LEASE

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES

(THE "LANDLORD")

-AND-

THERME CANADA OP INC.

(THE "TENANT")

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GROUND LEASE

This Lease is made as of May 3, 2022.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
AS REPRESENTED BY THE MINISTER OF GOVERNMENT
AND CONSUMER SERVICES
(the "Landlord")

-and-

THERME CANADA OP INC.
(the "Tenant")

BACKGROUND OF THIS LEASE

A. WHEREAS, pursuant to an offer to lease (the "**Offer**") dated July 29, 2021, entered into by the Landlord and the Tenant, the Landlord agreed to lease to the Tenant, and the Tenant agreed to lease from the Landlord, certain lands located at 851 and 955 Lake Shore Boulevard West, Toronto in accordance with and subject to the terms and conditions set forth in this lease (the "**Lease**");

B. AND WHEREAS, Ontario Infrastructure and Lands Corporation ("**OILC**") has been delegated Minister of Infrastructure's authorities and responsibilities with respect to real property in the name of MOI subject to certain conditions by delegation of authority of OILC under the *Ministry of Infrastructure Act*, 2011, S.O. 2011, c. 9, Sched. 27 (the "***Ministry of Infrastructure Act***");

C. AND WHEREAS, by Order in Council No. 1152/2018, approved and ordered October 22, 2018, certain responsibilities in respect of government property under the *Ministry of Infrastructure Act* and other responsibilities were assigned and transferred from the Minister of Infrastructure to the Minister of Government and Consumer Services,

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements contained in this Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree one with the other as follows:

ARTICLE 1
DEFINITIONS, INTERPRETATION AND SCHEDULES

1.1 Definitions

All capitalized terms herein used and not otherwise defined shall have the following meaning:

"**30% Entitlement**" has the meaning ascribed thereto in Section 2.3(d).

"**Above-Grade Construction Activities Deadline**" has the meaning ascribed thereto in Schedule G.

"**Above-Grade Construction Activities Outside Date**" means, subject to Section 25.9, the date which is ten (10) months following issuance of the First Building Permit for the Project (such issuance being deemed to have occurred only following the satisfaction of any conditions therein or thereto).

"**Actual Usage**" has the meaning ascribed thereto in Section 18.3(c).

"**Additional Easements**" means, collectively, the free, exclusive or non-exclusive (depending on the nature and use of the right or easement in issue) right and easement in perpetuity against the applicable portion or portions of the Lands, required by the Landlord from time to time, acting reasonably, for the construction, repair, replacement, operation, maintenance and servicing of Ontario Place, , together with the right of free, uninterrupted and unobstructed access, at all reasonable times, with such vehicles, equipment and supplies of materials as are necessary for, or incidental to, the exercise and enjoyment of such easements. In each case, such rights and easements shall be located and enjoyed by the Landlord so as not to materially adversely affect the use, occupancy or enjoyment of the Demised Premises, subject to any event of emergency in which case the Landlord shall use reasonable efforts not to affect the use, occupancy or enjoyment of the Demised Premises.

"**Additional Rent**" means any payment of any kind, other than Base Rent, required to be made by the Tenant under this Lease, whether or not designated as "Additional Rent".

"**Additional Security**" has the meaning ascribed thereto in Section 9.6(b).

"**Adjacent Tenants**" means the Landlord's other tenants on all or any portion of Ontario Place, at any time and from time to time, including as of the Lease Date without limitation, Live Nation and Ecorecreo.

"Adjacent Lease" means the lease of space at Ontario Place in favour of an Adjacent Tenant.

"**Affiliate**" means, in relation to any Person, any other Person or group of Persons acting in concert, directly or indirectly, that Controls, is Controlled by or is under common Control with the first mentioned Person (applied *mutatis mutandis* in respect of Persons that are not companies); and in the case of the Tenant, includes any one or more Affiliates of any one or more Persons comprising the Tenant provided that all the shares, units or other interests of the Affiliate are directly or indirectly held by qualified transferees who are not Restricted Persons;

"**Affiliated Person**" means a Person that:

(a) is an Affiliate of the Tenant;

(b) has (or whose parent or affiliate has) a global (or other wide-ranging) content partnership or similar affiliation or arrangement with the Tenant (or any Affiliate thereof); or

(c) in which the Tenant and its affiliates collectively have directly or indirectly (whether by way of equity or debt securities) invested at least three million dollars

($3,000,000) or twenty (20%) percent of the total capital of such Person (determined at the time of the subject transaction).

"**Agent**" means the Landlord's agent, if any, appointed under Section 18.7.

"**Alternate Site**" has the meaning ascribed thereto in Section 17.1(b)(i).

"**Applicable Law**" means:

(a) any statute or proclamation or any delegated or subordinate legislation including regulations and by-laws;

(b) any order, direction, directive, request for information, administrative interpretation or rule of or by any Governmental Authority;

(c) any judgment of a relevant court of law, board, arbitrator or administrative agency which is a binding precedent in the Province of Ontario; and

(d) the Heritage Determinations; and

(e) the Heritage Restrictions;

in each case, in force in the Province of Ontario, or otherwise binding on Tenant, any Tenant Person, any contractor or subcontractor, the Landlord or any Landlord Person; but, for greater certainty, will not include any of the foregoing by or of the Landlord (except to the extent acting in its capacity as a regulatory authority and not as the landlord).

"**Approval of the Landlord**" means the prior written approval of the Landlord from time to time and "**Approved by the Landlord**" or "**Landlord to Approve**", and any further form of the verb "approve", "agree" or "consent", or words of similar import, when used in a sentence or clause of which the Landlord is the grammatical subject, shall have a corresponding meaning. Except where this Lease provides otherwise, reference to "**Approval of the Landlord**" means the approval, agreement or consent (as the context requires) of the Landlord, acting reasonably and promptly in the circumstances, and within the time limits where expressly provided for in this Lease.

"**Approval of the Tenant**" means the prior written approval of the Tenant from time to time and "**Approved by the Tenant**", and any further form of the verb "approve", "agree" or "consent", or words of similar import, when used in a sentence or clause of which the Tenant is the grammatical subject, shall have a corresponding meaning. Except where this Lease provides otherwise, reference to "**Approval of the Tenant**" means the approval, agreement or consent (as the context requires) of the Tenant, acting reasonably and promptly in the circumstances, and within the time limits where expressly provided for in this Lease.

"**Assessment Act**" has the meaning ascribed thereto in Section 9.1(b)(iii).

"**Associate**", where used to indicate a relationship with any Person, means:

(a) any Business Entity of which the Person beneficially owns, directly or indirectly, voting securities or other ownership interests carrying more than ten percent (10%) of the voting rights attached to all voting securities or other ownership interests of the Business Entity for the time being outstanding;

(b) any partner of that Person;

(c) any trust or estate in which the Person has a substantial beneficial interest or as to which the Person serves as trustee or in a similar capacity;

(d) any relative of the Person, including his spouse and individuals connected by blood relationship, marriage or adoption, where the relative has the same home as the Person; or

(e) any relative of the spouse of the Person, including individuals connected by blood relationship, marriage or adoption, where the relative has the same home as the Person.

"**Attornment Agreement**" has the meaning ascribed thereto in Section 14.9.

"**Auditor**" means the "Office of the Auditor" as constituted under the *Auditor General Act*, R.S.O. 1990, Chap. A.35, as amended from time to time, or any successor or replacement legislation, and any other auditor designated by the Landlord from time to time.

"**Base Building Components**" means all structural components, utility connections and building systems for the Project, including without limitation, roof (including roof membrane), curtain walls and appurtenances thereto (including weather walls), base floors, foundations, HVAC, plumbing, electrical, sewer and gas systems and infrastructure, all utility connections or any other portion of the Building where the repairs or replacements thereto are normally considered a major capital expenditure.

"**Base Rent**" means the annual rent payable by the Tenant pursuant to and in the manner set out in Section 3.3.

"**Base Rent Ceiling**" means an amount equal to eight (8%) percent of the Base Rent Ceiling Indexed Land Value.

"**Base Rent Ceiling Indexed Land Value**" means, for the purpose of the determination of the Base Rent Ceiling in any particular year: (i) as of the Index Commencement Date, three million five hundred thousand dollars ($3,500,000) per acre of the Core Lands, which shall be modified by the Inflation Factor annually thereafter in accordance with accordance with Section 3.4(b) below; and (ii) as of each New Rent Commencement Date, the fair market value of the Core Lands determined in accordance with Section 3.4(c) below in respect of such New Rent Commencement Date, and, in each case, subject to annual modification in accordance with Section 3.4(b) below.

"**Breakeven Amount**" has the meaning ascribed thereto in Section 18.3(c).

"**Building Condition Report**" has the meaning ascribed thereto in Section 10.1(c).

"**Business Day**" means a day that is not a Saturday, Sunday or a statutory holiday in the Province of Ontario.

"**Business Entity**" means any partnership, limited liability corporation, limited partnership, joint venture, co-ownership arrangement, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted.

"**C&D Agreement Notice**" means notice delivered by the Tenant to the Landlord prior to the execution of any agreement with a Contractor.

"**C&D Second Notice**" has the meaning ascribed thereto in Section 16.2(e)(i).

"**Cancellation Notice**" has the meaning ascribed thereto in Section 17.1(a).

"**Cancellation Payment**" has the meaning ascribed thereto in Section 17.2(a).

"**Catch-Up Rent**" has the meaning ascribed thereto in Section 3.14.

"**Certificate**" of any Person means a certificate, report or opinion of such Person, in reasonable detail (having regard to the purpose thereof), certifying and confirming the accuracy of the information contained therein, and signed by a responsible and senior officer of such Person (in his/her capacity as an officer, without personal liability) after appropriate enquiry.

"**Changes Requiring Landlord Approval**" has the meaning ascribed thereto in Schedule G.

"**City**" means the City of Toronto.

"**City Lands**" means those portions of the Lands that, as of the Lease Date, are owned by the City of Toronto.

"***City of Toronto Act, 2006"*** means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A*,* as may be amended, superseded or replaced from time to time.

"**Claims**" means, collectively, all actions, losses, liabilities, damages, suits, claims, demands, obligations, debts, costs and expenses of any nature whatsoever, known or unknown, contingent or absolute.

"**Commencement Date**" means the date set out in the written notice delivered by the Landlord to the Tenant confirming that the Landlord Initial Obligations have been completed, which written notice is delivered after the completion of the Landlord Initial Obligations and includes the deliverables contemplated in this Lease and Master Development Agreement required to evidence such completeness to the extent such deliverables had not previously been delivered to Tenant.

"**Completion Date**" shall mean the date of Completion of Construction of the Project pursuant to and in accordance with the Master Development Agreement.

"**Completion of Construction**" or "**Complete the Construction**" or "**Completed**" or "**Complete**" or "**Completion**" means the completion of relevant Construction Activities, substantially in accordance with the Construction Documents, to the same extent as shall be required for a contract to be substantially performed as defined in accordance with the *Construction Act*, R.S.O. 1990, Chap. C.30 and certified by the Compliance Consultant.

"**Compliance Consultant**" means a planning, design and compliance consultant (being a professional architect qualified to practice in Ontario), engaged by the Landlord.

"**Concurrent Construction Activities**" means those Landlord Site Readiness Activities (or applicable portions thereof) that constitute Construction Activities (including but not limited to, demolition and/or other site preparation for the initial construction) that will be undertaken after the Regime Change Date.

"**Conditional Termination Date**" has the meaning ascribed thereto in Section 16.10(b).

"**Conditional Termination Notice**" has the meaning ascribed thereto in Section 16.10(b).

"**Construction Activities**" means any and all construction activities commenced upon the Lands by or on behalf of the Tenant in respect of the Project, including but not limited to, the excavation of the Lands and/or other site preparation for the initial construction.

"**Construction Commencement Date**" means the date on which initial Construction Activities commence on the Lands.

"**Construction Documents**" means working drawings and specifications with respect to any Construction Activities, Repair or Major Change, as the case may be, which comply with the provisions of this Lease and the Master Development Agreement, if applicable.

"**Construction Interface and Coordination Agreement**" has the meaning ascribed thereto in Schedule G.

"**Construction Plan**" has the meaning ascribed thereto in Section 10(a) of Schedule G.

"**Construction Warning Notice**" has the meaning ascribed thereto in Section 16.2(e)(i).

"**Consumer Price Index**" means Consumer Price Index for Ontario, as published by Statistics Canada in table 18-10-0004-02 from time to time, or failing such publication, such other index as the Parties may agree most closely resembles such index, with the relevant base year where applicable, to be the year in which the Lease Date occurs.

"**Construction Licenses**" has the meaning ascribed thereto in Schedule B.

"**Construction Licensed Persons**" has the meaning ascribed thereto in Schedule B.

"**Contamination**" means the presence of any Hazardous Substance in soil, groundwater and/or sediment in, on or under the Lands and/or Ontario Place, except for Hazardous Substances present in concentrations below the Remediation Standards; and "**Contaminants**" shall have a corresponding meaning.

"**Contractor**" means any contractor engaged by the Tenant to perform the Works and any substitute building contractor engaged by the Tenant as may be permitted by the terms of this Lease or the Master Development Agreement.

"**Control**" means:

(a) with respect to any Person that is a corporation, incorporated or unincorporated association, incorporated or unincorporated syndicate, incorporated or other unincorporated organization, trust or other legal entity which has issued voting securities, the ownership, directly or indirectly, of voting securities of such Person carrying more than 50% of the votes for the election of directors (or individuals performing a similar function or occupying a similar position, including the trustees of a trust);

(b) with respect to any Person that is a trust which has not issued voting securities, control by the trustees of such trust, or a Person who Controls each trustee of such trust;

(c) with respect to any Person that is a partnership that does not have directors (or Persons performing a similar function or occupying a similar position) (other than a limited partnership), the power to control and direct in all circumstances the management and policies of such partnership, directly or indirectly;

(d) with respect to any Person that is a limited partnership, the Control of the general partner of such limited partnership; and

(e) with respect to any Person not otherwise addressed in paragraphs (a) to (d) of this definition, the power to control and direct in all circumstances the management and policies of such arrangement, directly or indirectly,

and a Person is Controlled (within the meaning of paragraphs (a) to (e) of this definition) by a Person when one or more of such first-mentioned Persons are directly or indirectly Controlled (within the meaning of paragraphs (a) to (d) of this definition) by the second-mentioned Person, and the terms "**Controlled by**", "**Controlling**" and "**under common Control with**" shall have corresponding meanings and "**Controlled**" shall have a similar meaning (all applied *mutatis mutandis* in respect of Persons that are not companies).

"**Core Gross Revenues**" means Gross Revenue from or related directly to the Core Lands, whether paid for at the Core Lands or otherwise. Where Gross Revenues come from or relate directly in part to the Core Lands and in part to the Therme Public Areas, they shall be allocated between as Core Gross Revenues and Therme Public Area Gross Revenues on an appropriate basis in full and without duplication.

"**Core Lands**" means the Demised Premises other than the Therme Public Areas, as shown on Drawing 1 of Schedule A hereto until such time as the Master Survey is delivered, and thereafter, means that portion of the Lands shown as Core Lands on the Master Survey.

"**Costs Non-Recoverable by Province**" has the meaning ascribed thereto in Section 2 of Schedule F hereto.

"**Costs Recoverable by Province**" has the meaning ascribed thereto in Section 1 of Schedule F hereto.

"**CPU**" means a certificate(s) of property use issued under section 168.6 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19 (as amended from time to time) or under any successor or replacement legislation and applicable to the Lands.

"**Crown Corporation**" means any Business Entity one hundred percent (100%) beneficially owned by Her Majesty in right of Canada or of Ontario or by the Canadian federal government or the Ontario provincial government, or any ministry, department or bona fide agency thereof, provided that the obligations of the Business Entity may be enforced against Her Majesty in right of Canada or of Ontario, as the case may be.

"**Damage Termination Notice**" has the meaning ascribed thereto in Section 12.3(a).

"**Damage Termination Option**" has the meaning ascribed thereto in Section 12.3(a).

"**Dedicated Spaces**" has the meaning ascribed thereto in Section 18.3(a).

"**Deferred Base Rent**" has the meaning ascribed thereto in Section 3.14.

"**Deferred Rent Payback Period**" has the meaning ascribed thereto in Section 3.14.

"**Demised Premises**" means the Lands, provided that for all purposes under this Lease (except as otherwise expressly provided), and for the purposes of Article 9 and Article 10, the "Demised Premises" shall also be deemed to include any Utility Services which serve the Lands and the Improvements exclusively and which are located on, in or under the Lands.

Demolition Deadline" has the meaning ascribed to it in Schedule G.

"**Deposit**" has the meaning ascribed thereto in Section 3.2(a).

"**Designated Force Majeure**" means any order(s), legislation, regulation(s) or directive(s) of any Governmental Authority that mandates the temporary closure of the Project due to a pandemic or other province-wide health-related matter or event (not caused by an act of the Tenant) (provided that, for greater certainty, any order(s), legislation, regulation(s) or directive(s) of any Governmental Authority that mandate reduced operating hours or reduced capacity due to a pandemic shall not constitute Designated Force Majeure).

"**Designated Force Majeure Period**" has the meaning ascribed thereto in Section 3.14.

"**Dispute Resolution Procedure**" means the dispute resolution procedure appended as Schedule D to this Lease.

"**EA Approvals**" means the approval(s) and completion of environmental assessment(s) if required under the *Ontario Environmental Assessment Act* in connection with Landlord's Site Readiness Activities pursuant to this Lease and the approval and completion of environmental assessments if required under the *Ontario Environmental*

Assessment Act in connection with the development and construction of the Therme Public Areas**.**

"**EA Deadline**" means, subject to Section 25.9, December 31, 2023.

"**EBTDA**" means earnings before taxes, depreciation and amortization, as determined in accordance with generally accepted accounting principles in Canada.

"**Ecorecreo**" means Groupe Écorécréo Inc., and its successors and assigns.

"**End of Lease Notice**" has the meaning ascribed thereto in Section 10.1(h).

"**Enhanced MZO**" means an MZO in which the Minister of Municipal Affairs and Housing has elected to exercise its authority pursuant to s. 47 of the *Planning Act* to exempt all of the Lands from the application of Section 114 of the *City of Toronto Act, 2006* in accordance with subsection 47(4.3)(a).

"**Entrance Pavilion**" means an entrance pavilion to be constructed on the mainland portion of the Core Lands.

"**Envelope Completion**" means that construction of the shell and core of the principal building comprising the Project has been substantially completed pursuant to and in accordance with the terms of the Master Development Agreement.

"**Environmental Laws**" means all applicable federal, provincial, municipal and local laws, statutes, ordinances, by-laws and regulations and all orders, directives and decisions rendered by, and policies, guidelines and similar guidance of, any Governmental Authority (in each case having the force of law), including any obligations or requirements arising under common law, relating to the protection and preservation of the environment, human health and safety and/or the manufacture, processing, distribution, use, treatment, storage, presence, disposal, packaging, labelling, recycling, transport, handling, containment, clean-up or other remediation or corrective action of or in respect of any Hazardous Substances.

"**EOB Rent**" has the meaning ascribed thereto in Section 16.3.

"**Event of Bankruptcy**" means the occurrence of any one of the following events:

(a) if a Party is wound up, dissolved, liquidated or has its existence terminated or has any resolution passed therefor; or makes a general assignment for the benefit of its creditors or a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended by S.C. 1992, c.27, as amended from time to time, or any successor or replacement legislation), or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any bankruptcy law or any other similar present or future law relating to bankruptcy or other similar relief for debtors (including, without limitation, the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended from time to time, or any successor or replacement legislation), or consents to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency; or makes an assignment for the

benefit of creditors; or admits in writing its inability to pay its debts generally as they become due; or

(b) if a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against a Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, winding up, termination of existence, declaration of bankruptcy or insolvency or similar relief under the present or future law relating to bankruptcy or insolvency or other similar relief for or against debtors, and the Party acquiesces in the entry of such order, judgment or decree or such order, judgment or decree remains unvacated and unstayed for an aggregate of twenty (20) days (whether or not consecutive) from the date of entry thereof; or if any trustee in bankruptcy, receiver, receiver/manager, liquidator or any other officer with similar powers is appointed for a Party or of all or any substantial part of its property or undertaking with the consent or acquiescence of the Party and such appointment remains unvacated and unstayed for an aggregate of twenty (20) (whether or not consecutive); or

(c) if the Party is unable to pay its liabilities as they become due; or

(d) if an encumbrancer takes possession of all of the property of a Party or of such part of the property of the Party as would have a material adverse effect on the ability of the Party to perform its obligations under this Lease,

provided, however, that a resolution or order for the winding up of a Party with a view to its bona fide reorganization, consolidation, amalgamation or merger, including, without limitation, any such reorganization, consolidation, amalgamation or merger with an Affiliate or Associate or transfer of its assets as an entirety to an Affiliate or Associate or the merger or amalgamation with an Affiliate or Associate shall not constitute an Event of Bankruptcy.

"**Excluded Information**" means:

(a) any commercial details with respect to this Lease (except as required to complete the registration(s) contemplated in Section 25.6) or any of the Material Ancillary Agreements;

(b) any proprietary information of the Province; and

(c) any information, documents, agreements, or other material (or part thereof) expressly designated by the Province as confidential.

"**Exigible Taxes**" has the meaning ascribed thereto in Section 9.1(b)(i).

"**Expiry Date**" means subject to extension in accordance with Section 2.1(b) of this Lease, the date that is seventy-five (75) years following the earlier of: (i) the Completion Date, and (ii) the thirty-sixth (36th) month after the Construction Commencement Date.

"**Extension Term**" has the meaning ascribed thereto in Section 2.1(b).

"**Fair Market Value of the Project**" means the amount, if any, that qualified independent valuators acting in accordance with the procedures set out in Section 16.2 conclude is

the amount of money that a person that (i) is not a Restricted Person, and (ii) has, whether itself, together with its Affiliates and/or through arrangements with one or more third parties, the intention and the financial and operational capability equal to or greater than that of the Tenant to operate the Project in accordance with the terms of this Lease, would have paid on the date of the expiry of the two year period referred to in Section 16.2(d)(iii)(A) to acquire the Tenant's interest in this Lease and the right to assume and conduct the business enterprise of the Tenant comprising the Project.

"**FF&E**" means all furniture, fixtures and equipment for the Project, with the exception of any of the foregoing owned by the Tenant's concessionaires.

"**Final Environmental Deadline**" has the meaning ascribed to it in Schedule G.

"**Financial Test**" means the evaluation of the financial covenant strength of a Person based on the following two criteria, both of which must be satisfied in order for the Person to satisfy the financial test:

(a) the Person must have a minimum Net Worth of one hundred million dollars ($100,000,000) (increased (but not decreased) by the Inflation Factor) (the "**Net Worth Test**"); and

(b) the Person must satisfy the Financial Viability Test.

"**Financial Viability Test**" has the following two criteria (each of which must be satisfied):

(a) the Person must either (i) have had cash (or cash equivalents) on hand of greater than the prior five (5) years of Rent in each of the last five (5) years or (ii) have had both (A) cash (or cash equivalents) on hand of greater than the prior five (5) years of Rent in any three (3) of the last five (5) years and (B) average cash (or cash equivalents) on hand from the last five (5) years of greater than the prior five (5) years of Rent; provided that, in each case, a comfort letter from a financial institution confirming that the Person had sufficient liquidity (even if not cash (or cash equivalents)) may be provided to satisfy up to seventy-five (75%) percent of the foregoing cash (or cash equivalents) criterion with respect to any year(s); and

(b) the Person must either: (i) have EBTDA in each of the last five (5) years that is greater than the prior five (5) years of Rent or (ii) have both (A) EBTDA in any three (3) of the last five (5) years that is greater than the prior five (5) years of Rent and (B) average EBTDA from the last five (5) years that is greater than the prior five (5) years of Rent.

In addition to the foregoing criteria, the Financial Viability Test may also be satisfied by the provision of a supplemental indemnitor.

"**Fire Safety Plan**" has the meaning ascribed thereto in Section 5.2(a)(ii).

"**First Building Permit**" means the first above grade building permit issued to the Tenant using commercially reasonable efforts whether conditional or unconditional,

whichever is obtained first, but does not include any building permit (or demolition permit) required for the Landlord's Site Readiness Activities.

"**First Permit**" means the first applicable building permit (excavation permit) for initial construction of any aspect of the Project by the Tenant.

"**First Permit Date**" means the date that the First Permit is issued or would have been issued had the Tenant used commercially reasonable efforts to obtain same, in accordance with Section 4.2 hereof.

"**Fiscal Quarter**" means the periods in a given Fiscal Year ending on March 31, June 31, September 31, and December 31. Any reference in this Lease to "each Fiscal Quarter" shall mean each Fiscal Quarter all or part of which occurs during the Term.

"**Fiscal Year**" means the period from April 1 in a given year to and including March 31 of the next calendar year. Any reference in this Lease to "each Fiscal Year" shall mean each Fiscal Year all or part of which occurs during the Term.

"**Force Majeure**" means any event(s) which prevents or materially impairs the performance of a Party's obligations under this Lease, Master Development Agreement and/or any other Material Ancillary Agreement and is not caused by and is beyond the reasonable control of such Party, including: acts of God, floods, earthquakes, tidal waves, hurricanes, windstorms, severe weather conditions, pandemics, lightning, fire, wars (whether declared or not), riots, insurrections, rebellions, civil commotions, sabotage, partial or entire failure of utilities, blockades, land claims, occupations, strikes, walkouts or other labour disruptions, industry wide shortages of and inability to procure or delay in procuring labour materials and supplies (after all commercially reasonable efforts have been made by the Tenant and/or the Landlord, as applicable, to obtain replacement for such labour, materials and supplies) or, with respect to the performance of the Tenant's obligations, orders, legislation, regulations and directives of any Governmental Authority but does not include Landlord Delay, Tenant Delay and/or Tenant Landlord Initial Obligations Date Delay. For greater certainty, lack of funds, the state of the market for leisure and recreational facilities and any wilful or negligent act or omission on the part of the Tenant does not constitute Force Majeure in respect of the Tenant and any wilful or negligent act or omission on the part of the Landlord does not constitute Force Majeure in respect of the Landlord.

"**Gainshare Payment**" has the meaning ascribed thereto in Section 3.7(a).

"**Governmental Authority**" means any government, including any minister, deputy minister, or ministry thereof, regulatory authority, government department, agency, commission, Crown Corporation, board, tribunal or court having jurisdiction on behalf of any nation, province or other subdivision thereof or any municipality, district or other subdivision thereof. For greater certainty, the Landlord shall not constitute a Governmental Authority when acting in its capacity as the landlord under this Lease, as the owner of Ontario Place and/or as a corporate entity (as opposed to a governing authority).

"**Gross Floor Area**" means the sum of the total area of each floor level of a building, above and below ground, measured from the exterior faces of the exterior walls of each floor level.

"**Gross Revenues**" shall have the meaning set out below:

(a) "**Gross Revenues**" means all revenues which would, in the normal course of business and in accordance with generally accepted accounting practice, be attributable to the conduct of business at or in connection with the Demised Premises (including the Therme Public Areas) by the Tenant or by any Person deriving rights therein from the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant), including the sum of the sales prices received by, or agreed to be paid to, the Tenant or any Person deriving rights from the Tenant of all goods and services sold and Programming provided as a result of or in connection with all business conducted on, originating at or arising in connection with the Demised Premises whether such sales are made or the revenues therefrom are actually received on such lands or elsewhere. Without limiting the generality of the foregoing, but without duplication of any inclusion, Gross Revenues include each of the following at or relating to the Project:

(i) the full amount of the actual sales prices for all admissions to the Demised Premises, whether sold by the Tenant or by any concessionaire or other Person deriving rights from the Tenant, and whether orders are taken on the Demised Premises or result from enquiries made on such lands or elsewhere, including orders by mail, telephone, internet, telecommunication or other means;

(ii) all revenue received or receivable from the sale, re-sale or other disposition of admissions or other grants of a right of entry to the Demised Premises (collectively, for the purpose of this definition of Gross Revenues, "tickets") and the sale or other disposition of any right to sell or otherwise dispose of tickets (including, by way of example, all revenue resulting to the Tenant from any grant by the Tenant to any other Person of any right to sell or otherwise dispose of tickets), and all revenue resulting from the sale or other disposition of tickets by any other Person;

(iii) all revenue received or receivable from all sales and rentals of merchandise, goods and services (including, without limitation, food and beverage products) at or relating to the Project, whether sold by the Tenant or by any concessionaire or other Person deriving rights from the Tenant, and whether orders are taken on the Demised Premises or result from enquiries made on such lands or elsewhere, including orders by mail, telephone, internet, telecommunication or other means;

(iv) all revenue received or receivable from corporate or other private suite sales or rentals;

(v) facility surcharge fees, to the extent not otherwise included in Gross Revenues by way of ticket prices or other revenues;

(vi) all Other User Charges, subject to clause (c)(ix), next following;

(vii) the Tenant's share of receipts from all wireless, digital and mechanical sales and sales from vending devices and services of any nature,

including telephones and automated bank machines, at, in or about the Demised Premises, less any commissions or like charges paid by the Tenant to or retained by the suppliers or operators of the devices which are not Related Parties, it being understood and agreed that the provisions of this subsection (vii) do not permit the use of any such mechanical or vending devices unless in accordance with the Standard;

(viii) the full amount of the sales prices for gifts, merchandise or service certificates and coupons;

(ix) without duplication, all deposits received and not refunded, whether or not a sale or rental is completed;

(x) the “face” or nominal price of all tickets which are bartered, exchanged, traded or otherwise disposed of by the Tenant in exchange for, or in part exchange for, or in consideration of, the supply of goods or services; for the purpose of the calculation of Gross Revenue, such “face” or nominal price shall be deemed to have been received by the Tenant;

(xi) all revenue received or receivable resulting to the Tenant or to the Tenant’s concessionaires from the conduct of activities at the Demised Premises (including the Therme Public Areas), during any Programming which is taking place pursuant to a sublet, licence or concession, which revenues are payable to the Tenant or to Tenant’s concessionaires from whom or which the Tenant directly or indirectly receives consideration shall form part of Gross Revenues without regard to the fact that they are earned in the context of Programming taking place pursuant to a sublet, licence or concession;

(xii) proceeds of business interruption insurance or other insurance expressly compensating the Tenant for loss of income;

(xiii) all revenue received or receivable by the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) from online, streaming, mobile and other digital forms of exploitation to the extent relating to the Demised Premises, including the Therme Public Areas, and any Programming (including, for example, pay-per-view streaming of Programming);

(xiv) all revenue received or receivable by the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) from advertising in connection with any activities upon the Demised Premises (including the Therme Public Areas);

(xv) all revenue received or receivable by the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) from sponsorship of all or any part of the Project, including in connection with any naming rights in respect of the Demised Premises or any part thereof; and

(xvi) all other revenue received or receivable by the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) that are generally considered to be "revenue" in accordance with generally accepted accounting principles in Canada.

(b) All of the foregoing are included in Gross Revenues whether paid by cash, credit, charge, cheque, exchange, gift certificate or otherwise, subject to a reasonable deduction for uncollected or uncollectible accounts or any costs or charges incurred in order to collect such accounts; the Landlord shall not be entitled to object to any such reasonable deduction by the Tenant which is an accurate reflection of the actual experience of the Tenant dealing with uncollected or uncollectible accounts.

(c) For the purpose of calculating Gross Revenues and Performance Rent, and without limiting the Tenant's reporting obligations in respect of Gross Revenues or the Landlord's rights to inspect and audit or to cause to be inspected and audited the records of the Tenant and of others, as provided in this Lease, Gross Revenues will not include (or, if included, will be reduced, without duplication of any reduction, by):

(i) any Sales Taxes or retail tax imposed under Applicable Law based upon the sales price of goods or services, to the extent that the amount of such tax is separately charged, collected from customers and actually paid to the taxing authority;

(ii) the sales price of goods returned to suppliers or transferred from the Lands to another location of the Tenant without having been sold, provided that any such returns or transfers are carried out for legitimate business purposes and not for the purpose of reducing Gross Revenues;

(iii) the industry standard charges, if any, levied by arm's length third parties selling tickets on behalf of the Tenant, provided that such third party is not a Related Party;

(iv) credit card charges;

(v) revenues received by any Person permitted by the Tenant to use any portion of the Demised Premises for charitable, community, or non-profit purposes, to whom or to which, as the case may be, the Tenant makes such portion of the Demised Premises available without charge, provided the Tenant and no Related Party receive any portion of such revenues;

(vi) the amount of any cash or credit refunds, to the extent of such refunds, provided that the sales price refunded was previously included in Gross Revenues;

(vii) where tickets are exchanged for other services for the benefit of the Project (for example, advertising), the "face" or nominal price of such tickets which was previously included in Gross Revenues pursuant to paragraph (a)(viii) of this definition, provided always that such tickets are provided to, and services provided by, a party that is not a Related Party;

(viii) where a sponsor has provided sponsorship revenue and receives, without additional charge, tickets for Programming at the Project in consideration therefor, the "face" or nominal price of such tickets;

(ix) the amount of any Other User Charges paid by Persons other than an Affiliate or Related Party subleasing or licensing all or substantially all of the Project provided such payments are accounted for and distributed in accordance with Section 3.6(c) and the Landlord receives the Performance Rent payment required to be made to it thereunder;

(x) any amounts paid or payable to the Tenant as a result of the termination of this Lease;

(xi) any amount paid or payable to the Tenant as minimum rent or a base fee (or other similar payment) from a subtenant, licensee or concessionaire up to a maximum amount equal to the Minimum Rent payable by the Tenant for the applicable area under this Lease, it being confirmed that any such amount paid or payable to the Tenant in excess of the Minimum Rent payable by the Tenant shall not be excluded pursuant to this paragraph (xi); and

(xii) any amount paid or payable to the Tenant as percentage or performance rent (or other similar payment) whether from a subtenant, licensee, concessionaire or otherwise, up to a maximum of 2.45% of revenues (provided that such revenues have been included in Gross Revenues), it being confirmed that any such amount paid or payable to the Tenant in excess of 2.45% of such revenues shall not be excluded pursuant to this paragraph (xii).

(d) Gross Revenues shall be calculated on an accrual basis, in accordance with generally accepted Canadian accounting principles consistently applied, or as otherwise Approved by Landlord and identified to the Tenant by Notice from time to time, provided that with respect to any arrangement with a Related Party, there shall be deemed to have been received or paid, as the case may be, consideration equal to the fair market value of the consideration that would have been received or paid, as the case may be, with respect to the same arrangement with a Person that was not a Related Party.

"**Guidelines**" mean the "Standards and Guidelines for Conservation of Provincial Heritage Properties" prepared by the Minister of Tourism and Culture, currently known as the Minister of Heritage, Sport, Tourism and Culture Industries, pursuant to section 25.2 of the *Ontario Heritage Act*, dated April 28, 2010, and effective July 1, 2010, as may be amended, superseded or replaced, from time to time.

"**Hazardous Substances**" means any contaminant, pollutant, dangerous substance, noxious substance, toxic substance, hazardous waste, flammable or explosive material, radio-active material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls and any other substance or material now or hereafter declared, defined or deemed to be regulated or controlled pursuant to Environmental Laws.

"**Heritage Deadline**" means, subject to Section 25.9, December 31, 2023.

"**Heritage Determinations**" means all of the determinations, consents and approvals required to be made in respect of the Lands as it relates to the Project, Permitted Use, and Works including with respect to any alterations, demolitions and/or Improvements and Major Changes, by the Minister, or Ministry, of Heritage, Sport, Tourism and Culture as the case may be, or other lawful authority or the Landlord pursuant to the *Ontario Heritage Act* or the Guidelines and "Heritage Determinations" means any one such determination, consent or approval as the context requires.

"**Heritage Impact Assessment**" or "**HIA**" means an assessment of the impact of proposed activities on the cultural heritage value and the heritage attributes of a provincial heritage property, as required by the Guidelines, as the same may be amended or replaced from time to time;

"**Heritage Restrictions**" means any easement or other restriction, requirement, or agreement in respect of the Lands and/or the Project required by the Heritage Determinations, in each case the form and substance of which shall be in the sole discretion of the lawful authority making the Heritage Determination.

"**HIA First Submission**" means a Heritage Impact Assessment suitable for submission to the City in support of the OPA/ZBA Applications;

"**HIA Second Submission**" means a Heritage Impact Assessment, satisfactory to the Landlord, for submission to the Minister of Heritage, Sport, Tourism and Culture Industries for review and consideration;

"**Improvements**" means all buildings and all fixed improvements, appurtenances, or facilities, now or hereafter located on the Lands and includes any additions thereto or modifications or replacements thereof; for greater certainty, "Improvements" do not include: (i) trade fixtures, lighting equipment and FF&E not affixed to the Lands; (ii) furniture, fixtures and equipment for office and ticket areas not affixed to the Lands; and (iii) furniture, fixtures and equipment owned by concessionaires whether affixed to the Lands or not.

"**Incremental Environmental Costs**" means, collectively, those development, construction, remediation, management, mitigation and/or operating costs (or applicable portions thereof) incurred by the Tenant with respect to the Project, in each case that are incurred as a result of the existence of the Landlord Contaminants and/or the RMM and provided that such costs have been incurred by the Tenant in a commercially reasonable manner,, and in accordance with generally accepted engineering and environmental practices (including any costs that arise by reason of a change in laws that requires remediation, management and/or mitigation related to the Landlord Contaminants and/or the RMM). For greater certainty, Incremental Environmental Costs does not include costs that would have been incurred by the Tenant to manage, develop, construct or operate the Project had there been no Landlord Contaminants.

"**Indemnifier**" or "**Indemnitor**" means Therme Group RHTG AG or, if so elected by the Tenant from time to time, any other Person that satisfies (or group of Persons that together satisfy) the Financial Viability Test.

"**Indemnity Agreement**" means the indemnity agreement attached hereto as Schedule E.

"**Index Commencement Date**" means the later of the Commencement Date and the date on which the demolition work constituting Landlord Site Readiness Activities, except to the extent that such work is a Therme-Managed Concurrent Construction Activity, is completed.

"**Indirect Transfer**" means any transfer or issue by sale, assignment, mortgage, bequest, inheritance, operation of law or other disposition (including by way of conversion of conversion of debt into equity), or by subscription, directly or indirectly of any part or all of the corporate shares (or other securities) or partnership units of the Tenant which, in each case, would result in any change in the effective, direct or indirect Control of the Tenant, provided that, for so long as the Tenant is Therme Canada OP Inc. or any Affiliate thereof, an Indirect Transfer shall be deemed not to have occurred for so long as Therme Group RHTG AG directly or indirectly Controls the Tenant. For greater certainty, any transfer or issue by sale, assignment, mortgage, bequest, inheritance, operation of law or other disposition, or by subscription, directly or indirectly of any part or all of the corporate shares (or other securities) or partnership units of the Tenant which does not result in a change in the effective, direct or indirect Control of the Tenant does not constitute an Indirect Transfer (and is deemed not to constitute a Transfer) and, to the extent relating to more than a five (5%) interest in the Tenant, will require the notice to the Landlord. From the Lease Date to the expiry of the Term, Therme Group RHTG AG shall directly or indirectly retain Control of the Tenant (subject to any Permitted Transfer or any Transfer or Indirect Transfer effected in accordance with the terms of this Lease).

"**Inflation Factor**" means, on any date, a fraction which has as its numerator the Consumer Price Index for the period immediately preceding the period during which an amount is required to be adjusted by the application of the Inflation Factor (for the purposes of this definition, the "**Relevant Period**") and as its denominator the Consumer Price Index for the period immediately preceding the Relevant Period (for the purposes of this definition, the "**Preceding Period**"), provided:

(a) a mathematical adjustment in the Inflation Factor shall be made to take into account changes in the commodities used to calculate the Consumer Price Index from time to time; and

(b) if the Consumer Price Index for the Relevant Period is not available, the Consumer Price Index for the last month preceding the Relevant Period or Preceding Period for which the Consumer Price Index is available shall be the Inflation Factor.

When used in the context of applying an increase or modification equal to the Inflation Factor, the Inflation Factor shall be an amount equal to: (i) the amount determined above, expressed as a percentage, minus (ii) 100%.

"**Inflation Factor Holiday**" has the meaning ascribed thereto in Section 3.4.

"**Initial Environmental Deadline**" has the meaning ascribed to it in Schedule G.

"**Initial Environmental Obligations**" has the meaning ascribed thereto in Schedule G.

"**Initial Landlord's Site Readiness Activities**" means the activities and obligations described in Sections 4.1(d)(v) and 4.1(d)(vi).

"**Initial Lands Acquisition Deadline**" means, subject to Section 25.9, December 31, 2023.

"**Initial Master Development Agreement**" has the meaning ascribed thereto in Section 1.5(a).

"**Initial Outside Completion Date**" has the meaning ascribed thereto in Section 16.2(e)(ii).

"**Interest Rate**" means a rate of interest equal to the greater of: (i) eighteen percent (18%); or (ii) the Prime Rate plus five percent (5%), per annum calculated daily.

"**Interim Utility Services**" has the meaning as set out in Section 5(b)(vi) of Schedule G.

"**Interim Utility Services Deadline**" has the meaning ascribed to it in Schedule G.

"**Internal Rate of Return**" means the unlevered annual rate of return of historical EBITDA of the Project (as calculated in accordance with generally accepted accounting principles in Canada) over the initial cost to construct the Project and capital improvements thereafter. For clarity, unlevered means the internal rate of return irrespective of debt financing.

"**Lakefill Lands**" means that portion of the Lands approximately shown on Drawing 2 of Schedule A hereto until such time as the Reference Plan is delivered, and thereafter means that portion of the Lands shown as the Lakefill Lands on the Reference Plan (being those portions of the Lands that are to be created from the deposit of fill in the lake by the Tenant).

"**Landlord**" means Her Majesty the Queen in right of Ontario, as represented by the Ministry of Government and Consumer Services, and its successors and permitted assigns in accordance with this Lease, and shall include the Agent to the extent, and for the term, that the Agent becomes the agent of the Landlord or otherwise assumes any of the rights, responsibilities and obligations of the Landlord under this Lease. Notwithstanding the foregoing "Landlord" will not include the Agent in those limited instances in which the text differentiates between the Landlord and the Agent (such as in Section 18.6 and in this definition)

"**Landlord Contaminants**" means Hazardous Substances: (i) present in, on or under the Lands as of the Commencement Date (including any exacerbation, aggravation, migration, degradation and/or intensification thereof from time to time after the Commencement Date that is not caused by the Tenant or Tenant Person's negligence and/or the Tenant or Tenant Person's non-compliance with the RMM); (ii) resulting from any act or omission of the Landlord or any Landlord Person (it being confirmed that a contractor of the Tenant carrying out work or services on behalf of the Landlord shall, in such capacity, constitute a Landlord Person and not a Tenant Person); (iii) in, on or under the Therme Public Areas that were not caused or permitted by an act or omission of the Tenant or any Tenant Persons (including any licensee of the Tenant or contractor of the Tenant carrying out work or services on behalf of the Tenant); and/or (iv) that

escape, seep, leak, migrate, spill, discharge, emit or release from any off-site lands onto or into the Lands except if caused by the Tenant or Tenant Persons.

"**Landlord Contribution**" means the payment of the twenty-five million dollars ($25,000,000) contribution by the Landlord (of which fifteen million dollars ($15,000,000) shall be dedicated to the Shoreline Components and ten million dollars ($10,000,000) shall be dedicated to the eligible Therme Public Area Components).

"**Landlord Conveyance**" has the meaning ascribed thereto in Section 18.2(a)(i).

"**Landlord Delay**" means any breach or delay by the Landlord in satisfying any of its obligations under this Lease and/or any Material Ancillary Agreements, including any delay by the Landlord in granting or responding to any approval required from the Landlord pursuant to any such agreements, in each case beyond the prescribed times for satisfaction of such obligations.

"**Landlord Designated Maintenance/Repair Matters**" means those areas, aspects, components and/or matters of or relating to the Therme Public Areas and/or the Other Public Areas that are (or the cost of which are) designated as "Costs Recoverable by Province" or "Costs Non-Recoverable by Province" in accordance with Schedule "F", but does not include any components and/or matters of or relating to the "Transferred Operations and Maintenance Costs", until such time as they cease to be treated as such.

"**Landlord Event of Default**" means:

(a) the failure of the Landlord to pay when due any amounts pursuant to the terms of this Lease, including, without limitation, the failure to pay: (i) the Landlord Contribution (or any amount on account thereof) in accordance with Section 13 of Schedule G (or the corresponding provision of any Master Development Agreement); and (ii) the Incremental Environmental Costs in accordance with Article 8 herein that are not being disputed by the Landlord through the Dispute Resolution Procedure, and such failure has not been remedied within thirty (30) days after any such amount is due;

(b) the failure by the Landlord to perform covenants and obligations required under this Lease (other than (A) any covenants and obligations that are expressly addressed under separate paragraphs in this definition of "Landlord Event of Default", or (B) a failure to comply with Applicable Law, or (C) a Material Landlord Event of Default): (i) in the case of a failure capable of being remedied within thirty (30) Business Days, has not been remedied within thirty (30) Business Days following receipt of notice of such failure from the Tenant; and (ii) in the case of any such failure not capable of being remedied within the foregoing thirty (30) Business Days, the Landlord has not, with reasonable diligence following notice of such failure from the Tenant, commenced to remedy and diligently continued thereafter until such failure has been remedied;

(c) the failure by the Landlord to perform covenants and obligations required under Section 18.3 of this Lease (other than a Parking Dedicated Spaces Default): (i) in the case of a failure capable of being remedied within thirty (30) Business Days, has not been remedied within thirty (30) Business Days following receipt of notice

of such failure from the Tenant; and (ii) in the case of any such failure not capable of being remedied within the foregoing thirty (30) Business Days, the Landlord has not, with reasonable diligence following notice of such failure from the Tenant, commenced to remedy and diligently continued thereafter until such failure has been remedied (a "**Parking Facility Event of Default**");

(d) the Landlord prohibiting or restricting the Tenant or its invitees access to the Demised Premises without the Approval of the Tenant for a period that exceeds forty-eight (48) hours after the Tenant delivers Notice to Landlord that such breach has occurred, save and except in the case of an emergency or where such prohibition or restriction is otherwise expressly permitted by the terms of in this Lease; or

(e) the failure of the Landlord to maintain and repair the Other Public Areas in accordance with the terms of this Lease: (i) in the case of a failure capable of being remedied within thirty (30) Business Days, has not been remedied within thirty (30) Business Days following receipt of notice of such failure from the Tenant; and (ii) in the case of any such failure not capable of being remedied within the foregoing thirty (30) Business Days, the Landlord has not, with reasonable diligence following notice of such failure from the Tenant, commenced to remedy and diligently continued thereafter until such failure has been remedied; or

(f) any sale, transfer, assignment or other disposition that is in violation of Section 18.2(b); or

(g) the Landlord defaults under any of the Material Ancillary Agreements and such default is continuing beyond any applicable cure period set out in such Material Ancillary Agreement; or

(h) any violation of Section 22.1;

(i) the failure by the Landlord to comply with Applicable Law in respect of Ontario Place as determined by the applicable Governmental Authority, which failure has not been remedied by the date required by the applicable Governmental Authority pursuant to a notice, order or direction with respect to such failure;

(j) any breach of its obligations in Section 4.1(d);

(k) the failure by the Landlord to complete the Landlord's Site Readiness Activities described in Section 5(a)(i) of Schedule G hereto by the Permanent Utility Services Deadline, which failure has not been cured within 60 days of such deadline (regardless of whether or not the Tenant has delivered notice of such failure to the Landlord);

(l) the failure by the Landlord to complete the Landlord's Site Readiness Activities described in Section 5(a)(ii) of Schedule G hereto by the Demolition Deadline, which failure has not been cured within 60 days of such deadline (regardless of whether or not the Tenant has delivered notice of such failure to the Landlord);

(m) the failure by the Landlord to complete the Landlord's Site Readiness Activities described in Section 5(a)(iii) of Schedule G hereto by the Final Environmental Deadline, which failure has not been cured within 60 days of such deadline (regardless of whether or not the Tenant has delivered notice of such failure to the Landlord); or

(n) any Parking Dedicated Spaces Default.

"**Landlord Event of Default Liquidated Damages**" has the meaning ascribed thereto in Section 16.9(a).

"**Landlord Initial Obligations**" has the meaning ascribed thereto in Section 4.1(d).

"**Landlord Initial Obligations Deadline**" means, in the case of any particular Landlord Initial Obligation, the deadline therefor set out in Section 4.1(d).

"**Landlord LD Maximum Liability Cap**" has the meaning ascribed thereto in Section 16.9(a).

"**Landlord LD Maximum Liability Cap Increase Notice**" has the meaning ascribed thereto in Section 16.9(a).

"**Landlord Permits, Licences and Approvals**" means (a) those Heritage Determinations contemplated in Section 4.1(d)(ii); (b) the Zoning Approval; and (c) the EA Approvals; (d) all Permits, Licenses and Approvals required to complete the Landlord's Site Readiness Activities; and (e) all Permits, Licenses and Approvals that are identified in Appendix 2 of Schedule G as being the responsibility of the Landlord. For greater certainty, the Landlord Permits, Licences and Approvals exclude the Tenant Permits, Licences and Approvals.

