the other details of the transfer.

4.2 Acknowledgement by Project Co

- (a) Project Co acknowledges and agrees with SMH that SMH is not responsible for the payment of any base progress payments pursuant to the Design and Construction Contract nor any legislative holdbacks in respect thereof.

4.3 Lump Sum Payments

- (a) Subject to Sections 4.4(a) and 4.9, SMH covenants and agrees to pay to Project Co the Tower Interim Completion Payment and the applicable HST on the Tower Interim Completion Payment Date.
- (b) Subject to Sections 4.4(b) and 4.9, SMH covenants and agrees to pay to Project Co the Substantial Completion Payment and the applicable HST on the Substantial Completion Payment Date. Notwithstanding the foregoing, if the Warranty Letter of Credit has not been delivered to SMH by the Substantial Completion Payment Date, SMH may withhold from the Substantial Completion Payment a holdback amount of \$[REDACTED] (the "**Warranty Cash Amount**"). In such an event, such Warranty Cash Amount may be withheld by SMH until the date that is two Business Days following the date that the Warranty Letter of Credit has been delivered to SMH and, upon such second Business Day, the Warranty Cash Amount shall be paid by SMH to Project Co. Until receipt of the Warranty Letter of Credit, SMH may use the Warranty

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Cash Amount in the place of, in the same manner as and for the same purpose as the Warranty Letter of Credit. The withholding of the Warranty Cash Amount in accordance with this Section 4.3(b) shall be SMH's sole remedy for failure on the part of Project Co to deliver the Warranty Letter of Credit by the Substantial Completion Payment Date and, for greater certainty, SMH shall not be entitled to withhold payment of the balance of the Substantial Completion Payment as a result of any such failure on the part of Project Co.

- (c) On the date that is 2 Business Days following the date upon which the Independent Certifier provides SMH with written confirmation that Project Co has completed the installation and commissioning of all Not-In-Contract Equipment in accordance with Section 21, SMH shall pay to Project Co the Not-In-Contract Equipment Fee.
- (d) On the date that is 2 Business Days following the date upon which the Independent Certifier provides SMH with written confirmation that Project Co has completed the final Transition (including, for greater certainty, the transfer, installation and commissioning of all Existing Equipment) in accordance with Section 24.14, SMH shall pay to Project Co the Transition Services Fee.

4.4 Direction of Payments

- (a) Project Co hereby irrevocably directs SMH to make any Tower Interim Completion Payment, together with applicable HST, to the Lenders' Agent or as the Lenders' Agent may direct, as security for the Financing. SMH shall pay the Tower Interim Completion Payment as directed by Project Co and shall not accept any redirection without the consent of the Lenders' Agent. SMH will pay the amounts that Project Co is entitled to hereunder once the conditions for payment set out in this Project Agreement, if any, have been satisfied. Project Co acknowledges and agrees that payment by SMH of the Tower Interim Completion Payment to the Lenders' Agent in accordance with this Section 4.4(a) constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Tower Interim Completion Payment to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.
- (b) Project Co hereby irrevocably directs SMH to make any Substantial Completion Payment, together with applicable HST, to the Lenders' Agent or as the Lenders' Agent may direct, as security for the Financing. SMH shall pay the Substantial Completion Payment as directed by Project Co and shall not accept any redirection without the consent of the Lenders' Agent. SMH will pay the amounts that Project Co is entitled to hereunder once the conditions for payment set out in this Project Agreement, if any, have been satisfied. Project Co acknowledges and agrees that payment by SMH of the Substantial Completion Payment to the Lenders' Agent in accordance with this Section 4.4(b) constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Substantial Completion Payment to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.

4.5 Payment of Legislative Holdback

- (a) Subject to Section 4.9, SMH covenants and agrees with Project Co to pay to Project Co the Legislative Holdback on the Legislative Holdback Payment Date or pay to such party as otherwise directed by Project Co and shall not accept any redirection without the consent of the person to whom payment is directed. SMH agrees to pay the Legislative Holdback as Project Co may direct in accordance with any such direction. Project Co acknowledges and agrees that payment by SMH of the Legislative Holdback in accordance with this Section 4.5 as Project Co may direct, constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Legislative Holdback to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.
- (b) After the issuance of the Substantial Completion Certificate under Section 24.4, Project Co shall:
- (i) submit an application for payment of the Legislative Holdback amount;
 - (ii) submit a written request for release of the Legislative Holdback, including a declaration that no written notice of lien arising in relation to the performance of the Works has been received by it that has not been withdrawn by the lien claimant;
 - (iii) submit a Statutory Declaration CCDC Form 9A (2001); and
 - (iv) submit an original WSIB Certificate of Clearance
- (c) After the later of (i) the receipt of the documents set out in Section 4.5(b), and (ii) the expiration of a period of 45 days from the date of publication of the certificate of substantial performance pursuant to the CLA, the Independent Certifier shall issue a certificate for payment of the Legislative Holdback.
- (d) Prior to the date of the release of the holdback, Project Co shall have removed from the Site, the Facility and the Existing Facilities all supplies, waste materials, rubbish and temporary facilities and all personnel except as required to achieve Final Completion or to correct any remaining Minor Deficiencies.
- (e) Subject to the provisions of Section 17.3 and the removal of claims for lien preserved or perfected pursuant to the CLA arising in relation to the performance of the Works, the Legislative Holdback amount authorized by the certificate for payment of the Legislative Holdback amount is due and payable on the second Business Day following the receipt of the certificate for payment of the Legislative Holdback amount pursuant to Section 4.5(c).