"**Landlord Persons**" means: (i) the Landlord's Affiliates; (ii) all of the officers, directors, employees, agents, contractors and subcontractors of the Landlord or its Affiliates; and (iii) any other Person for whom the Landlord or any Affiliate of the Landlord is or may be legally responsible, but excluding in all cases elected representatives; and "Landlord Person" means any one of them.

"**Landlord Responsibility Areas**" means: (i) Other Public Areas, including all publicly accessible improvements, appurtenances, or facilities, now or hereafter located on the Other Lands and includes any additions thereto or modifications or replacements thereof; and (ii) the Other Lands that are not Other Public Areas and are not leased to an Adjacent Tenant, and includes, without limitation, the Public Plaza and the Parking Facility; in each case as the Other Public Areas, Other Lands, Public Plaza and Parking Facility may be altered, relocated, reconstructed, or reduced from time to time in accordance with the Lease.

"**Landlord Second Notice**" has the meaning ascribed thereto in Section 16.2(c).

"**Landlord's Insured Areas**" has the meaning ascribed thereto in Section 13.3.

"**Landlord's Site Readiness Activities**" has the meaning ascribed thereto in Section 5(a) of Schedule G.

"**Lands**" means those lands and premises within Ontario Place and approximately shown on Drawing 1 of Schedule A hereto until such time as the Reference Plan is delivered, and thereafter means the Lands shown on the Reference Plan.

"**Last Building Condition Report**" means the last Building Condition Report required to be delivered during the Term, as same may be extended, and which Building Condition Report shall be delivered no later than five (5) years prior to the expiry of the Term, as same may be extended.

"**Lease**" means this lease and all the Schedules annexed hereto, and all subsequent amendments duly executed by the Parties, and all documents which are referred to in this Lease and stipulated to form part of this Lease, and "herein" and "hereof" mean "in this Lease" and "of this Lease", respectively.

"**Lease Date**" means the date on which the Lease is executed and delivered by both the Landlord and the Tenant.

"**License Period**" has the meaning ascribed thereto in Section 10.1(i).

"**Leasehold Interest**" means the leasehold interest of the Tenant in the Demised Premises, created pursuant to this Lease, and all rights and obligations appurtenant thereto.

"**Leasehold Mortgage**" means a mortgage or charge of the Tenant's Interest or any part thereof (including by way of an assignment, sublease or otherwise), a debenture containing such a mortgage or charge, a trust indenture securing bonds, debentures or other evidences of indebtedness, in each case, which is in favour of a Leasehold Mortgagee and which conforms to the requirements of Article 15, securing the indebtedness of the Tenant; provided that if a Lien that qualifies as a Leasehold Mortgage subsequently ceases to secure any indebtedness or ceases to be registered in the Land Registry Office for the Land Titles Division at Metropolitan Toronto (No. 66) against the Tenant's Interest, then it shall thereupon cease to be a Leasehold Mortgage.

"**Leasehold Mortgagee**" means a lender (including a debenture-holder and a trustee under a trust indenture) who is not a Restricted Person and who is the holder of a Leasehold Mortgage in accordance with Article 15; provided that, if any Lien ceases to be a Leasehold Mortgage in accordance with the definition of Leasehold Mortgage, then the holder of such Lien shall no longer be a Leasehold Mortgagee for the purposes of this Lease.

"**Leasehold Mortgagee Agreement**" has the meaning ascribed thereto in Section 15.2.

"**Leasehold Security**" has the meaning ascribed thereto in Section 15.1(a).

"**Lien**" means a mortgage, security interest, writ of execution, pledge, lien, option, tax lien, statutory lien, construction lien, material man's lien or charge or encumbrance of any kind.

"**Live Nation**" means Live Nation Canada, Inc., its successors and assigns, as an Adjacent Tenant.

"**Maintenance Obligations**" has the meaning ascribed thereto in Section 10.1(g).

"**Major Change**" means, following the Completion of Construction, any redevelopment, expansion, restoration, replacement, alteration, addition, change or improvement to the Demised Premises or any part thereof which constitutes a material change to the then-existing Project but does not include any change to the interior design or functional services of the Project and does not include the construction of the Therme Public Area Components, the Shoreline Components or the Shoreline Repair contemplated in the Master Development Agreement.

"**Master Development Agreement**" means: (i) unless and until a Replacement Master Development Agreement has been entered into by the Parties, the Initial Master Development Agreement; and (ii) upon a Replacement Master Development Agreement being entered into by the Parties, the Replacement Master Development Agreement, in each case, as amended, supplemented or varied from time to time in accordance with the terms thereof.

"**Master Survey**" has the meaning ascribed thereto in Section 2.2.

"**Material Ancillary Agreement** means, collectively, (a) the Master Development Agreement, (b) the Leasehold Mortgagee Agreement, (c) the Heritage Restrictions, (d) each Therme-Managed Concurrent Construction Activities Agreement (if any); (e) each Coordination and Interface Agreement (if any); and (f) any other agreement that the Parties mutually agree in writing shall be a "Material Ancillary Agreement".

"**Material Contractor Agreement**" has the meaning ascribed thereto in Section 4.9.

"**Material Landlord Event of Default**" has the meaning ascribed thereto in Section 16.10.

"**Material Tenant Construction Event of Default**" has the meaning ascribed thereto in Section 16.2(e).

"**Material Tenant Construction Event of Default Damages**" has the meaning ascribed thereto in Section 16.2(e)(i).

"**Material Tenant Event of Default**" has the meaning ascribed thereto in Section 16.2(b).

"**Milestones**" or a "**Milestone**" means each stage of the development and construction of the Project and the expected completion date for each such stage.

"**Minimum Rent**" means: (i) in each of the first two (2) years following the Completion Date, an amount equal to 3.5% of three million five hundred thousand dollars ($3,500,000) per acre of the Core Lands; and (ii) in each year after the first two (2) years following the Completion Date, an amount equal to 3.5% of the Minimum Rent Indexed Land Value for such year.

"**Minimum Rent Indexed Land Value**" means, for the purpose of the determination of the Minimum Rent in any particular year: (i) as of the Index Commencement Date, three million five hundred thousand dollars ($3,500,000) per acre of the Core Lands, which

shall be increased by the Inflation Factor annually thereafter in accordance with Section 3.4(a) below (subject to the Inflation Factor Holiday); and (ii) as of each New Rent Commencement Date, the fair market value of the Core Lands determined in accordance with Section 3.4(c) below in respect of such New Rent Commencement Date, and, in each case, subject to annual modification in accordance with Section 3.4(a) below for each subsequent year until the next New Rent Commencement Date. For greater, greater certainty, if the Inflation Factor is negative, the Minimum Rent Indexed Land Value will not decrease.

"**Minister of Heritage, Sport, Tourism and Culture Industries**" means the Minister of Heritage, Sport, Tourism and Culture Industries, or any successor minister to whom the administration of the *Ontario Heritage Act* is assigned by the Lieutenant Governor in Council from time to time, the ministry thereof or any successor ministry, or the Deputy Minister of such ministry, as the context requires;

"**Minister of Municipal Affairs and Housing**" means the Minister of Municipal Affairs and Housing or any successor minister, the ministry thereof or any successor ministry, as the context requires;

"**Mitigation Plan**" has the meaning ascribed thereto in Section 8.2(b).

"**MPAC**" means the Municipal Property Assessment Corporation.

"**MZO**" means an order made by the Minister of Municipal Affairs and Housing pursuant to s. 47 of the *Planning Act*, as such provision may be amended, superseded or replaced from time to time, providing for the zoning for the Lands, as such order may be amended or replaced from time to time, by the Minister of Municipal Affairs and Housing;

"**Net Worth**" means the book value of the assets owned by the Person in question as determined within the twelve (12) month period immediately preceding the time of determination of Net Worth, as recorded in the then most recent audited or (if the Landlord, acting reasonably, is satisfied with such reviewed unaudited statements) reviewed unaudited quarterly financial statements of that Person, prepared in accordance with generally accepted accounting principles in any member of the "07" countries (as appropriate, on the basis of the location of the assets and the jurisdiction to which the Person would otherwise submit in preparing financial statements as required to be considered in connection with this definition), or in another country Approved by the Landlord, consistently applied, less the liabilities of that Person at that time, calculated in accordance with the same generally accepted accounting principles applied in calculating the book value of the assets of the Person, in accordance with the foregoing.

"**New Rent Commencement Date**" means each of the twentieth (20th), fortieth (40th) and sixtieth (60th) anniversaries of the Completion Date.

"New Rent Determination Date" has the meaning ascribed thereto in Section 3.4(d).

"**Notice**" means any notice given in compliance with Section 25.5.

"**Offer**" has the meaning ascribed thereto in Recital A.

"**Official Word Mark**" has the meaning ascribed thereto in Section 21.1.

"***Ontario Heritage Act***" means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, R.S.O. 1990, c. O.18, as may be amended, superseded or replaced;

"**Ontario Place**" means, as of the Lease Date, those lands and premises shown within the boundary shown on Drawing 5 of Schedule A of which the Lands form a part, and thereafter, subject to Section 6.1, means Ontario Place shown on the Master Survey. Upon the acquisition of the City Lands, Ontario Place shall include the City Lands.

"**OTC**" has the meaning ascribed thereto in Section 9.5(a).

"**Other Lands**" means those parts of Ontario Place other than the Lands. The Other Lands (as constituted on the date hereof) are as approximately shown on Drawing 6 of Schedule A hereto until such time as the Master Survey is delivered, and thereafter, means the Other Lands shown on the Master Survey.

"**Other User Charges**" means all subleasing and facility rental or licensing rents, fees and charges, including, without limitation, all "access" fees or similar fees or charges payable by the Tenant's concessionaires or other Persons operating on the Lands, whether payable at the commencement of the term of the arrangement between the Tenant and such concessionaires or other Persons or at another time or times, whether characterized and/or billed as a reimbursement by such concessionaires or Persons of the Tenant's costs in operating the Project, or as a payment on account of a capital expense, or otherwise.

"**Other Public Areas**" means those parts of Other Lands to be developed and maintained as public access areas, as the same may be altered, relocated, reconstructed, or reduced from time to time, for the non-exclusive use and enjoyment of visitors and users of Ontario Place, including the Tenant and its invitees.

"**Parking Dedicated Spaces Default**" has the meaning ascribed thereto in Section 16.9(c)(v).

"**Parking Facility**" means the one or more parking facilities located within 650 metres from the Entrance Pavilion, as the same may be altered, relocated, reconstructed, or reduced from time to time provided that any such alteration, relocation, reconstruction or reduction shall not result in there being fewer than one thousand six hundred (1,600) Parking Spaces in the aggregate.

"**Parking Facility Completion Date**" has the meaning ascribed thereto in Section 18.3(a).

"**Parking Facility Event of Default**" has the meaning ascribed thereto in subsection (c) of the definition of "Landlord Event of Default".

"**Parking Facility LD Payment**" has the meaning ascribed thereto in Section 16.9(c)(v).

"**Parking Space**" means a single standard size passenger car parking space.

"**Party**" means any of the parties to this Lease from time to time.

"**Performance Payments**" has the meaning ascribed thereto in Section 3.6(a).

"**Performance Rent**" means, for any particular Fiscal Year: (i) the greater of (i) an amount equal to 2.45% of Core Gross Revenues (excluding sales tax) for such Fiscal Year, less the amount paid or payable by the Tenant as Minimum Rent for such Fiscal Year; and (ii) zero.

"**Performance Rent Holiday**" has the meaning ascribed thereto in Section 3.6(e).

"**Performance Rent Holiday Period**" has the meaning ascribed thereto in Section 3.4(a).

"**Performance Security**" has the meaning ascribed thereto in Section 3.2(d).

"**Permanent Utility Services Deadline**" has the meaning ascribed thereto in Section 5(b) of Schedule G.

"**Permits, Licenses and Approvals**" means the Landlord Permits, Licences and Approvals and the Tenant Permits, Licences and Approvals.

"**Permitted Closures or Stoppages**" means closures and stoppages as required (a) pursuant to Applicable Law or an emergency, or (b) as a result of undertaking work in compliance with any Building Condition Report, capital works/replacements plans, Major Changes or maintenance plans that, in each case, reasonably require closure of the Project or stoppage of construction work thereon.

"**Permitted Encumbrances**" means, as of the Lease Date, and at any time and from time to time thereafter:

(a) the reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown;

(b) subdivision agreements, site plan control agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other agreements with Governmental Authorities or private or public utilities affecting the development or use of the Lands;

(c) any easements or rights of way over the Therme Public Areas in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining land owner;

(d) the CPU that is obtained by the Landlord in accordance with the terms of the Lease relating to the Landlord's Site Readiness Activities, including any RMM set out in the CPU;

(e) notices of lease in respect of leases in favour of other tenants of Ontario Place, provided such leases do not impact or relate or adversely affect in any way to the Demised Premises, adversely impact the rights of the Tenant hereunder;

(f) one or more Heritage Restrictions;

(g) any registrations required in connection with the redevelopment of the Lands and Ontario Place, including any registrations required in connection with the Permits, Licenses and Approvals;

(h) the specific encumbrances listed on Schedule J. and

(i) any other Lien expressly agreed by the Landlord and the Tenant after the Lease Date to be a Permitted Encumbrance,

provided that, in the case of any Liens described to in clauses (b), (c), (e) and (g), unless such Lien is listed in Schedule J, such Lien shall not be a Permitted Encumbrance if it adversely affects the construction, financing and/or operation of the Project.

"**Permitted Programming Arrangements**" has the meaning ascribed thereto in Section 14.3(b)(ii).

"**Permitted Third Party Subletting**" has the meaning ascribed thereto in Section 14.3(b)(i).

"**Permitted Transfer**" means any of the following:

(a) a Transfer or Indirect Transfer to an Affiliate, other than a Restricted Person;

(b) a transfer of the stock of the Tenant or its Affiliates that does not result in any change in the effective, direct or indirect Control of the Tenant, other than any such transfer to a Restricted Person;

(c) a Transfer or Indirect Transfer in connection with a Leasehold Mortgage, other than to a Restricted Person;

(d) an Indirect Transfer or other transfer, issuance or offering of stock of the Tenant or any of its Affiliates, in each case, in which either: (i) the primary purpose was not to effect an indirect transfer of this Lease and/or the Project; or (ii) the net asset value of the Project constitutes less than thirty (30%) percent of the net asset value of all of the assets directly or indirectly owned by the Tenant or such Affiliates, as the case may be, in each case other than to a Restricted Person; or

(e) an Indirect Transfer or other transfer, issuance and/or offering of stock of the Tenant or any of its Affiliates on, through or over a recognized stock market or exchange or securities traded thereon.

"**Permitted Transferee**" means any Transferee pursuant to a Permitted Transfer.

"**Permitted Use**" means the use of the Demised Premises primarily as a thermal spa and indoor and outdoor aquatic facility (similar to other global Therme facilities), and certain ancillary and supplemental uses including, conference and banquet uses (but not dedicated conference and banquet facilities), restaurants, cafes, bars, gardens, aquariums, swimming areas, waterslides and a waterpark, uses consistent with or ancillary to the Therme Public Area Components, retail space and service treatment areas, exhibition areas, and other leisure and free time attractions and fun, cultural,

health, wellness and relaxation activities and programming, in each case which shall be open for admission to the general public, and in accordance with the terms of this Lease.

"**Person**" or "**person**" means an individual, partnership, firm, corporation, syndicate, trust or unincorporated organization, and includes a government, agency, or political subdivision thereof.

"**PILTS**" means payment in lieu of taxes.

"***Planning Act***" means the *Planning Act,* R.S.O. 1990, c. P.13, as may be amended, superseded or replaced from time to time.

"**Post-Handover Landlord Site Readiness Activities**" has the meaning ascribed thereto in Section 4.1(e).

"**Prescribed Spaces**" means Parking Spaces that satisfy each of the following criteria: (i) are within 650 metres from the Entrance Pavilion; and (ii) upon construction of the permanent Parking Facility that the Landlord is constructing: (A) are in the parking facility that is closer to the Entrance Pavilion than any other parking lot/facility constructed by the Landlord; and (B) there can be no Parking Spaces designated for the exclusive use by an Adjacent Tenant and its invitees that are closer to the Entrance Pavilion than the Parking Spaces within 650 metres from the Entrance Pavilion dedicated to and available for use by the Tenant and its invitees.

"**Prime Rate**" for any day means the prime lending rate of interest expressed as a rate per annum (computed on a year of 365 or 366 days, as the case may be, and the actual number of days elapsed) which the main Toronto branch of the National Bank of Canada establishes from time to time as the reference rate of interest in order to determine interest rates it will charge for loans made in Canada in lawful money of Canada, as the same is in effect from time to time and the declaration by the said branch shall be final and conclusive. The Landlord may from time to time by Notice to the Tenant designate the Landlord's principal bank as its reference bank for the purpose of determining the Prime Rate in accordance with this definition.

"**Project**" means the year-round, inclusive and diverse, family-oriented, indoor and outdoor aquatic facilities focused on fun, health, wellness and relaxation, to be constructed and operated by the Tenant on the Lands pursuant to the terms of and conditions of this Lease and the Material Ancillary Agreements. Where applicable, the "Project" includes the Therme Public Areas.

"**Programming**" means health, wellness and art programming activities to be provided by the Tenant on the Demised Premises, in accordance with the Permitted Use.

"**Property Taxes**" has the meaning ascribed thereto in Section 9.1(b)(ii).

"**Protection Program**" has the meaning ascribed thereto in Section 11.3(a).

"**Province**" means Her Majesty the Queen in right of Ontario.

"**Public Area Licensing Conditions**" has the meaning ascribed thereto in Section 2.3(e).

"**Public Areas Standard**" means in compliance with the initial open space and public realm standards attached hereto as Schedule I and other open space and public realm standards for Ontario Place as a whole as determined by the Landlord from time to time, acting reasonably and in good faith.

"**Public Communication**" means one of, and "**Public Communications**" mean more than one of, any format of communication made to, or intended to be made to, the public in connection with this Lease, the Project, the identity of the Tenant, and any matters relating to any of the foregoing made and distributed through any form of media, including but not limited to:

(a) oral communication, such as a speech, interview or public presentation;

(b) written communication, such as a report, news release, op-eds, media quotes;

(c) any communication distributed electronically, by website, social media or other means; and

(d) marketing communications such as paid advertisements through television, radio, digital and out of home (i.e. billboards, public posters, etc.),

provided that no Public Communication may be made in respect of the Excluded Information or any matters relating thereto.

"**Public Plaza**" means, as of the Lease Date, that portion of Ontario Place approximately shown on Drawing 8 of Schedule A hereto, until such time as the Master Survey is delivered, and thereafter, subject to Section 6.1, means the Public Plaza shown on the Master Survey.

"**Qualifying Public Area Licensing**" means licensing by the Tenant of the Therme Public Areas that complies with the Public Area Licensing Conditions.

"**Records**" has the meaning ascribed thereto in Section 3.8(c).

"**Regime Change Date**" means the latest of the following: (i) the date that all of the Landlord Initial Obligations are completed; (ii) the date the SPA is obtained or the Enhanced MZO has been issued; and (iii) the First Permit Date.

"**Related Party**" means a Person which is either directly or indirectly owned or Controlled by the Tenant, or which, either directly or indirectly owns or Controls the Tenant, or which is an Affiliate or Associate of the Tenant, or which is not dealing at "arm's length" with the Tenant, provided that if any contract, sub-lease or arrangement with a Related Party contains terms similar to those entered into between parties dealing at arm's length, and has been Approved by the Landlord, then such party shall not be deemed to be a Related Party for the purposes of such contract, sublease or other arrangement. For the purposes of this definition, it is a question of fact whether Persons not related to each other were at a particular time dealing with each other at arm's length.

"**Relevant Major Change**" means any Major Change that would constitute a Change Requiring Landlord Approval, provided that in addition thereto: (i) any increase to the

footprint of the main Therme building; (ii) any Major Change that the Landlord in good faith determines would requires the Landlord to engage in a duty to consult with respect to such Major Change; and/or (iii) any Major Change that the Landlord in good faith determines is subject to the Guidelines, shall be deemed to be a Relevant Major Change.

"**Remediation Plan**" has the meaning ascribed thereto in Section 8.1(c).

"**Remediation Standards"** means the *Soil, Groundwater and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act (July, 2011)* applicable to the Lands, as may be amended, succeeded and/or replaced, and/or site-specific soil, groundwater and sediment standards developed for the Lands through a Risk Assessment.

"**Rent**" means, collectively, all Base Rent and Additional Rent.

"**Replacement Cost of the Facility**" means the estimated construction cost (including all planning and development costs) that it would cost on the Termination Date to build a facility of substantially the same size, quality and standard as the existing Project, using contemporary materials and finishes (of no worse quality) and standards and modern technologies and a quality of workmanship of no worse than the standards of the existing Project.

"**Replacement Master Development Agreement**" has the meaning ascribed thereto in Section 1.5(b).

"**Required Repairs**" has the meaning ascribed thereto in Section 10.1(e).

"**Restricted Person**" means any person who, or any member of a group of persons acting together, any one of which:

(a) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada or Ontario;

(b) has directly or indirectly, involvement in illegal business (being illegal in Canada), including but not limited to the illegal manufacture, sale, distribution or promotion of narcotics substances or arms, or is or has been involved in terrorism;

(c) in the case of an individual, (i) has been convicted of any indictable offence, less than five years prior to the date at which the consideration of whether such individual is a "Restricted Person" is made hereunder , whether or not such person received a custodial sentence; or (ii) has been sentenced to a custodial sentence, other than a suspended sentence, for any regulatory offence other than under the *Highway Traffic Act* (Ontario) or corresponding legislation in any other jurisdiction less than five years prior to the date at which the consideration of whether such individual is a "Restricted Person" is made hereunder;

(d) in the case of a person other than an individual, (i) if it or any of the members of its (or its general partner's) board of directors or its senior executive managers has been convicted of any indictable offence less than five (5) years prior to the date at which the consideration of whether such person is a "Restricted Person"

is made hereunder, whether or not such person received a custodial sentence; or (ii) any of the members of its (or its general partner's) board of directors or its senior executive managers has been sentenced to a custodial sentence, other than a suspended sentence, for any regulatory offence other than under the *Highway Traffic Act* (Ontario) or corresponding legislation in any other jurisdiction less than five years prior to the date at which the consideration of whether such person is a "Restricted Person" is made hereunder;

(e) has as its business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;

(f) has been convicted of, or determined by a Court to have committed, fraud against the Province, which conviction or determination has not been reversed on appeal; or

(g) has a material interest in the production of tobacco products.

"**Risk Assessment**" means a risk assessment conducted in general accordance with the requirements set out in Ontario Regulation 153/04 under the *Environmental Protection Act* including, without limitation, RMM, if any, that must be incorporated into the proposed development of the Project.

"**RMM**" means, collectively, any risk management measures identified in the Risk Assessment and/or described in any CPU(s) or the RSC(s) issued for the Lands.

"**RSC**" means a Record(s) of Site Condition that is applicable to the Lands, as defined in and satisfying all applicable requirements under Part XV.1 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and regulations thereunder (as amended from time to time) or under any successor or replacement legislation.

"**Rules and Regulations**" means all rules and regulations established in accordance to Section 25.1.

"**Sales Taxes**" means without duplication all harmonized sales, goods and services, value added, sales, use, consumption or other similar taxes of whatever name imposed by the Government of Canada or by any provincial or local government or any other entity having jurisdiction.

"**Schematic Design Materials**" means materials outlining the design of the Project, which include but are not limited to the schematic designs of the Project, the architectural design plans and the concept working drawings.

"**SCP**" means a Strategic Conservation Plan as defined in the Guidelines for Ontario Place, as the same may be amended or replaced from time to time.in respect of Ontario Place.

"**Severe Market Disruption**" means any occurrence of exceptional circumstances in financial markets in Europe, the United States of America and/or Canada, which:

(a) result in the suspension or cessation of all or substantially all lending activity in national or relevant international capital or interbank markets; and

(b) materially adversely affect access by the Tenant to such markets.

"**Shoreline Component**" means, collectively, the following shoreline construction, which is required to accommodate the Therme Public Areas: north shoreline extension, west shoreline improvement and beach, west headland/south shore/east headland shoreline improvement and extension, and east shoreline, as well as associated hard and soft landscaping, all as further described and illustrated in the Schematic Design Materials and the applicable Construction Documents.

"**Signage Standards**" means the standards applicable to signage at Ontario Place, as determined by the Landlord from time to time.

"**Site Plan Application**" includes an application for the approval of plans and drawings pursuant to Section 114 of the *City of Toronto Act, 2006.*

"**Sole Discretion**" means, sole, absolute, and unfettered discretion which may be exercised as determined by the applicable party for any reason or no reason at all.

"**SPA**" means the final approval of plans and drawings for all or any part of the Lands pursuant to Section 114 of the *City of Toronto Act, 2006* by the City.

"**Standard**" means the standard generally prevailing, from time to time, for equivalent first-class leisure facilities located in North America that are reasonably comparable to the Project, provided that for so long as the Tenant is an Affiliate of Therme Group RHTG AG, the standard shall be that of a first class standard that is no less than that of other Therme facilities of comparable size and structure, provided further that, in the case or context of any Therme Public Areas (or any Therme Public Area Components or Shoreline Components), "Standard" means the Public Areas Standard.

"**Submitted Design**" means (i) for the purposes of Section 4(d) of Schedule G, the design, plans, drawings and specifications in respect of the Project reflected in the Detailed Design Materials as they exist, and have been submitted to the Landlord for the purpose of the submission (or re-submission) of the OPA/ZBA Application, on the later of: (A) August 31st, 2022 and (B) the date that is 31 days prior to the date on which the Province submits (or re-submits as a result of changes required by the City, if applicable) the OPA/ZBA Application. For greater certainty, any changes to the Submitted Design required for a resubmission to the City shall be limited to those changes, if any, that the Tenant makes in response to comments from the City and/or required by the City; and (ii) for all other purposes, the design, plans, drawings and specifications in respect of the Project reflected in the Detailed Design Materials actually submitted (or re-submitted) to the City in support of the OPA/ZBA Application in accordance with Section 4(d) of Schedule G.

"**Substantial Destruction**" means damage to or destruction of a portion or portions of the Project by reason of fire or any other peril, such that either: (i) the cost of repair and replacement of the damaged portion of the Project exceeds fifty percent (50%) of the fair market value of the Project at the date of damage or destruction; or (ii) the cost of repair and replacement of the damaged portion of the Project exceeds fifty percent (50%) of

the cost of the construction of such portion, as such cost of construction is adjusted by the Inflation Factor for the period from the date of such construction to the date of such damage or destruction.

"**Target Completion Date**" has the meaning ascribed thereto in Schedule G.

"**Taxes**" means the total of: (a) all taxes, rates, levies, duties and assessments whatsoever levied, charged, imposed or assessed against Ontario Place or upon the Landlord in connection with its ownership thereof or from time to time by a taxing authority, and any taxes or other amounts that are imposed or paid in lieu thereof (including payments in lieu of Taxes) or in addition thereto, including, without limitation, taxes levied, charged, imposed or assessed for education, school and local improvements and all business taxes, if any, from time to time payable by the Landlord or levied against the Landlord on account of its ownership or interest in Ontario Place; and (b) all costs and expenses incurred by the Landlord in good faith in contesting, resisting or appealing any such taxes, rates, duties, levies or assessments, to the extent such resistance or appeal is approved or requested by the Tenant, including, without limitation, legal fees on a solicitor and client basis. Taxes shall also include any professional fees and interest and penalties on deferred payments but excluding income or profits taxes upon the income of the Landlord.

"**Tenant**" means Therme Canada OP Inc., its successors and permitted transferees of the Tenant's Interest.

"**Tenant Delay**" means any breach or delay by the Tenant in satisfying any of its obligations under this Lease and/or any Material Ancillary Agreements, including any delay by the Tenant in granting or responding to any approval required from the Tenant pursuant to any such agreements, in each case beyond the prescribed times for satisfaction of such obligations.

"**Tenant Designated Maintenance/Repair Matters**" means those areas, aspects, components and/or matters of or relating to the Therme Public Areas that are not Landlord Designated Maintenance/Repair Matters.

"**Tenant End of Lease Demolition Obligations**" means, collectively: (i) the removal of all buildings on the Lands to the extent reasonably practicable (it being confirmed that those portions of the Project that are not practical to remove (such as pillars in the bedrock) or cannot be removed without ruining the re-usability of otherwise re-usable materials, in each case as determined by the Landlord, acting reasonably, shall not be required to be removed); (ii) capping of utilities, etc., in a good, workmanlike and safe manner, in compliance with all Applicable Law; (iii) the Lands cleared of debris; and (iv) the remediation in accordance with all Environmental Laws of any Contamination caused by the Tenant's construction or operation of the Project, as would a prudent owner. The Tenant End of Lease Demolition Obligations shall not include any work or cost, whether required by the Landlord, Applicable Law or any other person, with respect to the Landlord Contaminants (including any work or cost that arises by reason of any changes in law applicable to such Landlord Contaminants).

"**Tenant Event of Default**" means (and for greater certainty, it shall not be a Tenant Event of Default until the expiry of the applicable cure period set forth in this definition and the applicable breach remains uncured):

(a) the failure of the Tenant to pay when due any portion of Rent and/or Sales Taxes thereon, and such failure has not been remedied (i) in the case of Base Rent and recurring Additional Rent, and/or any Sales Taxes thereon, within five (5) Business Days of such Base Rent, recurring Additional Rent, and Sales Taxes becoming due and payable, or (ii) in the case of any non-recurring Additional Rent that constitutes Rent under this Lease, and Sales Taxes thereon, within ten (10) Business Days after notice that such amount is due and payable has been delivered to the Tenant under this Lease;

(b) the failure by the Tenant to perform covenants and obligations required under this Lease (other than (A) any covenants and obligations that are expressly addressed under a separate paragraph in this definition of "Tenant Event of Default", and (B) a failure to comply with Applicable Law), which failure: (i) in the case of a failure capable of being remedied within thirty (30) Business Days, has not been remedied within thirty (30) Business Days following receipt of notice of such failure from the Landlord; and (ii) in the case of any such failure not capable of being remedied within thirty (30) Business Days, the Tenant has not, with reasonable diligence following notice of such failure from the Landlord, commenced to remedy and diligently continued thereafter until such failure has been remedied;

(c) the failure by the Tenant to comply with Applicable Law in respect of Ontario Place as determined by the applicable Governmental Authority (which, for purposes of this clause (c), shall not include the Landlord or the Agent), which failure has not been remedied by the date required by that applicable Governmental Authority pursuant to a notice, order or direction with respect to such failure;

(d) the failure of the Tenant to actively pursue or cause to be pursued, and make reasonable efforts to obtain or cause to be obtained, all Tenant Permits, Licenses and Approvals in in accordance with its obligations under this Lease and the Master Development Agreement, and the Tenant fails to commence to remedy such default on or before the expiration of the tenth (10th) Business Day from the date on which Landlord delivers Notice to Tenant that such failure of the Tenant occurred and diligently continue thereafter to use reasonably efforts to obtain or cause to be obtained all Tenant Permits, Licenses and Approvals in accordance with its obligations under this Lease;

(e) the failure of the Tenant to provide or cause to be provided any performance bonds required under this Lease within the time periods stipulated in this Lease, and the Tenant fails to remedy or cause to be remedied such default within ten (10) Business Days after the date on which Landlord delivers Notice to Tenant that such failure of the Tenant occurred;

(f) if: (i) the Tenant defaults under any loan, financing or security documents to which the Tenant is party with a third party lender, and such default is continuing beyond any applicable cure period set out in such documents, if such failure has not been remedied within thirty (30) days following the date on which the cure period under any such loan, financing or security document has expired; or (ii) the Tenant defaults under any of the Material Ancillary Agreements and such

default is continuing beyond any applicable cure period set out in such Material Ancillary Agreement;

(g) a Transfer or Indirect Transfer occurs for which Approval of the Landlord is required but not obtained;

(h) the occurrence of an Event of Bankruptcy in respect of the Tenant or the Indemnifier;

(i) if the Tenant makes a sale in bulk of all or substantially all of its assets, other than as part of or in connection with a Transfer or Indirect Transfer that is permitted under this Lease (or Approved by the Landlord);

(j) subject to Permitted Closures or Stoppages, if the Tenant prohibits or restricts access of the public to the Therme Public Areas without the Approval of the Landlord;

(k) if a Lien (other than (i) a Permitted Encumbrance, (ii) a Tenant Permitted Encumbrance, or (iii) any Lien that results from the terms of Schedule B hereof) is registered against any portion of the Lands in breach of the Tenant's obligations under Section 19.4(c) or Section 20.4(a) of this Lease and such Lien is not discharged or vacated within ten (10) Business Days after the date on which the Tenant becomes aware of such registration;

(l) subject to Permitted Closures or Stoppages, either (i) abandonment of the Project following Completion of Construction of the Project or (ii) the Tenant ceasing to operate the Project at any time following Completion of Construction of the Project for a period of more than thirty (30) consecutive Business Days;

(m) subject to Permitted Closures or Stoppages, if the Tenant fails to comply with its obligations hereunder with respect to Required Repairs and such failure continues for a period of six (6) months after the date on which the Tenant receives a request in writing from the Landlord to carry out such Required Repairs;

(n) subject to Permitted Closures or Stoppages, the failure of the Tenant to remove any Major Change, if required by the Landlord pursuant to Section 10.7(i) hereof and (i) in the case of a failure capable of being remedied within thirty (30) Business Days, has not been remedied within thirty (30) Business Days following receipt of notice of such failure from the Landlord, and (ii) in the case of a failure not capable of being remedied within thirty (30) Business Days, the Tenant has not, with reasonable diligence following notice of such failure from the Landlord, commenced to remedy and diligently continued thereafter until such failure has been remedied;

(o) any violation of Section 5.1(a), 5.1(b), and 5.1(d) hereof;

(p) any violation of Section 21.1; and/or

(q) any Therme Public Area Construction Default.

"**Tenant Information**" has the meaning ascribed thereto in Section 25.11(b).

"**Tenant Landlord Initial Obligations Date Delay**" means: (i) any Tenant Landlord's Permits, Licenses and Approvals Delay; and/or (ii) any Tenant Landlord's Site Readiness Activities Delay.

"**Tenant Landlord's Permits, Licenses and Approvals Delay**" means the failure on the part of Tenant or any Tenant Person to satisfy any obligation(s) under this Lease and/or any Material Ancillary Agreement to be satisfied by the Tenant within a specific period of time required under this Lease (if this Lease and/or such Material Ancillary Agreement sets a specific period of time for the satisfaction of such obligation(s)), or within a reasonable period of time (if this Lease and/or such Material Ancillary Agreement does not set a specific period of time for the satisfaction of such obligation(s)), in each case that prevents, or causes a delay in, the Landlord's receipt of any of the Landlord's Permits, Licenses and Approvals, including, without limiting the generality of the foregoing, to the extent required pursuant to this Lease and/or any Material Ancillary Agreement: (i) any failure on the part of the Tenant to provide the Landlord with those supporting materials which are the responsibility of the Tenant (including any such drawings, plans, specification and reports) in accordance with the delivery deadlines and subject to the review and notification process set out in Schedule G), (ii) any failure on the part of the Tenant to respond to requests by the Landlord and/or any Governmental Authority to respond to questions regarding such supporting materials or provide supplemental supporting materials within a reasonable period of time (if this Lease and/or such Material Ancillary Agreement does not set a specific period of time for the satisfaction of such obligation) or within such specific period of time (if this Lease and/or such Material Ancillary Agreement sets a specific period of time for the satisfaction of such obligation), (iii) the failure of the Tenant to deliver the draft and HIA Second Submission to the Landlord for the Approval of the Landlord in accordance with Section 4.8(b). Notwithstanding the foregoing, "Tenant Landlord's Permits, Licenses and Approvals Delay" shall not include any failure on the part of the Tenant and/or any Tenant Persons in satisfying any of its obligations under this Lease and/or any Material Ancillary Agreements to provide materials, information, documentation, responses and/or cooperation where the expiry of the express or implied period of time or reasonable time to do so occurs more than thirty (30) days after the applicable Landlord Initial Obligation Deadline.

"**Tenant Landlord's Site Readiness Activities Delay**" means the failure on the part of Tenant or any Tenant Person to satisfy any obligation(s) under this Lease and/or any Material Ancillary Agreement to be satisfied by the Tenant within a specific period of time required under this Lease (if this Lease and/or such Material Ancillary Agreement sets a specific period of time for the satisfaction of such obligation(s)), or within a reasonable period of time (if this Lease and/or such Material Ancillary Agreement does not set a specific period of time for the satisfaction of such obligation(s)), in each case that prevents, or causes a delay in, the Landlord's completion of any of the Landlord's Site Readiness Activities by the deadlines required pursuant to this Lease and/or the Master Development Agreement.

"**Tenant LD Maximum Liability Cap**" has the meaning ascribed thereto in Section 16.1(a).

"**Tenant LD Maximum Liability Cap Increase Notice**" has the meaning ascribed thereto in Section 16.1(a)(i).

"**Tenant Permits, Licences and Approvals**" means all permissions, consents, approvals, certificates, permits, licences, agreements and authorizations to be obtained and/or performed by the Tenant (other than consents and approvals of the Landlord pursuant to this Agreement) to satisfy the Tenant's obligations in accordance with this Lease and the Master Development Agreement and as required by Applicable Law, including those that are the responsibility of the Tenant to obtain as set out in Appendix 2 of Schedule G, but does not include: (i) any Landlord Permits, Licences and Approvals; and/or (ii) any permissions, consents, approvals, certificates, permits, licences, agreements and authorizations to be obtained and/or performed for the completion of the Landlord's Site Readiness Activities and/or the delivery and satisfaction of the Landlord Initial Obligations.

"**Tenant Permitted Encumbrance**" means, as of the Lease Date and at any time and from time to time thereafter, (a) any registration in respect of this Lease in accordance with Section 25.6 hereof, (b) any registration in respect of a Leasehold Mortgage, (c) subdivision agreements, site plan control agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other agreements with government authorities or private or public utilities affecting the development or use of the Lands, (d) any easements or rights of way in favour of any Governmental Authority, any public or private utility or any railway company, (e) any registrations required in connection with the redevelopment of the Lands, including any registrations required in connection with the Tenant Permits, Licenses and Approvals, and (f) any Liens that the Landlord and the Tenant agree may be registered against the Lands or the Other Lands in accordance with Schedule B.

"**Tenant Persons**" means: (i) the Tenant's Affiliates; (ii) all of the officers, directors, employees, agents, contractors and subcontractors of the Tenant or its Affiliates; and (iii) any other Person for whom the Tenant or any Affiliate of the Tenant is or may be legally responsible.

"**Tenant Repairs**" has the meaning ascribed thereto in Section 10.1(a).

"**Tenant Responsibility Areas**" means the Project, the Lands and all fixtures and furnishings, including the FF&E, within the Project other than the Therme Public Areas, in each case, save and except for the Landlord Responsibility Areas and the Therme Public Areas.

"**Tenant's Costs**" has the meaning ascribed thereto in Section 3.7(a).

"**Tenant's Insured Areas**" has the meaning ascribed thereto in Section 13.2(a).

"**Tenant's Interest**" means, at any time, the Leasehold Interest and the interest of the Tenant in the Improvements at that time.

"**Tenant's Proportionate Share**" means the Tenant's proportionate share determined by the Landlord on the basis of the proportion of the area of the Lands relative to the area of the land forming part of Ontario Place, or such other larger assessed site as may from time to time be applicable, as a whole.

"**Term**" means the period commencing on the Commencement Date and expiring on the Expiry Date.

"**Termination Agreement**" has the meaning ascribed thereto in Section 20.4(e).

"**Termination Date**" has the meaning ascribed thereto in Section 17.1(a).

"**Therme Public Area Components**" means those portions of the Public Areas used for any of the following, as shown on Drawing 1 of Schedule A hereto until such time as the Master Survey is delivered, and thereafter means the Therme Public Area Components as shown on the Master Survey: (a) Ontario gardens and wetlands; (b) canoe and kayak area & swimming piers; (c) a multi-use pathway; and (iv) a public beach; and "**Therme Public Area Component**" means any one of them, as such Therme Public Area Components are more particularly described on the Schematic Design Materials.

"**Therme Public Area Construction Default**" means any default by the Tenant in its obligations under Section 13 of Schedule G hereof (or of the corresponding provisions of any Master Development Agreement) which results in the failure of the Therme Public Area Components, Shoreline Components or Shoreline Repair to be Completed by the deadline therefor set out in such Section 13 of Schedule G (or corresponding provisions).

"**Therme Public Area Gross Revenues**" means Gross Revenues that are not Core Gross Revenues.

"**Therme Public Areas**" means those parts of Lands shown on Drawing 1 of Schedule A attached hereto until such time as the Master Survey is delivered, and thereafter means the Therme Public Areas as shown on the Master Survey, to be developed and maintained as public access areas and accessible to members of the general public without paid admission to the Lands, which include the Therme Public Area Components.

"**Therme Public Areas Deadline**" has the meaning ascribed thereto in Section 13(c) of Schedule G.

"**Therme Public Areas Notice**" has the meaning ascribed thereto in Section 3.5(e).

"**Therme Self-Managed Expenses**" has the meaning ascribed thereto in Section 3 of Schedule F hereto.

"**THESL**" has the meaning ascribed thereto in Section 9.5(a).

"**Transfer**" means an assignment, sublease, transfer or parting with possession or operation of the Lands, the Project or this Lease, and "**Transferee**" and "**Transferor**" shall have corresponding meanings.

"**Transferred Operation and Maintenance Costs**" has the meaning ascribed thereto in Section 3.5(e).

"**Triggers Completion Date**" has the meaning ascribed thereto in Section 9(b) of Schedule G.

"**Utility Charges**" means the cost of supplying all utility services to the Demised Premises, including all connection and meter charges, and all costs incurred for electricity, steam, water, gas, oil and other utilities required in connection with the use and operation of the Demised Premises, but, for greater certainty, does not include the cost of completing the Landlord's Site Readiness Activities.

"**Utility Services**" means water mains, storm and sanitary sewer lines, hydro cables and conduits, telephone and communication cables and conduits, cablevision cables and conduits, gas mains and lines, heating cables and lines, and any similar service or facility.

"**Value Recovery Assignment**" means an assignment as described in Section 16.2(d)(ii)(A) and in Section 16.2(d)(iii)(A).

"**Warning Notice**" has the meaning ascribed thereto in Section 16.2(c).

"**Warning Period**" has the meaning ascribed thereto in Section 16.2(e)(ii).

"**Water Lots**" means those water areas immediately physically adjacent to the West Island of Ontario Place to the south and west, which are connected to the shoreline of Ontario Place, to the extent owned by the Province, and which are shown on Drawing 4 of Schedule A hereto until such time as the Master Survey is delivered, and thereafter means the Water Lots shown on the Master Survey. For greater certainty, "Water Lots" shall not include any water areas adjacent to the shoreline water lots, notwithstanding that those water areas may also be owned by the Province.

"**Water Lots Licensed Area**" means that portion of the Water Lots shown on Drawing 3 of Schedule A hereto.

"**Water Lots View Corridor Lands**" means that portion of the Water Lots shown on Drawing 4 of Schedule A hereto until such time as the Master Survey is delivered, and thereafter they are defined as shown in the Master Survey

"**Works**" means the design, construction, installation, testing and completion of the Project, the Shoreline Components and Shoreline Repair, including the Improvements and Major Changes, rectification of any minor deficiencies, and any other activities required to enable or facilitate the commencement of the operation of the Tenant's commercial activities on the Demised Premises including all work done on the Demised Premises by or on behalf of the Tenant, and all work under the Permits, Licences and Approvals, and which may include (but is not limited to) the excavation of the Lands, site preparation.

"**Zoning Approval**" means the re-zoning approval obtained by the Landlord in respect of the Lands necessary to permit the construction, operation and maintenance of the Project and the Permitted Uses, in accordance with the Submitted Design, which approval may be granted by the City of Toronto, through changes and amendments to the applicable zoning by-law(s) of the City and the City's official plan, or through the enactment of an MZO or Enhanced MZO by the Minister of Municipal Affairs and Housing at his/her discretion.

"**Zoning Approval Deadline**" means, subject to Section 25.9, December 31, 2023.

1.2 Interpretation

This Lease shall be interpreted and construed in accordance with the following provisions:

(a) the captions to Sections and any provided table of contents are for convenience of reference only and in no way define, limit, enlarge or affect the scope or intent of this Lease or its interpretation;

(b) this Lease is to be construed and enforced in accordance with the laws of the Province of Ontario and of Canada applicable therein as an Ontario contract;

(c) all of the provisions of this Lease shall be construed as covenants as though the words importing such covenants were used in each separate provision of this Lease;

(d) no supplement, modification or waiver of or under this Lease shall be binding unless executed in writing by the Party to be bound thereby, and no waiver by a Party of any provision of this Lease shall be deemed or shall constitute a waiver by such Party of any other provision or a continuing waiver unless otherwise expressly provided;

(e) all the terms and provisions of this Lease, including the definitions, shall be binding upon the Parties and enure to the benefit of the Parties and the same shall be construed as covenants running with the land (but this shall not permit or imply any permission enabling any Party to assign its rights under this Lease except pursuant to the express provisions of this Lease);

(f) the singular or masculine includes the plural or feminine or body corporate or politic wherever the context or the Parties so require;

(g) 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;

(h) where this Lease states that an obligation shall be performed “on”, “by”, “before”, “prior to”, a stipulated date or day, 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;

(i) 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 Lease 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";

(j) all monetary references shall refer to Canadian dollars;

(k) references to the Term in this Lease shall include the Extension Term, if applicable, unless otherwise expressly stated to the contrary;

(l) references in this Lease to any enactment, including any statute, law, by-law, regulation, ordinance or order, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time; and

(m) if any provision of this Lease is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the consequences of such holding (if they have a material effect on the then balance of this Lease) shall be as agreed upon by the Landlord and the Tenant, or, falling such agreement, as determined by a court of competent jurisdiction.

1.3 Calculation of Time Periods

When calculating the period of time within which or following which any act is to be done or steps taken pursuant to this Lease, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day.

1.4 Schedules

The Schedules to this Lease comprise part hereof and are identified as follows:

Schedule A – Ontario Place and the Lands
Schedule B – Construction Licenses and Operating Period Rights
Schedule C – Termination Agreement
Schedule D – Dispute Resolution Procedure
Schedule E – Indemnity Agreement
Schedule F – Operation and Maintenance Costs
Schedule G – Master Development Agreement Terms
Schedule H– Leasehold Mortgage Agreement
Schedule I – Initial Open Space and Public Realm Standards
Schedule J – Permitted Encumbrances

1.5 Master Development Agreement

(a) The Parties acknowledge and agree that, unless and until replaced in accordance with Section 1.5(b), the provisions of Schedule G constitute a binding and enforceable master development agreement between the Parties (the "**Initial Master Development Agreement**"); provided, for greater certainty, that such master development agreement shall terminate upon the termination of this Lease. All disputes, controversies, or claims arising out of or relating to matters with respect to the master development agreement shall be resolved in accordance with the provisions of Schedule D of this Lease (unless otherwise provided in Schedule G).

(b) If requested by either Party, the Parties shall act reasonably and in good faith to attempt to agree on, and execute, a master development agreement that incorporates the terms set out in Schedule G and supplements such terms with customary, non-substantive, provisions (a "**Replacement Master Development Agreement**"). If a Replacement Master Development Agreement is executed by the Parties, it shall replace the Initial Master Development Agreement.

1.6 Lease Summary

The following is a summary of some of the basic terms of this Lease, which are elaborated upon in this Lease.

(a)	**Lands:**	Those lands located at Ontario Place, comprising of an area of approximately 21.88 acres more or less, as described in Schedule A attached hereto.
(b)	**Term:**	commencing on the Commencement Date and expiring on the date that is seventy-five (75) years following the earlier of: (i) the Completion Date, and (ii) the thirty-sixth (36th) month after the Construction Commencement Date.
(c)	**Commencement Date:**	See Section 1.1.
(d)	**Expiry Date:**	See Section 1.1.
(e)	**Base Rent:**	See Section 3.2.
(f)	**Use of the Demised Premises permitted by this Lease:**	See definition of "Permitted Uses" and Section 5.1.
(g)	**Extension Option(s):**	One (1) Extension Term of twenty (20) years, subject to Section 2.1(b) hereof.
(h)	**Deposit:**	A cash deposit (or deposit of readily available funds) in the amount of five million dollars ($5,000,000), to be adjusted, held and applied in accordance with the terms of the Lease.
(i)	**Address for Service of Notice on Tenant:**	[redacted]

[redacted]

(j) Address for Service of Notice on Landlord:

Ontario Infrastructure and Lands Corporation
1 Dundas Street West, Suite 2000
Toronto, Ontario M5G 1Z3
[redacted]

With a copy to:

Ontario Infrastructure and Lands Corporation
1 Dundas Street West, Suite 2000
Toronto, Ontario M5G 1Z3
[redacted]

(k) Payment of Rent:

Payments to be made by wire transfer of immediately available funds to the following account (as may be revised by the Landlord on not less than 15 Business Days' prior written notice to the Tenant).

[redacted]

ARTICLE 2
DEMISE, TERM AND NATURE OF LEASE

2.1 Demise and Term

(a) The Landlord agrees to lease to the Tenant and the Tenant agrees to lease from the Landlord, the Lands for the Term. The Landlord hereby leases to the Tenant the Lands for the Term commencing on the Commencement Date. It is confirmed that there is no demise of the Lands prior to the Commencement Date. The Term shall end on the Expiry Date, unless this Lease has been extended or terminated before the Expiry Date in accordance with the terms hereof.

(b) Provided that there is not then a Material Tenant Event of Default that has occurred and is continuing, and further provided that there have not been habitual Material Tenant Events of Default during the term, the Tenant shall have the right to extend this Lease for one (1) further term of twenty (20) years (the "**Extension Term**"), upon the following terms and conditions:

(i) The Tenant shall provide the Landlord with written notice at least thirty-six (36) months prior to the Expiry Date.

(ii) The Extension Term shall be upon the same terms and conditions of this Lease, except: (A) there shall be no provision for any Landlord's work, rent free period, tenant allowance or other tenant inducements; (B) there shall be no further extension term; and (C) the Minimum Rent Indexed Land Value and the Base Rent Ceiling Indexed Land Value shall be re-evaluated effective as of the first day of the Extension Term in accordance with Section 3.4(c) hereof as if the first day of the Extension Term is a New Rent Commencement Date.

(iii) The Landlord may, at its option, require that the Tenant enter into an amendment prepared by the Landlord to give effect to the extension terms provided for in Section 2.1(b)(ii) above.

2.2 Master Survey

By no later than August 31, 2022, the Landlord shall instruct its surveyor, at the Landlord's sole cost and expense, to: (i) prepare a survey showing the boundaries of the Core Lands, the Lakefill Lands, the Lands, the Therme Public Area Components, the Therme Public Areas, and the Water Lots, and the boundaries, as of the Lease Date, of Ontario Place, the Other Lands, the Public Plaza, and the Water Lots Licensed Area, in each case accurately reflecting the boundaries set out in the sketch attached hereto as Schedule "A" and incorporating such minor revisions to the Core Lands, the Lakefill Lands, the Therme Public Area Components, and/or the Therme Public Areas which have been proposed by the Tenant by Notice to the Landlord by no later than August 1, 2022 and Approved by the Landlord (the "**Master Survey**"); and (ii) prepare and register a reference plan (the "**Reference Plan**") against Ontario Place showing the boundaries of the Lands and the Lakefill Lands as shown on the Master Survey. The Landlord shall register the Reference Plan at its sole cost and expense as soon as reasonably possible following the Landlord's receipt of same.

The Parties agree that the Master Survey shall be attached to the Lease, and shall form part of Schedule A attached hereto.

2.3 Therme Public Areas

(a) The Parties acknowledge and agree that, notwithstanding that the Therme Public Areas are wholly located within the Lands and notwithstanding any right of the Tenant to conduct commercial activities on the Therme Public Areas pursuant to this Lease, the Therme Public Areas shall at all times constitute areas that are open and accessible by members of the general public, without any requirement for payment for access or any entrance fee to the Project. For greater clarity, all other portions of the Lands shall be for the exclusive possession and use by the Tenant.

(b) The Tenant shall have the exclusive right to carry out commercial activities and programming on the Therme Public Areas (including any Shoreline Components).

(c) Except to the extent any costs are included as Costs Recoverable by the Province, form part of the Landlord's Site Readiness Activities or are matters that are the responsibility of the Landlord pursuant to this Lease, the Master Development Agreement or any other Material Ancillary Agreement, the Tenant shall be solely responsible for the costs of developing, constructing and maintaining the Therme Public Areas. All costs and revenues from the operation of the Tenant's commercial activities on the Therme Public Areas (including any Shoreline Components) shall be for the account and benefit of the Tenant (without any requirement to share with the Landlord or any Adjacent Tenants), provided that the foregoing shall not apply to any revenues that are determined to constitute Core Gross Revenues.

(d) To the extent constructed, the Landlord acknowledges and agrees that the Tenant shall be entitled to conduct commercial activities on the portions of the Shoreline Components and the Therme Public Areas, such that the Tenant shall have the right to conduct commercial activity on up to thirty (30%) of the gross area of the Therme Public Areas (the "**30% Entitlement**"). For greater certainty, if and to the extent constructed:

(i) the entirety of such Shoreline Components shall at all times constitute Therme Public Areas notwithstanding any entitlement to conduct commercial activities on such areas; and

(ii) the Tenant acknowledges and agrees that the Therme Public Areas shall at all times remain open to, and accessible by the public, without any requirement for payment for access or any entrance fee to the Project;

(e) The Tenant shall not enter into transactions or structure its operations for the purpose of avoiding Performance Rent, shall act in good faith in allocating or characterizing Gross Revenues between Core Gross Revenues and Theme Public Area Gross Revenues (the foregoing being referred to as the "**Public Area Licensing Conditions**"). To the extent in compliance with the Public Area Licensing Conditions, the licensing by the Tenant of the Therme Public Areas shall not count towards (or be limited by) the Permitted Third Party Subletting or Permitted Programming Arrangements thresholds set out in Section 14.3(b) nor be prohibited by the provisions of Article 14.

(f) If at any time the Landlord does not believe the Tenant is entitled to conduct any particular commercial activity on the Therme Public Areas, it shall forthwith notify the Tenant. It is confirmed that any commercial activity on the Therme Public Areas must comply with both Section 5.1 hereof and the 30% Entitlement. The Dispute Resolution Procedure set out in Schedule D hereof shall apply to any dispute between the Parties regarding the entitlement to conduct any particular commercial activity on the Therme Public Areas.

For greater certainty, the Landlord acknowledges that no default in respect of the Tenant's obligations or breach by the Tenant of this Section 2.3 shall constitute a Material Tenant Event of Default or otherwise entitle the Landlord to terminate this Lease.

Notwithstanding anything to the contrary contained in this Lease, the Master Development Agreement or any other Material Ancillary Agreement, without limiting the

generality of the provisions of Section 25.9, the Tenant shall not be in breach of its obligations (or penalized in any manner) if, to the extent and at such times, that it is not reasonably possible to carry out its obligations with respect to the maintenance, repair and/or operation of the Therme Public Areas (including the Therme Public Area Components, the Shoreline Components and the Shoreline Repair) as a result of higher or lower lake levels, provided that the Tenant shall carry out such obligations when reasonably possible.

2.4 Nature of Lease

It is the intention of the Parties that this Lease be absolutely net to the Landlord, and that, except as expressly set out in this Lease, the Master Development Agreement and/or any other Material Ancillary Agreement, the Landlord shall not be responsible for any expenses or obligations of any kind whatsoever in respect of or attributable to the Demised Premises.

2.5 Planning and Development Matters

(a) The Parties recognize that: (i) there are planning and development matters for the Project that are entirely within a Party' control; (ii) there are planning and development matters for the Project that are not entirely within either Party's control but where the Province has certain statutory rights to effect planning and development approvals; and (iii) there are planning and development matters for the Project that are not at all within Provincial control.

(b) As regards planning and development matters for the Project falling within Section 2.5(a)(i) and/or (ii), the Landlord, and where appropriate the Tenant, will engage with the City and other stakeholders in a spirit of cooperation, recognizing that the City owns certain parts of the Lands and controls certain development approvals and other matters necessary for the operation of the Project, and the Parties will cooperate in the spirit of partnership (although no partnership is created by this Lease) in order to achieve the desired outcome in the most efficient and timely manner possible, provided that in no event shall: (i) the Landlord be responsible, in whole or in part, for obtaining the Tenant Permits, Licences and Approvals (the obtaining of which shall remain the responsibility of the Tenant); and/or (ii) the Tenant be responsible, in whole or in part, for obtaining the Landlord Permits, Licences and Approvals (the obtaining of which shall remain the responsibility of the Landlord).

2.6 Financial Information

(a) On or before the Commencement Date and as a condition precedent in favour of the Landlord, the Tenant shall deliver, or cause to be delivered, to the Landlord, the most recent audited financial statements of the Indemnitor.

(b) The Tenant further covenants to deliver or cause to be delivered to the Landlord (the "**Financial Information**"):

(i) updated audited financial statements of the Indemnitor demonstrating that the Indemnitor can satisfy the Net Worth Test on or prior to the Construction Commencement Date, in respect of the year ending no earlier than 2023; and

(ii) on or prior to the Construction Commencement Date, evidence of the debt financing commitment received from its lenders in respect of the construction of the Project or otherwise evidence of sufficient equity contribution to self-fund the construction of the Project.

(c) In the event that the Tenant fails to provide the foregoing Financial Information when required hereunder, it shall be a Tenant Event of Default, subject to a cure period of thirty (30) Business Days. In order to cure the foregoing Tenant Event of Default, the Tenant may add additional Indemnitors to the Indemnity Agreement (by joinder agreement) so as to satisfy the Net Worth Test. The Tenant shall be prohibited from commencing with the construction of the Project until such time as it is able to provide the Financial Information in satisfaction of the above to the Landlord.

2.7 "As Is" Condition

The Tenant acknowledges and agrees that, except as expressly provided in this Lease, the Master Development Agreement and/or the other Material Ancillary Agreements:

(a) it has thoroughly investigated the Lands and the condition thereof, is satisfied with the results of its diligence in respect of same, is relying upon its own investigations of the Lands and its determination of the viability of the Project, and is accepting the Lands in an "as is" condition, including the Permitted Encumbrances, but subject to completion of the Landlord's Site Readiness Activities and the performance of the obligations of the Landlord under this Lease and the Material Ancillary Agreements (and the rights and remedies of the Tenant in respect thereof), without representation or warranty from the Landlord as to zoning, suitability of the Lands, environmental or geotechnical matters, site servicing or anything else whatsoever other than as expressly provided in this Lease, the Master Development Agreement and the other Material Ancillary Agreements;

(b) the Landlord has made no representations and warranties relating to: (i) the Lands or the Tenant's use of the Lands and the Landlord does not make any representation or warranty whatsoever to the Tenant that the contemplated use of the Lands is permitted under Applicable Law or any applicable zoning by-laws, regulations, rules or codes applicable to the Lands; (ii) the fitness of the Lands for use, physical condition, environmental condition or soil and subsoil condition; (iii) the size, quality, quantity, fitness for purpose of the Lands; or (iv) any other matter or thing affecting or related to the Lands. The Tenant acknowledges that it has not relied upon any representation or warranty or upon any offering material or other information furnished to the Tenant by the Landlord or any other person or entity including, without limitation, any reports, studies or assessments provided to the Tenant by or on behalf of the Landlord. As part of the Tenant's acceptance of the Lands "as-is, where-is" without legal warranty as to quality, and not as a limitation on such agreement but subject to the completion by the Landlord of the Landlord Site Readiness Activities and the performance by the Landlord of its obligations under this Lease and the Material Ancillary Agreements (and the rights and the remedies of the Tenant in respect thereof), the Tenant hereby unconditionally and irrevocably waives any and all actual or potential rights the Tenant might have against the Landlord regarding (i) any form

of warranty, express or implied, of any kind or type, other than those expressly set forth in this Lease and/or the Material Ancillary Agreements, or (ii) the condition of the Lands (whether in relation to environmental or physical matters). Such waiver is absolute, complete, total and unlimited in every way. Such waiver includes, but is not limited to, a waiver of express warranties, implied warranties, warranties of fitness for a particular use, warranties of merchantability, warranties against eviction, warranties of occupancy, strict liability rights, and Claims of every kind and type, including, but not limited to, claims regarding defects which might have been discoverable, claims regarding defects which were not or are not discoverable, and all other extent or later created or conceived of strict liability or strict liability type claims and rights; and

(c) the Landlord shall have no obligations with respect to any Improvements, including any alterations, or with respect to any renovations or repairs of or to any portion of the Demised Premises, all of which shall be completed by the Tenant at its sole cost and expense in accordance with the provisions of this Lease, save and except for the Landlord's obligations under this Lease, the Master Development Agreement and the other Material Ancillary Agreements (including the Landlord's obligation to complete the Landlord's Site Readiness Activities); and the Tenant accepts this Lease and the Lands subject to the Permitted Encumbrances, and this Lease shall be subordinate thereto and the Tenant shall comply therewith. The Landlord covenants and agrees to discharge from title any Liens that are not Permitted Encumbrances on or before the Commencement Date.

2.8 Ownership of Project

(a) Subject to Section 2.8(b)*,* throughout the Term the Project and all furnishings, fixtures and equipment affixed and/or attached thereto and/or to the Lands from time to time, and all replacements thereof, alterations thereto, additions thereto, changes thereof, substitutions thereof or improvements thereto shall be the property of the Tenant.

(b) Notwithstanding Section 2.8(a), except to the extent contemplated in this Lease (including, without limitation, Article 16, Section 17.1 and Section 20.4), upon the expiry or earlier termination of this Lease, full and absolute ownership of the Project (excluding, for greater certainty, the Tenant's trademarks, names or other identification) shall vest in the Landlord automatically and without any further documentation or action and without the payment of any additional consideration beyond what is contemplated in this Lease.

2.9 Non-Exclusive License

(a) The Landlord hereby grants to Tenant a non-exclusive license, effective from and after the Commencement Date to and including the end of the Term, to access the Water Lots Licensed Area solely for the purpose of the Tenant repairing and maintaining the Demised Premises.

(b) The Tenant covenants:

(i) not to make any alterations or improvements to the Water Lots Licensed Area;

(ii) to abide by and conform to, and cause the Tenant's authorized users to abide by and conform to Applicable Laws (including, without limiting the generality of the foregoing, the *Environmental Protection Act* (Ontario), the *Canadian Navigable Waters Act* (Canada), the *Great Lakes Protection Act, 2015* (Ontario), the *Conservation Authorities Act* (Ontario), the *Lakes and Rivers Improvement Act* (Ontario), and the *Beds of Navigable Waters Act* (Ontario)) with respect to the access to the Water Lot Licensed Area and with all reasonable rules, regulations and orders as may be established by the licensor from time to time with respect to the access to the Water Lots Licensed Area;

(iii) ensure that no part of the Water Lots Licensed Area: (i) contains any Contaminants (other than Landlord Contaminants) caused by the Tenant or Tenant Persons or (ii) is used, without limitation, by the Tenant or any Tenant Person, to generate, store, or release any Hazardous Substances except in strict compliance with all Environmental Laws; and

(iv) to accept the Water Lots Licensed Area on an "as is, where is" basis.

(c) The Tenant's obligations under Article 13 shall apply, *mutatis mutandis*, with respect to the Tenant's use (and the use by Tenant Persons) of the Water Lots Licensed Area, and the Tenant shall, throughout the Term, and any Extension Term, maintain insurance in connection with its use (and the use by Tenant Persons) of the Water Lots Licensed Area (and the provisions of Article 11 of this Lease shall apply, *mutatis mutandis* with respect thereto).

ARTICLE 3
RENT

3.1 Covenant to Pay Rent

Subject to Section 3.2, the Tenant covenants with the Landlord that the Tenant will, during the Term, commencing on the Commencement Date, pay to the Landlord when due and payable all Rent provided in accordance with this Lease. For greater certainty, notwithstanding the foregoing or anything to the contrary contained in this Lease, in no event will any Base Rent (including Minimum Rent and Performance Rent) be payable or accrue with respect to the period prior to the Completion Date.

3.2 Deposit and Performance Security

(a) As security for the performance by the Tenant of its obligations hereunder (including under the Master Development Agreement), concurrently with the execution of this Lease, the Tenant shall deliver, or cause to be delivered, to the Landlord's solicitors, in trust, a deposit in the amount of $5,000,000 (the "**Deposit**"), to be held and applied as provided in this Section 3.2(a) and Sections 3.2(c) and (d) (and for no other purpose). The Deposit shall be invested by the Landlord's solicitors, with any interest thereon being added to the Deposit and treated the same for the purposes of this Lease. Notwithstanding the

foregoing, on the Commencement Date, the Tenant shall have a one-time right to replace the Deposit with a letter of credit, such letter of credit to be in a form and from a Canadian Schedule I chartered bank or other bank acceptable to the Landlord, acting reasonably, and it shall:

(i) permit the Landlord to draw on the Deposit to pay any amount owing by the Tenant to the Landlord pursuant to the Master Development Agreement or this Lease that has not been paid within four (4) days of such amount being due and payable by the Tenant; and

(ii) to the extent not drawn pursuant to (i) above, be applied to the payment of Rent during the first year of the Term that has not been paid within (4) four days of such Rent being due and payable by the Tenant (it being confirmed that there can be no Tenant Event of Default for non-payment of Rent to the extent that there are sufficient funds remaining to be drawn on the Deposit to satisfy such obligation); and

(iii) provide that it may be drawn from time to time by the Landlord in the circumstances described in (i) and (ii) above.

(b) To the extent a letter of credit is provided, the Tenant shall ensure that the Deposit is renewed or replaced prior to its expiry date until the date on which the Deposit is returned to the Tenant.

(c) Any portion of the Deposit which has not been drawn on by the Landlord in accordance with the provisions of the Master Development Agreement as of the date immediately prior to the Completion Date shall be held by the Landlord and applied to the Rent first due and payable under and pursuant to this Lease, if such Rent has not been paid within four (4) days of such Rent being due and payable by the Tenant. At the end of the first year of the Term, any portion of the Deposit which has not been drawn by the Landlord in accordance with the provisions of this Lease shall be forthwith returned to the Tenant and may thereupon be cancelled or permitted to expiry by the Tenant.

(d) If this Lease is terminated and there are liquidated damages payable by the Tenant to the Landlord in accordance with Article 16, then the Deposit shall be applied to those liquidated damages. In the case of any amounts due and owing by the Tenant to the Landlord, other than in the case of a termination of this Lease, the Deposit may be applied by the Landlord to such amounts due and owing. In the case of a termination where there are no liquidated damages payable by the Tenant to the Landlord in accordance with Article 16, then the Deposit shall be returned to the Tenant (or any portion of the Deposit that remains). On or prior to the Commencement Date, the Tenant shall provide, or cause its design-builder to provide, to the Landlord, labour and material and performance bonds (collectively, the "**Performance Security**") as security for the Tenant's obligations under the Master Development Agreement and, in the case of the performance bond, including a dual obligee rider in favour of the Landlord; provided that, notwithstanding the foregoing, in no event shall the Tenant be required to provide the Performance Security to the Landlord less than thirty (30) Business Days after receipt by the Tenant of the Landlord's notice to the Tenant of the Commencement Date. The dual obligee rider will include any Leasehold

Mortgagee and will be subject to any Leasehold Mortgagee Agreement. The penal sum of each of the labour and materials bond and the performance bond shall be 50% of the contract price for the Contractor as set out in clause (a) of the definition of "Material Contractor Agreement".

3.3 Base Rent

(a) The Tenant shall pay, from and after the Completion Date (and not in respect of any period prior to the Completion Date), to the Landlord at the address provided in Section 1.6(j), or at such other place as designated by the Landlord, the annual amount set out in Section 3.3(b) hereof. Minimum Rent shall be payable in equal and consecutive monthly instalments in advance on the first day of each calendar month during the Term (after the Completion Date), and Performance Rent (if any) shall be payable in accordance with Section 3.6 below.

(b) From and after the Completion Date, Base Rent is payable as follows:

(i) in each of the first two (2) years following the Completion Date, the Minimum Rent for such year. For greater certainty, the Minimum Rent payable pursuant to this Section 3.3(b)(i) shall not be subject to adjustment in accordance with Section 3.4(a) below;

(ii) in each of the third (3rd), fourth (4th) and fifth (5th) years following the Completion Date, the Minimum Rent for such year; and

(iii) for each subsequent year, the sum of (A) the Minimum Rent for such year, and (B) the Performance Rent (if any) for such year (which Performance Rent shall by payable in accordance with Section 3.6 below),

but in no event shall the annual Base Rent payable in any lease year exceed the Base Rent Ceiling for such lease year. For greater certainty, no Base Rent shall accrue or be payable prior to the Completion Date.

(c) If the Completion Date is on a day other than the first day of a calendar month, the Tenant shall pay, upon the Completion Date, a portion of the Base Rent pro-rated on a per diem basis from the Completion Date to the end of the month in which the Completion Date occurs. Such payment shall be in addition to the first regular instalment of Base Rent payable during the first lease year and the first such regular installment shall be payable on the first day of the calendar month next following the Completion Date.

(d) For clarity, except as expressly provided in this Lease, the Tenant confirms that from and after the Completion Date, the Base Rent shall be payable each year of the Term whether or not the Tenant is operating its business in the Demised Premises. For greater certainty, notwithstanding the foregoing, no Base Rent shall accrue after the effective date of termination of this Lease.

3.4 Adjustment of Minimum Rent, Minimum Rent Indexed Land Value and Base Rent Ceiling Indexed Land Value

(a) The Minimum Rent Indexed Land Value shall be increased annually on the anniversary of the Index Commencement Date by the then-applicable Inflation Factor during the period from the Index Commencement Date to (but excluding) the New Rent Commencement Date, provided that the Minimum Rent Indexed Land Value shall be revised on each New Rent Commencement Date pursuant to Section 3.4(c) and thereafter increased annually on the anniversary of such New Rent Commencement Date by the then-applicable Inflation Factor during the period from such New Rent Commencement Date to (but excluding) the subsequent New Rent Commencement Date (or the end of the Term, in the case of the final New Rent Commencement Date) and provided further that there shall be no modification pursuant to this Section 3.4(a) on the first or second anniversary of the Completion Date (the "**Inflation Factor Holiday**"). The Parties agree that: (i) the Inflation Factor Holiday and the Performance Rent Holiday have been provided on the basis that the Tenant will spend not less than seven million five hundred thousand dollars ($7,500,000) in the aggregate, plus Sales Taxes, between the Completion Date and the sixth anniversary of the Completion Date (the "**Performance Rent Holiday Period**"), on promoting/advertising the Project to the public; (ii) the Tenant shall, within sixty (60) days following the sixth anniversary of the Completion Date, provide audited statements to the Landlord evidencing the amount that the Tenant has spent on promoting/advertising the Project to the public during the Performance Rent Holiday Period; (iii) if the audited statements show that the Tenant spent less than seven million five hundred thousand dollars ($7,500,000) in the aggregate, plus Sales Taxes, on promoting/advertising the Project to the public during the Performance Rent Holiday Period, the Tenant shall pay to the Landlord any shortfall within ten (10) days of the date that the Landlord receives such audited statements. For greater certainty, if the Inflation Factor is negative, the Minimum Rent Indexed Land Value will not decrease.

(b) The Base Rent Ceiling Indexed Land Value shall be modified (increased or decreased) annually on the anniversary of the Index Commencement Date by the then-applicable Inflation Factor during the period from the Index Commencement Date to (but excluding) the New Rent Commencement Date, provided that the Base Rent Ceiling Indexed Land Value shall be revised on each New Rent Commencement Date pursuant to Section 3.4(c) and thereafter modified (increased or decreased) annually on the anniversary of such New Rent Commencement Date by the then-applicable Inflation Factor during the period from such New Rent Commencement Date to (but excluding) the subsequent New Rent Commencement Date (or the end of the Term, in the case of the final New Rent Commencement Date), provided further that if the relevant Inflation Factor to be used for calculating such modification on any such anniversary is in excess of three (3.0%) percent it shall, for purposes of increasing the Base Rent Ceiling Indexed Land Value on such anniversary, be deemed to be three (3.0%) percent (it being confirmed that such deeming provision shall not apply to limit a negative Inflation Factor). For greater certainty, if the Inflation Factor is a negative amount (resulting from a fraction that is less than 1/1), the Base Rent Ceiling Indexed Land Value will decrease as a result of this Section 3.4(b).

(c) On each New Rent Commencement Date, the Minimum Rent Indexed Land Value and the Base Rent Ceiling Indexed Land Value shall be revised in accordance with this Section 3.4(c), using the following procedure:

(i) each of the Tenant and the Landlord shall appoint a qualified independent valuator to appraise the fair market value of the Core Lands for purposes of the Minimum Rent Indexed Land Value and the Base Rent Ceiling Indexed Land Value as of the New Rent Commencement Date;

(ii) if the lower of such appraisals is within ten (10%) percent of the higher of such appraisals, then fair market value of the Core Lands shall be the average of the two appraisals; and

(iii) if the lower of such appraisals is not within ten (10%) percent of the higher of such appraisals, then, unless the Landlord and the Tenant agree to take the average of the first two appraisals (notwithstanding that they are not within the required range), a third qualified independent valuator (who shall be appointed by the two qualified independent valuators appointed pursuant to Section 3.4(c)(i) above) shall prepare a third appraisal.

There is to be no communication between the two qualified independent valuators and the third independent valuator. The third independent valuator is to receive by way of a joint communication a copy of the information provided to the two independent valuators, but is not to receive a copy of the appraisals prepared by those valuators. No additional information is to be provided to the third independent valuator, provided that if the third independent valuator requests clarification or direction, any communication shall be subject to the Approval of the Landlord and the Approval of the Tenant. Upon receipt of the third appraisal report the Landlord and Tenant shall calculate the fair market value of the Core Lands as the average of the two closest values among the three appraisals (or, if the third appraisal is exactly the same amount apart from each of the first two appraisals, the fair market value of the Core Lands shall be determined by the amount reflected in the third appraisal). If, by the one hundred twentieth (120^{th}) day following the New Rent Commencement Date, only one appraisal by a qualified independent valuator has been prepared and delivered to the Parties, whether due to a delay by a valuator or a failure of a Party to appoint a qualified independent valuator, the non-submitting Party shall have a further sixty (60) day period to submit its appraisal, and thereafter if only one appraisal has been submitted, the fair market value of the Core Lands as at the New Rent Commencement Date shall be the value reflected in such one appraisal.

(d) Between the New Rent Commencement Date and the first calendar day of the month next following the month in which the fair market value of the Core Lands (and resulting Minimum Rent) has been re-evaluated in accordance with this Section 3.4 (or, if such first calendar day is less than ten (10) Business Days following such re-evaluation, then the first calendar day of the next following such next following month) (the "**New Rent Determination Date**"), for the purposes of the instalments on account of Minimum Rent payable by the Tenant prior to the New Rent Determination Date, the annual Minimum Rent shall be estimated to be the annual Minimum Rent payable in respect of the period immediately prior

to the New Rent Commencement Date plus the average of the last five (5) applicable Inflation Factors, and on the New Rent Determination Date there shall be an adjustment to the next installment of Minimum Rent payable to account for the over or under payment of Minimum Rent since the New Rent Commencement Date based on the instalments on account of Minimum Rent that have been paid on the basis of such estimate.

(e) The fair market value of the Core Lands for purposes of the Minimum Rent Indexed Land Value and the Base Rent Ceiling Indexed Land Value as of the New Rent Commencement Date is to be determined by each independent valuator on the basis that such lands are serviced, vacant and available (without taking into account in any way either the terms of, or the existence of, the Lease), excluding the value of the Project and any other Improvements, with highest and best use as land for development of well-being, recreational and/or leisure facilities consistent with land use controls applicable as at the Commencement Date. The fair market value of the Core Lands are to be established with the use of the direct comparison approach methodology and the conclusion is to be expressed on a unit rate per acre basis.

(f) For greater certainty, the determination of the Minimum Rent Indexed Land Value and the Base Rent Ceiling Indexed Land Value shall solely be determined in accordance with this Section 3.4, and the Dispute Resolution Procedure set out in Schedule D hereof shall not apply.

3.5 Operation, Maintenance and Repair Costs

(a) Responsibility and costs for applicable aspects of the operation, maintenance and repair of Ontario Place will be divided into the following three categories:

(i) Therme Self-Managed Expenses, for which the Tenant will be solely responsible;

(ii) Costs Recoverable by Province, for which the Landlord will be solely responsible and for which the Tenant will reimburse the Tenant's Proportionate Share in accordance with the provisions of this Section 3.5; and

(iii) Costs Non-Recoverable by Province, for which the Landlord will be solely responsible and for which the Tenant shall not be required to contribute or reimburse).

Where the context so suggests or requires, the terms "Therme Self-Managed Expenses", "Costs Recoverable by Province" and "Costs Non-Recoverable by Province" may refer to or include the underlying matter (operation, maintenance and/or repair) to which such costs relate and the responsibility for the underlying operation, maintenance and repair belongs to the Party that is incurring the costs thereof, regardless of the recoverability (it being confirmed that the Landlord shall be responsible for the operation, maintenance and repair of Costs Recoverable by Province and the Tenant shall be responsible for the operation, maintenance and repair of Therme Self-Managed Expenses).

(b) The Tenant shall be responsible for the Tenant's Proportionate Share of the costs of the Landlord in respect of the Costs Recoverable by Province as set out in Schedule F hereto. For greater certainty, the Cost Recoverable by Province shall not include any Costs Non-Recoverable by the Province or the Therme Self-Managed Expenses.

(c) Prior to the start of each Fiscal Year, the Landlord shall deliver to the Tenant its preliminary draft of the budget for the Costs Recoverable by Province for such Fiscal Year, together with an itemized summary of the costs and items included therein. The Landlord shall endeavour, acting commercially reasonable, to provide such draft budget, at least thirty (30) days prior to the start of each Fiscal Year, and shall, to the extent reasonably possible, collaborate and consult with the Tenant with respect to procurement by the Province in connection with any Costs Recoverable by Province, with a view to ensuring that such costs are reasonable and that the Tenant has an opportunity to provide its input and recommendations (and, where appropriate, obtain and deliver alternative proposals for) the budget and underlying Costs Recoverable by Province. Notwithstanding the foregoing or anything to the contrary, the Tenant acknowledges that it will not have an approval right with respect to the incurrence, procurement or budget for any Costs Recoverable by Province. The Landlord shall act reasonably and in good faith in: (i) preparing such draft(s) budgets (and any update(s) thereto) and incurring any Costs Recoverable by Province, having regard to market rates and any public sector contracting requirements applicable to the Landlord in respect thereof; and (ii) collaborating and consulting with the Tenant with respect to Costs Recoverable by Province. The Tenant shall pay the Tenant's Proportionate Share of the Cost Recoverable by Province in monthly instalments in advance together with other Rent payments provided for in this Lease, which monthly instalments shall initially be based on the budget delivered pursuant to this Section 3.5(c).

(d) The Therme Public Areas and Other Public Areas shall at all times be operated and maintained at and to a standard that meets or exceeds the Public Areas Standard.

(e) If the Landlord is not meeting the Public Areas Standard with respect to any responsibilities in respect of the Therme Public Areas forming part of Costs Recoverable by Province, the Tenant may deliver to the Landlord a Notice (each, a "**Therme Public Areas Notice**") specifying, with supporting evidence, the nature of such failure on the part of the Landlord and if the Landlord does not correct such failure within thirty (30) days of receipt of such Therme Public Areas Notice, the Tenant may, on not less than sixty (60) days' Notice to the Landlord, require that the Landlord transfer the obligations and responsibilities in connection with operation and maintenance costs in respect of the Therme Public Areas forming "Costs Recoverable by Province", in respect of which the Landlord has failed to meet the Public Areas Standard, to "Therme Self-Managed Expenses", in which case the associated costs and expenses shall no longer be included in the "Costs Recoverable by Province" and shall instead be "Therme Self-Managed Expenses" (for purposes of this Lease, any such transferred operation and maintenance costs are defined as "**Transferred Operation and Maintenance Costs**"), provided that the Tenant shall thereafter be entitled to set-off from its payments relating to Costs Recoverable by Province the amount

by which the Transferred Operation and Maintenance Costs (plus 15%) exceed the Tenant's Proportionate Share of what the Transferred Operation and Maintenance Costs had they not been transferred to the Tenant and instead remained as Costs Recoverable by Province. For greater certainty, the Landlord shall be entitled to dispute (using the Dispute Resolution Procedure) any allegation of a failure to satisfy its obligations and responsibilities with respect to the Costs Recoverable by the Province and no such operation and maintenance costs shall transfer while any such allegation is being disputed in good faith or until after the Landlord has had an opportunity to cure any such failure that has been ultimately determined or recognized. In connection with any transfer of Transferred Operation and Maintenance Costs, the Tenant shall act reasonably in the incurrence of costs associated with the Transferred Operation and Maintenance Costs and in considering whether to assume any binding agreements of the Landlord relating thereto, it being confirmed that it shall be reasonable for the Tenant to not assume any such agreement that: (i) has a remaining term that extends beyond the then-current Fiscal Year; (ii) requires the assumption of any obligations relating to the period prior to the transfer; (iii) relates to matters beyond the Transferred Operation and Maintenance Costs (and cannot be separated without the Tenant incurring any liability in connection with any other matters); and/or (iv) any other reasonable reason. The regime set out herein for the Transferred Operation and Maintenance Costs shall apply for a maximum of two (2) years, following which the responsibility for such costs (and the obligation to complete the maintenance obligations associated therewith) shall revert to the Landlord. For greater certainty, the Landlord will remain responsible for the satisfaction of obligations and responsibilities prior to the transfer, including any costs associated with remedying such failure, and the Tenant shall be responsible to contribute only the Tenant's Proportionate Share of such costs and will not be responsible for any excess costs resulting from or relating to such failure (including any termination, breakage or not yet accrued costs under the agreements relating to the Costs Recoverable by Province). The provisions of this Section 3.5(e) (and not Article 10) shall apply, *mutatis mutandis*, to any failure by the Tenant to carry out, or otherwise perform its obligations and responsibilities with respect to the Tenant's obligations with respect to maintenance and operation of the Therme Public Areas, including the applicable Therme Self-Managed Expenses and Transferred Operation and Maintenance Costs.

(f) Within one hundred eighty (180) days after the expiry of each Fiscal Year, the Landlord shall provide the Tenant with a statement showing the actual Cost Recoverable by Province incurred for such Fiscal Year, which statement shall include reasonable detail (with supporting invoices and other appropriate documentation, if applicable) supporting such amounts and identify the Tenant's Proportionate Share thereof as well as the total amount paid by the Tenant in respect thereof for such. If the Tenant paid in excess of the Tenant's Proportionate Share of the Cost Recoverable by Province for such Fiscal Year, the excess shall, at the Landlord's option, be refunded to the Tenant as soon as is reasonably practical or credited on account of Rent next falling due. If the amount paid by the Tenant in respect of Cost Recoverable by Province is less than the actual amount due, the Tenant shall pay such deficiency on demand within fifteen (15) days of demand made in writing by the Landlord. The failure of the Landlord to render any statement under this Section 3.5 shall not prejudice

Landlord's right to render such statement thereafter, or relieve either the Landlord or the Tenant from its obligations hereunder, provided that the statement (including all requisite information) is provided to the Tenant no later than six (6) months after the expiry of such Fiscal Year.

(g) If Tenant disputes the accuracy of any statement delivered by the Landlord under Section 3.5(f), the Tenant will nevertheless make payment in accordance with such statement, but either Party may refer the disagreement to an independent expert appointed by the Parties (which may be, as appropriate in the circumstances, an architect, engineer, chartered accountant, land surveyor, appraiser, insurance consultant or other professional consultant qualified to perform the specific function for which such person is named) (the "**Consultant**") who shall be deemed to be acting as an expert and not an arbitrator. If the Parties are unable to agree on a Consultant within ten (10) Business Days of a notice indicating a desire to do so by either Party, either Party may refer the dispute regarding the appointment of the Consultant to be resolved by the Dispute Resolution Procedure. The Consultant's signed determination shall be final and binding on both the Landlord and the Tenant. Any adjustment required to any previous payment made by the Tenant by reason of any such determination will be made within fourteen (14) days thereof, and the Party required to pay such adjustment shall bear all costs of the Consultant, except that if the determination results in the Landlord being required to pay to the Tenant an amount less than fifty thousand ($50,000) dollars, the Tenant shall pay all such costs. In addition, the Landlord shall pay interest at the Interest Rate from the date of payment by the Tenant to the date of repayment by the Landlord on any disputed amount that the Tenant was required to pay pursuant to the first sentence of this Section 3.5(g) where such amount was ultimately determined to not be payable.

(h) The Tenant may only dispute a statement delivered by the Landlord under Section 3.5(f) and claim a re-adjustment by notice given to the Landlord within three (3) years after the date of delivery of such statement to the Tenant. If no such notice is delivered by the Tenant within that three (3) year time period, the Tenant shall be deemed to have accepted the statement; provided that, if there is found to be a systematic error or other error that could reasonably be expected to have also been made to statements for previous years, the Tenant shall be entitled to dispute the statements from the previous three years.

3.6 Calculation and Payment of Performance Rent

(a) The sums payable by the Tenant as Performance Rent, together with any sum payable by the Tenant to the Landlord pursuant to Section 3.6(c), shall be collectively referred to as the "**Performance Payments**".

(b) The Tenant shall make Performance Payments for each Fiscal Quarter within sixty (60) days following the end of such Fiscal Quarter, with such Performance Payments being made on the basis of the cumulative Performance Rent for the Fiscal Year (without duplication). The final Performance Payment of the Term shall be paid within sixty (60) days following the Expiry Date. Together with the Performance Payment (if any), the Tenant shall deliver to the Landlord quarterly statements and year-to-date statements of Gross Revenue (each with an

addendum that separates Core Gross Revenues and Therme Public Area Gross Revenues) for the applicable Fiscal Quarter and Fiscal Year.

(c) Any deficiency in the amount of the Performance Payments paid by the Tenant determined pursuant to Sections 3.10 and 3.11 hereof shall be paid by the Tenant to the Landlord within fifteen (15) Business Days of such determination, together with interest thereon at the Interest Rate, calculated from the date that such deficiency occurred, not the date that such deficiency was determined pursuant to Sections 3.10 and 3.11 hereof. Any excess in the amount of the Performance Payments paid by the Tenant pursuant to Sections 3.10 and 3.11 hereof shall be, at the option of the Landlord in its Sole Discretion, paid by the Landlord to the Tenant within a reasonable period of time of such determination or credited against the Rent next due under this Lease.

(d) To address any overpayment of Performance Rent resulting from payments on account thereof being initially calculated on a quarterly basis instead of an annual basis, within ninety (90) days of the end of each Fiscal Year, the Landlord shall review the Performance Rent paid by the Tenant in respect of the preceding Fiscal Year and shall notify the Tenant of the amount (the "**Overpayment**"), if any, by which the aggregate of the payments on account of Performance Rent exceeds the amount that is the lesser of:

(i) the greater of (A) 2.45% of Core Gross Revenues (excluding sales tax) for such Fiscal Year, less the amount paid or payable by the Tenant as Minimum Rent for such Fiscal Year; and (B) zero; and

(ii) the Base Rent Ceiling for such Fiscal Year, less the amount paid or payable by the Tenant as Minimum Rent for such Fiscal Year.

The amount of the Overpayment shall be credited against the Rent next due following such determination and notification (or, to the extent that the Lease expires or is terminated prior to the full crediting of such Rent, paid by the Landlord to the Tenant within 90 days following such expiry or termination).

(e) For greater certainty: (i) no Performance Rent shall be payable or accrue in respect of any lease year prior to the sixth anniversary of the Completion Date (the period from the Completion Date to the sixth anniversary of the Completion Date being defined herein as the "**Performance Rent Holiday**") and (ii) notwithstanding anything to the contrary contained in this Lease, in no event shall the Base Rent (being the sum of the Minimum Rent and Performance Rent) payable in any lease year exceed the Base Rent Ceiling. For clarity, the Base Rent Ceiling is an annual ceiling, and does not apply on a monthly basis.

3.7 Revenue from Assignment or Indirect Transfer

(a) If the Tenant assigns all or substantially all of this Lease (whether through a series of transactions or a single transaction) with the consent of the Landlord, and the Tenant receives consideration for such assignment that results in an Internal Rate of Return which is greater than twenty-five (25%) percent, the Tenant shall pay to the Landlord an amount equal to thirty (30%) percent of the "net" proceeds above such twenty-five (25%) percent Internal Rate of Return

threshold (such payment, as determined by the Landlord, acting reasonably, being referred to as the "**Gainshare Payment**"). For the purpose hereof, "net" proceeds means all sale proceeds, whether direct or indirect (including, without duplication or limitation, any purchase price, assignment fee, subleasing and facility rental or licensing rents, fees, and charges of any nature or kind, and other amounts paid by the transferee to the Tenant as consideration for the assignment or Indirect Transfer of the Tenant's interest in this Lease) less (i) repayment of any third party arm's length indebtedness of the Tenant secured by the Project and/or this Lease, provided that the amount of such indebtedness for the purposes of this calculation does not exceed the aggregate of the initial cost to construct the Project plus the amount of any other third party arm's length indebtedness (secured by the Project and/or this Lease) the proceeds of which are invested in the Project, such indebtedness does not have off-market terms included for the purpose or effect of avoiding Gainshare Payments and such indebtedness does not have convertible options included for the purpose or effect of avoiding Gainshare Payments; (ii) all reasonable out-of-pocket transactions costs and expenses incurred in respect of such assignment; and (iii) all Sales Taxes or land transfer taxes exigible against the Tenant in respect of such assignment (the "**Tenant's Costs**").

(b) This Section 3.7 shall also apply, *mutatis mutandis*, to an Indirect Transfer where the Project constitutes all or substantially all of the assets directly or indirectly held by the entity that is the subject of such Indirect Transfer, but shall not apply to any such Indirect Transfer if it is a Permitted Transfer (other than a Permitted Transfer described in paragraph (e) of the definition of "**Permitted Transfer**").

(c) For greater certainty: (i) there shall be no Gainshare Payment if the Internal Rate of Return is less than twenty-five (25%) percent; (ii) the Gainshare Payment shall not include any portion of the proceeds that achieve the Internal Rate of Return of up to the initial twenty-five (25%) percent; (iii) other than as specifically contemplated in this Section 3.7(c), there shall be no Gainshare Payment in connection with any Permitted Transfer, Indirect Transfer and/or Value Recovery Assignment; (iv) this Section 3.7 shall not apply to an Indirect Transfer relating to an entity that holds, directly or indirectly, assets other than the Project; and (v) the consideration used to calculate the net capital return will not include any liabilities assumed under this Lease or otherwise with respect to the Project.

(d) The Tenant shall, not less than twenty (20) Business Days prior to the completion of the Transfer transaction, provide copies of any purchase agreements, assignment agreements, draft statement of adjustments, statement of the Tenant's Costs and all other back up agreements, certificates, statements, or other documents as the Landlord may require to calculate the Gainshare Payment, together with the Tenant's proposed calculation of the Gainshare Payment for the Landlord's review and an officer's certificate of the Tenant confirming the accuracy, without qualification, of all such information provided, together with a report by the Tenant's accountant confirming same.

(e) The Transfer transaction shall be conditional on the Landlord receiving, concurrent with the closing of the Transfer transaction, the full amount of the Gainshare Payment.

3.8 Recording of Gross Revenues

(a) The Tenant shall separately record or cause to be recorded: (i) all Core Gross Revenues (and other sums which are required under this Lease to be recorded as if they were Core Gross Revenues) received or receivable by the Tenant (including, for clarity, all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) in connection with the Demised Premises; and (ii) all Therme Public Areas Gross Revenues (and other sums which are required under this Lease to be recorded as if they were Therme Public Areas Gross Revenues) received or receivable by the Tenant (including, for clarity, those sums which constitute Therme Public Area Gross Revenues which are received or receivable by all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) in connection with the Demised Premises; in each case by such means and devices and through such records as shall be specified by Tenant and consistent with generally accepted Canadian accounting principles, the requirements of the independent chartered accountant or certified public accountant referred to in the first sentence of Section 3.10, and the Standard.

(b) The Tenant shall not enter into transactions or structure its operations for the purpose of avoiding Performance Rent and the Tenant shall act in good faith in allocating or characterizing Gross Revenues between Core Gross Revenues and Theme Public Area Gross Revenues. For greater certainty, to the extent the Tenant was acting in good faith in connection with its allocation and characterization of Gross Revenues it shall not result in a breach or default by the Tenant of its obligations under this Lease.

(c) The Tenant shall make and keep on the Demised Premises, or at the Tenant's office in the greater Toronto area, detailed records of all Gross Revenues and all supporting records (including daily reports of Gross Revenues), full, true and accurate copies of all books, accounts, financial records, reports, files, computer-stored data, correspondence and all other papers, things or property from which Gross Revenues may be accurately determined (collectively, the "**Records**"). The Tenant covenants that all Records, accounting procedures and practices, cost analyses and any other supporting evidence relevant to an audit of the Project, and its operation (including, for clarity, ancillary operations such as food and beverage sales and sales of merchandise and sponsorships) shall be maintained in accordance with generally accepted Canadian accounting principles consistently applied (but permitting generally accepted evolution of such accounting principles and the application thereof). The Records shall be retained in such location with respect to each Fiscal Year for at least seven (7) years following the expiry of such Fiscal Year, and shall be open to inspection and audit as specified in Section 3.11.

(d) The Tenant shall use commercially reasonable efforts to cause all third parties to keep and provide to the Tenant (and make available to the Landlord) all Records, which commercially reasonable efforts shall include an obligation on the part of such third parties (contained in the relevant agreements with the Tenant) to provide such Records and reasonable steps to enforce such obligation, provided that the Tenant shall not be in breach of its obligations under this Article 3 in connection with any failure to satisfy its obligations under this Article 3 that results solely from a failure by one or more third parties (other than subsidiaries,

Affiliates, Associates and any Related Party of the Tenant) to keep and provide to the Tenant such accurate Records (it being confirmed that the Tenant shall be entitled to in good faith rely on any Records so provided to it). If the Landlord does not receive such Records (following the Tenants commercially reasonable efforts), the Tenant and Landlord shall, acting reasonably, agree to a methodology to approximate the Gross Revenues associated therewith.

(e) Upon at least forty-eight (48) hours' request from time to time, the Tenant shall make available to the Landlord at the Demised Premises, or at the Tenant's office in the greater Toronto area, all of the Records and such information and other supporting data relating to Gross Revenues (to the extent then in the possession or control of the Tenant, it being acknowledged that certain relevant information may be periodically delivered to the Tenant by third parties and therefore not immediately in the possession or control of the Tenant) as would normally be examined by an independent chartered or certified public accountant in accordance with generally accepted Canadian accounting standards in performing a detailed audit of Gross Revenues. The Records and information shall be made available only in conjunction with the annual Landlord's audit. If the Landlord in good faith contends that there is a material discrepancy in the Tenant's reports of Gross Revenues or amounts payable under Section 3.6(c), the Landlord may require that the Tenant permit the Landlord, at the Landlord's expense, to make copies of relevant Records and other supporting data, provided the Landlord agrees that all the copies will be held in the offices of independent solicitors or accountants engaged or designated by the Landlord and that once the dispute between the Landlord and the Tenant with respect to the matter is resolved, all such copies (and any copies of such copies) in the Landlord's possession or control (and in the possession or control of any Person who directly or indirectly received copies from Landlord), shall be returned intact to the Tenant.

(f) Without limiting any of the Landlord's rights under Section 3.11, the Landlord, and any person or persons appointed by it, shall have the right upon not less than forty-eight (48) hours of Landlord's request, to attend upon the Demised Premises to review the procedures, controls and equipment (of the Tenant and its all subsidiaries, Affiliates, Associates and any Related Party of the Tenant) relating to the recording and determination of Gross Revenues , and the Tenant shall co-operate with the Landlord and any such persons. Where such review attendance and review could reasonably be expected to impact the operation of the Project and/or detract from the experience of the customers at the Project, the Landlord shall limit its review to the period of time when the Project is closed to customers so as to avoid any interruption with the Project and its operation. If such controls and equipment are located or accessible without unreasonably impacting or interrupting operation of the Project (i.e. in "back of the house"), then the Tenant shall cooperate and provide the Landlord with sufficient access to enable it to complete its review as set out herein without limitation on completing the same outside of operating hours.

3.9 <u>Quarterly Statements</u>

From and after the Commencement Date, the Tenant shall deliver to the Landlord, on a strictly confidential basis, quarterly statements of Gross Revenue within sixty (60) days following

the end of each quarter along with a statement in writing certified by the Tenant or, if the Tenant is a corporation, by a senior officer of the Tenant (without personal liability). The aforementioned statement shall show in reasonable detail in a form to be agreed by the Parties, acting reasonably, all Gross Revenues (including a breakdown between Core Gross Revenues and Therme Public Area Gross Revenues) for the immediately preceding Fiscal Quarter and for each of the preceding Fiscal Quarters of the then current Fiscal Year, all Performance Payments theretofore made by the Tenant to the Landlord for such Fiscal Year to the then date, and the calculation of the Performance Payments (if any) to be made at that time in accordance with the provisions of this Lease, together with payment on account of the Performance Payments payable at such time, if required pursuant to the provisions of this Lease.