St. Michael's Hospital Redevelopment Project**4.6 Completion Holdback and Tower Interim Completion Holdback**

- (a) The Tower Interim Completion Holdback may be reduced from time to time as a result of such actions by Project Co, as confirmed by the Independent Certifier, in accordance with the terms and conditions of this Project Agreement. To the extent the Tower Interim Completion Holdback is reduced from time to time, Project Co hereby irrevocably directs SMH to pay the amount of any Tower Interim Completion Holdback reduction, together with applicable HST, to the Lenders' Agent or as the Lenders' Agent may direct, as security for the Financing. SMH agrees to pay the Tower Interim Completion Holdback reductions as directed by Project Co and shall not accept any redirection without the consent of the Lenders' Agent. Project Co acknowledges and agrees that payment by SMH of the Tower Interim Completion Holdback reductions in accordance with this Section 4.6(a) as Project Co may direct constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Tower Interim Completion Holdback reductions to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.
- (b) The Completion Holdback may be reduced from time to time as a result of such actions by Project Co, as confirmed by the Independent Certifier, in accordance with the terms and conditions of this Project Agreement. To the extent the Completion Holdback is reduced from time to time, Project Co hereby irrevocably directs SMH to pay the amount of any Completion Holdback reduction, together with applicable HST, to the Lenders' Agent or as the Lenders' Agent may direct, as security for the Financing. SMH agrees to pay the Completion Holdback reductions as directed by Project Co and shall not accept any redirection without the consent of the Lenders' Agent. Project Co acknowledges and agrees that payment by SMH of the Completion Holdback reductions in accordance with this Section 4.6(b) as Project Co may direct constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Completion Holdback reductions to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.

4.7 Withholding of Payment

- (a) If because of climatic or other conditions reasonably beyond the control of Project Co, there are items of work that cannot be performed, payment in full for that portion of the Works which has been performed, as certified by the Independent Certifier, shall not be withheld or delayed by SMH on account thereof, but SMH may withhold, until the remaining portion of the Works is finished, only such amount that the Independent Certifier determines is sufficient and reasonable to cover the cost of performing such remaining Works.

4.8 Establishment of Trust Account and Manner of Payment

- (a) SMH agrees that it will make commercially reasonable efforts to establish the Trust Account in conjunction with Project Co on or before Financial Close, but if not so

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established, then within 90 days of Financial Close. All costs and expenses associated with the establishment, maintenance and administration of the Trust Account shall be borne solely by Project Co.

4.9 Compensation on Termination

- (a) If this Project Agreement is terminated pursuant to Sections 34.3(a), 35.2(a)(ii), 36.1, 36.2 or 36.3, then:
- (i) Schedule 23 - Compensation on Termination shall apply and SMH shall pay Project Co any applicable compensation on termination; and
 - (ii) the provisions of Sections 4.3 through 4.6, inclusive, shall no longer apply.
- (b) Project Co hereby irrevocably directs SMH to make any Compensation Payment to the Lenders' Agent, or as the Lenders' Agent may direct, as security for the Financing. SMH shall pay the Compensation Payment as directed by the Lenders' Agent and shall not accept any redirection without the consent of Lenders' Agent. SMH will pay the Compensation Payment in accordance with the provisions of Schedule 23 – Compensation on Termination. Project Co acknowledges and agrees that payment by SMH of the Compensation Payment to the Lenders' Agent in accordance with this Section 4.9 constitutes payment by SMH to Project Co in satisfaction of SMH's obligation to pay the Compensation Payment to Project Co under this Project Agreement and in satisfaction of any trust obligation of SMH with respect to such payments under Section 7 of the CLA pursuant to Section 10 of the CLA.

4.10 Payment Due under Insurance Policies

- (a) In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made in accordance with the provisions of the Insurance Trust Agreement.

4.11 HST

- (a) SMH covenants and agrees to pay to Project Co the HST that may be exigible with respect to any payments made by SMH to Project Co hereunder.