3.10 Annual Reports

Within one hundred and twenty (120) days following the end of each Fiscal Year during the Term, and within one hundred and twenty (120) days following expiration or earlier termination of this Lease, the Tenant shall deliver to the Landlord audited financial statements of the Gross Revenues for the immediately preceding Fiscal Year in writing in such form as the Parties may agree, each acting reasonably, prepared by an independent chartered accountant or certified public accountant of recognized standing in accordance with generally accepted Canadian accounting principles (but permitting generally accepted evolution of such accounting principles and the application thereof), consistently applied, signed and certified to be correct (subject to permitted qualifications, including for the purposes contemplated in Section 3.8(d)) by the Tenant or, if the Tenant is a corporation, by two senior officers of the Tenant (without personal liability). Such statement shall set out, in reasonable detail, the categories of revenues accounted for therein (and include an addendum that identifies the allocation of Gross Revenues between Core Gross Revenues and Therme Public Area Gross Revenues). Such statement shall also disclose, at least, the calculation of “net” sale proceeds arising in connection with Section 3.6(c). In addition, the Tenant will deliver the report of an independent chartered accountant or certified public accountant of recognized standing containing the professional opinion of such chartered or certified public accountant, without qualification (unless, under the circumstances, an unqualified opinion is not reasonably attainable, in which case the opinion delivered to Landlord will include any reasons given by such accountant for any qualifications and Landlord will be given a reasonable opportunity to discuss such qualifications and the reasons therefore with such accountant), that it has examined the statement of Gross Revenues for the preceding Fiscal Years and that its examination included such review and tests of the Tenant’s accounting procedures, books and records and other supporting evidence as it considered necessary in the circumstances and that, in its opinion, such statement presents fairly and accurately (i) the Gross Revenues in accordance with generally accepted Canadian accounting principles applied on a basis consistent with that of the immediately preceding Fiscal Years (but permitting generally accepted evolution of such accounting principles and the application thereof), if any, (ii) the total amount of Performance Payments actually paid in respect of such Fiscal Year and (iii) the amount of any deficiency or excess of Performance Payments paid with respect to such Fiscal Year. If the relationship between Tenant and the independent chartered accountant or certified public accountant which had been engaged by Tenant to deliver the report and opinion described above is terminated, and if the opinion of the successor accountant is a qualified opinion, at Landlord’s request, Tenant will authorize the accountant whose relationship was terminated to advise Landlord of the reason for such termination and the Landlord will be given a reasonable opportunity to discuss such reason with the accountant.

3.11 Landlord's Audit Rights

(a) The Landlord and the Auditor shall have the right from time to time, by Notice to Tenant, to require Tenant to set a time within fifteen (15) Business Days which is mutually acceptable to Landlord and Tenant, each acting reasonably, to make or cause to be made by a nominee, which nominee must be an independent chartered or a certified public accountant of recognized standing, an inspection or audit to such extent as the Landlord or the Auditor shall reasonably determine of all of the Records and reports of the Tenant required to be delivered under this Lease relating only to the three (3) year period preceding the inspection or audit immediately preceding the inspection or audit. Except as expressly provided below, the Landlord and the Auditor shall not be so permitted to inspect the Records and reports of the Tenant required to be delivered under this Lease relating to the period prior to such three (3) year period, notwithstanding the inclusion in a later report by the Tenant of information from an earlier report. The Tenant shall promptly pay the Landlord the cost of such audit to the extent of reasonable fees and charges of an independent chartered or certified public accountant of recognized standing if: (i) the amount of Core Gross Revenues in any period covered by such audit shall be found thereby (and, if applicable, confirmed by the Dispute Resolution Procedure) to differ by more than five percent (5%) from the Core Gross Revenues shown by the statement or statements delivered by the Tenant to the Landlord covering such period, or (ii) the Tenant is in breach of Section 3.8(a), (b) or (c), provided that the Landlord shall be fully responsible for all costs of such audit in all other circumstances. If such audit reports that additional Performance Payments are payable by the Tenant, the Tenant shall pay such Performance Payments forthwith, together with interest thereon from the date such Performance Payment was due in accordance with Section 25.16, except to the extent that such audit report or requirement is being disputed by the Tenant. Except to the extent referred by the Tenant to the Dispute Resolution Procedure within sixty (60) days of receiving the final audit report, the report of any auditor appointed by the Landlord shall be final and binding upon the Parties.

(b) Any claim by the Landlord which is to be based upon such audit shall be made within six (6) months of the Landlord's receipt of the audit report on which the claim is to be based. Except as expressly provided below, if the Landlord or the Auditor has not made or caused to be made an inspection or audit within the time periods specified in the first two sentences of this Section 3.11, or if the Landlord has not made a claim based upon an inspection or audit within the six (6) month period specified immediately above, then in such instance the Tenant's reports relating to the period in respect of which the Landlord or the Auditor were entitled to make or cause to be made or did in fact make or cause to be made an inspection or audit in accordance with this Section 3.11 shall be final and binding upon the parties, and this principle shall apply notwithstanding the inclusion in a later report by the Tenant of information from an earlier report.

(c) The Tenant will not engage in transactions with any Related Party (except as specified in the next sentence) which affect Gross Revenues or revenues required to be recorded as if they were Gross Revenues unless such Related Party agrees to subject itself to annual audits limited to matters relevant to such revenues, which audits must be in connection with Landlord's annual audits of

Tenant and which audits of Related Parties will be subject to the same limitations, including time limitations, as applicable to Landlord's audit of Tenant. The preceding sentence will not apply to transactions between Tenant and Related Parties in those instances in which Landlord can reasonably determine from the Records (and outside sources) that the prices, charges, or other relevant terms were competitive with those readily available in the market.

(d) If any audit completed by or on behalf of the Landlord pursuant to this Section 3.11 demonstrates underreporting errors of five percent (5%) or more that result from the Tenant having breached its obligation under Section 3.8(b) then, in addition to the amount of additional Performance Rent payable by the Tenant to the Landlord in respect of any underreported Gross Revenue, the Tenant shall pay to the Landlord as liquidated damages equal to the greater of: (i) two hundred fifty thousand dollars ($250,000.00) (indexed by the Inflation Factor); and (ii) three (3) times 2.45% of the amount of such underreporting. Such payment shall be made by the Tenant to the Landlord within fifteen (15) Business Days after receipt by Tenant of an invoice therefor. The Landlord and the Tenant agree that such liquidated damages are not a penalty and the Tenant agrees with the Landlord that such liquidated damages shall be payable whether or not Landlord incurs or mitigates damages, and that the Landlord shall not have any obligation to mitigate any such damages. The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred.

(e) A change to the Core Gross Revenues and/or amounts to be paid as Performance Rent determined by an auditor and/or by the Dispute Resolution Procedure shall not constitute a breach or default on the part of the Tenant hereunder unless such change resulted from a Tenant Event of Default arising in respect of its obligations in Section 3.8(b). In the event of any change that results from any such breach or default, in addition to any liquidated damages payable pursuant to Article 16 and the payment of the applicable Performance Rent (and interest) contemplated pursuant to Section 3.11(a), the Landlord and Auditor shall have the right to inspect and audit the Records and reports of the Tenant relating to the specific matter relating to the six (6) year period immediately preceding the period in which the breach or default was identified (but in no event further than the seven (7) year period prior to the then current date) provided such inspection and audit is conducted within six (6) months of the audit that revealed such breach or default and the foregoing provisions of this Section 3.11 shall apply, *mutatis mutandis*, to any such further inspection and audit.

(f) The provisions of this Section 3.11 shall survive for a period of three (3) years following the termination or expiry of this Lease.

3.12 Determination of Gross Revenues

If the Tenant fails to deliver on the days when due hereunder (including applicable notice and cure periods) any reports or statements to the Landlord as required hereby or if the Records or the Tenant's procedures to which the Landlord has had access are not consistent with the criteria specified in Section 3.8(a) and, to the extent not consistent with such criteria, are insufficient to permit a determination of Gross Revenues (and the allocation between Core

Gross Revenues and Therme Public Area Gross Revenues) and Performance Payments for any period, the Landlord may, without limiting any other rights available to the Landlord under this Lease or at law, thereafter forward to the Tenant an estimate (the cost of which, to the extent of the reasonable fees and charges of an independent chartered or certified public accountant of recognized standing for the preparation of such estimate, is to be paid forthwith to the Landlord by the Tenant on demand) of Core Gross Revenues and of the amount of any deficiency of Performance Payments for such period and the Tenant shall, except to the extent being disputed by the Tenant, forthwith pay to the Landlord the amount of such deficiency. Such estimate by the Landlord shall be based upon such records, information and opinions to which the Landlord has had access and which the Landlord, acting reasonably, considers reliable, including the apparent business of the Tenant. Every such estimate shall be final and binding upon the Tenant until and except to the extent that the Tenant disputes the estimate by Notice to the Landlord within the six (6) month period next following the date upon which the same is forwarded to the Tenant and/or by the Tenant engaging an independent audit report at its own cost from an independent chartered or certified public accountant. The Landlord may not invoke the procedure specified in this Section 3.12 later than September 30 in the Fiscal Year next following the Fiscal Year in which the period covered by the aforementioned estimate occurred, and in no event may the period covered by such estimate be more than twelve (12) months. Notwithstanding the foregoing, Landlord may not invoke the provisions of this Section 3.12 with respect to the form (as opposed to the substance) of reports and statements and other matters referred to in this Section 3.12 if the form of such reports, statements or other matters is consistent on its face with the forms Approved or required by Landlord under Section 3.9; nothing in this sentence prevents Landlord from challenging the content of such reports, statements or other matters.

3.13 Qualification as Rent

Subject to Section 9.2, all payments required to be made by the Tenant pursuant to the provisions of this Lease shall be deemed to be Rent and any default with respect to any such payments shall constitute a default in payment of Rent, whereupon each and every one of the remedies of the Landlord with respect to non-payment of Rent shall be available to the Landlord.

3.14 Rent During Designated Force Majeure

Notwithstanding anything to the contrary contained in this Lease, the Tenant shall not be required to make any payment on account of Base Rent during the continuance of any Designated Force Majeure that has continued for thirty (30) days or more (any such period, a "**Designated Force Majeure Period**"). Instead, the Base Rent that would have been payable during such Designated Force Majeure Period but for the previous sentence shall accrue and be deferred for payment as provided herein. Interest at the Prime Rate plus five percent (5%) shall accrue on any such outstanding deferred Base Rent from the date on which it would have been payable until the date that it is repaid (such deferred Base Rent, together with the interest accrued thereon, the "**Deferred Base Rent**"). Deferred Base Rent shall be repaid by payments of Catch-Up Rent commencing on the first payment date following the end of the Designated Force Majeure Period until the full amount of the Deferred Base Rent has been paid. The provisions of Sections 3.6 (other than Section 3.6(d)) and 3.10 shall be applicable, *mutatis mutandis*, to the payments of Catch-Up Rent pursuant to this Section 3.14. For purposes of this Lease, "**Catch-Up Rent**" means: (i) if the Designated Force Majeure Period is less than six (6) months, equal monthly installments sufficient to pay the Deferred Base Rent in full within the Deferred Rent Payback Period (as hereinafter defined); or (ii) if the Designated Force Majeure

Period is six (6) months or more, in any particular Fiscal Year, an amount equal to 0.2% of Core Gross Revenues (excluding sales tax). Notwithstanding the foregoing, or anything else herein contained, all Deferred Base Rent shall become due, and must be paid by the Tenant in full, together with accrued interest, by the earlier of the date that is: (i) the end of the period (the "**Deferred Rent Payback Period**") that is equal to three (3) times the duration of the Designated Force Majeure Period; (ii) five (5) years after the end of the Designated Force Majeure Period in respect of which such Deferred Base Rent would, but for this Section 3.14, have been payable; or (iii) the date which is five (5) years prior to the end of the Term. In no event shall the Tenant be entitled to a deferral of Base Rent in respect of any portion of the last five (5) years of the Term.

ARTICLE 4
CONSTRUCTION OF THE PROJECT

4.1 Landlord's Site Readiness Activities and Landlord Initial Obligations

(a) The Landlord shall, at the Landlord's sole cost and expense:

(i) complete the Landlord's Site Readiness Activities; and

(ii) deliver, satisfy, obtain and complete the Landlord Initial Obligations,

in each case, in accordance with, and by the deadlines required pursuant to, the Lease and the Master Development Agreement.

(b) The Parties acknowledge that the scope of the Landlord's Site Readiness Activities shall be limited to work required pursuant to the Master Development Agreement and Applicable Law.

(c) To the extent the Tenant has received possession of the Lands, the Tenant shall fully cooperate with the Landlord (at no cost to the Tenant) by providing access to the Lands to the Landlord from time to time as may be required for the completion of the Landlord's Site Readiness Activities, provided that such access shall not interfere with the Construction Activities of the Tenant and shall be subject to the terms of any Coordination and Interface Agreement.

(d) The Landlord covenants and agrees to deliver, satisfy, obtain and complete the following (the "**Landlord Initial Obligations**") by the applicable dates set out in Section 16.10:

(i) Zoning Approval: Obtain the Zoning Approval.

(ii) Heritage Determinations: Obtain all Heritage Determinations required for the construction of the Project, to permit its operations and maintenance and Permitted Uses, in accordance with the Submitted Design.

(iii) EA Approval: Obtain the EA Approvals, other than any required EA Approval for the Therme Public Areas.

(iv) Acquisition of Rights: (A) acquire title (freehold and/or leasehold) to the City Lands; and (B) grant or cause to be granted the Construction

Licenses contemplated in Schedule B in favour of the Construction Licensed Person.

(v) Environmental Matters: Satisfy the Initial Environmental Obligations.

(vi) Interim Utility Services: Provide the Interim Utility Services.

(vii) Title Matters: obtain a discharge, postponement or such other documentation, as determined by the Parties acting reasonably, in respect of Instrument Nos. C92422, C92422z, AT729615, CT687333 and CT687334, and shall register same against title to the Lands.

(e) In addition to the Landlord Initial Obligations, the Landlord shall complete the remaining Landlord's Site Readiness Activities (the "**Post-Handover Landlord Site Readiness Activities**") in accordance with Schedule G.

(f) The Tenant acknowledges and agrees that nothing in this Lease shall in any way fetter the right, authority and discretion of the Minister of Heritage, Sport, Tourism and Culture Industries, the Minister of Municipal Affairs and Housing, or other Governmental Authority whose mandate is or may become relevant to matters under this Lease, in fulfilling their statutory or other functions under Applicable Law, including the discretion of the Minister of Heritage, Sport, Tourism and Culture Industries or other provincial approving authority to make a Heritage Determination and/or the discretion of the Minister of Municipal Affairs and Housing to grant an MZO or Enhanced MZO.

4.2 Tenant Obligations to Pursue SPA and First Permit

(a) Commencing upon the completion of the Landlord Initial Obligations, the Tenant shall use commercially reasonable efforts (as described in this Section 4.2(a)) to obtain the SPA and the First Permit. The Tenant shall be deemed to have used commercially reasonable efforts if it in good faith submits such applications as would customarily be submitted and provides such responses, additional documentation and adjustments as are reasonably requested by the City of Toronto (and the other applicable Governmental Authorities), without any requirement to make material alterations to the design of the Project contemplated in the Submitted Design and/or to appeal the response to the Site Plan Application or application for First Permit to the Ontario Land Tribunal, to any court of competent jurisdiction or any other administrative body.

(b) If the Tenant, despite its commercially reasonable efforts (as described in Section 4.2(a)), has not obtained the SPA and the First Permit on or prior to the six (6) month anniversary of the completion of the Landlord Initial Obligations, the Minister of Municipal Affairs and Housing may (but shall not be required to) exercise its authority to enact an Enhanced MZO prior to the first anniversary of the completion of the Landlord Initial Obligations, subject to the following:

(i) if the Landlord fails to obtain an Enhanced MZO, the Tenant may terminate this Lease and all Material Ancillary Agreements by delivering written notice of such termination (which termination shall have immediate effect), and the Landlord shall pay to the Tenant liquidated damages in

the amount of five million dollars ($5,000,000) within ninety (90) days of such termination, which the Landlord acknowledges is a genuine estimate of the Tenant's reasonable out-of-pocket, transaction costs, advisor and legal costs and not a penalty and, following payment in full of such five million dollars ($5,000,000), neither Party shall have any further claims, rights or remedies against the other Party (whether under this Lease, under any Material Ancillary Agreement, at law or in equity). The Landlord agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred; and

(ii) if (and only if) the Minister of Municipal Affairs and Housing enacts an Enhanced MZO in order to address site plan approval for all of the Lands, the Ultimate Outside Completion Date shall be, subject to Force Majeure and Landlord Delay, the date that is six (6) years following the later of: (i) the ten (10) month anniversary of the First Permit Date; and (ii) the Triggers Completion Date.

(c) For greater clarity, there will be no change in the Regime Change Date as a result of a delay in the Tenant obtaining any required permits for the Tenant's lakefill operations.

4.3 Tenant's Construction Commencement

On the Commencement Date, the Tenant shall receive vacant possession of the Lands from the Landlord and, subject to and in accordance with the terms of the Master Development Agreement, shall commence Construction Activities in good faith upon the Lands by the Above-Grade Construction Activities Deadline.

4.4 Development Approvals and Payments

The Tenant, at its expense, shall be responsible for obtaining all Tenant Permits, Licences and Approvals subject to and in accordance with provisions of the Master Development Agreement. Except as provided in the Lease, the Master Development Agreement or any other Material Ancillary Agreement, the Tenant shall also be responsible for, and pay, post or deposit promptly when due all charges, taxes, rates, fees, assessments, duties, levies, and security of any kind imposed or required by any Governmental Authority or provider of Utility Services with respect to the development of the Lands, construction of the Improvements, or the operations on the Lands, including, without limitation, development charges, payments of cash in lieu of parkland dedication, building permit fees, and utility security deposits. Except as provided in the Lease, the Master Development Agreement or any other Material Ancillary Agreement, the Tenant, at its expense, shall also be responsible for obtaining all approvals and paying all amounts as required under Permitted Encumbrances or other private restrictions to develop the Lands and construct the Improvements. Other than the Landlord Permits, Licences and Approvals, the Landlord has no responsibility or liability for obtaining such approvals or paying such costs before or during the Term, provided that the Landlord shall cooperate with the Tenant and provide any necessary authorizations or other reasonable assistance (without the necessity to expend funds or prepare) as may be required for the Tenant to secure the Tenant Permits, Licences and Approvals.

4.5 Pre-Construction

The Tenant, at the Tenant's expense, shall be responsible for the design and layout on the Lands of the Improvements, which shall conform to and comply with the requirements of this Lease, the Master Development Agreement and all Applicable Law. Except for the Landlord's Site Readiness Activities and for other matters and costs that are the responsibility of the Landlord pursuant to this Lease, the Master Development Agreement and any other Material Ancillary Agreement, the Tenant, at the Tenant's expense, shall be responsible for completing all work necessary to prepare the Lands for construction, including, without limitation, surveying, grading, and excavation work and putting up hoarding or other security fencing, in accordance with all Applicable Law. The Landlord has no responsibility or liability for the design and layout of the Improvements or for preparing the Lands for Improvements before or during the Term, other than the Landlord's Site Readiness Activities.

4.6 Servicing

Except to the extent the following is the Landlord's responsibility as part of the Landlord's Site Readiness Activities or otherwise pursuant to this Lease, the Master Development Agreement or other Material Ancillary Agreements, the Tenant, at its expense, shall be responsible for installing, connecting, and maintaining all services to service the Lands as necessary for the development of the Lands for construction and operation of the Improvements, including, without limitation, connections to municipal infrastructure. Such services shall include, without limitation, Utility Services, driveways, retaining walls (if necessary), sidewalks, lighting and equipment for Utility Services. Except for the Landlord's Site Readiness Activities and other responsibilities of the Landlord under this Lease, the Master Development Agreement or other Material Ancillary Agreements, the Landlord has no responsibility or liability for providing, supplying, and maintaining Utility Services nor any other services to all or any part of the Demised Premises before or during the Term.

4.7 Construction of Improvements

The Tenant shall not permit anyone (other than the Landlord) to commence any work contemplated in this Lease on the Lands until the Tenant has obtained all required permits and approvals for such work from the applicable Governmental Authority and from other parties under Permitted Encumbrances (if required by the terms of such Permitted Encumbrances), and has otherwise complied with all terms and conditions of the Master Development Agreement, including all insurance requirements of the Tenant and its contractors under this Lease and the Master Development Agreement. The Tenant shall only engage contractors, engineers, architects, and professionals that are qualified to practice in the Province of Ontario (to the extent doing so) to work on the Improvements. While any work contemplated in this Article 4 is being carried out on the Lands, the Tenant shall, and shall cause its employees, representatives, and contractors to, carry out their work in compliance with all Applicable Law. The Tenant shall take all actions to ensure that the design and layout of the Improvements and the built Improvements comply at all times with the Master Development Agreement and all Applicable Law, including, without limitation, obtaining any required occupancy permits and causing Governmental Authority to close their permit files for built Improvements. The Tenant shall not permit any work contemplated under this Article 4 to be carried out on the Lands before the Commencement Date or after expiry of the Term, except as permitted by this Lease or the Master Development Agreement. Upon request from time to time, the Tenant shall provide the Landlord with evidence that the Tenant is complying with any and all of the requirements of this Section 4.7.

4.8 Heritage

(a) The Tenant acknowledges that (i) Ontario Place is a provincial heritage property of provincial significance; (ii) Ontario Place must be conserved, maintained, used and disposed of in accordance with the Guidelines; (iii) the Landlord is required by the *Ontario Heritage Act* and the Guidelines to consider the impact of any proposed alterations and demolitions including the Improvements and Major Changes contemplated by this Lease, as well as the future development, redevelopment and use of the Lands, on Ontario Place's cultural heritage value and heritage attributes; and (iv) to satisfy its obligations under the Guidelines, the Landlord may require further Heritage Impact Assessments (in addition to the HIA required pursuant to Section 4.8(b) below) and additional Heritage Determinations with respect to any Major Changes or future development, redevelopment or reuse of the Lands. Without derogating from the Tenant's specific obligations set out in this Lease, the Tenant covenants that it will cooperate and work with the Landlord to fulfill or otherwise discharge the Landlord's obligations under the *Ontario Heritage Act* and the Guidelines, and in accordance with the Lease.

(b) The Tenant covenants and agrees that it shall deliver the HIA First Submission, with respect to any alterations or demolitions including the Improvements contemplated by this Lease in respect of the Project and the Lands to the Landlord for Landlord's Approval by August 31, 2022 (as such deadline is extended on a day-for-day basis for every day after May 31, 2022 until the Landlord delivers the SCP to the Tenant, and on a day-for-day basis for any changes in such SCP after May 31, 2022 that require changes to the HIA First Submission), and an HIA Second Submission to the Landlord by April 30, 2023 where the HIA Second Submission shall be at level considered adequate for the provincial authority to reasonably consider, and will be subject to revisions satisfactory to the Landlord and the Ministry of Heritage, Sport, Tourism and Culture Industries.

(c) The Tenant covenants and agrees that it shall deliver any further HIAs required by the Landlord with respect to any Major Changes or future development, redevelopment or reuse of the Lands;

(d) The consultation with respect to any HIA will be undertaken by the Tenant, with the co-operation of the Landlord, and shall be satisfactory to the Landlord.

(e) The Tenant covenants to implement any requirements of the finalized HIA as may be required by the Landlord, in accordance with the Heritage Determinations, Heritage Restrictions and Master Development Agreement.

4.9 Contractor Arrangements

The Tenant shall include the following terms and conditions in each of (i) the agreement entered into by the Tenant with the Contractor, and (ii) the agreement with any contractor engaged by the Tenant to perform Major Changes (each of the foregoing, a "**Material Contractor Agreement**"):

(a) without cost to the Landlord and subject to the rights of the Leasehold Mortgagee under the Leasehold Mortgagee Agreement, expressly permit assignment to the Landlord of all of the Tenant's rights under the Material Contractor Agreement contingent only upon (i) termination of the Lease for a Material Tenant Event of Default where the Landlord has elected for the Tenant not to demolish and payment by the Landlord to the Tenant of any compensation payable hereunder as a result of such termination, and (ii) following the occurrence of the events referred to in the immediately preceding clause (i) delivery of written notice by the Landlord to the applicable contractor, permitting the Landlord to assume the benefit of the Tenant's rights under such Material Contractor Agreement with liability only for those remaining obligations of the Tenant after the date of assumption, such assignment to include the benefit of all of the contractor's warranties and indemnities; and

(b) expressly state that any assumption by the Landlord as referred to in Section 4.8(a) above shall not operate to make the Landlord responsible or liable for any breach of the Material Contractor Agreement by the Tenant or for any amounts due and owing under the Material Contractor Agreement for work or services rendered prior to the assignment.

ARTICLE 5
OPERATION OF THE PROJECT

5.1 Use and Restrictions Against Use

(a) The Tenant shall not use the Lands (including any Programming) in a manner that:

(i) contravenes Therme Group RHTG AG's anti-discrimination and anti-harassment policy, the form of which has been Approved by the Landlord, as such policy may be amended from time to time (a copy of which amendment(s) shall be delivered by Tenant to Landlord);or

(ii) is defamatory.

(b) The Tenant shall not use the Lands (including for any Programming) for:

(i) selling or gratuitously distributing, or permitting the sale or gratuitous distribution of, merchandise of any kind which displays or depicts the Ontario Place logo or images of Ontario Place, without the prior Approval of the Landlord;

(ii) causing or allowing to be presented on the Lands or any part thereof any Entertainment Event that has a permitted or actual audience in excess of two thousand five hundred (2,500) people. For the purposes of this paragraph, "**Entertainment Event**" means any paid or ticketed single event featuring concerts, theatrical events, non-team sporting events and exhibitions (e.g., boxing, wrestling, UFC and other mixed martial arts, figure skating and motocross events, tournaments and exhibitions), franchise sports and e-sports events and tournaments; and

(iii) an aerial obstacle course, net-play, tubing hill, an outdoor climbing park, a zipline, inflatable water structures, escape rooms, quadricycle and Segway rental kiosks,

in each case, without the consent of the Landlord, which consent may withheld by the Landlord in its Sole Discretion.

(c) In addition thereto, for the period from the Commencement Date to the Completion Date, the Tenant and all Tenant Persons may use the Demised Premises for the Construction Activities and any related uses for the completion of the Works.

(d) The Tenant shall not use the Demised Premises for any use other than the Permitted Uses and the Construction Activities without the Approval of the Landlord, in its Sole Discretion. In the event of any conflict between the restrictions on use set out in Section 5.1(a) and 5.1(b) and the Permitted Use, the restrictions on use set out in Section 5.1(a) and 5.1(b) shall govern.

(e) The Tenant shall keep the Demised Premises for which it is responsible under the terms of this Lease, clean and tidy at all times and in compliance with the Standard and with Applicable Law.

(f) The Tenant covenants and agrees that, in any lease year, it shall provide or cause to be provided Programming activities in, on or at the Demised Premises that are consistent with the Permitted Uses. In addition to the foregoing, the Tenant shall use commercially reasonable efforts to provide from time to time Indigenous programming at the Project.

(g) The Landlord and the Tenant agree that each of them has been involved in the negotiation and drafting of this Section 5.1 and has had the opportunity to have this Section 5.1 reviewed by legal counsel, and accordingly the doctrine of *contra proferentem* shall have no application to the interpretation of this Section 5.1.

5.2 <u>Security, Screening and Emergency Management</u>

(a) Prior to the commencement of operations on the Project, the Tenant shall provide, establish and maintain, at the Tenant's expense, the following, which shall be Approved by the Landlord:

(i) a workable emergency evacuation program for the Demised Premises and a security management plan for the Core Lands in accordance with industry best practices and Applicable Law, including the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.9, which shall, as a minimum, be similar to that which would be established by a reasonably prudent owner of a similar building, having regard to the size, age and geographical location of the Demised Premises; and

(ii) a fire safety plan which has been prepared, approved and implemented in accordance with the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4 and Applicable Law (the "**Fire Safety Plan**"). The Tenant shall ensure the Fire Safety Plan is regularly updated in order to comply with all

Applicable Law. The Tenant shall provide a copy of the Fire Safety Plan to the Landlord within five (5) Business Days of receiving the Landlord's written request.

(b) The Landlord shall be permitted to install and/or implement, at its expense, such additional security or emergency management measures to the Therme Public Areas and the Other Public Areas as it deems necessary or advisable, acting reasonably, or in accordance with the Government of Ontario's policies, and the Tenant shall cooperate with the Landlord in the installation or implementation of same where required. Alternatively, the Landlord may, at its option, permit the Tenant to install and/or implement, at the Landlord's expense, such additional security or emergency management measures.

5.3 Periodic Consultation

The Landlord and the Tenant shall consult with each other as required, but in any event forthwith after the Commencement Date, and not less than semi-annually thereafter, in order to determine and implement procedures:

(a) to facilitate the provision of further information to the Landlord and the Tenant, if requested; and

(b) to facilitate discussion of the concerns of either or both of the Landlord and the Tenant, but the foregoing does not imply any additional rights, benefits, obligations, liabilities, agreements, or otherwise on either Party, and no agreement shall be binding on either Party unless the same is in writing and is executed by both Parties.

5.4 Tenant's Personnel and General Manager

(a) The Tenant shall select and appoint a general manager for the Tenant's operations at the Demised Premises. The general manager must be a highly qualified and experienced manager or supervisor, vested with sufficient power and authority to provide timely response to the Landlord where required under the terms of this Lease. The general manager shall have an office located at the Demised Premises, where the general manager shall ordinarily be available during regular business hours and where, at all times during his absence, a responsible subordinate shall be in charge and available.

(b) The general manager shall be responsible for the proper operation of the business of the Tenant and for the conduct of all employees of the Tenant. The Tenant shall be responsible for regulating the conduct of patrons of the Project in accordance with the Standard

5.5 Compliance with Standard and Applicable Law

In its activities at Ontario Place, including the construction and operation of the Project, the Tenant shall at all times comply with this Lease, the Standard, the CPU, the RSC, the RMM, the Heritage Restrictions, the Heritage Determinations and all Applicable Law (including, without limitation, the Ontario *Building* Code (O Reg 332/12), the Ontario *Fire Code* (O Reg 213/07), the *Accessibility for Ontarians with Disabilities Act, 2005* (SO 2005, c 11), the *Occupational Health*

and Safety Act (RSO 1990, c O1), the *Technical Standards and Safety Act, 2000* (SO 2000, c 16), the *Employment Standards Act, 2000* (SO 2000, c 41), any similar successor legislation of the foregoing) and shall use its reasonable efforts to ensure that the activities that it permits on the Demised Premises comply with the Standard and Applicable Law.

5.6 Acceptable Noise Level from the Other Lands

The Tenant acknowledges that Ontario Place and the surrounding lands are being used, or will be used, by, among others, the Adjacent Tenants, including without limitation, for the purposes of a live concert venue, an outdoor adventure site and an international airport, and that the Landlord shall not be considered to be in default of its obligations under this Lease as a result of such noise, including without limitation, the quiet enjoyment covenant set out in Section 18.1 hereof.

ARTICLE 6
CONTROL OF ONTARIO PLACE

6.1 Landlord's Control of Ontario Place

(a) Subject to the other provisions of this Lease, the Master Development Agreement and the other Material Ancillary Agreement, the Landlord has at all times exclusive control of Ontario Place (excluding the Demised Premises) and its management and operation, but not so as to deny the Tenant access to the Demised Premises except to the extent necessary during an emergency. Without limiting the generality of the foregoing, at any time and from time to time, the Landlord may, in its Sole Discretion, but subject to Section 22.1 hereof:

(i) make changes or additions to any part of Ontario Place not in or forming part of the Demised Premises including, without limitation, dedicating or conveying portions of the Other Lands, granting easements, rights-of-way, restrictive covenants or other interests in, on or over the Lands and constructing, or removing additional improvements in or adjoining the Other Lands;

(ii) change the location and size of any of the Other Public Areas;

(iii) retain contractors and employ all personnel, including supervisory personnel and managers, that the Landlord considers necessary for the effective performance of the Landlord Designated Maintenance/Repair Matters and for the effective maintenance, repair, operation, management and control of the Other Lands;

(iv) now own, or may acquire, lands or buildings contiguous to or near Ontario Place and may at its option retain them separately or treat them as part of Ontario Place. The Landlord may, from time to time, cease to treat as part of Ontario Place any buildings or lands now or then forming part of Ontario Place (other than the Demised Premises) and may, from time to time, reinstate such part of Ontario Place, provided that the provisions of Section 22.1 shall apply to and continue to apply to any lands described herein now forming part of Ontario Place; and

(v) do and perform such other acts in and to Ontario Place (other than the Demised Premises) or any of its component parts as the Landlord considers reasonable for the proper and efficient maintenance, repair, operation, management and control of Ontario Place,

provided that in the course of the Landlord's exercise of its rights hereunder, the Landlord shall be deemed not to have re-entered the Demised Premises, provided that the foregoing shall not relieve the Landlord of its obligations set out in Section 22.1 of the Lease or any other provisions of this Lease, the Master Development Agreement or any other Material Ancillary Agreements.

(b) The following shall apply with respect to the Public Plaza:

(i) the Landlord shall take all commercially reasonable steps to minimize any material and adverse negative impact to the Tenant's operations from the Demised Premises which arise as a result of implementing any changes or improvements to the Public Plaza, and will mitigate any such material and adverse negative impacts acting reasonably;

(ii) the Landlord agrees to provide the Tenant with reasonable advance written notice of any such contemplated change or improvement set out in Section 6.1(b)(i) and will provide the Tenant with an opportunity to advise of the Landlord of any comments or concerns it has with respect thereto;

(iii) the Landlord agrees to maintain the Public Plaza as publicly accessible land, and shall not construct or permit the construction of any permanent above grade improvements on the Public Plaza, without the prior written consent of the Tenant, which consent (provided the Landlord has taken all commercially reasonable steps (including considering alternative solutions) to minimize the material and adverse negative impact of any proposed improvements or changes on the Tenant's operations) shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Landlord shall have the right, without the consent of the Tenant, to construct or permit the construction on the Public Plaza, of: (i) parking related infrastructure (for example elevator bank terminals), (ii) street level infrastructure, (iii) a terminal, station or similar infrastructure that is used to provide the "last mile connection" to the Ontario Line and Exhibition Place (the "**Metrolinx Terminal**"), or (iv) infrastructure and improvements that provide access and connection to and from the Cinesphere and pods (currently anticipated to house the Ontario Science Centre). If the Metrolinx Terminal is intended to be constructed on the Public Plaza, the Tenant shall have the right to be consulted on the design and design standards (but no approval right) and shall be entitled to require improvements to the proposed design or design standards if it pays for any changes to the design, and further agrees to pay, at its sole cost and expense, all incremental costs associated with the design, and construction thereof. Where the Landlord determines that there is a material increase in the operation and maintenance costs of the Metrolinx Terminal as a result of such Tenant requested design change (material being ten percent (10%) or greater), the Tenant shall either agree to pay for such additional operation and

maintenance costs or the Landlord shall have the right to reject the proposed design changes. For greater certainty, the Province's proposed design for the Metrolinx Terminal must meet the minimum standards (established by the Landlord) and the Tenant will not be responsible for any costs required to meet that minimum standards, but would be responsible if it requires (and agrees to pay for) an increase to the minimum design standard for the Metrolinx Terminal. The Landlord shall not factor the possibility of the Tenant paying for improving the design of the Metrolinx Terminal into its choice of the proposed design.

(iv) The Landlord shall perform all of its work as expeditiously as is reasonably possible so as to interfere as little as is reasonably possible with the Tenant's use of the Demised Premises.

(c) When any change or other event described in this Section has been effected, the term "Ontario Place" as used herein shall refer to Ontario Place as altered by such change or event.

(d) Subject to complying with its obligations under this Lease, the Master Development Agreement and all other Material Ancillary Agreement, the exercise by the Landlord of its rights under this Section 6.1 or any noise, dust, vibration, electromagnetic interference, stray current or other consequences of (i) construction, alteration, expansion, reduction or reconstruction from time to time of the various parts or components of the Other Lands, (ii) improvements on other adjoining properties, or (iii) use and operation of any subway, rail lines or other transportation facilities situated near Ontario Place, shall not constitute a breach of the Landlord's covenant for quiet enjoyment, nor entitle the Tenant to any reduction in Rent, nor result in any liability of the Landlord to the Tenant, nor in any other way affect this Lease or the Tenant's obligations hereunder.

(e) The Tenant agrees that, as of the Lease Date, save and except in respect of the Demised Premises and as otherwise expressly set out in this Lease: (i) it has no interest in any lands now or in the future excluded from Ontario Place as aforesaid and will execute and deliver forthwith upon the request of the Landlord all documents reasonably requested by Landlord to confirm that the Tenant has no interest in any lands now or in the future excluded from Ontario Place; and (ii) it will, on request, sign any document reasonably requested by the Landlord to confirm the postponement and/or subordination of this Lease to any site plan, development agreement and/or similar agreement with any municipal authority and/or or any agreement with utility providers.

ARTICLE 7
GRAPHICS, SIGNAGE, ADVERTISING, MARKETING AND COMMUNICATIONS

7.1 Graphics and Signage

(a) Subject to Section 7.1(b):

(i) the Tenant shall be permitted to install, maintain and replace an illuminated signage displaying the name of the Demised Premises, including the name, business name, trademark, logo or any other signs or

identifier of the Tenant, and to install electronic digital sign boards for advertisement and promotions of the Project, the Tenant's activities and Programming on the Lands and for all other advertising purposes; and

(ii) the Tenant shall be permitted to place signage with respect to the Project (including one or more billboards), including for wayfinding and advertising purposes, on those areas of the Other Public Areas as Approved by the Landlord in accordance with the signage program for Ontario Place.

(b) All aspects of all of the Tenant's external signage (including all wayfinding and hoarding signage) on the Therme Public Areas and the Other Public Areas (and any external wayfinding and hoarding signage on the Core Lands) shall be subject to the Approval of the Landlord, including, without limitation, methods of affixation, the location, size, colour, materials, language and number of signs. It shall be reasonable for the Landlord to withhold its Approval if the Tenant's signage does not meet the Signage Standards. The Tenant shall not install or permit to be installed on the Therme Public Areas or Other Public Areas any signage the content of which violates Section 5.1(a) hereof. All signs on the Therme Public Areas and Other Public Areas installed by the Tenant shall be in French and English if required by Applicable Law or (so long as the Landlord is the Crown or a Crown Corporation) if required by policies of the Landlord uniformly applicable throughout the Other Lands. All signage on the Therme Public Areas and Other Public Areas installed by the Tenant, including its installation shall fully comply with Applicable Law and the Signage Standards. The Tenant's external signage on the Core Lands shall be subject to the Approval of the Landlord in accordance with Schedule G and any changes thereof shall be subject to the Major Change provisions.

(c) Nothing herein shall restrict the Tenant from selling naming or other promotional rights, provided the subject matter of the naming or promotional rights would not violate Section 5.1(a) hereof and further provided that the subject matter of the naming or promotional rights does not include the words "Ontario Place" without the Approval of the Landlord.

7.2 <u>Advertising and Marketing</u>

(a) The advertising and marketing of the Project shall be the responsibility of the Tenant, and the quality of such advertising and marketing shall be consistent with the Standard.

(b) The advertising and marketing of Ontario Place shall be the responsibility of the Landlord, which may include reference to the Project. In accordance with Section 3.5, the Tenant shall be responsible for the Tenant's Proportionate Share of costs incurred by the Landlord towards the advertising and marketing of Ontario Place.

(c) The Tenant shall cooperate in good faith with the Landlord in respect of all advertisements, promotions and activities arranged by the Landlord in respect of the Project, and programs thereat.

(d) Any marketing campaign paid for by the Government of Ontario is subject to the *Government Advertising Act, 2004*, SO 2004, c 20 (as amended from time to time) or any successor or replacement legislation.

(e) The Tenant agrees, if requested by the Landlord, to grant a non-exclusive licence to the Landlord, in consideration of the payment of $1.00, any trade mark, corporate name or other right owned or controlled by the Tenant relating to the Project [its attraction] and its design, to be used by the Landlord in conjunction with references to Ontario Place, or any merchandise referring to or depicting Ontario Place, provided such merchandise does not feature the Project, but includes it as an incidental part of the depiction of all or a portion of Ontario Place.

(f) The use by the Landlord of any such trade mark, corporate name or business name shall be subject to such reasonable approvals and controls as are customary in agreements between licensors and licensees relating to similar subject matter.

7.3 Communications

(a) The Landlord and the Tenant acknowledge that it is important to manage Public Communications relating to the redevelopment at Ontario Place for their mutual benefit. To this end and for the duration of any contract that the Tenant may have with the Province in respect of or related to the Tenant's proposed development or operations at Ontario Place, including this Lease and the Material Ancillary Agreements, the Tenant will work collaboratively with the Province prior to initiating, planning or launching any Public Communications with respect to the content and distribution of Public Communications made by the Province or the Tenant, including such Public Communications related to marketing in order to ensure there is awareness and alignment of approach. The Landlord and the Tenant will continue to work collaboratively to enable awareness, understanding, consistent messaging and mutually beneficial outcomes.

(b) When a Landlord-led Public Communication will concern, or otherwise relate to, the Project or ongoing operations at Ontario Place, the Tenant will be provided with at least five (5) Business Days' prior written Notice. This notice period is to give the Tenant an opportunity to express and resolve any concerns it might have and to otherwise provide input to the Landlord on the proposed Public Communication. All final decisions on these types of Public Communications are within the discretion of the Landlord, and the Landlord will not require the prior approval of the Tenant before issuing such Public Communications.

(c) When a Tenant-led Public Communication will concern, or otherwise relate to, the redevelopment of Ontario Place, the Project, the future operation of Ontario Place, or the actions of the Landlord generally, the Landlord will be provided with at least five (5) Business Days' prior written Notice. This notice period is to give the Landlord an opportunity to express and resolve any concerns it might have and to otherwise provide input to the Tenant on the proposed Public Communication. All final decisions on these types of Public Communications are within the discretion of the Tenant, and the Tenant will not require the prior approval of the Province before issuing such Public Communications.

(d) Notwithstanding Sections 7.3(b) and 7.3(c) above, when either Party is required to respond to time-sensitive requests, such as responding to media questions or managing digital/social media community, such Party will not be required to provide five (5) Business Days' prior written Notice prior to responding, but the such Party shall, prior to responding, share the details of the media request/issue and the proposed response with the other Party. This will enable mutual awareness, understanding, consistent messaging and alignment of mitigation strategies.

ARTICLE 8
ENVIRONMENTAL MATTERS

8.1 Environmental Risk Management

(a) The Parties acknowledge that, in order to address the Contaminants that exist in, on or under the Lands prior to the Commencement Date, a Risk Assessment is being completed by the Landlord and an RSC will be filed on the Ministry of the Environment, Conservation and Parks' Environmental Site Registry in accordance with the Landlord's Site Readiness Activities. The Parties further acknowledge that a CPU may be issued identifying RMM for the Lands. The Tenant shall, throughout the Term, comply with the RMM and any CPU(s).

(b) The Tenant shall, throughout the Term, and any Extension Term, ensure that no part of the Lands: (i) contains any Contaminants that are not Landlord Contaminants; or (ii) is used, without limitation, by the Tenant or any Tenant Person, to generate, store, release, or dispose of any Hazardous Substances, except in each case, in strict compliance with all Environmental Laws.

(c) In the event there are Contaminants located on, released on and/or released from the Lands during the Term that are not Landlord Contaminants, the Tenant shall, acting in a commercially reasonable manner and in accordance with generally accepted engineering and environmental practices in Ontario, be responsible to remediate such Contaminants to the then applicable Remediation Standards, at its own cost provided that the Landlord shall be responsible for and pay any Incremental Environmental Costs, and to otherwise manage such Contaminants as would a prudent owner of such Lands. Prior to any such remediation, the Tenant shall provide the Landlord with a remediation plan (a "**Remediation Plan**") for Approval by the Landlord, prepared by a reputable environmental consultant and addressed to the Tenant and the Landlord, which sets out the scope of the remediation, the timetable for the completion of the remediation, and the estimated cost of such remediation. The Tenant shall, throughout the Term, be entitled to reimbursement by the Landlord for all Incremental Environmental Costs incurred by the Tenant (including, for greater certainty, any such costs incurred by the Tenant in carrying out its obligations with respect to maintenance and repair except to the extent the Tenant is negligent in carrying out such obligations). Subject to the Landlord's right to dispute all or any portion of the Remediation Plan (in which event the Tenant shall not proceed with the Remediation Plan except to the extent required by Environmental Laws and shall not incur any Incremental Environmental Costs until such dispute is resolved in accordance with the Dispute Resolution Procedure), the Landlord shall reimburse the Tenant for any Incremental

Environmental Costs within ninety (90) days of receipt of an invoice by the Tenant, together with reasonable supporting documentation, either by payment to the Tenant directly or by setting-off such amount against the Rent next due by the Tenant under this Lease, at the option of the Landlord in its Sole Discretion. Prior to incurring any Incremental Environmental Costs, the Tenant shall submit to the Landlord, for the Approval of the Landlord,

(d) If any such Contaminants are not remediated and managed by the Tenant as provided for in this Lease within the prescribed amount of time as set out in this Lease, the Landlord shall be entitled, but not required, to remediate or manage the same on the Tenant's behalf, and the Tenant shall reimburse the Landlord for the cost thereof (excluding any cost for which the Landlord would have been required to pay or reimburse the Tenant) plus an additional sum equal to fifteen (15%) percent of such costs as Additional Rent.

(e) Subject to the same procedures and obligations outlined above, but with respect only to the Lakefill Lands, the Tenant shall be responsible throughout the Term for any Hazardous Substances existing on the Lakefill Lands that exceed applicable generic soil groundwater and sediment standards under Environmental Laws except for any Hazardous Substances resulting from any act or omission of the Landlord or any Landlord Person (it being confirmed that a contractor of the Tenant carrying out work or services on behalf of the Landlord shall, in such capacity, constitute a Landlord Person and not a Tenant Person)**.**

(f) The Tenant covenants and agrees with the Landlord that it will, within two (2) Business Days, provide the Landlord with copies of all reports prepared by or for the Tenant in connection with any CPU, and shall ensure that the Landlord is expressly entitled to rely on same, and with any notice of deficiencies under any CPU received by the Tenant, as well as any other notices the Tenant receives from any third-party in respect of the environmental condition of the Lands.

8.2 <u>Notice of Contamination</u>

(a) The Landlord or the Tenant, as applicable, shall forthwith notify the other party in the event it knows, or has reasonable grounds to believe, that:

(i) any violation of any Environmental Law has occurred, or is occurring or may occur, with respect to the Lands or those portions of Ontario Place adjacent to the Lands; or

(ii) any order of an administrative tribunal or any other Governmental Authority is made or is proposed to be made against the Tenant, the Landlord or any other Person in respect of any Hazardous Substance in or on or under any part of the Lands or Ontario Place; or

(iii) there has been a release, discharge, deposit, emission, spill or discovery of any Hazardous Substance in, on or from any part of the Lands or Ontario Place.

(b) The Tenant shall promptly advise the Landlord of the discovery or awareness of any Hazardous Substances including any Landlord Contaminants that were not

identified in the Risk Assessment and shall take reasonable steps to mitigate any negative impacts related to or arising from the presence or release of such Hazardous Substances. Prior to any such mitigation, the Tenant shall provide the Landlord with a mitigation plan (a "**Mitigation Plan**") for Approval by the Landlord, prepared by a reputable environmental consultant and addressed to the Tenant and the Landlord, which sets out the scope of the mitigation, the timetable for the completion of the mitigation, and the estimated cost of such mitigation. The Landlord shall, throughout the Term, be responsible for and pay all expenses, liabilities, costs and other amounts for reasonable steps taken by the Tenant to mitigate any negative impacts related to or arising from the presence or release of Landlord Contaminants (including under the Mitigation Plan). To the extent the Tenant incurs expenses, liabilities, costs and/or other amounts for such reasonable steps taken to mitigate any negative impacts related to or arising from the presence or release of Landlord Contaminants (including under the Mitigation Plan) and costs for same are paid by the Tenant, the Landlord shall reimburse the Tenant for such costs within ninety (90) days of receipt of an invoice by the Tenant, together with reasonable supporting documentation, either by payment to the Tenant or by setting-off such amount against the Rent next due by the Tenant under this Lease, at the option of the Landlord in its Sole Discretion. For greater certainty, the Tenant shall be solely responsible for steps taken to mitigate any negative impacts related to or arising from the presence or release of Landlord Contaminants which are the result of the Tenant's negligence and/or non-compliance with the RMM.

8.3 <u>Responsibility for Hazardous Substances</u>

(a) The Tenant will defend, indemnify and hold the Landlord harmless from and against any Claims arising out of or resulting from:

(i) any breach of or non-compliance with the environmental covenants of the Tenant in this Lease;

(ii) any release, discharge, deposit, emission or spill into the environment on, in, under or directly from the Lands of any Hazardous Substances after the Commencement Date;

(iii) any breach of any Environmental Law by the Tenant or any Tenant Persons;

(iv) the presence of any Hazardous Substances in, on or under the Lands after the Commencement Date, provided the Hazardous Substance was not present in, on or under the Lands prior to the Commencement Date and was caused by the Tenant or any Tenant Persons; and

(v) any legal or administrative action commenced by, or claim made or notice from, any third party, including, without limitation, any Governmental Authority, to or against the Landlord and pursuant to or under any Environmental Laws or concerning the presence, release or alleged release of Hazardous Substances in, on, under or from the Lands or Building that is caused by the Tenant or Tenant Persons.

(b) For greater certainty, the Tenant is not responsible for:

(i) any release, discharge, deposit, emission, migration or spill of any Landlord Contaminants that is not caused or contributed to by the negligence or failure to comply with the terms of the RMM by the Tenant or any Tenant Person; and

(ii) any release, discharge, deposit, emission or spill of any Hazardous Substances caused by the Landlord, a Landlord Person or any Adjacent Tenant.

(c) The obligations of the Tenant under this Section 8.3 are intended to, and shall, survive the expiry or earlier termination of this Lease.

8.4 Landlord Entry

In addition, to and without restricting any other obligations or covenants herein, the Tenant covenants that it shall permit the Landlord at its sole cost and expense to, acting reasonably:

(a) enter and inspect the Lands and the operations conducted therein;

(b) conduct non-intrusive environmental audits, assessments or appraisals;

(c) conduct intrusive environmental tests, audits and/or assessments including removing soil, sediment, groundwater, waste and/or Hazardous Substances samples from the Lands provided that the Landlord shall provide the Tenant with a minimum of seventy-two (72) hours advance notice that the Landlord intends to undertake any such actions. In exercising its rights of access for the purposes of this paragraph, the Landlord shall ensure that any inspections, audits or assessments are conduct in a timely manner that minimizes interference and nuisance to the Tenant's operations on the Lands; and

(d) examine and make copies of any documents or records relating to the Lands and interview the Tenant's employees as necessary.

8.5 Landlord's Environmental Covenants

(a) Without derogating from the Landlord's right to dispute whether a cost is an Incremental Environmental Cost, the Landlord shall, throughout the Term, and any Extension Term, be responsible for and pay any Incremental Environmental Costs.

(b) The Landlord shall be responsible for and shall pay any and all losses, additional costs and other claims suffered or incurred by the Tenant in connection with third party claims and governmental orders with respect to the Landlord Contaminants, except to the extent such costs and other claims result from the negligence of, and/or non-compliance with the RMM by the Tenant or Tenant Persons. To the extent any such losses, additional costs and/or other claims are paid by the Tenant, the Landlord shall forthwith reimburse the Tenant and the Tenant shall be entitled to effect such reimbursement by setting off such amount

from its obligation to pay Rent. For greater certainty, in no event shall the Landlord be responsible for any indirect or consequential damages suffered by the Tenant.

(c) The covenants in this Section 8.5 shall survive the termination or expiry of each of this Lease and the Master Development Agreement.

ARTICLE 9
TAXES, UTILITY CHARGES AND OTHER CHARGES

9.1 Payment of Taxes

(a) From and after the Commencement Date, the Tenant shall pay all Exigible Taxes relating to the Demised Premises as set out in Section 9.1(e) hereof to the extent relating to the period from and after the Commencement Date.

(b) For the purposes of this Section 9.1:

(i) "**Exigible Taxes**" means, during each year of the Term, the amount of Property Taxes assessed against or allocated to the Demised Premises, but excluding Sales Taxes. Furthermore, notwithstanding anything else contained herein or elsewhere, Exigible Taxes shall not include, and the Landlord shall be solely responsible for: (A) any personal, income, capital gains, capital or "large corporations" taxes levied against the Landlord, (B) any special assessment affecting the Other Lands unless and to the extent such special assessment is based on any interest of the Tenant in, or on the Tenant's use or occupation of any portion of, the Other Lands (in either case, whether by easement, licence, right of way or otherwise); and (C) penalties, interest or expenses related to the late payment of Exigible Taxes by the Landlord, provided that the Tenant has not caused such late payment.

(ii) "**Property Taxes**" means Taxes exigible on real property and any improvements as provided in Section 3 of the Assessment Act, or any successor section of the Assessment Act or any similar successor legislation and assessed and classed by MPAC and levied by the City of Toronto via PILTS.

(iii) "**Assessment Act**" means the *Assessment Act*, R.S.O. 1990, Chap. A.31.

(c) The Tenant shall pay the amount required to be paid by the Tenant on account of Exigible Taxes to the Landlord, and the Landlord shall pay the sums received by it from the Tenant in respect of such Exigible Taxes to the relevant taxing authority in a timely manner and, upon request by the Tenant, provide evidence of said payment. Provided the Landlord invoices the Tenant in a timely manner (and no less than fifteen (15) Business Days prior to the due date therefor), the Tenant shall pay the amounts required of it on account of Exigible Taxes to the Landlord at least two (2) Business Days prior to the date on which Exigible Taxes are payable to the relevant taxing authority, including instalment payments due from time to time. If the Tenant shall fail to pay the Exigible Taxes as aforesaid,

in addition to the rights of the Landlord hereunder, the Tenant shall be responsible for all interest, penalties and expenses for late payment or non-payment of the same by the Tenant (it being confirmed that the Landlord shall be responsible for all interest, penalties and expenses for late payment or non-payment by the Landlord). The Landlord and the Tenant shall, each acting reasonably, co-operate to establish and carry out procedures to comply with any reporting and similar requirements relevant to Exigible Taxes and to minimize Exigible Taxes.

(d) The Landlord covenants that it will, from time to time, at the request of the Tenant made not unreasonably frequently, produce for inspection by the Tenant receipts or other reasonable evidence of the payment and calculation of Exigible Taxes. Either Party shall have the right and privilege, if acting in good faith and upon reasonable prior Notice to the other, to contest or appeal any assessment of the Demised Premises or to apply for a reduction of the amount of any Exigible Taxes, and pending such appeal or application to refrain from paying any Exigible Taxes, if permitted pursuant to Applicable Law, provided the Party which so refrains from paying any Exigible Taxes reasonably satisfies the other Party that the other Party will not be at risk because of such refraining by the provision of security Approved by the other party for the amount of Exigible Taxes being withheld. If at any time during the Term, there is any credit, rebate, refund, discount, exemption, adjustment, reduction or the like of Exigible Taxes and the Landlord or the Agent receives such credit, rebate, refund, discount, exemption, adjustment, reduction or the like, it shall reimburse the Tenant for its share (as determined by the Landlord), acting reasonably and in good faith.

(e) The amount of Exigible Taxes charged against the Demised Premises shall be determined on the basis of separate bills, where available. If the relevant taxing authority does not issue a separate bill respecting the Demised Premises, then Exigible Taxes charged against the Demised Premises shall be computed by applying the relevant tax rate to the applicable assessment of the Demised Premises, if the Demised Premises have been separately assessed by the relevant taxing authority. If there is neither a separate bill for taxes charged against the Demised Premises nor a separate assessment of the Demised Premises for any period of time, then for such period of time, the Exigible Taxes charged against the Demised Premises shall be based on the Tenant's Proportionate Share. Notwithstanding the foregoing, in making such determination, the Landlord shall have the right to establish separate assessments for the Demised Premises and all or portions of the Other Lands by using such criteria as the Landlord, acting reasonably, shall determine to be relevant including, without limitation:

(i) the then-current established principles of assessment used by the relevant assessing authorities and on the same basis as the assessment actually obtained for Ontario Place as a whole or the part thereof in which the Demised Premises are located;

(ii) assessments of the Demised Premises and any other portions of Ontario Place in previous periods of time;

(iii) the assessor's records and notes for the Demised Premises and the Other Lands; and

(iv) any act or election of the Tenant, the Landlord or any other occupant of the Demised Premises which results in an increase or decrease in the amount of Taxes which would otherwise have been charged against the Demised Premises, the Other Lands, or any portion or portions thereof.

(f) The Parties acknowledge that the foregoing is not to be interpreted as any recognition or acknowledgement by the Landlord, the Agent or the Tenant that the City of Toronto or any other municipal or provincial authority has jurisdiction to levy, rate, charge, assess or impose any Taxes against any property of the Landlord or the Agent.

(g) The Landlord and the Tenant shall cooperate in order to prepare a reasonable and fair perspective of value for the Demised Premises to MPAC, with a particular focus on identifying moveable assets that should not be subject to Property Tax assessment, and to explore opportunities for the Tenant to reduce its Property Tax burden. The Tenant acknowledges and agrees that the Landlord is not in a position to intervene in discussions with MPAC or others concerning the assessment of Property Taxes but the Landlord will cooperate (without the necessity to expend funds or prepare documents) with the Tenant in the Tenant's efforts to reduce its Property Tax burden through various programs as aforesaid, **such cooperation being without limiting the generality of the Section 4(l)(v) of** Schedule G**.**

9.2 Payment of Sales Taxes

The Tenant shall pay to the Landlord, or as the Landlord may direct, all Sales Taxes payable as a result of the Tenant paying Rent. Payments of Sales Taxes shall be made by the Tenant at the same time as the payment of Rent to which the Sales Taxes relate is to be made. The Sales Taxes payable by the Tenant under this Section shall be deemed not to be Rent, but the Landlord shall have all of the same remedies for and rights of recovery as against such amounts as it has for and in respect of recovery of Rent.

The Landlord is registered under Subdivision d of Division V of Part IX of the *Excise Tax Act* (Canada) for the collection and remittance of goods and services tax or harmonized sales tax under Part IX of such Act, its registration number as of the date hereof is 124668666 RT0044 (which may be amended from time to time), and such registration is, and will remain until the expiry of the Term, in good standing and not revoked. To the extent confirmation of the amount of a required payment of Sales Tax is actually required by any Governmental Authorities for the Tenant to receive input tax credits (or other similar credits or reimbursements) in respect of the Sales Taxes exigible pursuant hereto, the Landlord shall provide the Tenant with receipts (and such particulars actually required by the Input Tax Credit (GST/HST) Regulations) in respect of the payment of such Sales Taxes.

9.3 Tenant's Taxes

In each and every year of the Term, the Tenant shall pay and discharge when same become due and payable, all taxes, rates, duties and assessments and other charges that may be levied, rated, charged or assessed against or in respect of all improvements, machinery,

equipment and facilities of the Tenant on or in the Demised Premises, other than Exigible Taxes paid pursuant to Section 9.1, and every tax and licence fee in respect of any and every business carried on therein or in respect of the use or occupancy thereof by the Tenant (and any and every subtenant, licensee or concessionaire), excluding income taxes assessed upon the income of the Landlord (or such subtenant, licensee or concessionaire), whether such taxes, rates, duties, assessments and license fees are charged by any municipal, parliamentary, school or other body during the Term, against the Tenant or against the Landlord on account of the Tenant's use and occupancy of the Demised Premises and against payment of all loss, costs, penalties, fees, charges and expenses occasioned by, or arising from any and all such taxes, rates, duties, assessments, license fees, and any and all taxes which may in the future be levied in lieu of such taxes; and any such loss, costs, penalties, fees, charges, and expenses suffered by the Landlord may be collected by the Landlord as rent with all rights of distress and otherwise as reserved to the Landlord in respect of Rent in arrears.

9.4 Landlord's Taxes

Nothing in this Article 9 or elsewhere in this Lease shall obligate the Tenant to pay any amount on account of corporation taxes of the Landlord, income taxes of the Landlord or any other taxes upon the income or capital of the Landlord or any business taxes in respect of any business carried on by the Landlord in the Demised Premises or any part thereof or in respect of the use or occupancy thereof by the Landlord.

9.5 Payment of Utility Charges

(a) Commencing on the Commencement Date and throughout the Term, the Tenant shall pay to the Landlord as Additional Rent as when due and payable, all Utility Charges, save and except for any Utility Charges separately metered in respect of the Demised Premises and where such payments are made directly to the City of Toronto and/or other service supplier by the Tenant. The Tenant acknowledges that the Landlord will be contracting with Toronto Hydro-Electric System Limited ("**THESL**") to provide the electrical load requested by the Tenant, pursuant to an offer to connect (an "**OTC**"), and that the Landlord will incur costs if the Tenant does not, within the time prescribed in the OTC, utilize all of the electrical load to be provided through the OTC. The Tenant agrees to reimburse the Landlord, as Additional Rent, for any costs so incurred by the Landlord, forthwith after Landlord's demand for same (supported by invoices or other reasonable documentation from THESL).

(b) If any Utility Charges are paid directly to the City of Toronto or other service provider, the Tenant will, from time to time, at the request of the Landlord, produce for inspection by the Landlord receipts or other reasonable evidence of payment of all Utility Charges.

(c) The Tenant shall have the right and privilege, if acting in good faith, to contest or appeal any Utility Charges or to apply for a reduction of the amount of any Utility Charges, and pending such appeal to refrain from payment of those of the Utility Charges in issue, provided that the Tenant shall first furnish to the Landlord security Approved by the Landlord for payment of such, Utility Charges by bond or otherwise in case of failure of such appeal, and provided further that such action by the Tenant does not result in a disruption of utility services.

(d) For greater certainty, nothing in this Section 9.5 shall have the effect of making the Tenant responsible for any Landlord's Site Readiness Activities or the cost thereof, it being confirmed that the Landlord shall be solely responsible to complete, at its own cost, the Landlord's Site Readiness Activities. In the event of any conflict or inconsistency between the provisions of this Section 9.5(d) and any other provision of this Section 9.5, the provisions of this Section 9.5(d) shall govern and prevail.

9.6 Payment of Additional Costs

(a) If the Tenant requests certain additional special services to the Tenant that do not constitute the Landlord's obligation under the Lease, the Landlord shall not be obligated to provide such requested services, but may provide same in its Sole Discretion and at the sole cost and expense of the Tenant. The Tenant shall pay to the Landlord all costs and expenses incurred by the Landlord to provide such additional special services to the Tenant, plus an administrative fee equal to fifteen (15%) of such costs for the Landlord's overhead and administrative costs, as Additional Rent.

(b) If by reason of an event on the Demised Premises, the Landlord determines, acting reasonably, that additional security personnel or crowd control measures are required over and above the security contemplated in the Tenant's security management plan for the Demised Premises (or the Tenant is not in compliance with such security management plan) ("**Additional Security**"), the Tenant shall pay to the Landlord, as Additional Rent, the cost incurred by the Landlord to provide such Additional Security.

ARTICLE 10
REPAIRS, MAINTENANCE, REPLACEMENTS AND ALTERATIONS

10.1 Repairs, Maintenance, Replacements, and Alterations

(a) During the Term (subject to Article 12), following the Completion Date, the Tenant shall make or cause to be made any and all necessary repairs, replacements, including any major capital replacements, alterations, additions, changes, substitutions and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise (collectively, the "**Tenant Repairs**") necessary to maintain the Tenant Responsibility Areas, in each case in a first class condition and repair of quality and standard that is consistent with the Standard (which, in the case of any Tenant Designated Maintenance/Repair Matters, is the Public Areas Standard) and with Applicable Law. The Tenant shall keep the Tenant Responsibility Areas fully usable for all purposes for which such Tenant Responsibility Areas were constructed in accordance with this Lease and the Standard (which, in the case of any Tenant Designated Maintenance/Repair Matters, the Public Areas Standard). The Tenant Repairs shall be in all respects of a standard at least substantially equal in quality of material and workmanship to the original material and workmanship in such portions of the Tenant Responsibility Areas as it has been improved from time to time in accordance with this Lease. Nothing in the foregoing derogates from the obligations of the Landlord to maintain and repair the Landlord Responsibility Areas in accordance with Section 10.2 hereof.

(b) The Tenant acknowledges that it is solely responsible for all costs and expenditures related to the repair and maintenance costs for the Project and the Lands, save and except where otherwise expressly set out in this Lease, whether such costs and expenditures are characterized as capital or not; provided that the foregoing does not create and/or impose any further maintenance, repair and/or other obligation on the Tenant with respect to any environmental matters (including, without limitation, Contaminants, Hazardous Substances, remediation, RMM, contamination, mitigation measures, risk management measures and/or all other environmental matters of any nature whatsoever), it being confirmed that the Tenant's obligations with respect to environmental matters are comprehensively contained in Article 8 of this Lease.

(c) The Tenant shall, no less than once every five (5) years throughout the Term and any Extension Term, provide the Landlord with internally prepared copies of its most recent building conditions, operation, maintenance and capital planning reports, which reports shall include recommendations of replacements and repairs of the Base Building Components to maintain the ongoing operation of the Tenant Responsibility Areas in a manner consistent with the Standard (each, a "**Building Condition Report**") as prepared or compiled by highly skilled engineers (or other qualified professionals as required) within the Therme group of companies.

(d) Notwithstanding the foregoing, if Building Condition Reports are required by a lender as part of the Tenant's financing conditions, then satisfaction of the Building Condition Report deliverable under Section 10.1(c) hereunder may be made by delivery to the Landlord concurrently with delivery to its lender of the Building Condition Reports required under the financing conditions and in accordance with the frequencies required by such lender, provided that, if such lender requires delivery of a Building Condition Report less frequently than once every five (5) years, the Tenant shall provide a Building Conditions Report no later than every five (5) years.

(e) Without derogating from the generality of the Tenant's general obligation in respect of the maintenance and repair of the Tenant Responsibility Areas set out in Section 10.1(a), and subject to the right of the Tenant to dispute the validity of any Required Repairs (as defined below), the Tenant shall complete any mandatory maintenance and repair work set out in the Building Condition Reports in a diligent and workman like manner when, to the extent and in a manner, required to ensure the structural, functional and/or visual integrity of the Tenant Responsibility Areas ("**Required Repairs**").

(f) Without derogating from the foregoing, on or around each ten (10) year anniversary of the commencement of operations, the Tenant shall procure, and shall deliver to the Landlord, a building condition report from an independent third party engineer (or other qualified professional) assessing the overall state of repair of the Project for the purpose of assessing compliance with the Tenant's general obligation in respect of the maintenance and repair of the Project set out in Section 10.1(a) hereof.

(g) If the Tenant fails to carry out any Required Repairs (the "**Maintenance Obligations**") within six (6) months of the Tenant receiving a request in writing

from the Landlord to carry out such Required Repairs, the Landlord may, at its option, perform such Required Repairs and the direct full costs and expenses of such Maintenance Obligations plus an additional sum equal to fifteen (15%) percent of such costs, shall be payable by the Tenant to the Landlord as Additional Rent. For greater certainty, the Landlord's entitlement to perform pursuant to this Section 10.1(g) shall not apply to, and "Required Repairs" shall not include, any maintenance or repair that is not both (i) mandatory maintenance and repair work set out in the Building Condition Reports and (ii) required (with respect to time, extent and manner) to ensure the structural, functional and/or visual integrity of the Tenant Responsibility Areas.

(h) The Landlord is entitled to deliver written notice to the Tenant, not later than ninety (90) days following the delivery to the Landlord of the Last Building Condition Report, advising the Tenant that it either wishes to have the Tenant End of Lease Demolition Obligations undertaken by the Tenant or wishes to retain the Project structures located on the Lands (the "**End of Lease Notice**"). For greater certainty, the Last Building Condition Report shall be prepared on the same basis as the other Building Condition Reports, without any difference in standard relating to the end of the Term and without the addition of any hand-back requirements, except that the Last Building Condition Report shall be prepared by an independent third party engineer (or other qualified professional) appointed by the Tenant.

(i) In the event the End of Lease Notice requires the demolition of the Project, the Tenant shall be entitled to use and occupy the Lands until the Expiry Date, and shall not be required to undertake any maintenance or repairs, save and except for maintenance and repairs required to ensure safety standards pursuant to Applicable Law, but shall have a limited license from the Expiry Date to enter upon and use the Lands for the sole purposes of performing its Tenant End of Lease Demolition Obligations, which license shall expire on the earlier of:

(i) six (6) months from the Expiry Date; and

(ii) thirty (30) days after the Tenant gives written notice to the Landlord confirming the completion of the Tenant End of Lease Demolition Obligations,

(the "**License Period**"). The Tenant End of Lease Demolition Obligations shall be completed at the cost of the Tenant, on and subject to the terms of this Lease applicable to such work during the License Period.

(j) For greater certainty, and subject to the terms of the Master Development Agreement, the Tenant End of Lease Demolition Obligations shall be applicable in the event this Lease is terminated for Material Tenant Event of Default prior to Envelope Completion, at the end of the Term at the Expiry Date and as set out in Section 20.4, but not to any earlier termination of this Lease.

(k) Unless the Landlord has, pursuant to Section 10.1(h) of this Lease, elected for the Tenant to have the Project demolished prior to the expiry of the Term, the Tenant shall be required to complete the maintenance and repair work recommended in the Last Building Condition Report to be completed prior to the

expiry of the Term, provided the Landlord has elected to retain the Project structure, and shall provide the Landlord with evidence of completion which is satisfactory to the Landlord, in its Sole Discretion. If the Tenant does not complete such recommended work, the Landlord shall be entitled to complete such work and recover from the Tenant its costs plus an additional sum equal to fifteen (15%) percent of such costs.

(l) The Tenant is solely responsible for the repair and maintenance of the Tenant Responsibility Areas as would a reasonably prudent owner, and all costs and expenses in connection with such repair and maintenance shall be the sole responsibility of the Tenant, except to the extent set out in this Lease.

10.2 <u>Landlord Repairs, Maintenance, Replacements, and Alterations</u>

(a) During the Term, the Landlord shall make or cause to be made any and all necessary repairs, replacements, including any major capital replacements, alterations, additions, changes, substitutions and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise (collectively, the "**Landlord Repairs**") necessary to maintain the Landlord Responsibility Areas, and all fixtures, furnishings and equipment within the Landlord Responsibility Areas, in each case in a condition and repair of quality and standard that is consistent with the Public Areas Standard and with Applicable Law. The Landlord Repairs shall be in all respects of a standard at least substantially equal in quality of material and workmanship to the original material and workmanship in such portions of the Landlord Responsibility Areas as it has been improved from time to time in accordance with this Lease.

(b) The Landlord acknowledges that, except for the Tenant's obligations in respect of Costs Recoverable by Province in accordance with Section 3.5 or as otherwise expressly set out in this Lease, the Landlord is solely responsible for all costs and expenditures related to the repair and maintenance costs for the Landlord Responsibility Areas whether such costs and expenditures are characterized as capital or not; provided that the foregoing does not create and/or impose any further maintenance, repair and/or other obligation on the Landlord with respect to any environmental matters (including, without limitation, Contaminants, Hazardous Substances, remediation, RMM, contamination, mitigation measures, risk management measures and/or all other environmental matters of any nature whatsoever), it being confirmed that the Landlord's obligations with respect to environmental matters are comprehensively contained in Article 8 of this Lease and in the provisions relating to the Landlord Initial Obligations and Landlord's Site Readiness Activities.

(c) Notwithstanding whether the End of Lease Notice requires the demolition of the Project, the Tenant shall not be required to demolish any improvements on or forming part of the Landlord Responsibility Areas on or after the Expiry Date, but shall be entitled, in its Sole Discretion, to demolish or remove (for its own benefit) any portions of such improvements that were constructed by the Tenant. In the event that the Tenant elects to demolish or remove any portions of such improvements that were constructed by the Tenant as aforesaid, such demolition or removal shall be at the sole cost of the Tenant and the license referred to in

Section 10.1(i) shall apply, *mutatis mutandis*, to and for such demolition and/or removal.

10.3 Landlord and Tenant Not Obliged to Repair

(a) Except as otherwise expressly provided in this Lease, the Landlord shall not be obliged to furnish any services or facilities to or to make repairs in or alterations to or replacements of the Demised Premises or any part thereof. The Tenant hereby assumes the full and sole responsibility for the condition, operation, maintenance, management and Tenant Repairs of the Tenant Responsibility Areas commencing as of the Commencement Date, except as set out in the Lease.

(b) The Tenant shall not be obliged to furnish any services or facilities to or, subject to Section 13.2 to make repairs in or alterations to or replacements of the Other Lands or any part thereof. The Landlord shall be fully and solely responsible for the condition, operation, maintenance, management and Landlord Repairs of the Landlord Responsibility Areas commencing as of the Lease Date.

10.4 Major Changes

(a) The Tenant shall be entitled to make or permit to be made any changes to the Project (including Major Changes) that it considers necessary or desirable in its Sole Discretion, provided that, notwithstanding the foregoing, the Tenant shall not make or permit to be made any Relevant Major Change without first obtaining the Approval of the Landlord.

(b) Before undertaking any Major Change, the Tenant shall submit to the Landlord adequately detailed plans prepared by qualified architects or engineers of such contemplated Major Change, provided that any plans submitted to the Landlord for any Major Change that does not constitute a Relevant Major Change shall not require the Approval of the Landlord The Tenant shall pay to the Landlord, on demand as Additional Rent, all third party costs and expenses for reviewing drawings, plans and specifications for any Relevant Major Change either by the Landlord or by outside consultants and inspections, coordination and supervision of any such work, plus an amount equal to fifteen percent (15%) of such costs and expenses for the Landlord's overhead.

(c) The provisions of Sections 1 Design and 2 Landlord's Review, Comments and Approval of Schedule G shall apply, *mutatis mutandis*, to the design and approval of any contemplated Major Change, provided that: (i) the Approval of the Landlord shall be required in respect of (and only in respect of) a Major Change that constitutes a Relevant Major Change; (ii) the frequency of meetings and the scope, content and stages of required submissions, shall be based on what is appropriate in the context of the scope and nature of the contemplated Major Change; (iii) to the extent the Major Change is a Major Change that the Landlord in good faith determines requires the Landlord to engage in a duty to consult with respect to such Major Change and/or is a Major Change that the Landlord determines is subject to the Guidelines, then: (A) to the extent the Major Change is a Major Change that the Landlord determines would require the Landlord to engage in a duty to consult with respect to such Major Change and

has advised the Tenant of such determination within the equivalent of the Landlord Review Period, the Landlord shall proceed diligently to undertake such duty to consult and it shall not be unreasonable for the Landlord to withhold its Approval until such time as it, in its Sole Discretion acting in good faith, has fulfilled the duty to consult process; (B) to the extent the Major Change is a Major Change that the Landlord has in good faith determined is subject to the Guidelines and has advised the Tenant of such determination within the equivalent of the Landlord Review Period, the Landlord shall review the proposed Major Change to determine whether it is in compliance with the Guidelines, and the period of time for the Landlord to determine whether or not the proposed Major Change will be Approved by the Landlord shall be extended to the date which is twenty-one (21) days following the Landlord's determination that compliance with the Guidelines has been achieved. The Landlord shall use commercially reasonable efforts to identify to the Tenant, within the equivalent of the Landlord Review Period, any objections of the Landlord to such proposal that do not result in connection with its duty to consult and/or Heritage Determinations. In the event that the Landlord is not authorized under Applicable Law (or, pursuant to Applicable Law, requires an internal approval) to grant the Approval of the Landlord contemplated in this Section 10.4(c) (it being confirmed that, notwithstanding the references herein to heritage matters and duty to consult, the Approval of the Landlord required pursuant to this Section 10.4(c) refers to an approval from the Landlord, acting in its capacity as a landlord, not in any regulatory capacity), the Landlord may, prior to the expiry of the equivalent of the Landlord Review Period, extend such period by up to 30 days in order to obtain such authority. For greater certainty, the foregoing extension right shall apply only to Relevant Major Changes under this Section 10.4(c) and shall not apply to any Changes Requiring Landlord Approval under Schedule G.

For greater certainty, the minimum frequency and required submission stages referred to in Sections 2(a) and 2(b) of Schedule G (being the thirty (30%) percent, sixty (60%) percent, ninety (90%) percent and one hundred (100%) of design completion) shall not be automatically applicable to contemplated Major Changes.

(d) All Major Changes will be effected in substantial accordance with the plans therefor.

(e) Without prejudice to the right of the Landlord to Approve as hereinbefore provided any Relevant Major Change, any Major Change shall meet the requirements of Applicable Law and the Standard.

10.5 Landlord Cooperation

The provisions of Section 4(l) of Schedule G shall apply, *mutatis mutandis*, to any Major Change.

10.6 Consequences of Approval

The Approval by the Landlord of any plans or specifications shall be for the sole purpose of the satisfaction of the provisions contained in this Article 10. The Approval by the Landlord of any plans or specifications shall not relieve the Tenant from full and complete responsibility for

insuring that the plans and specifications comply with the Standard and all Applicable Law. The Landlord shall have no responsibility, obligation or liability in connection with the preparation of any plans and specifications or the construction of any portion of any Major Change.

10.7 Effecting Tenant Repairs and Major Changes

To the extent appropriate based on the nature and scope of any Tenant Repair or Major Change, the provisions of this Section 10.7 pertain to the effecting of Major Changes and to the effecting of Tenant Repairs and the obligations of the Tenant under this Section will be performed at the Tenant's sole expense. Whether a provision and corresponding obligation is appropriate for a specific Tenant Repair or Major Change is to be determined on a provision-by-provision basis.

(a) Consultants and Pre-Construction Reports

(i) The provisions of Section 14 of Schedule G shall apply, *mutatis mutandis*, with respect to the principal architect and engineer for each Tenant Repair and Major Change; and

(ii) the provisions of Section 10 of Schedule G shall apply, *mutatis mutandis*, to each Tenant Repair or Major Change.

(b) Safety Requirements

In effecting all Tenant Repairs and Major Changes the Tenant shall take all safety precautions as necessary, including, without limitation, compliance with the safety requirements of all Applicable Law.

(c) Consultants' Reports and Reports During Construction

At the Landlord's request, the Tenant shall provide the Landlord with all material reports of consultants as received by the Tenant from time to time in connection with the construction of any portion of the Project and any Tenant Repairs or Major Changes. Any material reports provided by consultants shall be addressed to the Landlord or a reliance letter in a form acceptable to the Landlord shall be provided.

(d) As-built Drawings

Upon completion of the subject Tenant Repair or Major Change, to the extent appropriate based on the scope of the Tenant Repair or Major Change, the Tenant shall cause to be prepared and shall provide the Landlord with as-built drawings and/or a CAD disk of same in a format useable by the Landlord, in respect of any portion of the Project and any Major Changes.

(e) Meetings

The Tenant shall provide reasonable Notice to the Landlord of, and provide the Landlord with the opportunity to attend and participate in, all material scheduled meetings with respect to any portion of and any Major Changes held by the Tenant and its architect, any other consultants or any other relevant Person,

relating to the design or completion of any Major Changes, and shall arrange for prompt circulation thereafter to the Landlord of minutes of such meetings.

(f) Insurance

Throughout the period from commencement of any Tenant Repairs and Major Changes, up to the date which is one year following the completion of such work, the Tenant shall take out and keep in full force and effect the policies of insurance with respect to the Demised Premises set out in Section 11.3 on the terms specified in Section 11.3, as applicable, which insurance shall include the Landlord as a named insured, and provide the Landlord at such times as may reasonably be requested by the Landlord from time to time, certified copies or, at the Tenant's election, certificates of insurance in respect of such policies of insurance.

(g) Protection of Lands and Enjoyment of Land

The Tenant shall protect the Lands and the Other Lands, and all Improvements and services thereon or thereunder from time to time, from any damage, unreasonable interference with use or access, or other nuisance directly or indirectly attributable to the performance by the Tenant of, or failure to comply with, the obligations of the Tenant under this Lease.

(h) Books, Records and Inspections

The Tenant shall maintain adequate books and records concerning any Tenant Repairs and Major Changes. The Tenant shall permit the Landlord and its representatives and consultants at any time and from time to time after advance Notice reasonable in the circumstances to enter onto the Lands in the company of a representative of the Tenant to inspect the course of construction by the Tenant any Tenant Repairs or Major Changes. Upon completion of any Tenant Repair or Major Change, the Tenant shall provide to the Landlord evidence, satisfactory to the Landlord, of a final inspection of the Tenant Repairs or Major Changes (including inspection of mechanical and electrical systems where applicable) by the Governmental Authority which issued the permit or license for same.

(i) Failure to Comply

If the Tenant performs any Tenant Repairs or Major Changes without compliance with all of the provisions of this Article 10, the Landlord shall have the right to require the Tenant to remove such Tenant Repair or Major Change forthwith, at the Tenant's sole cost and expense, and to restore the Demised Premises to its prior condition.

10.8 <u>Standard of Performance</u>

In performing its obligations with respect to any Tenant Repairs and Major Changes, the Tenant will exercise the same standard of performance, care and skill and shall cause any general contractor and all other Persons engaged or employed by the Tenant to exercise the same standard of performance, care and skill as would be exercised by an owner effecting for

its own account the relevant Tenant Repairs or Major Changes to the Standard. Tenant Repairs and Major Changes shall be effected in a good and workmanlike manner to a standard that satisfies the Standard.

10.9 Expeditious Construction

Upon commencement of any Tenant Repairs or Major Changes, and thereafter, the Tenant will proceed diligently and continuously to cause the completion of such Tenant Repairs or Major Changes, obtain any occupancy or other permits required by Applicable Law and generally provide all labour, personnel, machinery and materials in a manner consistent with customary construction practices in the greater Toronto area.

ARTICLE 11
INSURANCE

11.1 Construction Period Insurance

From the Construction Commencement Date until Completion of Construction, the Tenant shall arrange and maintain, or cause to be arranged and maintained, the following insurance:

(a) "Wrap-Up" Commercial General Liability and Non-Owned Automobile Liability in the sum of not less than fifty million dollars ($50,000,000) per occurrence and in the aggregate with respect to products and completed operations. This policy shall name the Landlord, the Tenant, the Agent (if applicable), the Contractor, all subcontractors of any tier, suppliers while working on the site, consultants, sub-consultants (other than for professional liability) as named insureds, and the Leasehold Mortgagee as additional insureds. This policy shall provide the Landlord and the Agent with primary and non-contributory insurance in respect of the Works. The policy provided shall include, as a minimum, the following coverage extensions:

(i) occurrence form;

(ii) products and completed operations liability (aggregate to apply);

(iii) premises and operations;

(iv) owner's and contractor's protective;

(v) broad form property damage;

(vi) personal injury (nil participation);

(vii) blanket contractual;

(viii) non-owned automobile, including contractual;

(ix) employer's liability;

(x) employees as additional insureds;

(xi) cross liability and severability of interest clause;

(xii) sudden and accidental pollution liability (not less than IBC 2313 form (one hundred twenty (120) hours detection/ one hundred twenty (120) hours' notice) and to include hostile fire extension);

(xiii) broad form completed operations;

(xiv) twenty-four (24) months completed operations;

(xv) loss of use without property damage;

(xvi) loading and unloading of automobiles;

(xvii) use of attached machinery;

(xviii) unlicenced vehicles;

(xix) worldwide territory (subject to suits being brought in Canada or the United States);

(xx) blasting, demolition, excavating, underpinning, pile driving, shoring, caisson work, work below ground surface, tunnelling and similar operations associated with the construction work, as applicable; and

(xxi) limited UAV (up to 20 kg).

(b) "All Risks" Course of Construction, to include property of every description for incorporation into the project with coverage to be for the full replacement cost of the Project. This policy shall name the Landlord, the Tenant, the Agent (if applicable), the Contractor, all subcontractors of any tier, suppliers while working on the site, consultants, sub-consultants as named insureds, and the Leasehold Mortgagees as loss payees. This policy shall provide the Landlord and the Agent with primary and non-contributory insurance in respect of the Works. The policy provided shall include, as a minimum, the following coverage extensions:

(i) coverage for loss or damage caused by the perils of flood and earth movement (including earthquake) for which a annual aggregate will be acceptable;

(ii) if the policy contains an exclusion for faulty workmanship, materials or design, the policy shall provide coverage for any resultant damage to a minimum DE 4 standard;

(iii) delay in start-up coverage with a minimum indemnity period not less than the probable maximum delay covering the Tenant's loss of revenue arising out of delay caused by an insured loss;

(iv) soft costs coverage;

(v) by-laws (twenty-five million dollars ($25,000,000) minimum sublimit);

(vi) extra and expediting expense coverage (ten million dollars ($10,000,000) minimum sublimit);

(vii) off-premises utilities coverage (five million dollars ($5,000,000) minimum sublimit);

(viii) off-site storage (five million dollars ($5,000,000) minimum sublimit);

(ix) transit (five million dollars ($5,000,000) minimum sublimit);

(x) demolition and debris removal (five million dollars ($5,000,000) minimum sublimit);

(xi) fire fighting expenses (five million dollars ($5,000,000) minimum sublimit);

(xii) professional fees (one million dollars ($1,000,000) minimum sublimit);

(xiii) contamination clean up (one million dollars ($1,000,000) minimum sublimit);

(xiv) civil authority access interruption (sixty (60) days; five million dollars ($5,000,000) minimum sublimit);

(xv) ingress/egress (sixty (60) days; $5 million minimum sublimit);

(xvi) boiler and machinery extension;

(xvii) testing and commissioning; and

(xviii) no co-insurance penalty is permitted.

(c) Project-Specific Professional Liability in the sum of not less than ten million dollars ($10,000,000) per claim and in the aggregate. Coverage is to include the Tenant's prime design consultant as well as sub consultants involved in the rendering of professional services for the Project from the date of first design activity until Completion of Construction plus coverage for an extended reporting period of not less than thirty-six (36) months after Completion of Construction. This policy shall be primary and non-contributory insurance in respect of the Works. The policy provided shall include, as a minimum, the following coverage extensions:

(i) duty to defend; and

(ii) worldwide territory (suits brought in Canada).

(d) Project-Specific Pollution Liability in the sum of not less than ten million dollars ($10,000,000) per claim and in the aggregate. Coverage is to include bodily injury, property damage, consequential loss or damage, including clean-up and restoration costs at the project and off-site, as required plus an extended reporting period of not less than thirty-six (36) months after Completion of Construction. This policy shall name the Landlord, the Tenant, the Agent (if applicable), the Contractor, all subcontractors of any tier, suppliers while working

on the site, consultants, sub-consultants as named insureds, and the Leasehold Mortgagees as additional insureds. This policy shall be primary and non-contributory insurance in respect of the Works. The policy provided shall include, as a minimum, the following coverage extensions:

(i) hazardous substances commencing at or emanating from the project site during the policy period, but not covering pre-existing or "known" conditions;

(ii) microbial matter;

(iii) underground and above ground storage tanks;

(iv) first party restoration and clean-up costs;

(v) disposal site extension (including transportation);

(vi) duty to defend;

(vii) Canada and US territory;

(viii) contractual liability; and

(ix) emergency response costs.

(e) Automobile Liability Insurance for all vehicles operated by the Tenant. The policy provided shall include, as a minimum, the following coverage extensions:

(i) Standard Ontario Owners form; and

(ii) two million dollars ($2,000,000) minimum limit of liability.

(f) With the exception of Section 11.1(c) and (e), all of the foregoing policies of insurance shall contain a waiver of subrogation in favour of the Landlord, the Agent (if applicable), the Leasehold Mortgagees and the Tenant.

(g) With the exception of Section 11.1(e), all of the foregoing policies of insurance shall contain a clause stating that any breach of any of the terms or conditions of the policies required to be provided by the Tenant, or any negligence or wilful act or omission or false representation by an Insured under the policies, shall not invalidate the insurance with respect to the Landlord, the Agent (if applicable) and the Leasehold Mortgagees, but only to the extent that such breach is not known to these parties.

11.2 Operating Period Insurance

(a) The Tenant covenants with the Landlord that from and after Completion of Construction until the expiry or early termination of the Term it shall purchase, provide and maintain, or cause to be purchased, provided and maintained, at its expense, the following insurance:

(i) Commercial General Liability Insurance

Commercial general liability insurance in the sum of not less than the fifty million dollars ($50,000,000) per occurrence and in the aggregate with respect to products and completed operations, or such higher amount as the Landlord may reasonably require from time to time as may be Approved by the Tenant (such increases to reflect current experience and appropriate indexing as deemed reasonable). This policy shall name the Landlord and the Tenant and the Agent as additional insureds. This policy shall provide the Landlord and the Agent with primary and non-contributory commercial general liability insurance for liability arising out of the Tenant's operations at the Demised Premises, those Utility Services which serve the Lands and the Improvements exclusively (whether located on, in or under the Lands or the Other Lands), and those portions of any Utility Services located on, in or under the Lands which serve the Demised Premises together with the Other Lands. The policy provided shall include, as a minimum, the following coverage extensions:

(A) occurrence form;

(B) products and completed operations liability (annual aggregate to apply);

(C) premises and operations;

(D) owner's and contractor's protective;

(E) broad form property damage;

(F) personal injury (nil participation);

(G) blanket contractual;

(H) non-owned automobile, including contractual;

(I) employer's liability;

(J) employees as additional insureds;

(K) cross liability and severability of interest clause;

(L) host liquor liability;

(M) sudden and accidental pollution liability (not less than IBC 2313 form (one hundred twenty (120) hours detection/one hundred twenty (120) hours' notice) and to include hostile fire extension);

(N) broad form completed operations;

(O) loss of use without property damage;

(P) loading and unloading of automobiles;

(Q) use of attached machinery;

(R) unlicenced vehicles; and

(S) worldwide territory (subject to suits being brought in Canada or the United States).

(ii) "All Risks" Property Insurance

"All Risks" Property Insurance in the name of the Landlord, the Agent, the Tenant, all Leasehold Mortgagees and any other person having an insurable interest which the Landlord, the Agent, or the Tenant, acting reasonably, may require to be added from time to time in respect of all Improvements, those Utility Services which serve the Demised Premises exclusively (whether located on, in or under the Lands or the Other Lands), and those portions of any Utility Services located on, in or under the Lands which serve the Demised Premises together with the Other Lands. The policy shall include, as a minimum, the following coverage extensions:

(A) All Risks Property Insurance including coverage for loss or damage caused by the perils of flood and earth movement (including earthquake);

(B) the policy's annual limit of liability (and its limit of liability for the perils of flood and earth movement) shall be in an amount equal to the aggregate replacement cost value of all property required to be insured (with a replacement cost endorsement) or a limit reflecting the probable maximum loss ("**PML**") based on a PML report acceptable to the Landlord in its good faith discretion;

(C) policy sublimits for the coverage extensions expressly set out in this Section 11.2(a)(ii) will be accepted only as specified in this Section 11.2(a)(ii);

(D) if the policy contains an exclusion for faulty workmanship, materials or design, the policy shall provide coverage for direct resultant damage;

(E) Business Interruption coverage with an indemnity period of not less than twenty (24) months covering the Tenant's loss of revenue arising out of an insured loss;

(F) replacement cost basis of valuation;

(G) by-laws (twenty-five million dollars ($25,000,000) minimum sublimit);

(H) extra and expediting expense coverage (ten million dollars ($10 million) minimum sublimit);

(I) off premises utilities coverage (five million dollars ($5,000,000) minimum sublimit);

(J) demolition and debris removal (five million dollars ($5,000,000) minimum sublimit);

(K) fire fighting expenses (five million dollars ($5,000,000) minimum sublimit);

(L) professional fees (one million dollars ($1,000,000) minimum sublimit);

(M) contamination clean up (one million dollars ($1,000,000) minimum sublimit);

(N) civil authority access interruption (sixty (60) days; five million dollars ($5,000,000) minimum sublimit);

(O) ingress/egress (sixty (60) days; five million dollars ($5,000,000) minimum sublimit);

(P) no co-insurance penalty is permitted;

(Q) include any Leasehold Mortgagee as loss payee; and

(R) should the boiler and machinery policy described in (iii) below not form part of the all risks property insurance, contain a joint loss agreement.

(iii) Boiler and Machinery Insurance

Boiler and Machinery Insurance, insuring all necessary objects, including HVAC. The policy shall include, as a minimum, the following coverage extensions:

(A) comprehensive form basis;

(B) business interruption coverage;

(C) replacement cost basis of valuation;

(D) by-laws (one million dollars ($1,000,000) minimum sublimit);

(E) expediting expenses (one million dollars ($1,000,000) minimum sublimit);

(F) extra expenses (one million dollars ($1,000,000) minimum sublimit);

(G) hazardous substances (one million dollars ($1,000,000) minimum sublimit);

(H) water damage (one million dollars ($1,000,000) minimum sublimit); and

(I) should the boiler and machinery not be insured as part of the all risks property insurance described in (ii) above, contain a joint loss agreement.

(iv) Automobile Liability Insurance

Automobile Liability insurance for all vehicles operated by the Tenant. The policy provided shall include, as a minimum, the following coverage extensions:

(A) Standard Ontario Owners form; and

(B) two million dollars ($2,000,000) minimum limit of liability.

(v) Other Insurance

Such insurance as may, from time to time, be reasonably requested by the Landlord (with reference to the Standard and the commercial availability of the proposed other insurance) and agreed to be obtained and maintained by the Tenant, in the names of the Landlord, the Agent (if applicable), the Tenant, any Leasehold Mortgagee (if required) and any other person which the Landlord or the Tenant, acting reasonably, may require to be added from time to time. If the Tenant does not agree to obtain and maintain the additional insurance requested by the Landlord, the Landlord may direct the Tenant to obtain and maintain such insurance at the sole cost and expense of the Landlord.

(b) With the exception of Section 11.2(a)(iv), all of the foregoing policies of insurance shall contain a waiver of subrogation in favour of the Landlord, the Agent (if applicable), the Leasehold Mortgagees and the Tenant.

(c) With the exception of Section 11.2(a)(iv), all of the foregoing policies of insurance shall contain a clause stating that any breach of any of the terms or conditions of the policies required to be provided by the Tenant, or any negligence or wilful act or omission or false representation by an Insured under the policies, shall not invalidate the insurance with respect to the Landlord, the Agent (if applicable) and the Leasehold Mortgagees, but only to the extent that such breach is not known to these parties.

11.3 Insurance and Bonding for Major Change

(a) Before commencing any Major Change, the Tenant shall obtain or cause to be obtained at its own expense additional:

(i) Wrap-up liability insurance indemnifying the Landlord, the Agent (if applicable) and the Tenant as joint insureds and the Leasehold Mortgagees as additional insureds;

(ii) “All Risk” Course of Construction Property insurance indemnifying the Landlord, the Agent (if applicable) and the Tenant, as joint insureds and

any Leasehold Mortgagee as joint insureds and any Leasehold Mortgagee as loss payees;

(iii) Pollution liability insurance indemnifying the Landlord, the Agent (if applicable) and the Tenant as joint insureds and the Leasehold Mortgagees as additional insureds;

(iv) a Performance Bond of a type usual to construction risks in an amount equal to not less than fifty percent (50%) of the contract price for the Major Change; and

(v) a Material and Labour Bond in an amount equal to not less than fifty percent (50%) of the contract price for the Major Change.

(b) Such policies of insurance shall be in such amounts reasonably requested by the Landlord having regard to the nature of the proposed work and shall otherwise be to the same standard and form as described in the applicable clause of Section 11.1 above. Such policies may provide that such reasonable amounts shall be deductible in respect of any injury or property damage as may be Approved by the Landlord from time to time. The Tenant may utilize insurance policies described under Section 11.2 to satisfy these requirements, provided coverage is substantially similar to that required under Section 11.3 and satisfactory to both parties acting reasonably.

11.4 Premiums

Except where the responsibility for payment of the premium is that of the Landlord as set out in Section 11.2(a)(v) or Section 11.11, the Tenant shall duly and punctually pay all premiums and other sums of money payable for maintaining any insurance required to be maintained by the Tenant pursuant to this Lease.

11.5 Notice of Alteration or Cancellation

Each of the policies of insurance required to be maintained pursuant to this Article shall contain an agreement by the insurer to the effect that it will not cancel or effect an adverse material change to such policy except after at least sixty (60) days' prior written Notice to the Landlord and any Leasehold Mortgagees.

In the event that the policies of insurance required to be maintained pursuant to this Article are cancelled for non-payment of premium, the insurers will provide at least fifteen (15) days' prior written Notice to the Landlord and any Leasehold Mortgagees.

11.6 Insurers

(a) All policies of insurance required to be maintained pursuant to this Article shall be issued by financially sound insurers acceptable to the Landlord, acting reasonably, and be licenced to insure such risk in the Province of Ontario and having an insurer financial strength rating of not less than AM Best's A-VII (or better), S&P A- (or better) or an equivalent rating from an approved rating agency, as Approved by Landlord.

(b) The Tenant shall ensure that the Landlord shall, at all times, be in possession of certificates of the Tenant's insurance policies which are in good standing and in compliance with the Tenant's obligations hereunder. At the Landlord's request, the Tenant shall provide the Landlord with a copy of its insurance policy or policies, as the case may be.

11.7 Policies

(a) All policies of insurance required to be maintained pursuant to this Article 11 shall be on terms, in form, and substance satisfactory to the Landlord, acting reasonably.

(b) To achieve the minimum limits for any type of insurance required under this Article 11, it is permissible to arrange the insurance under a single policy or by a combination of primary, umbrella and/or excess policies.

(c) The Tenant shall provide to the Landlord, at least five (5) Business Days prior to the expiry date of any policy of insurance required to be obtained by the Tenant, evidence of the renewal of each such policy in a form and content (detailed certificates, cover notes or similar summaries of insurance) satisfactory to the Landlord, acting reasonably.

(d) Blanket corporate policies are acceptable to be used to satisfy the requirements of this Article 11.

(e) If the Tenant fails to maintain in force, or pay any premiums for any insurance required to be maintained by the Tenant hereunder, or if the Tenant fails from time to time to deliver to the Landlord satisfactory proof that any such insurance is in good standing, including the payment of premiums therefor, then the Landlord, without prejudice to any of its other rights and remedies hereunder, shall have the option, at the Landlord's sole discretion, but shall not be obligated, to effect such insurance on behalf of the Tenant. In the event that the Landlord effects such insurance, the cost thereof and all other reasonable expenses incurred by the Landlord in that regard, including the Landlord's administrative fee of fifteen percent (15%) of such premium, shall be paid by the Tenant to the Landlord as Additional Rent forthwith upon demand. This Section 11.7(e) is subject to the terms of Section 11.12 below.

11.8 Proceeds of Insurance

Subject to the terms and conditions of Article 12 hereof, the proceeds payable under the "All Risks" Property Insurance and Boiler and Machinery Insurance maintained pursuant to this Article (other than proceeds of business interruption, loss of income, extra expense and off-premises utilities coverages) shall be payable to the Tenant in order for the Tenant to effect its obligations under this Lease to repair, restore, reconstruct or replace the damaged property. Following the occurrence of the applicable damage, the Landlord and the Tenant shall meet to discuss the schedule and procedures for the Tenant to effect the necessary repairs of the damaged property. The Tenant shall maintain adequate and accurate books, accounts and records concerning the effecting of any such repairs and the disbursement of such insurance proceeds in connection therewith.