4.12 Set-Off

- (a) The Parties agree that their rights of set-off at law or in equity are limited to the right of:
- (i) SMH to set off against any amounts otherwise due to Project Co pursuant to the terms of this Project Agreement, any amounts (including, without limitation, any amounts payable in accordance with Article 44) which are due to SMH by Project Co pursuant to the terms of this Project Agreement or by the Construction Guarantor pursuant to Schedule 12 – Performance Guarantee of Construction Guarantor; and

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- (ii) Project Co to set off against any amounts otherwise due to SMH pursuant to the terms of this Project Agreement, any amounts (including, without limitation, any amounts payable in accordance with Article 44) which are due to Project Co by SMH pursuant to the terms of this Project Agreement.

4.13 Effect of Payment

- (a) Subject to Section 38.2, no payment hereunder shall be construed as an acceptance or approval of incomplete, defective or improper performance by Project Co of any of its obligations under this Project Agreement, nor shall it operate to relieve Project Co from the performance of any of its obligations under this Project Agreement which have not been performed.

4.14 No Other Entitlement

- (a) Project Co shall not be entitled to any payments, compensation, rights, remedies, benefits or entitlements under or in connection with this Project Agreement, except as specifically and expressly set out in this Project Agreement.

4.15 Taxes

- (a) All amounts specified in this Project Agreement, including, for clarity, any compensation payable on termination, are expressed exclusive of any Taxes payable pursuant to Applicable Law by SMH. For clarity, SMH shall not be required to pay any interest and/or penalties that are imposed on or assessed against Project Co or any Project Co Party for non-compliance with Applicable Law. If Project Co is required by Applicable Law to collect any such Taxes from SMH, SMH shall pay such Tax to Project Co simultaneously with the amount to which such applicable Tax relates or applies.
- (b) SMH shall pay, when due and payable, all property taxes or payments in lieu of property taxes that are assessed in respect of ownership or use of the Site, the Facility or the Existing Facilities.
- (c) SMH shall pay all applicable HST properly payable in accordance with the *Excise Tax Act* (Canada) by SMH upon and in connection with payments by SMH to Project Co under this Project Agreement.

4.16 Changes in Scope of Taxation

- (a) If, as a result of a Change in Law, the application of Taxes under Part IX of the *Excise Tax Act* (Canada) or any provincial sales tax legislation changes with respect to the provision of any goods or services by Project Co in connection with the performance of the Works, SMH and Project Co agree to co-operate to determine how such change affects their respective obligations under this Agreement.

St. Michael's Hospital Redevelopment Project**4.17 Information and Assistance Provided by Project Co**

- (a) Project Co shall, at SMH's request and cost, assist SMH in applying for and obtaining all remissions and credits of Taxes to which SMH is entitled.
- (b) SMH may apply for a global or general exemption, waiver, remission or refund of some or all Taxes which may otherwise be applicable in relation to this Project Agreement. Project Co shall, at SMH's cost, assist SMH in making any applications for such global or general exemption, waiver, remission or refund and shall provide SMH with such documentation as SMH may reasonably require to support such application and, in any event, shall provide such consent as SMH may require. Any exemption, waiver, remission, refund or other recovery of Taxes obtained by SMH through such application shall accrue to the sole benefit of SMH.
- (c) Project Co will provide SMH with any information reasonably requested by SMH from time to time in relation to any Taxes chargeable by Project Co in accordance with this Project Agreement and payable by SMH to Project Co from time to time.

4.18 Residency – Income Tax Act (Canada)

- (a) Project Co shall not undertake any action or transaction that, if undertaken, would cause or result in Project Co becoming a Non-Resident without SMH's prior written consent, which consent may be withheld in SMH's sole discretion.

4.19 Taxes – General

- (a) Project Co shall not, without the prior written consent of SMH (which consent may be withheld in its sole discretion), undertake any action or transaction that, if undertaken, would cause SMH to have (or result in SMH having) any obligation to deduct, withhold or remit any Taxes that are required by Applicable Law to be deducted, withheld or remitted from any amounts paid or credited to Project Co or any Project Co Party under this Project Agreement or under any other Ancillary Document.

4.20 Taxes – Indemnity

- (a) If (i) Project Co becomes a Non-Resident, or (ii) SMH is or becomes required by Applicable Law to deduct or withhold any amount in respect of Taxes on or in respect of any amounts paid or credited to Project Co or a Project Co Party by SMH under the Project Agreement or under any of the Project Documents, then SMH shall be entitled to make any applicable deductions or withholdings required by Applicable Law from any amount paid or credited or to be paid or credited to Project Co or a Project Co Party on or after the date on which (A) Project Co or the Project Co Party becomes a Non-Resident and at all times while it remains a Non-Resident; or (B) SMH is required by Applicable Law to deduct or withhold amounts in respect of any such amounts, in each case, in respect of all Taxes that are required by Applicable Law to be deducted or withheld from amounts paid or credited to a Non-Resident or otherwise as required by Applicable Law; and all amounts paid or credited by SMH under this Project Agreement or under any