11.9 Appraisals

The Improvements shall be appraised by an independent professional appraisal company designated by the Tenant and Approved by the Landlord, upon Completion of Construction of the Project and every three (3) years thereafter, such appraisal being commissioned to determine the full replacement cost of the Improvements. The Landlord shall receive a copy of each such appraisal addressed to it. The cost of such appraisals shall be paid by the Tenant.

11.10 Responsibility for Deductibles

As between the Landlord and the Tenant, the Tenant shall be responsible for payment of any deductibles under each of the policies of insurance required to be maintained pursuant to this Article, except in the case where the insurable event was caused by an act or omission of the Landlord, a Landlord Person or the Agent in which case the Landlord shall be responsible to pay the applicable deductible.

11.11 Limits of Insurance

The required limits of insurance (a) shall be reviewed by the parties from time to time at the request of the Landlord, and (b) if requested by the Landlord, shall be further increased at the Landlord's cost and expense, such increases to reflect current experience and appropriate indexing as deemed reasonable by a prudent landlord.

11.12 Coverage Not Available

(a) Notwithstanding anything contained in this Article, if any specific obligation of the Tenant pursuant to this Article shall become obsolete or any specific kind of insurance required to be maintained by the Tenant pursuant to this Article shall become obsolete or not available from any of the major insurers in the Canadian insurance marketplace generally on terms that are commercially reasonable, then the Tenant shall obtain insurance providing for similar or substitute coverage, or its equivalent, or, if such equivalent is not available from any of the major insurers in the Canadian insurance marketplace generally on terms that are commercially reasonable, Tenant shall be excused from such requirements, all in accordance with the then current practices of prudent operators of facilities like the Project which similar or substitute coverage, or its equivalent, shall be subject to the Approval of the Landlord.

(b) If any specific obligation of the Tenant pursuant to this Article becomes unavailable, the Tenant shall continue to approach the insurance market on a regular basis and, in any event, at intervals of not less than 365 days and use commercially reasonable efforts to obtain insurance to cover as much or all of the uninsurable risk as can be insured in a commercially reasonable manner in the available insurance market from time to time.

11.13 Landlord's Insurance

(a) As long as Landlord is the Crown in right of Ontario or of Canada, or a Crown Corporation, Landlord shall not be obliged to carry any insurance. Notwithstanding the foregoing, the Landlord has, and will maintain during the

term of this Lease, coverage with respect to commercial general liability risks as a "Protected Person" under the Government of Ontario General and Road Liability Protection Program (the "**Protection Program**"), which is funded by Her Majesty the Queen in right of Ontario. The coverage shall provide limits of at least five million dollars ($5,000,000) per occurrence and is subject to all the terms conditions and exclusions of the Protection Program. In the event that the Landlord is not covered by the Protection Program, the Landlord shall maintain such insurance, other than property insurance, as it determines is reasonably required with respect to all improvements on the Other Lands, and Landlord's activities thereon, substantially in accordance with the substance of the provisions set forth in Sections 11.2, 11.4, 11.5, 11.7(e), 11.9, 11.11 and 11.12 modified, *mutatis mutandis*, to reflect that the Tenant is the benefitted party and the Landlord is the obligated party. By way of example of the modification that is required, the Landlord shall be deemed to be carrying, or shall be required to maintain, as the case may be, liability insurance in respect of: those Utility Services that serve the Other Lands exclusively (whether located on, in or under the Lands or the Other Lands), and those portions of any Utility Services located on, in or under the Other Lands which serve the Demised Premises together with the Other Lands.

(b) During the period when Landlord, pursuant to Section 11.13(a), is not required to maintain insurance, then for the purposes of applying all of the provisions of this Lease (even though Landlord may not in fact carry insurance), Landlord shall be conclusively deemed to be carrying liability insurance (and shall perform as if the Landlord were the insurer) and to be insuring all improvements on the Other Lands and Landlord's personal property with property insurance with the same coverages and terms as specified in Section 11.2 and including such other coverages, if any, as Landlord may require Tenant to maintain under Section 11.3(a)(v) provided, however, if and to the extent Landlord in fact carries any broader coverages, then such broader coverages shall apply.

(c) Notwithstanding any provision to the contrary in this Lease, the parties agree that the Landlord shall not be required to acquire property insurance.

ARTICLE 12
DAMAGE, DESTRUCTION OR EXPROPRIATION

12.1 No Surrender or Abatement

Except as otherwise provided in this Lease, in the event of damage to or total or partial destruction of the Demised Premises by fire or any other peril, this Lease shall continue in full force and effect and the Tenant shall not be entitled to surrender this Lease or the Demised Premises or to demand any abatement or reduction of the Rent payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

12.2 Insured Damage or Destruction Subsequent to Completion of Construction of the Works

Subject to Section 12.3, the Tenant covenants with the Landlord that in the event of damage to or partial or total destruction of any portion of the Demised Premises by fire or by any other peril following the Completion of Construction of the Works ("**Construction**

Activities"), the Tenant shall give the Landlord prompt Notice thereof and shall, subject to Section 12.3, start as soon as possible and, subject to Force Majeure or Permitted Closures or Stoppage, shall proceed diligently and continuously to repair such damage and restore, reconstruct or replace any affected improvement in whole or in part to the same quality and condition as prevailed immediately prior to such damage or destruction and in accordance with the Construction Documents, or as Approved by the Landlord (such Approval of the Landlord to be subject to the terms of Schedule G), and in connection therewith:

(a) all such repair, restoration, replacement or reconstruction shall be carried out to completion in a diligent fashion, and in a good and workmanlike manner without cost or liability to the Landlord (except as set forth in Sections 11.10, 13.2 and 13.3); and

(b) the Tenant shall cause to be removed from title to the Demised Premises any liens arising pursuant to the *Construction Act*, R.S.O. 1990, Chap. C.30, as amended from time to time, or any successor or replacement legislation, resulting from or relating to the foregoing, as set out in Section 20.5.

12.3 <u>Substantial Destruction Subsequent to Completion of Construction of the Works</u>

(a) Notwithstanding any other provision of this Lease if, in the opinion of the Landlord's independent, qualified architect, there is Substantial Destruction at any time during the Term following the fiftieth (50th) anniversary of the Completion Date, the Landlord or the Tenant shall have the right to terminate this Lease within a period of sixty (60) days following receipt of the architect's certificate confirming the Substantial Destruction (the "**Damage Termination Option**"), by delivery of a Notice of termination (the "**Damage Termination Notice**"), subject to the terms set forth herein.

(i) The Damage Termination Option shall only be exercisable by the Tenant if:

(A) there is in force and payable in respect of the Substantial Destruction on the basis of which the Tenant sends the Damage Termination Notice, a policy or policies of property insurance maintained in accordance with the requirements of this Lease and, the proceeds thereof are payable to the Landlord (and to the Tenant to the extent provided in clause next following), whether or not the Tenant rebuilds the Improvement damaged or destroyed (the "**Insurance Proceeds**");

(B) the Tenant assigns all of the Insurance Proceeds payable in respect of damage to or destruction of the Demised Premises to the Landlord upon the delivery of the Damage Termination Notice, and the Landlord receives such Insurance Proceeds, subject to the Tenant's right to receive a portion of such Insurance Proceeds to the extent provided in Section 12.3(a)(ii); the Landlord acknowledges that the policies of insurance under which such Insurance Proceeds may be payable may distinguish between the amount of Insurance Proceeds payable if the Demised Premises

are rebuilt and those that are payable if the Demised Premises are not rebuilt;

(C) the Tenant has satisfied its obligation to clear, restore and make safe the Lands following the occurrence of the Substantial Destruction to the satisfaction of the Landlord, acting reasonably; and

(D) the Tenant pays to the Landlord all Minimum Rent, Performance Payments and Additional Rent to the date of termination of this Lease plus five (5) additional years of Minimum Rent as a genuine estimate of the minimum damage that would result to the Landlord as a result of such termination.

(ii) If the Landlord sends a Damage Termination Notice in accordance with the foregoing, then (A) the Tenant shall not be required to clear, restore or make safe the Lands, (B) the Tenant shall have no Tenant End of Lease Demolition Obligations, (C) no Insurance Proceeds shall be payable to the Landlord, (D) the Lease will automatically terminate on the sixtieth (60th) day referred to in Section 12.3(a)(iii) and the Landlord shall have no claims, rights or remedies against Tenant or any Tenant Person for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity), and (E) neither party shall have any further rights or obligations under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity;

(iii) If the Tenant or the Landlord sends a Damage Termination Notice in accordance with the foregoing, provided that all of the provisions of this Section 12.3 required to be complied with by the Tenant have been complied with, and subject to the rest of this Section 12.3, this Lease shall be terminated sixty (60) days following delivery of the Damage Termination Notice.

(iv) If neither the Landlord nor the Tenant exercises the Damage Termination Option, the Tenant shall repair, restore, replace or reconstruct the Demised Premises after the occurrence of such Substantial Destruction in accordance with this Lease at it sole cost and expense (except as set forth in Sections 11.10, 13.2 or 13.3).

(v) If this Lease is terminated on the basis of the occurrence of any Substantial Destruction, then except as set forth in Section 12.3(a)(ii), the Tenant shall clear, restore and make safe the Lands, to the satisfaction of the Landlord, acting reasonably. Nothing in this Section restricts the right of the Landlord to elect to repair, restore, replace or reconstruct the Demised Premises, at the Tenant’s expense, but the foregoing shall not prevent the Tenant from terminating this Lease in accordance with this Article 12.

(b) Notwithstanding any other provision of this Lease, if there is a Leasehold Mortgage at the time of any Substantial Destruction to, or destruction of, the

Project, (irrespective of the date of the occurrence of such Substantial Destruction), the Insurance Proceeds shall, at the option of the Leasehold Mortgagee, be paid to the Leasehold Mortgagee (the "**Leasehold Mortgagee Repayment Right**") in an amount equal to the amount of indebtedness to the applicable Leasehold Mortgagee secured by the applicable Leasehold Mortgage. The Tenant shall forthwith notify the Landlord in the event a Leasehold Mortgagee exercises its Leasehold Mortgagee Repayment Right and by no later than the date that is 60 days thereafter use commercially reasonable efforts to find replacement financing (the "**Replacement Financing Deadline**"). Unless the Landlord or Tenant has elected to terminate the Lease in accordance with Section 12.3(a), the Tenant shall use its commercially reasonable efforts to diligently obtain replacement financing for the Project (the "**Replacement Financing**") by the Replacement Financing Deadline. Following the exercise by a Leasehold Mortgagee of its Leasehold Mortgagee Repayment Right, if the Tenant is unable to obtain replacement financing for at least fifty percent (50%) of the Replacement Cost of the Facility (with such term being interpreted as applying to the then current date, not the date of termination) (including the costs of any necessary repair or rebuilding of the Project as such costs are incurred and to pay all amounts payable to the Landlord under this Lease as they become due and payable) solely due to Severe Market Disruption, the Tenant shall have the right to terminate this Lease upon sixty (60) days written notice to the Landlord ("**Replacement Financing Termination**"). Upon the earlier of: (i) the date the Tenant obtains Replacement Financing; and (ii) the Replacement Financing Deadline; the Tenant shall commence to diligently pursue any required permits and, upon so obtaining, carry out the repair, restoration, replacement or reconstruction of the damaged or destroyed Improvements in accordance with this Lease; provided that if the Tenant exercises its right to cause a Replacement Financing Termination, then (A) the Tenant shall not be required to pursue any such required permits nor carry out such repair, restoration, replacement or reconstruction, (B) the Tenant shall assign all of the remaining Insurance Proceeds payable in respect of damage to or destruction of the Demised Premises to the Landlord upon the delivery of the Replacement Financing Termination notice (Landlord acknowledging that the policies of insurance under which such Insurance Proceeds may be payable may distinguish between the amount of Insurance Proceeds payable if the Demised Premises are rebuilt and those that are payable if the Demised Premises are not rebuilt), (C) the Tenant shall not be required to clear, restore or make safe the Lands, (D) the Tenant shall have no Tenant End of Lease Demolition Obligations, (E) the Landlord shall have no claims, rights or remedies against Tenant or any Tenant Person for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity), and (F) neither party shall have any further rights or obligations under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity.

ARTICLE 13
MUTUAL RELEASES AND INDEMNITIES

13.1 Mutual Releases

(a) The Tenant hereby expressly releases and waives any and all Claims against the Landlord, the Agent, their respective officers, directors, agents, beneficiaries, shareholders, employees and those for whom Landlord and the Agent are, respectively, in law responsible to the extent of insurance proceeds paid to the Tenant with respect such Claims under the policies of insurance maintained by the Tenant or the Landlord or which would have been paid if the Tenant had maintained the insurance it is required to maintain under this Lease, provided that such Claims do not arise from any negligent act or omission of the released parties.

(b) The Landlord and the Agent hereby expressly release and waive any and all Claims against the Tenant, its officers, directors, agents, beneficiaries, shareholders, employees and those for whom Tenant is in law responsible (i) for loss (including, without limitation, loss of use) of, or damage to real and personal property when such loss (including loss of use) or damage is caused by perils, if any, required to be insured against by the Landlord under this Lease or otherwise insured against by the Landlord in connection with this Lease, or would be insured against by insurance which Landlord is deemed to carry pursuant to Section 11.13(a), or (ii) if the Landlord or the Agent carry the liability and property insurance and other insurance referred to in Section 11.13(b), to the extent of insurance proceeds paid to the Landlord or the Agent with respect such Claims under the policies of insurance maintained by the Tenant or the Landlord or which would have been paid if the Landlord had maintained the insurance referred to in Section 11.13(b), provided in each case that such Claims do not arise from any negligent act or omission of the released parties.

13.2 Tenant to Indemnify Landlord

(a) The Tenant shall defend and indemnify the Landlord and the Agent and save them harmless from and against any and all Claims in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of this Lease (except in relation to any occurrence on the Other Lands, subject to Section 13.3) in connection with the Demised Premises, or any occurrence in, upon or at the Demised Premises (including the development and construction of the Project) or any occurrence in, upon or at any of those areas or improvements in respect of which (and during the times that) the Tenant is obligated to maintain liability insurance under Section 11.2(a) (collectively, the "**Tenant's Insured Areas**"), or the occupancy or use by the Tenant of the Demised Premises or the Tenant's Insured Areas or any part thereof, or occasioned wholly or in part by any act or omission of the Tenant or a Tenant Person (including any fraud or wilful misconduct of the Tenant or a Tenant Person) or by anyone permitted to be on the Demised Premises or the Tenant's Insured Areas by the Tenant, except if, and to the extent that, such Claims may have arisen out of the negligence or other fault of the Landlord, a Landlord Person or the Agent (in which case such Claim shall be the responsibility of the Landlord).

(b) The Tenant's liabilities and obligations under this Lease shall not be restricted to any sums mentioned as minimums in any of the insurance clauses contained in Article 11, or reduced by any sums mentioned as deductibles in Article 11 and, furthermore, the unavailability of any insurance required under Article 11 shall not reduce or waive any of the Tenant's obligations to indemnify the Landlord and the Agent as required by this Lease.

(c) If the Landlord or the Agent shall, without fault on their respective parts, be made a party to any litigation commenced by or against the Tenant, then the Tenant shall protect, indemnify and hold the Landlord and the Agent harmless and shall pay all costs, expenses and reasonable legal fees incurred or paid by the Landlord and the Agent in connection with such litigation.

13.3 Landlord to Indemnify Tenant

The Landlord shall defend and indemnify the Tenant and save it harmless from and against any and all Claims in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of this Lease, or any occurrence in, upon or at the Other Lands, or any occurrence in, upon, or at any of those areas or improvements in respect of which (and during the times that) the Landlord is obligated to maintain liability insurance under Section 11.13(a) (or is deemed to be maintaining liability insurance) (collectively, the "**Landlord's Insured Areas**"), or the occupancy or use by the Landlord or the Agent of the Other Lands, the Therme Public Areas or the Landlord's Insured Areas or any part thereof, or occasioned wholly or in part by any act or omission of the Landlord or the Agent (including any fraud or wilful misconduct of the Landlord or the Agent) or by anyone permitted to be on the Other Lands, the Therme Public Areas or the Landlord's Insured Areas by the Landlord or the Agent, except if, and to the extent that, such Claims may have arisen out of the negligence or other fault of the Tenant or a Tenant Person (in which case such Claim shall be the responsibility of the Tenant). If the Tenant shall, without fault on its part, be made a party to any litigation commenced by or against the Landlord or the Agent, then the Landlord shall protect, indemnify and hold the Tenant harmless and shall pay all costs, expenses and reasonable legal fees incurred or paid by the Tenant in connection with such litigation. The provisions of Section 13.2(b) are incorporated herein by this reference, but for purposes of this incorporation, all references in said provisions to "Tenant" shall be deemed changed to "Landlord and the Agent" and all references to "Landlord and the Agent" shall be deemed changed to "Tenant".

13.4 Indirect or Consequential Loss or Damage

Without limiting the generality of the foregoing, and except as set forth in Sections 16.10(e) and 17.1(b) hereof, neither of the Landlord nor the Tenant shall be liable or responsible to the other for any indirect or consequential damages suffered by the Tenant or the Landlord, respectively.

13.5 Obligations Survive Expiration or Earlier Termination

(a) Every indemnity, hold-harmless provision, release or exclusion of liability contained in this Lease for the benefit of the Landlord and the Agent, and every waiver of subrogation for the benefit of the Landlord and the Agent contained in any insurance policy maintained by the Tenant, will survive the expiration or earlier termination of the Term, and will extend to and benefit all of the Landlord,

the Agent, their partners, and all of their respective agents, beneficiaries, shareholders, directors, officers, employees and those for whom any of the foregoing are in law responsible, anything in this Lease or in law to the contrary notwithstanding.

(b) Every indemnity, hold-harmless provision, release or exclusion of liability contained in this Lease for the benefit of the Tenant, and every waiver or subrogation for the benefit of the Tenant contained in any insurance policy maintained by the Landlord, will survive the expiration or earlier termination of the Term, and will extend to and benefit all of the Tenant, its partners, and all of its and their respective agents, beneficiaries, shareholders, directors, officers, employees and those for whom any of the foregoing are in law responsible, anything in this Lease or in law to the contrary notwithstanding.

(c) Solely for such purposes, and to the extent that the Landlord or the Tenant, as the case may be, expressly chooses to enforce the benefits of this Section for any or all of such Persons, it is agreed that the Landlord or the Tenant, as the case may be, shall be the agent or trustee for such Persons.

13.6 Actions Against Landlord

As long as Landlord is not required to carry insurance pursuant to Section 11.13, if the Landlord gives Notice to the Tenant that any claim in respect of which the Tenant is required to indemnify the Landlord and the Agent under this Lease is, in the Landlord's opinion, acting reasonably, a sensitive matter which may materially affect the reputation of the Landlord and the Agent or may otherwise harm the Landlord and the Agent (other than financially) if pursued, and if, in the Landlord's opinion, acting reasonably, the Tenant does not then diligently proceed to attempt to settle any such claim, the Landlord may give five (5) Business Days' Notice to the Tenant that the Landlord intends to attempt to settle such claim and the Landlord may (provided that it has obtained the prior written consent of each of the Tenant's insurers that will be called upon to contribute to payment of such claim), in its discretion, settle any such claim at its cost, and shall indemnify the Tenant for all Claims of the Tenant and any Tenant Person in respect of or relating to such settlement and action.

13.7 Defaults

The Parties agree that, with respect to any Tenant Events of Default or Landlord Events of Default, to the extent that the non-defaulting party has sought and obtained any of the remedies set out in Article 16 or Article 17 applicable to such Party in full satisfaction of its right thereunder, then such Party shall not be entitled to the indemnities for the benefit of such Party set out in this Article 13.

ARTICLE 14
TRANSFERS

14.1 Restriction on Transfers

Neither the Tenant, a Leasehold Mortgagee, nor anyone else shall effect a Transfer or, in the case of the Tenant only, an Indirect Transfer, except as provided in this Article 14 or in Article 15. At all times during the Term the whole of the Tenant's Interest shall be beneficially owned by the Tenant and/or a Transferee acquiring beneficial ownership of the Tenant's

Interest or a part thereof in accordance with this Lease. Furthermore, and for purposes of clarification, except as provided in this Article 14 or in Article 15, any Transferee takes subject to any existing defaults on the part of Tenant and the Transferor remains liable therefor.

14.2 Permitted Transfers

The Tenant shall be permitted to effect a Permitted Transfer without the Approval of the Landlord, but on prior Notice to the Landlord in accordance with this Article.

14.3 Transfers Other Than Permitted Transfers

(a) Except for Permitted Transfers, the Tenant shall not Transfer or permit an Indirect Transfer, in each case, without the prior written consent of the Landlord, which consent:

(i) in the case of a Transfer or an Indirect Transfer from the Lease Date to the tenth (10th) anniversary of the Completion Date, may be withheld in the Landlord's Sole Discretion; and

(ii) in the case of a Transfer or Indirect Transfer following the tenth (10th) anniversary from the Completion Date, shall not be unreasonably withheld, conditioned or delayed, provided it shall be unreasonable for the Landlord to withhold consent unless: (A) the Transferee (or any third party referenced in (B) and (C) below) is a Restricted Person, (B) the Transferee does not, whether itself, together with its Affiliates and/or through arrangements with one or more third parties, have capability equal to or greater than that of the Tenant to operate the Project (it being confirmed that operational capability may be achieved by the Tenant providing the requisite operational know-how, contracting with a third party and/or another operational plan), and/or (C) the financial capability of the Transferee (having regard to all applicable circumstances, including the provision of any guarantees or indemnities) is not satisfactory to the Landlord in each case acting reasonably.

(b) As exceptions to the foregoing restrictions on Transfer and Indirect Transfers:

(i) the Tenant shall be entitled to sublet, license and/or otherwise part with possession, in aggregate, of a portion of the Lands or the building(s) thereon not exceeding either:

(A) twenty-five percent (25%) of the Gross Floor Area of all building(s) on the Lands; or

(B) twenty-five percent (25%) of the area of the Lands,

without the consent of, but with notice to, the Landlord, provided that (1) such sublessee, licensee and/or transferee does not cause the Tenant to be in violation of the Permitted Uses provision of this Lease and (2) such sublessee, licensee and/or transferee is not a Restricted Person ("**Permitted Third Party Subletting**");

(ii) the Tenant shall throughout the Term be entitled to:

(A) license and/or otherwise grant contractual rights of occupation (but not exclusive possession) of or operation on; and/or

(B) sublet and/or otherwise grant exclusive possession and part with operation of,

up to forty (40%) percent (less any portion that is the subject of any Permitted Third Party Subletting) (in the aggregate) of the Lands, the Project and/or this Lease in favour of Affiliated Persons, from time to time without the consent of but with notice to the Landlord, provided that they do not cause the Tenant to be in violation of the Permitted Uses provision of this Lease ("**Permitted Programming Arrangements**"); and

(iii) the Tenant shall throughout the Term be entitled to carry out Qualifying Public Area Licensing subject to compliance with Section 2.3.

(c) For greater certainty: (i) at no time shall the Tenant be entitled (without the consent of the Landlord) to effect Permitted Third Party Subletting and Permitted Programming Arrangements that, in the aggregate, relate to more than forty (40%) percent of the lower of the Gross Floor Area of any building(s) on the Lands or the Lands or the Project, and/or this Lease; (ii) Permitted Programming Arrangements do not entitle the Tenant to sell and/or assign this Lease and are in addition to any Permitted Transfers; and (iii) the public accessibility of the Therme Public Areas shall not constitute a Transfer.

14.4 <u>Information Relating to Transfers</u>

(a) The Tenant shall provide not less than twenty (20) Business Days prior to the proposed effective date of any Transfer, information and evidence relating to: (i) the identity of the Person or Persons owning shares or other interests in or exercising Control over the Tenant and the nature and extent of such ownership; (ii) the identity of any proposed Transferee and the Person or Persons owning shares or other interests in or exercising Control over the Transferee and the nature and extent of such ownership; and (iii) if required to be considered in connection with the relevant Transfer in accordance with this Article, information relating to the reputation, financial strength and the experience and expertise of the proposed Transferee in the development, construction, marketing, management and operation of projects similar to the Project or the capacity of the proposed Transferee to engage Persons having such experience and expertise, which information and evidence shall be sufficient to permit the Landlord, acting in good faith, to exercise its rights pursuant to this Article. Such information and evidence shall include such legal opinions, statutory declarations and other information and evidence as are necessary in order to permit the Landlord to exercise its rights pursuant hereto.

(b) In addition to the reporting obligations set out in Section 14.4(a), Tenant shall provide within thirty (30) days of Landlord's request, the information and evidence of the type referred to in Section 14.4(a) sufficient to permit the Landlord to determine whether a Transfer has occurred.

14.5 Additional Provisions Relating to Transfers

(a) Subject to 14.6 below, no Transfer (other than as provided in Article 15) or Indirect Transfer, whether to a Permitted Transferee or otherwise, shall reduce the obligations of the Tenant under this Lease or release the Tenant from any of its obligations under this Lease, and the Tenant shall remain bound by all such obligations for the balance of the Term, except as provided in this paragraph.

(b) As a condition precedent to any Transfer (including a Permitted Transfer), other than a Transfer by way of a Leasehold Mortgage to a Leasehold Mortgagee, Qualifying Public Area Licensing and an Indirect Transfer, the Gainshare Payment (if any) shall be paid to the Landlord, and Transferee shall enter into an agreement with the Landlord expressly agreeing to assume the covenants and obligations of the Tenant under this Lease and under any Material Ancillary Agreements (in each case, to the extent of the applicable portion so transferred). Without limiting the generality of the foregoing, the Construction Documents shall continue to apply to the subject matter thereof, notwithstanding the completion of any Transfer.

(c) No Approval by the Landlord of any Transfer shall apply to any subsequent Transfer.

(d) The Tenant and every Transferee shall be jointly and severally responsible for and shall reimburse the Landlord for the Landlord's costs, including, without limitation, its legal fees and disbursements, in connection with a Transfer.

(e) Execution and delivery of the agreement contemplated by paragraph (b), immediately preceding, payment of the fees and disbursements contemplated by paragraph (d), immediately preceding, and the delivery of the information required pursuant to Section 14.4, above, are conditions precedent to the effecting of any Transfer other than a Qualifying Public Area Licensing, an Indirect Transfer or a Transfer governed by Article 15.

(f) Any documents relating to a Transfer (other than a Permitted Transfer) or the Landlord's consent will be prepared by the Landlord or its solicitors and a reasonable administration charge equal to the aggregate of One Thousand Dollars ($1,000.00) and those legal fees on a solicitor and client basis incurred by the Landlord will be paid to the Landlord by the Tenant as Additional Rent forthwith upon demand.

14.6 Assumption Agreement

Concurrently with any assignment of this Lease by the Tenant in accordance with the terms hereof, the Tenant shall deliver an instrument executed by the Transferee, pursuant to which the Transferee assumes all of the Tenant's obligations under this Lease and all Material Ancillary Agreements arising after the Transfer and, upon such Transfer, the transferring Tenant shall be released from such assumed obligations. Provided the Tenant is released in accordance with this Section 14.6, any Indemnifier shall also be released from its indemnity of the Tenant's obligations under and pursuant to the Indemnity Agreement.

14.7 No Advertising of Premises

The Tenant shall not advertise for sale this Lease or all or any part of the Demised Premises or the business or fixtures therein, without the Landlord's prior written consent.

14.8 Prepaid Rent

Upon any termination of this Lease, whether by effluxion of time or otherwise, the Tenant shall forthwith pay to the Landlord any prepaid rent paid by subtenants of any portion of the Demised Premises which is applicable to periods following such termination, provided that such subtenants remain in possession of any portion of the Demised Premises.

14.9 Attornment and Non-Disturbance by and for Subtenants, Licensees and Concessionaires

The Tenant shall obtain from each subtenant, licensee and concessionaire of premises within the Demised Premises (other than subtenants and concessionaires under subleases or other arrangements of terms less than twenty (20) days) prior to the commencement of the term of their respective subleases or other arrangements, an attornment agreement in favour of the Landlord in form and on terms Approved by the Landlord (the "**Attornment Agreement**"). The Attornment Agreement shall contain the agreement by the subtenant, licensee or concessionaire thereunder that on the termination or expiry of this Lease, , they shall have no right or interest in the Demised Premises.

ARTICLE 15
MORTGAGES AND SECURITY

15.1 Right to Mortgage

(a) Notwithstanding the provisions of Article 14, the Tenant shall be entitled at any time and from time to time and without the Approval of the Landlord, to mortgage all or part of the Tenant's Interest by way of one or more Leasehold Mortgages (by assignment or by the granting of a sublease or otherwise), and to extend, modify or renew a Leasehold Mortgage (together with any security interest(s) and/or assignments referenced in Section 15.4, collectively, the "**Leasehold Security**") in each case to a lender or group of lenders, provided that the terms and conditions set out in this Article 15 are complied with.

(b) The following shall apply in respect of each Leasehold Mortgage, and shall be conditions precedent for the validity of a Leasehold Mortgage:

(i) the Leasehold Mortgagee shall not, by virtue of a Leasehold Mortgage, acquire any greater rights or interest in the Demised Premises or any portion thereof than the Tenant has under this Lease;

(ii) subject to the express provisions of this Lease and the terms of the Leasehold Mortgagee Agreement, the Leasehold Mortgage shall be subject to and subordinate to all conditions and covenants of this Lease and to the rights of the Landlord hereunder;

(iii) a leasehold mortgage shall not be effective as a Leasehold Mortgage as herein defined, and a Leasehold Mortgagee shall not be entitled to the rights and benefits herein set out, unless:

(A) the Leasehold Mortgagee (or an agent on behalf of the Leasehold Mortgagee) has executed and delivered the Leasehold Mortgagee Agreement;

(B) the Leasehold Mortgagee is not and shall not be a Restricted Person;

(C) there are no uncured Tenant Event of Defaults by the Tenant at the time of the giving of the Leasehold Mortgage;

(D) all reasonable third party legal costs and expenses incurred by the Landlord in respect of or arising out of a Leasehold Mortgage shall be payable by the Tenant, as Additional Rent, within fifteen (15) days of demand by the Landlord.

(c) Notwithstanding Section 15.1(a) above, where a proposed Leasehold Mortgagee has been granted a convertible option to an equity interest in the Tenant's Interest pursuant to a Leasehold Mortgage or pursuant to any other agreement entered into in connection with a Leasehold Mortgage, it shall be a condition precedent to the grant of such convertible option that the Leasehold Mortgagee be Approved by the Landlord (with whether or not the Landlord is being reasonable with respect to its approval being determined with reference to Section 14.3(a)(ii) of the Lease).

(d) The Tenant shall, within five (5) Business Days of executing a Leasehold Mortgage or commitment agreement for a Leasehold Mortgage or any material amendment, extension, modification, renewal or replacement thereof, provide a notarial copy of same to the Landlord and shall give Notice to the Landlord of the address of the Leasehold Mortgagee.

15.2 Leasehold Mortgagee Agreement

On or before the date of execution and delivery of the first Leasehold Mortgage granted by the Tenant, the Leasehold Mortgagee (or an agent on behalf of that Leasehold Mortgagee and any future Leasehold Mortgagees), the Tenant and the Landlord shall each execute and deliver a leasehold lender agreement in the form attached hereto as Schedule H (the "**Leasehold Mortgagee Agreement**"). The Leasehold Mortgagee Agreement will permit that Leasehold Mortgagee (or an agent on behalf of that Leasehold Mortgagee and any future Leasehold Mortgagees) to cure any defaults under the Lease and draw on the Performance Security in priority to the Landlord solely in order to cure such defaults under this Lease.

For greater certainty, in no event shall there be more than one Leasehold Mortgagee Agreement at any given time.

15.3 No Subordination by Landlord

The Landlord shall not be required, under any circumstances, to subordinate its interest in this Lease, the Project, and the Demised Premises, or any part thereof, to the interest of any Person, including any Leasehold Mortgagee.

15.4 Security over Trade Fixtures and Equipment

The Tenant shall be permitted to grant in favour of any Leasehold Mortgagee a security interest in all or part of the Tenant's FF&E and/or inventory, and/or an assignment of all agreements entered into by the Tenant for the operation and/or maintenance of the Project, in all cases provided that any such grant of a security interest and/or assignment is made in conjunction with a Leasehold Mortgage. The Tenant shall be permitted to grant in favour of the supplier of any FF&E or inventory to the Demised Premises and/or the Project a purchase money security interest in the FF&E and/or inventory supplied by that supplier to the Demised Premises and/or the Project, and shall be permitted to purchase FF&E and/or inventory on an instalment plan basis. Nothing herein shall be construed to limit the Tenant's right to be the lessee of any of the foregoing.

ARTICLE 16
DEFAULT AND REMEDIES

16.1 Remedies for a Tenant Event of Default

(a) Upon the occurrence of a Tenant Event of Default under this Lease, the Landlord shall be entitled to the following remedies, in addition to any other remedy in respect thereof expressly provided in this Lease: subject to the Tenant LD Maximum Liability Cap, any single Tenant Event of Default under this Lease (other than a Therme Public Area Construction Default, a Tenant Event of Default for which liquidated damages are payable pursuant to Section 3.11(d) and a Tenant Event of Default relating to the Tenant's obligations in Section 16.2(e)), the Tenant shall pay the Landlord as liquidated damages the sum of two hundred fifty thousand dollars ($250,000.00) (indexed by the Inflation Factor). Such payment shall be made by the Tenant to the Landlord within fifteen (15) Business Days after receipt by Tenant of an invoice therefor. The Landlord and the Tenant agree that such liquidated damages are not a penalty and the Tenant agrees with the Landlord that such liquidated damages shall be payable whether or not Landlord incurs or mitigates damages, and that the Landlord shall not have any obligation to mitigate any such damages. The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. Subject to Sections 16.1(b), 16.1(e), 16.2, 16.3 and 16.4 of this Lease, the Landlord shall not have any other rights or remedies against the Tenant under this Lease or any Material Ancillary Agreement or at law or in equity in respect of any Tenant Event of Default; provided that, for greater certainty and except as expressly stated herein, in the case of the occurrence of a Tenant Event of Default under paragraph (a) of the definition thereof the payment of liquidated damages in accordance with this Section 16.1(a) shall not cure or otherwise replace the obligation of the Tenant to pay the Rent that gave rise to the applicable Tenant Event of Default.

The Tenant's maximum liability under this Section 16.1(a) and Section 3.11(d) for the Term of this Lease for the payment of liquidated damages shall be an amount equal to thirty million dollars ($30,000,000), indexed by the Inflation Factor (the "**Tenant LD Maximum Liability Cap**").

If the Tenant LD Maximum Liability Cap has been met entirely during any fifteen (15) year period of the Term, then:

(i) the Landlord shall have thirty (30) Business Days following the Landlord's receipt of the Tenant's final payment to give the Tenant Notice (the "**Tenant LD Maximum Liability Cap Increase Notice**") that it is prepared to allow the Tenant to reset the Tenant LD Maximum Liability Cap (upon payment of any outstanding amounts), which Tenant LD Maximum Liability Cap Increase Notice shall be open for acceptance by the Tenant for a period of fifteen (15) Business Days from the Tenant's receipt thereof;

(ii) If the Tenant accepts the Tenant LD Maximum Liability Cap Increase Notice by return Notice to the Landlord within such period, then the Tenant LD Maximum Liability Cap shall be reset to the value of the then applicable Tenant LD Maximum Liability Cap (as so indexed by the Inflation Factor) and such amount shall continue thereafter to be indexed by the Inflation Factor;

(iii) If the Landlord does not deliver a Tenant LD Maximum Liability Cap Increase Notice, or if the Tenant does not does accept such Tenant LD Maximum Liability Cap Increase Notice within such period, then a Material Tenant Event of Default shall be deemed to have occurred and the Landlord shall be entitled to terminate this Lease, and, in such event:

(A) if the date on which the Tenant has paid liquidated damages to the Landlord equal to the Tenant LD Maximum Liability Cap is met is prior to Envelope Completion and the Landlord terminates the Lease as a result thereof, then the terms of Section 16.2(d)(ii)(B) shall be applicable in respect of such termination; and

(B) If the date on which the Tenant has paid liquidated damages to the Landlord equal to the Tenant LD Maximum Liability Cap is after Envelope Completion and the Landlord terminates the Lease as a result thereof, then the terms of Section 16.2(d)(iii)(B) shall be applicable in respect of such termination.

If the Tenant LD Maximum Liability Cap has been met other than entirely during any fifteen (15) year period of the Term, then the Tenant shall have ten (10) Business Days after Notice from the Landlord that the Tenant LD Maximum Liability Cap has been met to deliver Notice to the Landlord that the Tenant LD Maximum Liability Cap shall be re-set such that the Tenant shall be subject to a new Tenant LD Maximum Liability Cap equal to thirty million dollars ($30,000,000) (indexed by the Inflation Factor). If the Tenant fails to deliver Notice to the Landlord within such ten (10) Business Day period or delivers Notice to the Landlord within such ten (10) Business Day period stating that the

Tenant does not wish to re-set the Tenant LD Maximum Liability Cap, then a Material Tenant Event of Default shall be deemed to have occurred and the Landlord shall be entitled to terminate this Lease. If (x) the date on which the Tenant LD Maximum Liability Cap is met is prior to Envelope Completion and the Landlord terminates the Lease as a result thereof, then the terms of Section 16.2(d)(ii)(B) shall be applicable in respect of such termination, or (y) the date on which the Tenant LD Maximum Liability Cap is met is after Envelope Completion and the Landlord terminates the Lease as a result thereof, then the terms of Section 16.2(d)(iii)(B) shall be applicable in respect of such termination. There shall be no limitations on the number of resets permitted under this Lease.

Notwithstanding anything to the contrary, the maximum aggregate liability of the Tenant for any and all Claims, liquidated damages or other amounts pursuant to this Article 16 prior to the Regime Change Date, shall be limited to the sum of Five Million Dollars ($5,000,000) indexed by the Inflation Factor.

(b) In addition to the liquidated damages payable by Tenant to the Landlord in accordance with and subject to the terms of Section 16.1(a) above, upon the occurrence of:

(i) a Tenant Event of Default that is due to the Tenant violating 5.1(b) hereof, then the Tenant shall be obligated to forthwith pay all revenues earned in connection with such Programming, and together with such payment shall provide a detailed accounting of such revenue, and shall indemnify the Landlord in respect of any Claims by Adjacent Tenants in respect of any breach of Section 5.1(b) by the Tenant;

(ii) a Tenant Event of Default that is due to a breach by the Tenant of Section 5.1(b) hereof, the Landlord shall be entitled, in its Sole Discretion, to close the Project for the period of time equal to the period of time that such Tenant Event of Default occurred and was continuing;

(iii) a Tenant Event of Default that is due to the Tenant restricting of access to the Therme Public Areas or the Other Public Areas, the Landlord shall have the self-help right to remove any such restrictions in accordance with the Landlord’s cure rights pursuant to Section 16.4;

(iv) a Tenant Event of Default that is due to the failure by the Tenant, subject to Permitted Closures or Stoppages, to comply with its obligations hereunder with respect to Required Repairs, the Landlord shall have the right to exercise a self help remedy in accordance with the Landlord’s cure rights pursuant to Section 16.4;

(v) a Tenant Event of Default that is due to, subject to Permitted Closures or Stoppages, the failure of the Tenant to remove any Major Change, if required by the Landlord pursuant to Section 10.7(i) hereof and such failure continues for a period of thirty (30) days after Landlord delivers Notice to Tenant that such failure has occurred, the Landlord shall have the right to exercise a self help remedy in accordance with Section 10.7;

(vi) a Therme Public Area Construction Default, the Landlord shall have its self help remedy set out in the Master Development Agreement;

(vii) a Tenant Event of Default set forth in paragraphs (j), (o) (but limited to a breach of 5.1(a) or 5.1(b)) or (p) of the definition of "Tenant Event of Default" in this Lease, to the extent available at law, the Landlord may institute legal proceedings to seek injunctive relief from a court of competent jurisdiction against Tenant enjoining the Tenant from undertaking the activities that gave rise to such Tenant Event of Default;

(viii) a Tenant Event of Default set forth in paragraph (a) of the definition of "Tenant Event of Default" in this Lease, the Landlord shall be entitled to institute legal proceedings in a court of competent jurisdiction to collect the amount of any unpaid Rent owing by the Tenant hereunder (plus all out-of-pocket costs, including legal fees on a substantial indemnity basis, incurred in seeking such relief) if (and only if): (i) the Tenant has not delivered a Notice of Dispute in respect of such Tenant Event of Default within the 30-day period referred to in Section 16.1(c); or (ii) the Tenant has delivered a Notice of Dispute in respect of such Tenant Event of Default within the 30-day period referred to in Section 16.1(c) and it is finally determined under the Dispute Resolution Procedure that the Tenant Event of Default occurred, or the Tenant abandons the dispute;

(ix) a Tenant Event of Default set forth in paragraph (c) of the definition of "Tenant Event of Default" in this Lease, the Landlord shall have right to exercise a self help remedy in accordance with Landlord's cure rights pursuant to Section 16.4;

(x) a Tenant Event of Default set forth in paragraph (k) of the definition of "Tenant Event of Default" in this Lease, the Landlord shall be entitled to exercise a self help remedy in accordance with Section 20.5(e); or

(xi) any Tenant Event of Default, the Landlord may make a claim under the Dispute Resolution Procedure to compel performance of the obligations that are the subject matter of such Tenant Event of Default.

(c) The Tenant shall have thirty (30) days from the date that the Landlord delivers written Notice of the Tenant Event of Default to dispute pursuant to the Dispute Resolution Procedure whether a Tenant Event of Default had occurred and/or the Landlord was entitled to exercise any right or remedy in respect thereof. The Landlord and the Tenant agree that any dispute shall be through the Dispute Resolution Procedure and not through the Courts. If the Tenant issues a Notice of Dispute under the Dispute Resolution Procedure, then Section 5.1 of the Dispute Resolution Procedure shall be immediately applicable; however, notwithstanding the immediate application of the stay thereunder, the Landlord shall have its rights and remedies under Sections 16.1(b)(iii) and 16.1(b)(vii) in respect of the applicable Tenant Event of Default referred to therein during the pendency of the dispute under the Dispute Resolution Procedure. If the Tenant does not deliver a Notice of Dispute within the 30-day period referred to in this Section 16.1(c), then the Tenant shall not have the right to dispute whether or not the Tenant Event of Default had occurred.

(d) If the Tenant delivers a Notice of Dispute to the Landlord as referred to in Section 16.1(c) or 16.2(f) and it is finally determined under the Dispute Resolution Procedure (or the Landlord and Tenant otherwise agree) that either (i) the Tenant Event of Default, Material Tenant Event of Default or Material Tenant Construction Event of Default had not occurred, or (ii) the Landlord was not entitled to exercise a particular right or remedy in respect thereof, then the Landlord shall be liable for all Claims arising from or relating to the alleged Tenant Event of Default, the alleged Material Tenant Event of Default or the alleged Material Tenant Construction Event of Default or the right or remedy exercised by the Landlord (or the Agent on its behalf) in respect thereof. Without limiting the generality of the foregoing, the arbitrator(s) hearing the Dispute under the Dispute Resolution Procedure shall be entitled to award the Tenant Claims made under this Section 16.1(d).

(e) Should any Tenant Event of Default continue beyond the applicable cure period, the Landlord shall be entitled to deliver another notice of default and such subsequent notice shall constitute a new Tenant Event of Default for the purposes of Section 16.1(a) above. The foregoing sentence shall continue to apply until the applicable Tenant Event of Default has been remedied in accordance with the provisions of this Lease.

(f) For greater clarity, the remedies in favour of the Landlord as set out in Section 16.1(a) and (b) shall be cumulative.

(g) Upon the occurrence of a Tenant Event of Default (including the expiry of the applicable cure period relating thereto), the Landlord shall deliver Notice to the Tenant of such Tenant Event of Default prior to the Landlord exercising any of its rights and remedies under this Article 16 (except with respect it exercise of its rights or remedies under Section 16.1(b)(iii) or Section 16.1(b)(vii) in respect of the Tenant Event of Default referred to therein, provided that the Landlord will still be required to deliver notice of such Tenant Event of Default after the exercise of such right or remedy).

16.2 <u>Right to Terminate for a Material Tenant Event of Default</u>

(a) Without derogating from the Landlord's other rights and remedies expressly set forth in this Lease with respect to a Tenant Event of Default or a Material Tenant Event of Default, the Landlord shall only be entitled to terminate this Lease:

(i) in accordance with Sections 16.2(c) and 16.2(d) in connection with a Material Tenant Event of Default, a Material Tenant Event of Default, provided that the Landlord has delivered to the Tenant a Warning Notice and a Landlord Second Notice and such Material Tenant Event of Default remains uncured to the effective date of the termination; and

(ii) in accordance with Sections 16.2(e) in connection with a Material Tenant Construction Event of Default, provided that the Landlord has complied with the terms and conditions set out in Section 16.2(e) and such Material Tenant Construction Event of Default remains uncured to the effective date of the termination.

Other than as set out in Article 17 or in Section 16.13(a), the Landlord shall have no other rights to terminate this Lease (whether under this Lease, at law or in equity) except with respect to a Material Tenant Event of Default or a Material Tenant Construction Event of Default in accordance with the Landlord's exercise of its rights pursuant to the terms of this Article 16.

(b) Each of the following Tenant Events of Default will constitute a "**Material Tenant Event of Default**" if it remains uncured after the cure period set out below (subject to the extension of the applicable cure period for Force Majeure in accordance with the terms of Section 25.9 and subject to the extension of the applicable cure period for a Landlord Delay), which cure period shall commence on receipt by the Tenant from Landlord of a Warning Notice in respect of such Material Tenant Event of Default:

(i) the Tenant fails to pay any portion of Rent and/or Sales Taxes thereon when due in each case for a period of more than thirty (30) days (provided that the Tenant shall have sixty (60) days to cure such default);

(ii) a Transfer or Indirect Transfer occurs for which consent is required but not obtained (provided that the Tenant shall have sixty (60) days to cure such default, or such longer period as may reasonably be required provided that the Tenant promptly and actively works to rectify such default following notice);

(iii) the occurrence of an Event of Bankruptcy in respect of the Tenant or the Indemnifier (provided that the Tenant shall have sixty (60) days to cure such default if the Tenant or the Indemnifier did not initiate such Event of Bankruptcy); or

(iv) subject to Permitted Closures or Stoppages, in respect of either (i) the abandonment or attempted abandonment of the Project following Completion of Construction of the Project or (ii) the Tenant ceasing to operate the Project at any time following Completion of Construction of the Project for a period of more than thirty (30) consecutive Business Days (provided that the Tenant shall have thirty (30) days to cure an attempted abandonment and sixty (60) days (as may be extended by Permitted Closures or Stoppages) to cure such other defaults).

(v) The failure of the representations and warranties in Subsections 25.18 (b) (v) and/or (vi) being true and correct as of the Lease Date (provided that the Tenant shall have sixty (60) days from the date that the Landlord gives the Tenant Notice thereof: (i) to remove all Restricted Persons from direct or indirect Control over the Tenant in relation to the decisions, management, actions or policies of the Tenant; and/or (ii) to require such Restricted Person to divest its direct or indirect interest, as the case may be, in the Tenant, or, where more than sixty (60) days is required, such longer period as may reasonably be required provided that the Tenant promptly and actively works to complete such actions following such Notice, which removal and/or divestiture shall cure such failure; and, notwithstanding Section 14.3(a)(i), the Landlord shall not unreasonably

withhold, condition or delay any consent required therefor unless such transferee is a Restricted Person).

(c) Upon the occurrence of any of the Material Tenant Events of Default set out in Section 16.2(b) above, the Landlord may, at any time thereafter that such Material Tenant Event of Default is continuing, at its option, give the Tenant a notice (the "**Warning Notice**") specifying the Material Tenant Event of Default and stating that this Lease shall be subject to termination if such Material Tenant Event of Default is not cured within the applicable additional cure period granted in Section 16.2(b). If after delivery of such Warning Notice the Tenant shall have failed to cure such Material Tenant Event of Default within the applicable cure period set forth in Section 16.2(b) above, then the Landlord, at any time thereafter that such Material Tenant Event of Default is continuing, may give a second Notice to the Tenant (the "**Landlord Second Notice**") and the terms of Section 16.2(d) of this Lease shall be applicable.

(d) Upon delivery by Landlord to Tenant of the Landlord Second Notice as referred to in the immediately preceding Section 16.2(c) and subject to Section 16.11:

(i) if such Landlord Second Notice is delivered by Landlord to Tenant between the Regime Change Date and the Construction Commencement Date, then (A) this Lease shall terminate immediately upon the delivery of such Landlord Second Notice (except in the case of a dispute referred to in Section 16.11, in which case the termination of the Lease shall be effective in accordance with the terms of that Section), and (B) the Tenant shall pay to the Landlord liquidated damages in the amount of thirty million dollars ($30,000,000), which the Tenant acknowledges is a genuine pre estimate of the Landlord's damages for its reasonable out-of-pocket, transaction costs, advisor and legal costs associated with the re-procurement of the Lands and the removal of the Tenant from the Lands, and not a penalty (and the Landlord shall be entitled to retain and shall apply the Deposit towards this amount owing to the Landlord) and, following payment in full of such thirty million dollars ($30,000,000), the Landlord shall have no further claims, rights or remedies against Tenant or any Tenant Person for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity). The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. If the Landlord Second Notice is delivered by the Landlord to the Tenant between the Lease Date and the Regime Change Date, then the terms and conditions of this Section 16.2(d)(i) shall be applicable except that the amount of liquidated damages payable by the Tenant to the Landlord shall be five million dollars ($5,000,000) and not thirty million dollars ($30,000,000);

(ii) if such Landlord Second Notice is delivered by Landlord to Tenant between the Construction Commencement Date and Envelope Completion, then:

(A) during the two (2) year period commencing on the date of delivery by Landlord to Tenant of the Landlord Second Notice, the Tenant shall be entitled to assign its interest in this Lease or sell all of its shares to any Person that: (1) is not a Restricted Person and (2) has, whether itself, together with its Affiliates and/or through arrangements with one or more third parties, financial and operational capability equal to or greater than that of the Tenant to operate or repurpose the Project (it being confirmed that operational capability may be achieved by the Tenant providing the requisite operational know-how, contracting with a third party (that is not a Restricted Person) and/or another operational plan), and keep the proceeds therefrom (without the Landlord being entitled to share in such proceeds) and, if successful, the Landlord being entitled to recover its direct damages incurred in connection with such Material Tenant Event of Default (with no further damages being payable by Tenant to Landlord under this Lease, the Master Development Agreement or any other Material Ancillary Agreement, or at law or in equity); and

(B) in the event that the Tenant has not assigned this Lease as set out in Section 16.2(d)(ii)(A), this Lease shall terminate automatically on the expiry of the two-year period referred to in Section 16.2(d)(ii)(A) and the Tenant shall demolish the partially completed Project (it being confirmed that those portions of the Project that are not practical to remove (such as pillars in the bedrock) or cannot be removed without ruining the re-usability of otherwise re-usable materials, in each case as determined by the Landlord, acting reasonably, shall not be required to be removed), shall be entitled to remove the improvements (if any), and shall pay liquidated damages in the amount of thirty million dollars ($30,000,000), which the Tenant acknowledges is a genuine pre estimate of the Landlord's damages for its reasonable out-of-pocket, transaction costs, advisor and legal costs associated with the re-procurement of the Lands and the removal of the Tenant from the Lands, and not a penalty (and the Landlord shall be entitled to retain and shall apply the Deposit towards this amount owing to the Landlord) and, following payment in full of such thirty million dollars ($30,000,000), the Landlord shall have no further claims, rights or remedies against Tenant or any Tenant Person for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity). The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred; and

(iii) if such Landlord Second Notice is delivered by Landlord to Tenant after Envelope Completion, then:

(A) during the two (2) year period commencing on the date of delivery by Landlord to Tenant of the Landlord Second Notice, the Tenant shall be entitled to assign its interest in this Lease or sell all of its shares to any Person that: (1) is not a Restricted Person and (2) has, whether itself, together with its Affiliates and/or through arrangements with one or more third parties, financial and operational capability equal to or greater than that of the Tenant to operate or repurpose the Project (it being confirmed that operational capability may be achieved by the Tenant providing the requisite operational know-how, contracting with a third party (that is not a Restricted Person) and/or another operational plan), and keep the proceeds therefrom (without the Landlord being entitled to share in such proceeds) and, if successful, the Landlord being entitled to recover its direct damages incurred in connection with such Material Tenant Event of Default (with no further damages being payable by Tenant to Landlord under this Lease, the Master Development Agreement or any other Material Ancillary Agreement, or at law or in equity). During such two-year period, the Tenant shall secure the Project and not permit its dilapidation;

(B) in the event that the Tenant has not assigned this Lease as set out in Section 16.2(d)(iii)(A), this Lease shall terminate automatically on the expiry of the two-year period referred to in Section 16.2(d)(iii)(A) and the Landlord shall pay the Tenant the amount (the "**Material Default Termination Amount**"), if any, that is equal to fifty (50%) percent of the Fair Market Value of the Project, as determined by the qualified independent valuator in accordance with the procedure set out at the end of this Section, and the Landlord shall not be entitled to any damages or further compensation in connection with the Material Tenant Event of Default and/or termination (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement, or at law or in equity), but shall be entitled to exercise its rights of set off in Section 16.6 against the Material Default Termination Amount only in respect of, any liability of the Tenant under Section 8.3 of this Lease as at the date of such termination, the EOB Rent payable in accordance with Section 16.3 (if applicable) and any amounts that would have been covered by the Tenant's commercial general liability insurance required to be obtained by the Tenant pursuant to Section 11.2(a)(i) if there exists an insurable event as at the date of termination and the Tenant failed to have such insurance policy in place on such date. The Parties have agreed that the fifty (50%) percent discount on the Fair Market Value of the Project constitute liquidated damages for any damages that the Landlord may have incurred). The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. If the Project has achieved Envelope Completion but the construction of

the Project is not fully complete, the Tenant will also assign all contracts as are necessary for the Landlord to complete construction, assign all warranties for the post-construction period, and provide such trade secrets and intellectual property that it has and is necessary for the Landlord to complete the construction. The procedure for determining the Fair Market Value of the Project shall be the same procedure, *mutatis mutandis*, as the procedure set out in Section 3.4(c) of this Lease for re-evaluating the Minimum Rent Indexed Land Value, provided that the Fair Market Value shall be net of: (i) any appraisal costs incurred by the Landlord in carrying out the procedures set out in this Section; and (ii) any costs and expenditures of the Landlord that are required, in the opinion of the Landlord in its Sole Discretion, to bring the asset to a marketable state that meets the then-current standard for the intended use of the Project. In advance of the determination of the Fair Market Value of the Project in accordance with this Section 16.2(d), the Tenant shall provide to the independent valuator copies of all offers and expressions of interest received by or on behalf of the Tenant and/or the Indemnifier in connection with such previously held sales process; and

(C) All or any portion of the Deposit that has not otherwise been applied under this Lease in accordance with the terms hereof shall be returned to the Tenant.

(e) Each of the following Tenant Events of Default will constitute a "**Material Tenant Construction Event of Default**" if it remains uncured after the applicable cure periods set out below, in each case subject to Permitted Closures or Stoppages, Force Majeure and Landlord Delays, and the terms of this Section 16.2(e) shall be applicable to such Material Tenant Constructions Events of Default.

(i) If the Tenant has not delivered to Landlord the C&D Agreement Notice for the Construction Contract with the Contractor and commenced Construction Activities in good faith upon the Lands by the Above-Grade Construction Activities Deadline, the Landlord may issue a notice to the Tenant advising thereof (the "**Construction Warning Notice**"). Upon receiving such Construction Warning Notice, the Tenant shall deliver to Landlord the C&D Agreement Notice for the Construction Contract (if it has not already done so) within ninety (90) days after the date of Tenant's receipt of the Construction Warning Notice referred to in this Section 16.2(e)(i) and commence Construction Activities in good faith within such ninety (90) day period, which commencement shall be confirmed in writing by the Compliance Consultant. If the Tenant fails to satisfy the foregoing obligations, the Landlord shall be entitled to terminate this Lease upon written notice to the Tenant of such termination (the "**C&D Second Notice**") unless the Tenant commences Construction Activities in good faith prior to the delivery of such C&D Second Notice. If this Lease is terminated pursuant to this Section 16.2(e)(i), (A) the Tenant shall pay to the Landlord liquidated damages in the amount of thirty million dollars ($30,000,000) (the "**Material Tenant Construction Event**

of Default Damages"), which the Tenant acknowledges is a genuine pre-estimate of the Landlord's damages for its reasonable out-of-pocket, transaction costs, advisor and legal costs associated with the re-procurement of the Lands and the removal of the Tenant from the Lands, and not a penalty (and the Landlord shall be entitled to retain and shall apply the Deposit towards the Material Tenant Construction Event of Default Damages owing to the Landlord) and, following payment in full of the Material Tenant Construction Event of Default Damages, the Landlord shall have no further claims, rights or remedies against Tenant or any Tenant Person for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity), including in connection with or as a result of the failure to commence Construction Activities by the foregoing applicable deadline (or the termination of this Lease resulting therefrom), and (B) neither Party will have any further rights or obligations under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity. The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred.

(ii) If the Tenant fails to Complete the Construction of the Project (excluding, for greater certainty, Construction of the Therme Public Areas, including the Therme Public Areas Components, Shoreline Components and Shoreline Repair) by the Target Completion Date, the Landlord may issue a Construction Warning Notice to the Tenant. Upon receiving the Construction Warning Notice, the Tenant shall Complete the Construction of the Project within one hundred and eighty (180) days following the Target Completion Date (such one hundred and eighty (180) day period, the "**Warning Period**"), which Completion of Construction shall be as confirmed in writing by the Compliance Consultant. If the Tenant fails to satisfy the foregoing obligations, then the Tenant shall pay the Landlord on the first day of each month following the expiry of the Warning Period (but no earlier than the delivery of the Construction Warning Notice) an amount equal to the Minimum Rent that would otherwise have been payable in that month had Completion of Construction of the Project been achieved, until the earlier of (A) the Completion Date, and (B) the termination of this Lease, and no liquidated damages pursuant to Section 16.1(a) shall be payable in connection with any such failure . For greater certainty, the Tenant shall not be obligated to make any payment pursuant to the preceding sentence during any period in which a Permitted Closure or Stoppage, Force Majeure or Landlord Delay has occurred and is continuing. If (and only if) the Tenant abandons the Project after the first anniversary of the expiry of the Warning Period (such first anniversary, the "**Initial Outside Completion Date**") having failed to Complete the Construction of the Project, subject to the remaining provisions of this Section 16.2(e)(ii), the Landlord shall be entitled to terminate this Lease upon written notice to the Tenant (the "**Construction Second Notice**") of such termination unless the Tenant rectifies its abandonment within thirty (30) days following receipt of such

Construction Second Notice. Except as specifically provided in Section 16.2(e)(iii) below, the Landlord shall not be entitled to terminate this Lease prior to Completion of Construction of the Project (except for a Material Tenant Event of Default under Section 16.2(b)(i) or (ii)) unless the Tenant has abandoned the Project after the Initial Outside Completion Date without having Completed the Construction of the Project and failed to rectify its abandonment as aforesaid. In the event that Landlord delivers to Tenant the Construction Second Notice and the Tenant has not rectified its abandonment within thirty (30) days following receipt of the Construction Second Notice, then:

(A) if such Construction Second Notice is delivered by the Landlord to the Tenant between the Regime Change Date and Envelope Completion, then the provisions of Section 16.2(d)(ii) shall apply *mutatis mutandis*; and

(B) if such Construction Second Notice is delivered by the Landlord to the Tenant after Envelope Completion, then the provisions of Section 16.2(d)(iii) shall apply *mutatis mutandis*,

with the references to the Landlord Second Notice and the Material Tenant Event of Default in Section 16.2(d)(ii) or 16.2(d)(iii), as the case may be, being read as referring to the Construction Second Notice and the Material Tenant Construction Event of Default, respectively.

(iii) If the Tenant fails to Complete the Construction of the Project by the fifth (5th) anniversary of the Initial Outside Completion Date (such fifth (5th) anniversary, the "**Ultimate Outside Completion Date**"), the Landlord shall be entitled to terminate this Lease upon written Notice to the Tenant of such termination (the "**Ultimate Completion Second Notice**") unless the Tenant Completes the Construction of the Project within one hundred eighty (180) days following receipt of such Ultimate Completion Second Notice. If the Tenant fails to Complete the Construction of the Project within such 180-day period as aforesaid, then this Lease shall terminate effective on the one hundred eighty-first (181st) day following the delivery of the Ultimate Completion Second Notice, in which case:

(A) if such one hundred eighty-first (181st) day occurs between the Regime Change Date and Envelope Completion, then the provisions of Section 16.2(d)(ii)(B) (but not, for greater certainty, the provisions of Section 16.2(d)(ii)(A)) shall apply *mutatis mutandis*; and

(B) if such one hundred eighty-first (181st) day occurs after Envelope Completion, then the provisions of Section 16.2(d)(iii)(B) (but not, for greater certainty, the provisions of Section 16.2(d)(iii)(A)) shall apply *mutatis mutandis*,

in each case with the termination being effective on such one hundred eighty-first (181st) day and with the references to the Material Tenant Event of Default in Section 16.2(d)(ii)(B) or 16.2(d)(iii)(B), as the case

may be, being read as referring to the Material Tenant Construction Event of Default. For greater certainty, the Landlord shall be entitled to terminate this Lease in accordance with and subject to the terms of this Section 16.2(e)(iii) notwithstanding that the Tenant has not abandoned the Project.

(f) The Tenant shall have thirty (30) days from the date that the Landlord delivers any notice pursuant to Section 16.2 to dispute the validity or effectiveness of such notice pursuant to the Dispute Resolution Procedure (it being agreed that any dispute in respect of such notices shall notwithstanding anything else herein contained, be through the Dispute Resolution Procedure, and not through the Courts), failing which the Tenant shall not have the right to dispute the validity or effectiveness of such notice.

(g) The provisions of Sections 16.2(d) and 16.2(e) are subject to the provisions of Sections 16.11 and 16.12.

16.3 Bankruptcy

If the Material Tenant Event of Default referred to in Section 16.2(b)(iii) in respect of the Tenant occurs after Completion of Construction and the Landlord terminates the Lease in accordance with the terms of Section 16.2, Rent (excluding Performance Rent) for the current month and for the three (3) months next following (the "**EOB Rent**") shall immediately become due and payable by the Tenant and the amount of the EOB Rent shall be deducted (without duplication) by the Landlord from the Material Default Termination Amount payable by the Landlord to the Tenant pursuant to Section 16.2(d)(iii)(B).

16.4 Landlord's Right to Cure Default

The Landlord its respective servants, agents and employees, shall have the right at all times to enter onto the Demised Premises for the purpose of exercising its remedies where expressly set out in Section 16.1(b), and the Tenant shall permit such entry. No such entry for such purpose shall be deemed to be a forfeiture or termination of this Lease. The Landlord shall, except in the case of emergency as set out below, give not less than forty-eight (48) hours' Notice to the Tenant of its intention to enter for such purpose, and shall not enter for such purpose (subject to the balance of this paragraph) until the expiry of the cure period that is relevant to the default in issue. The Landlord may enter upon a shorter period of Notice or without Notice where, in the Landlord's reasonable judgment, there is a real or apprehended emergency or danger to persons or property, or where any delay in remedying such default would or might materially prejudice the Landlord. The Tenant shall reimburse the Landlord upon demand and presentation of an invoice for all expenses incurred by the Landlord in remedying the subject default for which the self-help remedy was exercised, together with interest thereon calculated in accordance with Section 25.16, plus fifteen percent (15%) for the Landlord's overhead and administrative costs, as Additional Rent. The Landlord shall be under no obligation to remedy any default of the Tenant and shall not incur any liability to the Tenant for any action or omission in the course of remedying or attempting to remedy any such default unless such act amounts to intentional misconduct of the Landlord or their servants, agents or employees. The Tenant further covenants and agrees with the Landlord that upon the Tenant failing to pay when due any and all monies which the Tenant has covenanted to pay under this Lease, the Landlord shall be at liberty, but shall not be bound, to pay the same on behalf of the Tenant, and the Tenant shall reimburse the Landlord upon demand and presentation of an

invoice for any amount so paid together with interest thereon calculated in accordance with Section 25.16. Any amounts so paid by the Landlord together with interest thereon as aforesaid shall be recoverable by the Landlord as if the same were, and in the same manner as, Rent reserved and in arrears under this Lease.

16.5 Waivers of Breach

The failure of the Landlord, or the Tenant to insist upon the strict performance by the other Party of any covenant of this Lease shall not waive such covenant, and the waiver by the Landlord, or the Tenant of any breach of any covenant hereof by another Party shall not operate as a waiver of the rights of the Landlord or the Tenant hereunder, as the case may be, in respect of any future or other breach. The receipt and acceptance by the Landlord of Rent or other monies due hereunder with knowledge of any breach of any covenant by the Tenant shall not waive such breach. No waiver by the Landlord or the Tenant shall be effective unless made in writing.

16.6 Set Off

The Landlord shall have the right to set-off against any other amount due and payable to the Tenant pursuant to and in accordance with this Lease, provided that no amount that is the subject of a bona fide dispute in accordance with the Dispute Resolution Procedure shall be set-off unless and until such Dispute Resolution Procedure has been completed and the amount is finally determined under the Dispute Resolution Procedure to be due and owing or the dispute under the Dispute Resolution Procedure has been abandoned by the Tenant. The Tenant shall have the right to set-off against any other amount due and payable to the Landlord pursuant to and in accordance with this Lease, provided that no amount that is the subject of a bona fide dispute in accordance with the Dispute Resolution Procedure shall be set-off unless and until such Dispute Resolution Procedure has been completed and the amount is finally determined under the Dispute Resolution Procedure to be due and owing or the dispute under the Dispute Resolution Procedure has been abandoned by the Landlord.

16.7 Remedies Generally

Subject to the provision that termination is only available: (i) as a remedy by the Landlord in respect of a Material Tenant Event of Default or Material Tenant Construction Event of Default; and (ii) by the Tenant in respect of a Material Landlord Event of Default, mention in this Lease of any particular remedy of the Landlord in respect of a Tenant Event of Default does not preclude the Landlord from exercising any other remedy in respect thereof, as expressly provided in this Lease, and mention in this Lease of any particular remedy of the Tenant in respect of a Landlord Event of Default does not preclude the Tenant from exercising any other remedy in respect thereof, as expressly provided in this Lease. No remedy shall be exclusive or dependent upon any other remedy, but the Landlord, or the Tenant, may from time to time exercise any one or more of such remedies generally or in combination, such remedies being cumulative and not alternative. This Lease contains the sole and exclusive rights and remedies of the Landlord in respect of any breach by the Tenant of any terms of this Lease, the Master Development Agreement, any Tenant Event of Default, any Material Tenant Event of Default and any Material Tenant Construction Event of Default and the Landlord or any Landlord Person shall not be entitled to any other right or remedy whatsoever in respect thereof, whether at law, in equity or otherwise. This Lease contains the sole and exclusive rights and remedies of the Tenant in respect of any breach by the Landlord of any terms of this Lease, the Master Development Agreement, any Landlord Event of Default, or any Material Landlord Event of

Default and the Tenant or any Tenant Person shall not be entitled to any other right or remedy whatsoever in respect thereof, whether at law, in equity or otherwise.

16.8 Indemnity Agreement

(a) As further security for the observance, fulfilment and performance of the Tenant's covenants and obligations contained in this Lease, the Tenant shall cause the Indemnifier to enter into the Indemnity Agreement attached at Schedule E of this Lease concurrently with the execution of this Lease.

(b) The Landlord shall agree to terminate the Indemnity Agreement and release the Indemnifier from its obligations thereunder upon request by the Tenant and receipt of satisfactory evidence from the Tenant that the Tenant satisfies the Financial Test. If, after the Indemnity Agreement has been terminated and the Indemnifier has been released as aforesaid, at any time prior to the tenth (10th) anniversary of the Completion Date, the Tenant ceases to satisfy the Financial Test, the Indemnity Agreement, or a replacement thereof satisfactory to the Landlord in its Sole Discretion, shall be reinstated until such time as when the Tenant satisfies the Financial Test again. For greater certainty: (i) the Tenant shall not be required to provide or reinstate the Indemnity Agreement after the tenth (10th) anniversary of the Completion Date; and (ii) any Indemnity Agreement that is in effect at the tenth (10th) anniversary of the Completion Date shall remain in effect until released by the Landlord upon the Landlord's receipt and satisfaction of the Tenant's evidence that the Tenant meets the Financial Test.

16.9 Remedies for a Landlord Event of Default

(a) Upon the occurrence of a Landlord Event of Default under this Lease the Tenant shall be entitled to the following remedies, in addition to any other remedy in respect thereof expressly provided in this Lease: any single Landlord Event of Default under this Lease, (other than a Parking Facility Event of Default or any Parking Dedicated Spaces Default, the Landlord shall pay the Tenant as liquidated damages the sum of two hundred fifty thousand dollars ($250,000.00) (indexed by the Inflation Factor) ("**Landlord Event of Default Liquidated Damages**"). All such Landlord Event of Default Liquidated Damages payments shall be made by the Landlord to the Tenant within fifteen (15) Business Days after receipt by the Landlord of an invoice therefor. The Tenant and the Landlord agree that such liquidated damages are not a penalty and the Landlord agrees with the Tenant that such liquidated damages shall be payable whether or not the Tenant incurs or mitigates damages, and that the Tenant shall not have any obligation to mitigate any such damages. The Landlord agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. Subject to Sections 16.9(c), 16.9(e) and 16.10, the Tenant shall not have any other rights or remedies against the Landlord under this Lease or any Material Ancillary Agreement or at law or in equity in respect of any Landlord Event of Default.

The Landlord's maximum liability under this Section 16.9(a) and Section 18.3(d) (in the aggregate) for the Term of this Lease for the payment of liquidated damages shall be an amount equal to thirty million dollars ($30,000,000), indexed by the Inflation Factor (the "**Landlord LD Maximum Liability Cap**").

If the Landlord LD Maximum Liability Cap has been met entirely during any fifteen (15) year period of the Term, then:

(i) the Tenant shall have thirty (30) Business Days following the Tenant's receipt of the Landlord's final payment to give the Landlord Notice (the "**Landlord LD Maximum Liability Cap Increase Notice**") that it is prepared to allow the Landlord to reset the Landlord LD Maximum Liability Cap (upon payment of any outstanding amounts), which Landlord LD Maximum Liability Cap Increase Notice shall be open for acceptance by the Landlord for a period of fifteen (15) Business Days from the Landlord's receipt thereof;

(ii) If the Landlord accepts the Landlord LD Maximum Liability Cap Increase Notice by return Notice to the Tenant within such period, then the Landlord LD Maximum Liability Cap shall be reset to the value of the then applicable Landlord LD Maximum Liability Cap (as so indexed by the Inflation Factor) and such amount shall continue thereafter to be indexed by the Inflation Factor;

(iii) If the Tenant does not deliver a Landlord LD Maximum Liability Cap Increase Notice, or if the Landlord does not accept such Landlord LD Maximum Liability Cap Increase Notice within such period, then:

(A) if such Material Landlord Event of Default shall be deemed to have occurred prior to the tenth (10^{th}) anniversary of the Completion Date, then the Tenant shall be entitled to terminate this Lease, and, in such event, the Tenant shall be entitled a payment in an amount calculated in accordance with Section 16.10(d)**;** and

(B) if such Material Landlord Event of Default shall be deemed to have occurred after the tenth (10^{th}) anniversary of the Completion Date, then the Tenant shall be entitled to terminate this Lease, and in such event, the terms of Section 17.1(b)(ii)(A) shall be applicable in respect of such termination.

If the Landlord LD Maximum Liability Cap has been met other than entirely during any fifteen (15) year period of the Term, then the Landlord shall have ten (10) Business Days after Notice from the Tenant that the Landlord LD Maximum Liability Cap has been met to deliver Notice to the Tenant that the Landlord LD Maximum Liability Cap shall be re-set such that the Landlord shall be subject to a new Landlord LD Maximum Liability Cap equal to thirty million dollars ($30,000,000) (indexed by the Inflation Factor). If the Landlord fails to deliver Notice to the Tenant within such ten Business Day period or delivers Notice to the Tenant within such ten (10) Business Day period stating that the Landlord does not wish to re-set the Landlord LD Maximum Liability Cap, then a Material

Tenant Event of Default shall be deemed to have occurred and the Tenant shall be entitled to terminate this Lease. If (x) the date on which the Landlord LD Maximum Liability Cap is met is after the Regime Change Date and prior to the tenth (10th) anniversary of the Completion Date and the Tenant terminates the Lease as a result thereof, Tenant shall be entitled a payment in an amount calculated in accordance with Section 16.10(e) in respect of such termination, or (y) the date on which the Landlord LD Maximum Liability Cap is met on or after the tenth (10th) anniversary of the Completion Date and the Tenant terminates the Lease as a result thereof, then the terms of Section 17.1(b)(i)(A) shall be applicable in respect of such termination. There shall be no limitation on the number of resets permitted under this Lease.

(b) In the case of a Landlord Event of Default prior to the Regime Change Date:

(i) if the Tenant has issued a Conditional Termination Notice, then Landlord Event of Default Liquidated Damages shall not be due or payable;

(ii) if no Conditional Termination Notice has been issued, the Landlord shall pay Landlord Event of Default Liquidated Damages, and the Tenant shall be estopped from issuing a Conditional Termination Notice that has an effective date of termination prior to the date that is one hundred eighty (180) days from the expiry of the then prior cure period. The foregoing regime (including the payment of Landlord Event of Default Liquidated Damages) to be repeated following the expiry of each such 180-day period. For clarity, only one Landlord Event of Default Liquidated Damages shall be payable for all defaults in respect of the Landlord Initial Obligations for each one hundred eighty (180) day period; and

(iii) any payments made by the Landlord in accordance herewith prior to the Regime Change Date shall be subtracted from the Landlord Material Default Termination Damages.

Notwithstanding anything to the contrary, the maximum aggregate liability of the Landlord for any and all Claims, liquidated damages or other amounts pursuant to this Article 16 prior to the Regime Change Date, shall be limited to the sum of Thirty Million Dollars ($30,000,000) indexed by the Inflation Factor.

(c) In addition to the liquidated damages payable by the Landlord to the Tenant in accordance with and subject to the terms of Section 16.9(a) (but subject to the exclusions related to parking related defaults as set out therein) above, upon the occurrence of:

(i) a Landlord Event of Default set forth in paragraph (a) of the definition of "Landlord Event of Default" in this Lease, the Tenant shall be entitled to institute legal proceedings in a court of competent jurisdiction to collect any unpaid amounts owing by Landlord hereunder (plus all out-of-pocket costs, including legal fees on a substantial indemnity basis, incurred in seeking such relief) if (and only if): (i) the Landlord has not delivered a Notice of Dispute in respect of such Landlord Event of Default within the 30-day period referred to in Section 16.9(g); or (ii) the Landlord has delivered a Notice of Dispute in respect of such Landlord Event of Default

within the 30-day period referred to in Section 16.9(g) and it is finally determined under the Dispute Resolution Procedure that the Landlord Event of Default occurred, or the Landlord abandons the dispute;

(ii) a Landlord Event of Default set forth in paragraph (d), (f) or (h) of the definition of "Landlord Event of Default" in this Lease, to the extent available at law, the Tenant may institute legal proceedings to seek injunctive relief from a court of competent jurisdiction against Landlord enjoining the Landlord from undertaking the activities that give rise to such Landlord Event of Default;

(iii) a Landlord Event of Default that is due to the Landlord failing to meet the Public Areas Standard with respect to services provided by the Landlord in respect of the Therme Public Areas, forming part of Costs Recoverable by the Province, then the Tenant may, in accordance with the provisions set out in Section 3.5(e), require such services be provided by the Tenant as Therme Self-Managed Expenses;

(iv) a Parking Facility Event of Default, then the Tenant shall be entitled to recover from the Landlord its actual direct damages incurred as a result thereof;

(v) a failure to provide the required Dedicated Spaces in accordance with its obligation in Section 18.3(a) (a "**Parking Dedicated Spaces Default**"), the Landlord shall pay the amount of daily liquidated damages provided for in accordance with Section 18.3(d) (a "**Parking Facility LD Payment**"); and

(vi) any Landlord Event of Default, the Tenant may make a claim under the Dispute Resolution Procedure to compel performance of the obligations that are the subject matter of such Landlord Event of Default.

(d) Upon the occurrence of a Landlord Event of Default (including the expiry of the applicable cure period relating thereto), Tenant shall deliver Notice to the Landlord of such Landlord Event of Default prior to the Tenant exercising any of its rights and remedies under this Article 16 (except with respect it exercise of its rights or remedies under Section 16.9(c)(ii) in respect of the Landlord Event of Default referred to therein, provided that the Tenant will still be required to deliver notice of such Landlord Event of Default after the exercise of such right or remedy).

(e) Should any Landlord Event of Default continue beyond the applicable cure period, the Tenant shall be entitled to deliver another notice of default and such subsequent notice shall constitute a new Landlord Event of Default for the purposes of Section 16.9(a) above. The foregoing sentence shall continue to apply until the applicable Landlord Event of Default has been remedied in accordance with the provisions of this Lease. For greater certainty: (i) in the case of a Parking Dedicated Spaces Default, the daily liquidated damages shall accrue and be payable for each day that a Parking Dedicated Spaces Default continues, without the need for any other notice of default to be delivered in respect thereof; and (ii) in the case of the Landlord Event of Defaults set out in

paragraphs (k), (l) and (m) of the definition thereof, a Landlord Event of Default or new Landlord Event of Default, as the case may be, shall occur for the purposes of Section 16.9(a) above each time such default continues beyond the applicable cure period (which shall reset following the expiry of the same) without the requirement for a notice of default (or subsequent notice of default) to be delivered in order to commence the initial, or any subsequent, cure periods.

(f) For greater clarity, the remedies in favour of the Tenant as set out in Section 16.9(a), Section 16.9(b) and Section 16.9(c) shall be cumulative.

(g) The Landlord shall have thirty (30) days from the date that the Tenant delivers written Notice of the Landlord Event of Default to dispute pursuant to the Dispute Resolution Procedure whether a Landlord Event of Default had occurred and/or Tenant was entitled to exercise any right or remedy in respect thereof. The Landlord and Tenant agree that any dispute shall be through the Dispute Resolution Procedure and not through the Courts. If the Landlord issues a Notice of Dispute under the Dispute Resolution Procedure, then Section 5.1 of the Dispute Resolution Procedure shall be immediately applicable; however, notwithstanding the immediate application of the stay thereunder, the Tenant shall have its rights and remedies under Sections 16.9(b)(ii) and 16.9(b)(iii) in respect of the applicable Landlord Event of Default referred to therein during the pendency of the dispute under the Dispute Resolution Procedure. If the Landlord does not deliver a Notice of Dispute within the 30-day period referred to in this Section 16.9(g), then the Landlord shall not have the right to dispute whether or not the Landlord Event of Default had occurred.

16.10 <u>Remedies for a Material Landlord Event of Default</u>

(a) Each of the following will constitute a "**Material Landlord Event of Default**" if it remains uncured after the cure period set out below (as may be extended pursuant to Section 25.9):

(i) in the case of the Landlord Initial Obligations:

(A) the Landlord has failed to obtain the Zoning Approval by the Zoning Approval Deadline, if such failure has not been cured within one (1) year from the Zoning Approval Deadline;

(B) on or before the Heritage Deadline, the Landlord has failed to obtain all Heritage Determinations required to permit the construction, operation and maintenance of the Project and the Permitted Uses, in each case in accordance with the Submitted Design, if such failure has not been cured within one (1) year from the Heritage Deadline;

(C) the Landlord has failed to obtain the EA Approvals, other than any required EA Approval for the Therme Public Areas (for certainty, any required EA Approval for the Therme Public Areas shall not be subject to the EA Deadline), by the EA Deadline, if such failure has not been cured within one (1) year from the EA Deadline;

(D) the Landlord has failed to: (A) acquire title (freehold and/or leasehold) to the City Lands; and (B) grant or cause to be granted the Construction Licenses contemplated in Schedule B in favour of the Construction Licensed Persons, in each case by the Initial Land Acquisition Deadline, if such failure has not been cured within one (1) year from the Initial Lands Acquisition Deadline;

(E) the Landlord has failed to satisfy the Initial Environmental Obligations by the Initial Environmental Deadline, if such failure has not been cured within one (1) year from the Initial Environmental Deadline; or

(F) the Landlord has failed to provide the Interim Utility Services by the Interim Utility Services Deadline, if such failure has not been cured within one (1) year from the Interim Utility Services Deadline;

(G) the Landlord has failed to obtain and register against title to the Lands a discharge, postponement or such other documentation as determined by the Parties acting reasonably, in respect of Instrument Nos. C92422, C92422z, AT729615, CT687333 and CT687334, by no later than December 31, 2023, if such failure has not been cured within one (1) year from the aforementioned deadline; or

(ii) a breach by the Landlord of Section 18.2(b), provided that the Landlord shall have ninety (90) days to cure such default following Notice of such default from the Tenant.

(b) If the Landlord has failed to satisfy any Landlord Initial Obligation prior to the applicable Landlord Initial Obligation Deadline, in anticipation of such failure becoming a Material Landlord Event of Default set out in Section 16.10(a) above, the Tenant may, at its option, give the Landlord a notice (a "**Conditional Termination Notice**") specifying the subject failure(s) and stating that this Lease shall terminate if such failure is not cured by the date (in this Section, the "**Conditional Termination Date**") later of:

(i) one hundred eighty (180) days following the delivery of the Conditional Termination Notice, and

(ii) the expiry of the applicable cure period in respect of any such failure(s) that results in any such failure(s) becoming a Material Landlord Event of Default,

and if any such failure(s) remain uncured on the Conditional Termination Date, this Lease shall terminate on the Conditional Termination Date and the provisions of Section 16.10(c) of this Lease shall be applicable. If all such failure(s) have been cured prior to the Conditional Termination Date, the applicable Conditional Termination Notice shall have no effect.

(c) Within ninety (90) days of the date that this Lease terminates in accordance with Section 16.10(b), the Landlord shall pay to the Tenant liquidated damages in the amount of thirty million dollars ($30,000,000) (indexed by the Inflation Factor) (the "**Landlord Material Default Termination Damages**"), which the Landlord acknowledges is a genuine pre-estimate of the Tenant's damages for its reasonable out-of-pocket, transaction costs, advisor and legal costs associated with this Lease, and not a penalty, and the Landlord shall return the Deposit to the Tenant and, following payment in full of the Landlord Material Default Termination Damages, (A) neither Party shall have any further claims, rights or remedies against the other Party for damages or losses (whether under this Lease, the Master Development Agreement or any other Material Ancillary Agreement or at law or in equity), including in connection with or as a result of the failure to satisfy the Landlord Initial Obligations by the foregoing applicable deadline (or the termination of this Lease resulting therefrom) and (B) neither Party will have any further rights or obligations under this Lease.

(d) Notwithstanding Section 16.10(b) or Section 16.10(c), in the event that the Province has satisfied all of the Landlord Initial Obligations by the applicable Landlord Initial Obligation Deadline except for its obligation to acquire title (freehold and/or leasehold) to the City Lands prior to the Initial Land Acquisition Deadline and has in good faith undertaken the steps to expropriate the City Lands in accordance with the *Expropriations Act* (Ontario) prior to September 30, 2024 and such expropriation is being challenged, no termination in respect of such failure shall take effect (and the Tenant's right of termination in respect thereof shall be stayed) until it is finally determined by the courts that the Province is not entitled to effect the necessary expropriation under the *Expropriations Act* (Ontario) or until three (3) months following a final determination by the courts that the Province is so entitled. If such court proceeding determines the Province is not entitled to effect the necessary expropriation under the *Expropriations Act* (Ontario), then the Landlord or the Tenant may terminate this Lease and the liquidated damages payable by the Landlord in such circumstances for failing to acquire title to the City Lands as aforesaid will be only five million dollars ($5,000,000) (indexed by the Inflation Factor), not thirty million dollars ($30,000,000) (indexed by the Inflation Factor), and the Regime Change Date shall not have occurred and the Tenant shall not be obligated to commence construction of the Project. The Landlord agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred.

(e) If a Material Landlord Event of Default under Section 16.10(a)(ii) occurs, the Landlord shall have ninety (90) days after Notice from the Tenant to the Landlord of such Material Landlord Event of Default to cure same. If the Landlord fails to cure such Material Landlord Event of Default, then (i) the Tenant may terminate this Lease on Notice to the Landlord, which termination shall be effective concurrently with the delivery of such Notice of termination and (ii) if the Tenant terminates this Lease pursuant to this Section 16.10(e) prior to the Regime Change Date, then the Landlord shall pay to the Tenant within ninety (90) days of the date of Landlord's receipt of the Notice terminating the Lease the Landlord Material Default Termination Damages and the terms of Section 16.9(c) shall otherwise apply, and (iii) if the Tenant terminates this Lease pursuant to this

Section 16.10(e) on or after the Regime Change Date, then the Landlord shall pay to the Tenant within ninety (90) days of the date of Landlord's receipt of the Notice terminating the Lease (A) if such termination is prior to the ten year anniversary of the Completion Date, all Claims incurred by the Tenant in connection with the Material Landlord Event of Default and the termination of the Lease (which shall include, without limitation, the outstanding principal amount of debt, and all interest accrued thereon, owing to the Leasehold Mortgagee, all other amounts owing to the Leasehold Mortgagee including any "makewhole" payments, breakage costs and all other fees, costs and expenses reasonably and properly incurred which Tenant is obligated to pay to the Leasehold Mortgagee, the amount of loans made or capital contributed to the Tenant by any Affiliate of the Tenant and a market return thereon, any termination payments which are required under Applicable Law to be made to employees of the Tenant or Tenant Person as a direct result of terminating this Lease, any amounts reasonably and properly payable to contractors of the Tenant as a direct result of the termination of this Lease (including reasonable breakage fees), and any reasonable costs properly incurred by the Tenant to wind up its operations), provided that such amount shall not be greater than the amount referred to in Section 17.1(b)(ii) (as if such amount was calculated on the date of termination using the then applicable projections for EBTDA), or (B) if such termination is on or after the ten year anniversary of the Completion Date, the amount referred to in Section 17.1(b)(ii).

(f) In the event that the Tenant delivers a Conditional Termination Notice under Section 16.10(b), the Landlord shall have thirty (30) days from the date of the delivery of such Conditional Termination Notice to dispute pursuant to the Dispute Resolution Procedure whether the Material Landlord Event of Default that is the subject matter of such Conditional Termination Notice has occurred. The Landlord and the Tenant agree that any such dispute shall be through the Dispute Resolution Procedure and not through the Court. If the Landlord issues a Notice of Dispute under the Dispute Resolution Procedure, then Section 5.1 of the Dispute Resolution Procedure shall be immediately applicable. If the Landlord does not deliver a Notice of Dispute within the 30-day period contemplated in this Section 16.10(f), then the Tenant shall not have the right to dispute same.

(g) The provisions of Sections 16.10(b), (c) and (d) are subject to the provisions of Section 16.11 and 16.12.

16.11 Material Tenant Construction Events of Default, Material Tenant Events of Default, and Material Landlord Events of Default

In the event that the Landlord exercises its termination rights under Section 16.2(d) or 16.2(e), or the Tenant exercises its termination right under Section 16.10(b), 16.10(d) or 16.10(e) (each, for the purposes of this Section 16.11, a "**Claiming Party**"), and the other Party (for the purposes of this Section 16.11, the "**Responding Party**") disputes such exercise and initiates the Dispute Resolution Procedure hereunder within the time prescribed, the Responding Party shall have an additional thirty (30) days from the date that such claim is resolved through the Dispute Resolution Procedure or such the disputation of such exercise under the Dispute Resolution Procedure is abandoned by the Responding Party, to cure the default that was the subject of the Claiming Party's termination pursuant to Section 16.2(d),

16.2(e), 16.10(b), 16.10(d) or 16.10(e), as the case may be, provided that while the Responding Party has such additional thirty (30) day cure period, the notice exercising the Claiming Party's termination right shall, if the Responding Party is unsuccessful in disputing the exercise of such termination, remain effective as of the date of its delivery. The Landlord and the Tenant agree that any such dispute shall be through the Dispute Resolution Procedure and not through the Court. If the Tenant issues a Notice of Dispute under the Dispute Resolution Procedure, then Section 5.1 of the Dispute Resolution Procedure shall be immediately applicable. If the Tenant does not deliver a Notice of Dispute within the 30-day period contemplated in this Section 16.11, then the Tenant shall not have the right to dispute same.

With respect to the Tenant, if it is finally determined under the Dispute Resolution Procedure that the Material Tenant Event of Default or Material Tenant Construction Event of Default, as the case may be, had occurred, was not cured within the applicable cure period set forth in Section 16.2(b) or 16.2(e), as the case may be, or that the Landlord is entitled to exercise its rights under Section 16.2(d) or 16.2(e), as the case may be, then following the expiry of the 30-day period if the Tenant fails to cure same within such 30-day period, then the subject Landlord Second Notice, C&D Second Notice, Construction Second Notice or Ultimate Completion Second Notice, as the case may be, shall be of immediate force and effect and the terms of Section 16.2(d) or 16.2(e), as the case may be, shall be applicable in accordance with their terms, (ii) the two-year period under Section 16.2(d)(ii)(A) or 16.2(d)(iii)(A), as applicable, shall commence on the date of such final determination under the Dispute Resolution Procedure and shall continue until its expiry unless the Material Tenant Event of Default or Material Tenant Construction Event of Default is cured by the Tenant within the 30-day additional cure period referred to in clause (i) of this Section 16.11; and (iii) where the dispute relates to whether or not the Construction of the Project has been Completed, the 180-day period under Section 16.2(e)(iii) shall commence on the date of such final determination under the Dispute Resolution Procedure.

16.12 Disputes re Liquidated Damages and Other Amounts Owing

In the event that a Party (for the purposes of this Section 16.12, a "**Claiming Party**") makes a claim for liquidated damages or any other amount owing under this Lease and/or any Material Ancillary Agreement against the other Party, and the other Party (for the purposes of this Section 16.12, the "**Responding Party**") in good faith disputes such claim and initiates the Dispute Resolution Procedure hereunder, such liquidated damages or other amounts, if any, shall not be due and payable until the earlier of the date that such claim is resolved the through the Dispute Resolution Procedure or such claim under the Dispute Resolution Procedure is abandoned by the Responding Party, provided that, while not being due and payable in accordance with the foregoing, such liquidated damages or other amount shall bear interest at the Interest Rate from and after the date of such claim until paid.

16.13 Termination for Convenience

(a) In addition to and without limiting the Landlord's right of termination in the event of a Material Tenant Event of Default under Section 16.2 or its option to terminate in accordance with Article 17, the Landlord may, in its Sole Discretion and at any time between the Lease Date and the Regime Change Date, whether or not the Tenant is in default under the terms of this Lease, deliver written Notice to the Tenant terminating this Lease effective as of the date of such Notice. If the Landlord exercises its right to terminate under this Section 16.13(a), the Landlord shall pay to the Tenant as liquidated damages the sum of thirty million

($30,000,000) dollars (indexed by the Inflation Factor) within thirty(30) Business Days after the date of delivery of the termination Notice. Failure to make such payment shall render the termination notice null and void. The Landlord and the Tenant agree that such liquidated damages are not a penalty and the Landlord agrees with the Tenant that such liquidated damages shall be payable whether or not Tenant incurs or mitigates damages, and that the Tenant shall not have any obligation to mitigate any such damages. The Landlord agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. No other amount shall be payable by the Landlord to the Tenant in connection with any such termination, whether under this Lease, at law or in equity.

(b) In addition to and without limiting the Tenant's right of termination in the event of a Material Landlord Event of Default under Section 16.10, the Tenant may, in its Sole Discretion and at any time between the Lease Date and the Regime Change Date, whether or not the Landlord is in default under the terms of this Lease, deliver written Notice to the Landlord terminating this Lease effective as of the date of such Notice. If the Tenant exercises its right to terminate under this Section 16.13(b), the Tenant shall pay to the Landlord as liquidated damages the sum of five million ($5,000,000) dollars (indexed by the Inflation Factor) within thirty (30) Business Days after the date of delivery of the termination Notice. Failure to make such payment shall render the termination notice null and void. The Landlord and the Tenant agree that such liquidated damages are not a penalty and the Tenant agrees with the Landlord that such liquidated damages shall be payable whether or not Landlord incurs or mitigates damages, and that the Landlord shall not have any obligation to mitigate any such damages. The Landlord shall be entitled to retain and shall apply the Deposit towards the liquidated damages owing by the Tenant to the Landlord under this Section 16.13(b), it being confirmed that the Deposit shall be returned to the Tenant to the extent not applied towards the payment of liquidated damages referred to in this Section 16.13(b).The Tenant agrees that it is and shall be estopped from alleging that, and shall not allege that, such liquidated damages are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages are not incurred. No other amount shall be payable by the Tenant to the Landlord in connection with any such termination, whether under this Lease, at law or in equity.

(c) On termination and payment of the applicable amount under this Section 16.13, neither party shall have any further obligations or liabilities to the other except with respect to those provisions expressly noted to survive any expiry or early termination of this Lease.

16.14 <u>Termination for Impossibility to obtain Tenant Permits, Licenses and Approvals</u>

Notwithstanding anything herein to the contrary, in the event that, following all reasonable efforts by the Tenant it is not possible for the Tenant to obtain the Tenant Permits, Licences and Approvals (including a final connection of utilities from the City) required for construction and initial operation of the Project then, following written Notice from the Tenant confirming same, the Tenant may deliver a Notice of termination expressly referencing this Section 16.14 and, in such event, this Lease and the Material Ancillary Agreements shall

terminate and neither Party shall be liable to the other any for any Claims or liquidated damages in connection therewith.

16.15 Indexation

In calculating whether or not a Tenant LD Maximum Liability Cap or Landlord LD Maximum Liability Cap has been reached at any time or for any purpose, the value of the liquidated damages paid by the applicable Party shall be indexed by the Inflation Factor from the date of payment to the applicable date to which the applicable liability cap was indexed so that the "real dollar value" of such payments is used for such calculation.

16.16 Paramountcy of Article 16

Nothing in Section 2.5 or Section 4.1(f) shall derogate from the obligations of the Landlord in Section 16.9 and 16.10 in connection with a failure by the Landlord to satisfy the Landlord Initial Obligations, it being confirmed that the Landlord shall be responsible for the obligations in Section 16.9 and Section 16.10 in connection with such failure notwithstanding whether or not the satisfaction of the Landlord's Initial Obligations was within the Landlord's control.

ARTICLE 17
LANDLORD'S OPTION TO TERMINATE

17.1 Option to Terminate

(a) In addition to and without limiting the Landlord's rights of termination in the event of a Material Tenant Event of Default, the Landlord may, in its Sole Discretion and at any time after the tenth (10th) anniversary of the Completion Date, whether or not the Tenant is in default under the terms of this Lease, deliver written notice (the "**Cancellation Notice**") to the Tenant terminating this Lease effective as of the termination date specified therein (the "**Termination Date**"). The Termination Date shall be not less than five (5) years after the delivery of the Cancellation Notice. The Cancellation Notice shall expressly refer to this Section 17.1(a).

(b) In the event that the Landlord terminates this Lease in accordance with Section 17.1(a), then:

(i) the Parties shall attempt to identify and enter into arrangements for an alternate viable site (an "**Alternate Site**") for a replacement facility based on criteria to be provided by the Tenant, acting reasonably, within eighteen (18) months of receipt of the Cancellation Notice. The Alternate Site and the terms for payment of the Replacement Cost of the Facility and other contractual arrangements must be acceptable to both Parties, each acting reasonably. If such Alternate Site is agreed and secured:

(A) the Landlord shall pay the Tenant a compensation payment in an amount equal to the sum of (1) the Tenant's EBTDA for the previous one (1) year plus (2) the Replacement Cost of the Facility, provided that the Replacement Cost of the Facility is no less than the total cost of constructing (including all planning and

development costs) the existing Project, increased (but not decreased) by the Inflation Factor. The terms for payment by the Landlord to the Tenant of the Replacement Cost of the Facility (whether on a progress payment or one-time basis) shall be a necessary component of the arrangements required by the Parties for an Alternate Site;

(B) the Rent for the Alternate Site shall be adjusted to address the change in location (if such change negatively impacts the Tenant's profits);

(C) the Tenant shall be entitled (but not required) to operate the Project on the Lands for no more than five (5) years from the delivery of the Cancellation Notice; and

(D) the Landlord shall be obligated to demolish the existing Project (save for the Therme Public Areas), at its own cost, upon the Tenant's departure, such demolition to commence upon the Tenant's departure and to proceed to completion on a reasonably timely basis. Until the demolition of the Project (save for the Therme Public Areas) is completed, the Landlord shall not be permitted to use the Project (save for the Therme Public Areas) or any part thereof (or grant any right to use the Project (save for the Therme Public Areas) or any part thereof) for any purpose other than for the purpose of the demolition thereof; and

(ii) if the Parties have not identified and entered into arrangements for an Alternate Site for a replacement facility within the eighteen (18) month period set out in Section 17.1(b)(i) above, then:

(A) this Lease shall terminate on the Termination Date and at such time the Landlord shall pay the Tenant a compensation payment in an amount equal to the sum of (1) the depreciated cost (increased (but not decreased) by the Inflation Factor) of the Project where depreciation runs on a straight line basis commencing in year fifteen (15) after the Completion Date through the Expiry Date (i.e., sixty (60) years) plus (2) an amount equal to the aggregate of the five (5) highest years of EBTDA from the last ten (10) years;

(B) the Tenant shall be entitled (but not required) to operate the Project on the Lands until the Termination Date;

(C) the Landlord shall be obligated to demolish the existing Project (save for the Therme Public Areas), at its own cost, upon the Tenant's departure, such demolition to commence upon the Tenant's departure and to proceed to completion on a reasonably timely basis. Until the demolition of the Project (save for the Therme Public Areas) is completed, the Landlord shall not be permitted to use the Project (save for the Therme Public Areas) or any part thereof (or grant any right to use the Project (save for the

Therme Public Areas) or any part thereof) for any purpose other than for the purpose of the demolition thereof.

(iii) After its receipt of the Cancellation Notice, the Tenant shall not enter into or extend any contract relating to the operation and maintenance of the Project the term of which continues beyond the date that is five (5) years after the Cancellation Notice unless any such contract can be terminated or applied to the Alternate Site.

17.2 Mechanics of Termination and Payment on Termination

(a) On the Termination Date and upon payment to the Tenant of the amount required to be paid by the Landlord pursuant to Section 17.1 (which amount shall be net of any amounts owing by the Tenant to the Landlord as of the Termination Date) (the "**Cancellation Payment**"), the Tenant will surrender the Demised Premises, the Improvements and any FF&E that is owned by the Tenant that remains on the Lands on the Termination Date in an "as is where is" condition, and provided that the Tenant has discharged all encumbrances against the Demised Premises, save and except for the Permitted Encumbrances, Additional Easements and any Liens against the Demised Premises caused by the Landlord or any Landlord Persons, the Tenant shall have no further Lease obligations other than with respect to those provisions expressly noted to survive any expiry or earlier termination of this Lease.

(b) The terms of Section 20.4(d) shall apply in the case of circumstances set forth in both Sections 17.1(b)(i) and (ii).

(c) The Tenant shall deliver to the Landlord (i) a complete copy of the plans, drawings and specifications for the Project (as it exists on the Termination Date), and (ii) such other information or materials in the possession of the Tenant as may be reasonably requested by the Landlord, in each case, to be used by the Landlord for the sole purpose of demolishing the Project pursuant to its obligations under Section 17.1(b)(i) or (ii), as the case may be (and for no other purpose). The Landlord acknowledges that the Tenant owns all right, title and interest in and to the above-noted plans, drawings and specifications for, and information and materials relating to, the Project (including all intellectual property rights therein).

ARTICLE 18
LANDLORD'S COVENANTS

18.1 Quiet Enjoyment

If the Tenant pays the Rent herein reserved and observes and performs the covenants, conditions and agreements set out in this Lease, the Tenant shall and may peacefully possess and enjoy the Demised Premises during the Term without interruption or disturbance from the Landlord or any other person or persons lawfully claiming from or under the Landlord, except as provided in this Lease.

18.2 Transfer of Landlord's Interest

(a) The Landlord may, at any time and from time to time, without the consent of the Tenant:

(i) sell or transfer its freehold interest, assign or otherwise dispose of, or permit the foreclosure of the equity of redemption pursuant to a mortgage or to permit the sale by a mortgagee, in all or any part of Ontario Place (each, a "**Landlord Conveyance**"), including the Lease and the Demised Premises, to a Governmental Authority, that exercises the rights of Her Majesty in right of Ontario and/or Canada (or a combination thereof). The Landlord shall prior to any such Landlord Conveyance, obtain from the transferee, an assumption agreement whereby the transferee shall acknowledge and agree in favour of the Tenant that it is bound by all of the Landlord's covenants, obligations and liabilities under this Lease and the Material Ancillary Agreements to the extent relating to Ontario Place or the portion thereof so conveyed, as the case may be. Upon any such Landlord Conveyance, and execution and delivery by the transferee of the assumption agreement, as aforesaid, the transferee of the Landlord shall assume and be liable for all of the covenants, obligations and liabilities, and entitled to all of the benefits, of the Landlord under this Lease and the Material Ancillary Agreements arising after the effective date of such conveyance in respect of Ontario Place or the portion thereof so conveyed, and, if the Landlord Conveyance is of the whole of the Landlord's interest in the entirety of Ontario Place, the Landlord shall not be liable for any of such covenants, obligations and liabilities thereafter (provided the Landlord would not be released to the extent the Landlord Conveyance relates to less than the whole of the Landlord's interest in the entirety of Ontario Place, in which case the Landlord shall thereafter remain jointly and severally liable with the transferee in respect of such conveyed interest or portion), provided that, in all cases, the Landlord shall not be released from, and shall remain liable for, all of its covenants, obligations and liabilities arising prior to the effective date of such Landlord Conveyance;

(ii) enter into leases, licenses, easements, or other agreements or rights of occupancy in, on, under, and through the Other Lands, in its Sole Discretion, provided that all such leases, licenses, easements, or other agreements or rights of occupancy, shall be subject to the Article 22 of this Lease, and any rights of access, licenses and similar right granted in favour of the Tenant pursuant to this Lease, and the Material Ancillary Agreements;

(iii) enter into any Permitted Encumbrances with respect to Ontario Place; or

(iv) transfer the fee simple interest in any non-material portion of the Other Lands to the City of Toronto or any private or public utility provider, as may be necessary for road widening of a public road, parkland dedication, the provision of utilities or other similar purposes.

(b) Save and except as set out in Section 18.2(a) above, the Landlord shall not be permitted to sell or transfer its freehold interest, assign or otherwise dispose of, or permit the foreclosure of the equity of redemption pursuant to a mortgage or to permit the sale by a mortgagee, in all or any part of Ontario Place or the Lease, without the prior written consent of the Tenant, which consent shall not be unreasonably withheld or delayed.

18.3 Parking

(a) The Landlord, whether directly or through contractual or other arrangements with third parties, shall, at all times during the Term from the Completion of Construction of the Project, subject to any changes to the number of dedicated spaces in accordance with this Section 18.3, provide one thousand six hundred (1,600) Prescribed Spaces dedicated and available for use by the Tenant and its guests (on a non-designated basis) (such Prescribed Spaces, the "**Dedicated Spaces**"), provided that until the earlier of: (i) December 31, 2030, and (ii) the completion of construction by Live Nation of its new facility, (the "**Parking Facility Completion Date**") the Landlord only has to provide Therme with one thousand two hundred (1,200) of such Dedicated Spaces. The Landlord covenants and agrees to complete the construction of a Parking Facility that includes at least one thousand eight hundred (1,800) Parking Spaces and to provide the Dedicated Spaces therein on or before the Parking Facility Completion Date.

(b) The Parties, acting in good faith, will agree a mechanism to set maximum prices for the Dedicated Spaces on or before June 30, 2022. The agreed mechanism will ensure affordability of parking for visitors to the Project such that any maximum price of parking does not have the effect of dis-incentivizing visitors to the Project. The Landlord shall charge, or cause to be charged. visitors of to the Project no more than the agreed maximum pricing for the Dedicated Spaces.

(c) Commencing on the one (1) year anniversary of the Completion Date, the Parties will conduct a yearly review of the actual usage by the Tenant and its patrons of the Dedicated Spaces for the applicable prior period. If the actual usage of the Parking Facility by the Tenant and its patrons for that prior twelve (12) month period (the "**Actual Usage**") was less than the then applicable number of Dedicated Spaces, then the Tenant shall be entitled, in respect of the following twelve (12) month period, to (i) pay to the Landlord a fee for each under utilized space at a rate equal to the Breakeven Amount, or (ii) reduce the number of Dedicated Spaces to be equal to the Actual Usage in the prevous twelve (12) month period for the following twelve (12) month period, or (iii) change the number of Dedicated Spaces to an amount greater than the Actual Usage in the previous twelve (12) month period for the following twelve (12) month and pay to the Landlord a fee for each additional Dedicated Space above the Actual Usage in the previous twelve (12) month period.

"**Breakeven Amount**" means the lesser of: (i) the average amount of revenue generated on a per parking space basis (being the total revenue from the Parking Facility divided by the total number of parking spaces in the Parking Facility, in each case using only the non-Dedicated Spaces) for such year from parking spaces within the Parking Facility that are not Dedicated Spaces; or (ii) the

amortized capital cost of construction of the Parking Facility per parking space applicable to such year.

(d) Subject to Force Majeure, the Landlord will pay liquidated damages in respect of each day that it fails to provide the required Dedicated Spaces in accordance with its obligation in Section 18.3(a). The amount of the daily liquidated damages will depend on the number of Dedicated Spaces that are so provided, with the daily rate set at five ($5.00) dollars (indexed by the Inflation Factor) per day per Dedicated Space not then provided. To the extent a Force Majeure event prevents the Dedicated Spaces from being available (including damage to or destruction of the Parking Facility that prevents the Dedicated Spaces from being available), then the liquidated damages shall not be payable unless the Landlord fails to provide replacement Parking Spaces on a non-dedicated and non-designated basis for the temporary period while the Parking Facility is being repaired or replaced, (i) within six hundred fifty (650) meters of the Entrance Pavilion and (ii) within a reasonable period of time (which shall not exceed ninety (90) days).

(e) In the event of any damage or destruction to the Parking Facility, the Landlord shall be required to repair or rebuild the Parking Facility acting diligently and without delay.

(f) At any time that the Parking Facility is in operation, the number of Dedicated Spaces to be provided to the Tenant shall, during the period commencing one (1) hour before each Live Nation event and ending one (1) hour after the end of each Live Nation event, temporarily decrease to forty-five percent (45%) of the number of Dedicated Spaces contained in the Parking Facility, provided that in no event will the reduction to the number of Dedicated Spaces be reduced below eight hundred fifty (850) Parking Spaces.

(g) In addition to the financial review mechanism described above, the number of Dedicated Spaces required to be provided by the Landlord will be reviewed from time to time (at least every five years after commencement of the Tenant's operations) by the Parties based on actual load/usage and, if appropriate as a result of such review, the Parties may agree to increase or reduce the number of Dedicated Spaces and this Lease shall be amended to reflect any such agreed increase or reduction.

(h) The Landlord covenants that it will during the Term operate, maintain and repair, or cause to be operated, maintained and repaired, the Parking Facility at and to a standard no less than the standard generally prevailing at parking facilities owned and operated by any Crown Corporation.

(i) The Landlord shall be solely responsible, at its sole cost, for the construction of the Parking Facilities.

18.4 <u>Access and Admission to Ontario Place</u>

(a) The Landlord agrees that patrons of the Project shall be entitled to enter Ontario Place for the purpose of attending at the Project without paying any charge for

admission to Ontario Place (other than, to the extent applicable, the charges for use of the Parking Facility referred to in Section 18.3).

(b) The Landlord agrees that the Other Public Areas, as changed in accordance to Section 6.1 from time to time, shall be accessible to members of the general public (including patrons of the Project) without paid admission to (i) Ontario Place, (ii) the Lands, or (iii) any portion of the Other Lands leased to Adjacent Tenants.

18.5 <u>Assistance by Landlord</u>

(a) The Landlord agrees that it will not oppose the Tenant in the Tenant's dealings with the City of Toronto and other relevant Governmental Authorities in applying for and obtaining the Tenant Permits, Licenses and Approvals in respect of a Major Change.

(b) In connection with any Major Changes being pursued by the Tenant, the Landlord agrees that

(i) the Landlord will use commercially reasonable efforts to cooperate with the Tenant in respect of the Tenant's applications for and pursuit of such Tenant Permits, Licenses and Approvals, at the Tenant's sole cost and expense;

(ii) the Landlord shall use commercially reasonable efforts to cooperate with and support the efforts of the Tenant in connection with the design, construction, alteration and maintenance of the Tenant Permits, Licenses and Approvals at no cost to the Landlord (other than those costs that are the responsibility of the Landlord pursuant to this Lease or any Material Ancillary Agreement); and

(iii) the Landlord shall cooperate with the Tenant's pursuit of any benefits and accommodations that may be available to the Tenant in connection with such Tenant Permits, Licenses and Approvals.

(c) if necessary for a Major Change and upon the request by the Tenant, the Landlord will use commercially reasonable efforts to, at no cost to the Landlord, enter into agreements, permits, applications, easements and other rights as may be required by any Governmental Authority or any provider of such utility, service or improvements, and secure any necessary partial discharges or postponements of any encumbrances, where the Landlord as owner of the fee simple interest in the Lands, is required to do, provided that:

(i) the Tenant shall reimburse the Landlord for its third party costs to review such agreements, permits, applications, easements, discharges, postponements, or other document required pursuant to this Section 18.5(c), including any third party legal costs. Any costs incurred by the Landlord in connection with this Section 18.5(c) shall be promptly reimbursed by the Tenant upon Tenant's receipt of an invoice therefor;

(ii) the form of such agreements shall be satisfactory to the Landlord, acting reasonably (it being unreasonable for the Landlord not to be satisfied with a form where the Landlord is not responsible or is indemnified by the Tenant for any obligations);

(iii) the Tenant acknowledges that the Tenant is responsible for all and all costs, obligations, covenants or other liabilities any agreement or other document required pursuant to this Section 18.5(c), and the Tenant indemnifies and holds the Landlord harmless as against the same;

(iv) the Tenant will not object to the Landlord excluding from any agreement (to the extent acceptable to the counterparty) or other document required pursuant to this Section 18.5(c), any obligation on the part of the Landlord to pay or otherwise be responsible for contingent liabilities or interest on overdue payments;

(v) to the extent reasonably required in order to review any of the foregoing agreements, agreements, permits, applications, easements, discharges, postponements, or other document the Tenant shall provide to the Landlord copies of all as-built drawings, references plans, or any additional documentation, in the Tenant's possession or control; and

(vi) the Tenant shall perform at its sole cost and expense all obligations to be performed under such agreement (other than those obligations that are the responsibility of the Landlord pursuant to the Lease, the Master Development Agreement or any other Material Ancillary Agreement).

(vii) With respect to any agreements referred to in Section 18.5(c), in the event that the Landlord, acting reasonably and in good faith, objects to the location thereof, the Landlord and the Tenant will use commercially reasonable efforts to work, in good faith, with the Governmental Authority or any provider of such utility in order to agree upon an alternate location which functions as effectively as the originally proposed location.

18.6 <u>Crown Appointment of an Agent and Deletion of References to the Agent</u>

The Landlord hereby:

(a) represents, warrants and covenants to and in favour of Tenant that, if the Landlord appoints an Agent as the agent of the Landlord for the purpose of this Lease, the Master Development Agreement and/or the other Material Ancillary Agreements the Landlord will, with such appointment, be deemed to have delegated to the Agent as part of such appointment the full power, authority, right and obligation to deal with this Lease and to administer all the terms and conditions thereof for and on behalf of and in the place and stead of the Landlord, including the execution of all documents and papers required by reason of the aforesaid, all actions, representations and agreements made by the Agent shall be binding on the Landlord and the Tenant may rely on same without any further documentation required. The Landlord will deliver Notice to the Tenant of such appointment (and the acceptance of such appointment by the Agent) within five (5) Business Days thereof; and

(b) represents, warrants and covenants in favour of Tenant that the Landlord shall be responsible for all actions and omissions of the Agent in its performance of its obligations under this Lease following the Landlord's appointment of the Agent referenced in (a) above.

The Landlord may at any time by Notice to the Tenant terminate the appointment of the Agent as its agent under this Lease provided that the representations, warranties and covenants set out in Sections 18.6(a) and (b) shall be applicable to any replacement appointee of the Landlord (which shall be confirmed by Landlord in writing to Tenant in connection with any Notice from Landlord to Tenant of any replacement appointee). Following Notice from Landlord to Tenant of the termination of the Agent's appointment as agent on behalf of Landlord under this Lease, the Master Development Agreement and the other Material Ancillary Agreements, then any references in this Lease, the Master Development Agreement and the other Material Ancillary Agreements to "the Agent" shall be deleted from and including the date on which the Agent is no longer the agent of the Landlord for the purpose of this Lease, the Master Development Agreement and the other Material Ancillary Agreements (provided that all of the obligations of Landlord to and in favour of Tenant in respect of the Agent that relate to the period prior to such termination shall survive). In construing this Lease, the fact that references have been made to "the Agent" shall not be used to construe other provisions of this Lease as not applying to the Agent. The Agent shall be required to be a Crown Corporation, unless otherwise Approved by the Tenant.

18.7 Authority

On or before the execution of this Lease by the Tenant, the Tenant shall provide the Landlord and the Agent with an officer's certificate in form satisfactory to Landlord (without personal liability of the officer) confirming that this Lease has been duly authorized and executed by the Tenant.

ARTICLE 19
ADDITIONAL EASEMENTS AND PERMITTED ENCUMBRANCES

19.1 Additional Easements

At any time and from time to time throughout the Term and any Extension Term, if an Additional Easement is reasonably required by the Landlord for the purposes set out in the definition thereof, the Landlord may request the granting thereof by the Tenant and the parties shall consult, each acting reasonably, on the terms, conditions and location of the proposed Additional Easement as well as the effect of the proposed Additional Easement on the construction, development, operation, use, occupancy and enjoyment of the Project by the Tenant. The Tenant shall not be permitted to refuse to grant the proposed Additional Easement unless the proposed Additional Easement would have a material adverse effect on the construction, development, operation, use, occupancy or enjoyment of the Project by the Tenant. The terms and conditions (including, without limitation, the location) of the proposed Additional Easement shall be subject to the Approval of the Tenant. The Landlord covenants in favour of the Tenant that, any such Additional Easement Approved by the Tenant, shall be enjoyed by the Landlord so as not to materially adversely affect the construction, development, operation, use, occupancy or enjoyment of the Demised Premises. Any such Additional Easements granted by the Tenant under this Section 19.1 shall be Permitted Encumbrances for the purpose of this Lease.

19.2 Transfers of Additional Easements

Transfers of the Additional Easements shall be prepared in registerable form, as Approved by the Landlord and the Tenant, and the Landlord shall be responsible for all costs and fees associated with or relating to any Additional Easements (including any fees payable in respect of the registration thereof).

19.3 Indemnity and Repair

(a) The Landlord will repair or cause to be repaired any damage to the Demised Premises, the Improvements or the FF&E caused by the use and enjoyment of any Additional Easements, and shall indemnify and save harmless the Tenant from and against any and all Claims arising in respect of such damage.

(b) The obligations of the Landlord under Section 19.3(a) are subject to Section 13.1(a), and (for greater certainty) the Landlord shall be responsible for the payment of any and all deductibles in respect of an insurance claim relating to the damage referred to in Section 19.3(a) and shall be responsible for all Claims in excess of the greater of actual or permissible limits of coverage under policies of insurance maintained or required to be maintained under this Lease.

19.4 Permitted Encumbrances

(a) On or before the Commencement Date, the Landlord shall discharge, at its own cost and expense, any and all Liens registered, preserved or otherwise affecting the Lands that are not Permitted Encumbrances or that adversely affect the construction, financing or operation of the Project. Landlord shall deliver to Tenant evidence of such discharges on or before the Commencement Date.

(b) Without derogating from the obligations set out in Section 19.4(a), the Landlord shall, at its sole cost and expense, forthwith discharge or cause to be discharged from title to the Lands any Liens that are not Permitted Encumbrances to the extent caused by or otherwise attributable to the Landlord, Landlord Persons or any Adjacent Tenant during the period commencing on the Lease Date and expiring on the Expiry Date.

(c) The Tenant shall, at its sole cost and expense, forthwith discharge from title to the Lands or any portion the Other Lands any Lien that is not a Tenant Permitted Encumbrance or Permitted Encumbrance and is caused by or otherwise attributable to the Tenant during the period commencing on the Lease Date and expiring on the Expiry Date.

(d) Except for Tenant Permitted Encumbrances, Permitted Encumbrances and any Liens that result from the terms of Schedule B hereof (all of which are expressly authorized by the Landlord and the Landlord shall take all commercially reasonable steps as may be requested by the Tenant for the registration of the foregoing against the Lands), nothing herein contained shall authorize the Tenant, or imply any consent or agreement or request on the part of the Landlord, to subject the Landlord's estate or interest in the Lands or the Other Lands to any construction lien or other Lien of any nature or kind whatsoever.

ARTICLE 20
ADDITIONAL COVENANTS OF TENANT AND LANDLORD

20.1 Tenant's Covenant to Comply with Applicable Law

(a) The Tenant hereby covenants with the Landlord that the Tenant will comply with all Applicable Law at any time or from time to time in force after the Lease Date pertaining to or affecting the Demised Premises, the Construction Activities, Repairs and other activities of the Tenant on the Other Lands, and the making of any repairs, replacements, alterations, additions, changes or substitutes to or of same.

(b) The Tenant hereby covenants that every concession, license, sublease or other parting of possession of any part of the Demised Premises shall require the concessionaire, licensee, subtenant and/or transferee to use its premises only for such purposes as are in compliance with all Applicable Law and this Lease, and the Tenant covenants to enforce such provisions**.**

(c) Forthwith upon receipt by the Tenant of any Notice of non-compliance with any Applicable Law relating to the Demised Premises, the Tenant shall deliver a copy of same to the Landlord.

20.2 Landlord's Covenant to Comply with Applicable Law

The Landlord hereby covenants with the Tenant that the Landlord will comply with all Applicable Law at any time or from time to time in force after the Lease Date pertaining to or affecting Ontario Place and all activities of the Landlord on Ontario Place, and the making of any repairs, replacements, alterations, additions, changes or substitutes to or of same.

20.3 Nuisance

The Tenant shall not do, nor omit, nor permit to be done or omitted, upon the Demised Premises and shall not do upon the Other Lands, anything which shall be, or result in, a nuisance. The Landlord acknowledges and agrees that none of the Permitted Uses constitute a nuisance.

20.4 Delivery of Vacant Possession

(a) The Tenant covenants that it will, (i) at the expiry of the Term, or (ii) other sooner termination hereof and upon payment to the Tenant of any amount due and owing (if any) pursuant to Article 16, surrender vacant possession of the Demised Premises to the Landlord in accordance with this Section 20.4.

(b) Subject to Sections 10.1(h) through (k) of this Lease, the Tenant covenants that it will, at the expiry of the Term or other sooner termination hereof, quit the Demised Premises and surrender the Demised Premises, the Improvements and any part of the FF&E owned by the Tenant at that time (in the case of the Improvements and the FF&E, after the satisfaction of the obligations, and the exercise of the rights, of the Tenant pursuant to Section 20.4(d) hereof), in a state of good repair, in good order and condition, cleared of garbage and other refuse, as required under this Lease, subject only to reasonable wear and tear

and Permitted Encumbrances, the Additional Easements, any Liens caused by the Landlord or any Landlord Persons and such other Liens as have been Approved by the Landlord and by the Tenant, and all right, title and interest therein of the Tenant shall cease and vest in the Landlord; nothing in the foregoing requires the Landlord to Approve any encumbrance except as otherwise expressly provided in this Lease. Notwithstanding the foregoing, but subject to the other provisions of this Lease to the contrary, no subleases of premises within the Lands shall extend beyond the date of the expiry of the Term or such sooner termination.

(c) Subject to Sections 10.1(h) through (k) of this Lease, the Landlord agrees to accept the Lands and the Project in such state of good repair and in good order and condition as required under this Lease subject to the provisions in Section 10.1(a) and Article 8 of this Lease.

(d) Upon the expiry or earlier termination of this Lease, the Tenant shall remove all references to “Therme” or variations thereof and all other trademarks, names and other identification or signage erected, installed or placed by or on behalf of the Tenant or any other Person (except the Landlord) on any signage on the Lands, and erected, installed or placed by or on behalf of the Tenant on any other part of the Other Lands, at the Tenant’s sole cost and expense, and shall be entitled to remove, at the Tenant’s sole cost and expense, all other intellectual property belonging or licensed to the Tenant and/or any of its Affiliates, including any aspects and/or components of the Project that include and/or consist of commercially sensitive intellectual property belonging or licensed to the Tenant and/or any of its Affiliates. The Tenant shall be responsible for any repairs as required by the removal of installations and signage. The Landlord confirms that it has no interest and will never have any interest of any kind in any of the Tenant’s trademarks, names or other identification from time to time.

(e) On either (i) the expiry of the Term in the case where the Landlord delivered to the Tenant an End of Lease Notice in accordance with Section 10.1(h) that the Landlord wishes to retain the Project structures located on the Lands, or (ii) the termination of this Lease for a Material Tenant Event of Default after Envelope Completion and Section 16.2(d)(iii)(B) is applicable, the Landlord and the Tenant shall promptly enter into an agreement (the “**Termination Agreement**”) in the form annexed hereto as Schedule “C”.

(f) If this Lease is terminated for a Material Landlord Event of Default after the Commencement Date, then the Landlord shall be obligated to demolish the existing Project, excluding the Therme Public Areas, at its own cost, upon the Tenant’s surrender of the Demised Premises, such demolition to commence upon the Tenant’s surrender and to proceed to completion on a reasonably timely basis. Until the demolition of the Project (excluding the Therme Public Areas) is completed, the Landlord shall not be permitted to use the Project, excluding the Therme Public Areas or any part thereof (or grant any right to use the Project, excluding the Therme Public Areas, or any part thereof) for any purpose other than for the purpose of the demolition thereof. The Tenant shall deliver to the Landlord (i) a complete copy of the plans, drawings and specifications for the Project (as it exists on the Termination Date), and (ii) such other materials and information in the possession of the Tenant as may be

reasonably requested by the Landlord, in each case, to be used by the Landlord for the sole purpose of demolishing the Project (excluding the Therme Public Areas) pursuant to its obligations under this Section 20.4(f) (and for no other purpose). The Landlord acknowledges that the Tenant owns all right, title and interest in and to the above-noted plans, drawings and specifications for the Project, excluding the Therme Public Areas (including all intellectual property rights therein).

(g) The terms of this Section 20.4 shall not be applicable to a termination of this Lease by the Landlord pursuant to Section 17.1 (except Section 20.4(d) as referred to therein).

20.5 <u>Construction Liens and Worker's Compensation</u>

(a) Subject to Section 20.5(d), the Tenant covenants that it shall pay all accounts for services and materials supplied to the Demised Premises, at the request of or on behalf of or with the privity or consent of or for the benefit of the Tenant (other than to the extent that the Landlord is responsible for payment of same), in a timely manner, in order that no construction lien shall be registered against title to the Demised Premises or the Other Lands, and if any construction liens or certificates of action are registered against the title to the Lands or the Other Lands in connection with Construction Activities, or in connection with any other matter relating to the Demised Premises undertaken by or on behalf of the Tenant at any time during the Term (other than to the extent that the Landlord is responsible for payment subject activity or matter), the Tenant will cause such liens or certificates of action to be discharged or vacated, as the case may be, within ten (10) Business Days of receiving notice that such liens or certificates of action have been registered.

(b) The Tenant acknowledges that the Landlord is not, nor should it be held to be accountable as, an owner (as that term is defined in the *Construction Act*, R.S.O. 1990, Chap. C.30, as amended from time to time, or any successor or replacement legislation) with respect to construction of the Project by the Tenant.

(c) The Tenant agrees to indemnify and save harmless the Landlord from and against all claims, liability, costs, damages or expenses incurred by or on behalf of the Landlord as a result of or in connection with a breach by the Tenant of its obligations under Section 20.5(a) above.

(d) Should the Tenant desire to contest in good faith the amount or validity of any claim for payment for work or materials supplied to the Demised Premises or the Other Lands, and shall have so notified the Landlord, then the Tenant may defer payment of such claim for a period of time sufficient to enable the Tenant to contest the claim with due diligence, provided always that neither the Demised Premises nor any part thereof, nor the Tenant's leasehold interest therein, nor the Other Lands nor any part thereof, shall thereby become liable to forfeiture or sale, and provided that the Tenant shall vacate any construction lien registered against the Demised Premises and/or the Other Lands that is the Tenant's responsibility under Section 20.5(a) within the time period contemplated in Section 20.5(a).

(e) The Landlord may, but shall not be obliged to, secure the removal of any construction lien that is the Tenant's responsibility under Section 20.5(a) and that is filed or registered at any time against the Demised Premises or the Other Lands if in the Landlord's judgment the Demised Premises, the Other Lands or any part thereof or the Tenant's Interest becomes liable to any forfeiture or sale or to appointment of a receiver or receiver and manager, and any amount paid by the Landlord in doing so, together with all reasonable costs and expenses of the Landlord, shall be reimbursed to the Landlord by the Tenant on demand.

(f) The Tenant, at its own expense, shall procure and carry or cause to be procured and carried full Worker's Compensation coverage in respect of all workers, employees, servants and others engaged by the Tenant in or upon work required to be done by the Tenant relating to the Demised Premises or the Other Lands and shall pay all Worker's Compensation assessments in relation to such work.

(g) The Landlord covenants that it shall pay all accounts for services and materials supplied to the Demised Premises that are its responsibility under the express terms of this Lease, in a timely manner, in order that no construction lien shall be registered against title the Demised Premises. The Landlord agrees to indemnify and save harmless the Tenant from and against all claims, liability, costs, damages or expenses incurred by or on behalf of the Tenant as a result of or in connection with a breach by the Landlord of its obligations under this Section 20.5(g).

20.6 Waste Management

The Tenant will be solely responsible, at its cost (the cost of which shall form part of Therme Self Managed Expenses), for providing or causing to be provided waste removal service adequate to the requirements of the Landlord in the operation of the Project on the Core Lands. The Tenant will comply with the Landlord's reasonable direction relating to waste management activities. This direction will include, but not be limited to, location for the storage of waste, pick-up locations, recycling, segregation or types of waste, timeliness and cleanliness. The Tenant acknowledges and agrees that the Landlord's direction with respect to waste management may change from time to time**.**

ARTICLE 21
USE OF NAME

21.1 Use of Name "Ontario Place"

The Landlord grants to the Tenant a non-exclusive, royalty-free, non-transferable, non sub licensable right to use the official word mark "Ontario Place" (the "**Official Word Mark**") as part of the name of the Demised Premises – specifically "Therme Canada | Ontario Place" – for the purposes of identifying the location of the Demised Premises and in conjunction with advertising the Demised Premises and Programming at the Demised Premises via any form of media during the Term.

It is understood and agreed that this licence shall pertain only to the Official Work Mark as part of the name of the Demised Premises and does not extend to any other trademark or official mark, or other source indicator of the Province, or to any other trademark, product or services of the Tenant during the Term.

The Tenant acknowledges that the Province owns all right, title and interest in and to the Official Word Mark, including good will associated therewith, and that the Landlord reserves all rights of every kind and nature relating to the Official Word Mark except those specifically granted to the Tenant. The Tenant agrees that it will do nothing to undermine or damage the goodwill associated with the Official Word Mark and will not seek applications for trade marks, trade names, business names, domain names, social medial handles, or other source indicator that include the Official Word Mark.

The Tenant represents, warrants and covenants that it:

(a) will only use the Official Word Mark as permitted by this section;

(b) will reproduce the Official Work Mark accurately, in its entirety, and strictly in accordance with the visual identity, quality control or branding guidelines approved by the Landlord as may be updated from time to time. If the Tenant is notified in writing by the Landlord that any use does not so comply, the Tenant shall immediately remedy the use to the satisfaction of the Landlord or terminate such use;

(c) will not, at any time during or after the Term dispute or contest, directly or indirectly, Ontario's exclusive right and title to, or the validity of, the Official Word Mark.

The Tenant acknowledges that the Landlord may choose the name under which the facility presently known as "Ontario Place" operates from time to time. Should the Landlord change the name of the facility, the rights granted in this section shall apply to the new name.

In no event with the Tenant be entitled to sell or cause or permit to be sold merchandise with the name "Therme Canada – Ontario Place", or any variation thereof with the name "Ontario Place", without the Approval of the Landlord in its Sole Discretion (and subject to such licensing and other restrictions as the Landlord may impose in its Sole Discretion).

In the event of a breach by Tenant of any provision of this Section 21.1, monetary damages may not be an adequate remedy and that in such circumstances Landlord will be entitled to injunctive or other affirmative relief, or both.

ARTICLE 22
RESTRICTIONS

22.1 Radius Restrictions

(a) During the Term, the Landlord agrees that it will not, without the prior written consent of the Tenant, not to be unreasonably withheld:

(i) permit the operation, or cause or allow to be permit the operation on the Other Lands of any thermal spa or other similar indoor or outdoor aquatic facilities on the Other Lands and any other business or enterprise (whether as a primary, ancillary or incidental use) that could reasonably be seen to compete with and materially adversely affect the operation of the Tenant's principal business on the Lands or principal Programming, in either case being a thermal aquatic spa. For greater certainty, the

operation of watercraft rentals, inflatable aquatic facilities (including, without limiting the generality of the foregoing, water slides), or other similar uses, will not be considered a violation of the foregoing prohibition; or

(ii) develop, or allow any development on, the Water Lots View Corridor Lands that would impact the existing view corridors to the West and South of the Lands.

(b) The Landlord's covenant in Section 22.1(a)(i) shall constitute a restrictive covenant and shall run with the Other Lands (for the benefit of the Lands) during the Term. On or before the Commencement Date, the Landlord shall cause such restrictive covenant to be registered on title to the Other Lands, in a form Approved by Tenant.

(c) The Landlord's covenant in Section 22.1(a)(ii) shall constitute a restrictive covenant and shall run with the Water Lots during the Term. On or before the Commencement Date, the Landlord shall cause such restrictive covenant to be registered on title to the Water Lots, in a form Approved by Tenant.

ARTICLE 23
CO-TENANCY AND PARTNERSHIP ARRANGEMENTS AND LIABILITY OF PARTNERS COMPRISING THE TENANT

23.1 Co-Tenancy and Partnership Arrangements and Liability of Partners Comprising the Tenant

If the Tenant is comprised of more than one Person, the following shall apply:

(a) All of the Persons comprising the Tenant shall designate one Person by Notice to the Landlord given within five (5) Business Days of assuming this Lease, for the purposes hereinafter set out. Thereafter any Approval, disapproval, agreement, dispute or other decision with respect to any matter provided for herein made by the Party so designated shall be deemed to be an Approval, disapproval, agreement, dispute or decision, as the case may be, by the Tenant, and the Tenant and all of the Persons comprising the Tenant shall be bound thereby. The Tenant may change the Person designated for the purposes aforesaid at any time or times by Notice to the Landlord, provided that no change in such designation shall affect any Approval, disapproval, agreement, dispute or decision which was given or made prior to the change of designation. Each such designation shall be subject to the Approval of the Landlord.

(b) All of the obligations of the Tenant hereunder shall be deemed to be joint and several obligations on the part of each of the Persons comprising the Tenant.

(c) At the commencement of each Fiscal Year, the Tenant shall deliver to the Landlord a certificate of a senior officer of one of the Persons comprising the Tenant, certifying, on information and belief and after due inquiry (and without personal liability), as to the parties that are the beneficial owners of an interest under this Lease and their respective beneficial interests hereunder.

ARTICLE 24
DISCLAIMER OF PARTNERSHIP

24.1 Not a Partnership or Joint Venture

The Parties hereby expressly declare that it is neither their intention nor their agreement that this Lease or any arrangement between the Parties shall, or shall be deemed to, constitute the Landlord and/or the Agent, on the one hand, and the Tenant, on the other hand, partners, joint venturers or principal and agent, or to create any relationship between the Landlord and/or the Agent, on the one hand, and the Tenant, on the other hand, other than the relationship of landlord and tenant, notwithstanding the obligation of the Tenant to pay Performance Payments. The provision for the payment of Performance Payments in this Lease is merely a reservation of rent and method of calculating rent. The work to be performed and the obligations to be assumed by the Tenant under this Lease will be performed and assumed by it as an independent contractor and not as agent or in any other way as a representative of the Landlord or the Agent.

24.2 Agreements with Third Parties

The Tenant shall, in all written material agreements or leases it enters into with third parties relating to all or any part of the Demised Premises, including (but not limited to) any Leasehold Mortgage and any sublease of premises in the Demised Premises, ensure that such agreements or leases contain a written acknowledgement in favour of the Landlord and the Agent whereby the third party acknowledges and agrees that it will not assert for any purpose that a joint venture, partnership or principal and agent relationship exists between the Tenant, on the one hand, and the Landlord and/or the Agent, on the other hand.

ARTICLE 25
GENERAL PROVISIONS

25.1 Rules and Regulations

At any time and from time to time throughout the Term and any Extension Term, if any Rules and Regulations (or any amendment or supplement of any approved Rules and Regulations) are reasonably required by the Landlord for the Demised Premises (other than internal) or the Other Public Areas, the Landlord may request the agreement thereto by the Tenant and the parties shall consult, each acting reasonably, on the terms and conditions of the proposed Rules and Regulations as well as the effect of the proposed Rules and Regulations on the construction, development, operation, use, occupancy and enjoyment of the Project by the Tenant. The Tenant shall not be permitted to refuse to agree to comply with such proposed Rules and Regulations unless (a) the proposed Rules and Regulations would have a material adverse effect on the construction, development, operation, use, occupancy or enjoyment of the Project by the Tenant, or (b) contradict any provisions of this Lease. The terms and conditions of the proposed Rules and Regulations shall be subject to the Approval of the Tenant. Any Rules and Regulations Approved by the Tenant shall, following such approval, be made a part of this Lease and the Tenant agrees, following approval, to comply with and observe, and shall cause its employees, agents, licensees and invitees to comply with, the Rules and Regulations. The Tenant's failure to keep and observe such approved Rules and Regulations shall constitute a breach of this Lease in the manner as if the same were contained herein as covenants.

25.2 Certificates

Each Party will at any time and from time to time, within ten (10) Business Days from receipt of a Notice requesting same by the other Party, produce and deliver a written Certificate stating that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the date to which Rent and other monies payable under this Lease have been paid, the amount of prepaid rents, if any, and whether or not, to the best knowledge of the signatory, the other Party is in default of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the signatory may have knowledge, it being intended that any such Certificate delivered pursuant hereto may be relied upon by any prospective purchaser or mortgagee of the Landlord's interest in Ontario Place and/or the Tenant's interest in the Demised Premises, or by their successors or permitted assigns.

25.3 Subordination and Attornment

This Lease and the rights of the Tenant hereunder shall be subject and subordinate to (a) all Permitted Encumbrances in existence on the Lease Date, and (b) all existing or future mortgages, charges or other security instruments (and all renewals, modifications, consolidations, replacements and extensions thereof) granted by the Landlord after the Lease Date provided the Landlord obtains non-disturbance in favour of the Tenant. Whenever requested by the Landlord or a mortgagee (or requested by the Tenant if applicable), and at the cost and expense of the Landlord, the Tenant, Landlord and mortgagee shall enter into an agreement with the mortgagee, in the mortgagee's form (subject to reasonable comments of the Tenant), whereby the Tenant postpones or subordinates this Lease to the interest of such mortgagee and agrees that if such mortgagee becomes a mortgagee in possession or realizes on its security, it shall attorn to such mortgagee as a tenant upon all the terms of this Lease provided that such agreement contains non-disturbance covenants from the mortgagee. The provisions of this Section 25.3 shall not be applicable to the restrictions, covenants and/or rights set out, referred to or arising in accordance with Section 2.3, Section 22.1 and/or Schedule B and negative covenants contained in Section 22.1.

25.4 Overholding

If the Tenant remains in occupation of the Demised Premises after the expiration of the Term with the Approval of the Landlord but without any further written agreement, the Tenant shall be a monthly Tenant at a monthly base rental equal to the greater of: (i) one hundred twenty-five percent (125%) of the Minimum Rent payable in the immediately preceding month, and (ii) the average monthly Performance Payment made in the immediately preceding year, and otherwise upon the same terms as are provided for in this Lease, except that the Landlord or the Tenant shall have the right to terminate the monthly tenancy upon one (1) months' Notice to the other. The date fixed for termination specified in the said Notice shall be deemed to be the end of a Fiscal Year for the purposes of this Lease.

25.5 Notices

(a) Any notice or other communication required to be given under this Lease will be in writing and will be given by personal delivery (including by courier) as hereinafter provided. Any notice which is not a requirement (i.e. ordinary communication) may be given by electronic mail. Any such notice will be deemed to have been received on the first Business Day following the date on which it

was delivered to the applicable address noted below, either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section 25.5. Notices and other communications will be addressed as follows:

(i) if to Landlord or the Agent:

Ontario Infrastructure and Lands Corporation
1 Dundas Street West, Suite 2000
Toronto, Ontario M5G 1Z3
[redacted]

With a copy to:

Ontario Infrastructure and Lands Corporation
1 Dundas Street West, Suite 2000
Toronto, Ontario M5G 1Z3
[redacted]

(ii) if to the Tenant or the Indemnifier:

[redacted]

With copies to:

[redacted]

- and -

[redacted]

(b) Courtesy copies (the sending or receipt of which by any Party shall not be necessary for any purpose under this Lease, but shall be by way of courtesy and information only) may be given in accordance with the foregoing to not more than two (2) additional addresses of which either Party may from time to time give the other Party Notice.

25.6 Registration

At any time following the Lease Date, the Tenant may register a Notice of Lease by way of short form lease, intended to provide a summary of the rights and obligations of the Parties, any permitted assignment hereof, any permitted sublease or license of the Demised Premises, and any Leasehold Mortgage (collectively, the "**Registrations**"), in form Approved by the Landlord (at no additional charge to the Tenant), against title to the Lands (including, to the extent necessary pursuant to Applicable Law, the entirety of Ontario Place) at the Tenant's sole cost and expense. A true copy of any document so registered shall be given to the Landlord promptly following registration. The Tenant shall not register any other document against title to the Lands other than Permitted Encumbrances or the Tenant Permitted Encumbrances, without the prior written Approval of the Landlord. The Tenant shall no later than ninety (90) Business Days following the Regime Change Date apply for and establish a leasehold parcel register in the applicable Land Titles Office. The Tenant shall execute any releases of Tenant Permitted Encumbrances reasonably required by the Landlord as against the Landlord's freehold interest in the Lands following the establishment of the leasehold parcel, at its sole cost and expense, provided, for greater certainty, that such Tenant Permitted Encumbrances shall be entitled to continue to encumber and be registered against the leasehold parcel created in respect of the Lease and the registrations referred to in Sections 22.1(b) and (c) shall not be subject to the foregoing requirement to release and discharge. Upon the expiry or earlier termination of this Lease, the Tenant shall register or obtain valid discharges of all Registrations (i) at its sole cost and expense, in the case of a termination of this Lease for a Material Tenant Event of Default or Material Tenant Construction Event of Default, or (ii) at the cost and expense of the Landlord in the case of a termination of this Lease for a Material Landlord Event of Default or a termination by the Landlord pursuant to Article 17.

The Tenant agrees to provide or cause to be provided, upon request from the Landlord and when reasonably required, a partial discharge in registrable form in respect of any Registrations at its sole cost and expense in conjunction with, and in respect only of the lands that are the subject of, any transfer in accordance with Section 18.2(a)(iv), provided that such discharge may be delivered for use and registration only conditional on the concurrent closing of such transfer. If the Tenant has not provided the partial discharge as aforesaid within a period of fifteen (15) days following request therefor from the Landlord, the Landlord's sole right and remedy in respect of such failure is that the Landlord shall have the power of attorney (only in respect of the partial discharges required to be executed by the Tenant) to execute such partial discharge such Registrations for and on behalf of the Tenant, provided that such discharge shall not be used or registered other than concurrently with the closing of such transfer.

25.7 Further Assurances

Each of the Parties will promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Parties may reasonably require from time to time for the purpose of giving effect to this Lease and will use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Lease.

25.8 Time of the Essence

Time shall be of the essence of this Lease.

25.9 Force Majeure, Etc.

(a) If, by reason of Force Majeure or Landlord Delay, the Tenant is in good faith prevented or delayed in carrying out its obligations under this Lease or any Material Ancillary Agreement which it is required to do by a specified deadline(including any such requirement that may be inferred or implied by a Landlord termination right or other consequence in the event not done or completed by a specified deadline), or within a specific period of time (including a period of time inferred or implied by a cure period), then (i) the deadline or the period of time within which the obligation or work was to have been completed shall be extended by a period of time sufficient to compensate for such delay or prevention without penalty or consequence to the Tenant, and (ii) no Tenant Event of Default, Material Tenant Event of Default or Material Tenant Construction Event of Default shall have occurred or be deemed to have occurred while the Force Majeure or Landlord Delay is continuing and all such deadlines and/or time periods, as the case may be, shall, if impacted by such Force Majeure or Landlord Delay, be extended by a period of time sufficient to compensate for such delay or prevention, provided that, except as specifically provided in this Lease, Force Majeure shall not relieve the Tenant from the obligation to make any payments required to be made under this Lease or any Material Ancillary Agreement when due.

(b) If, by reason of a Permitted Closure or Stoppage, the Tenant is in good faith (i) required to close the Project (or any part thereof) or stop its activities at the Project, or (ii) prevented or delayed in carrying out its obligations under this Lease or any Material Ancillary Agreement which it is required to do by a specified deadline (including any such requirement that may be inferred or implied by a Landlord termination right or other consequence in the event not done or completed by a specified deadline), or within a specific period of time (including a period of time inferred or implied by a cure period), then (A) the closure or stoppage shall be permitted to continue until the event or matter that gave rise to the Permitted Closure or Stoppage has been completed or has ceased, (B) the deadline or the period of time within which the obligation or the work was to have been completed shall be extended by a period of time sufficient to compensate for such delay or prevention without penalty to the Tenant, and (C) no Tenant Event of Default, Material Tenant Event of Default or Material Tenant Construction Event of Default shall have occurred or be deemed to have occurred while the Permitted Closure or Stoppage is continuing and such deadlines and/or time periods, as the case may be, shall, if impacted by such closure, delay, or prevention, be extended by a period of time sufficient to compensate for such delay or prevention. If, by reason of Force Majeure or Tenant Landlord's Initial Obligations Date Delay, the Landlord is in good faith prevented from or delayed in satisfying any of the Landlord Initial Obligations set out in Section 4.1(d)(iv) (Acquisition of Rights), Section 4.1(d)(v) (Environmental Matters) and/or Section 4.1(d)(vi) (Interim Utility Services), as the case may be, then: (i) the applicable Landlord Initial Obligation Deadline(s) and/or cure periods in respect thereof, as the case may be, shall be extended by a period of time sufficient to compensate for such delay or prevention so caused, without penalty to the Landlord; and (ii) no Landlord Event of Default or Material Landlord Event of Default shall have occurred or be deemed to have occurred in respect of such failure while the Force Majeure or Tenant Landlord's Site Readiness Activities

Delay is continuing and all time periods (including cure periods) in respect of such Landlord Initial Obligation(s) shall be extended by a period of time sufficient to compensate for such delay or prevention. For greater certainty, the provisions of this Section apply to each Landlord Initial Obligation and Landlord Initial Obligation Deadline on an individual basis such that a Force Majeure or Tenant Landlord's Site Readiness Activities Delay that relates delays or prevents one Landlord Initial Obligation would not have the result of extending the Landlord Initial Obligation Deadline in respect of another Landlord Initial Obligation unless (and then only to the extent) such other Landlord Initial Obligation was also delayed or prevented by Force Majeure and/or the Tenant Landlord's Initial Obligations Date Delay.

(c) If, by reason of Force Majeure or Tenant Landlord's Initial Obligations Date Delay, the Landlord is in good faith prevented from or delayed in satisfying any of the Landlord Initial Obligations set out in Section 4.1(d)(i) (Zoning Approval), Section 4.1(d)(ii) (Heritage Determinations as part of the Landlord Initial Obligations) and/or Section 4.1(d)(iii) (EA Approvals), as the case may be, then: (i) the applicable Landlord Initial Obligation Deadline(s) shall be extended by a period of time shall be extended by a period of time sufficient to compensate for such delay or prevention to such Landlord Initial Obligation(s) so caused, without penalty to the Landlord; and (ii) no Landlord Event of Default or Material Landlord Event of Default shall have occurred or be deemed to have occurred in respect of such failure while the Force Majeure or Tenant Landlord's Initial Obligations Date Delay is continuing and all time periods (including cure periods) in respect of such Landlord Initial Obligation(s) shall be extended by a period of time shall be extended by a period of time sufficient to compensate for such delay or prevention. For greater certainty, the provisions of this Section apply to each Landlord Initial Obligation and Landlord Initial Obligation Deadline on an individual basis such that a Force Majeure or Tenant Landlord's Permits, Licenses and Approvals Delay that delays or prevents one Landlord Initial Obligation would not have the result of extending the Landlord Initial Obligation Deadline in respect of another Landlord Initial Obligation unless (and then only to the extent) such other Landlord Initial Obligation was also delayed or prevented by Force Majeure and/or the Tenant Landlord's Initial Obligations Date Delay.

(d) If, by reason of Force Majeure or Tenant Delay, the Landlord is in good faith prevented or delayed in carrying out its obligations under this Lease or any Material Ancillary Agreement (other than the Landlord Initial Obligations) which it is required to do by a specified deadline (including any such requirement that may be inferred or implied by a Landlord termination right or other consequence in the event not done or completed by a specified deadline), or within a specific period of time, then (i) the deadline or the period of time within which the obligation or the work was to have been completed shall be extended by a period of time sufficient to compensate for such delay or prevention without penalty to the Landlord, and (ii) no Landlord Event of Default or Material Landlord Event of Default shall have occurred or be deemed to have occurred while the Force Majeure or Tenant Delay is continuing and such specific deadline or deadlines and/or cure periods, as the case may be, shall, if impacted by such Force Majeure or Tenant Delay, be extended by a period of time sufficient to compensate for such delay or prevention.

(e) In the event that a Party is of the view that an event or delay described in this Section 25.9 has occurred and the extensions and stays of consequences described in this Section 25.9 apply to any of its obligations, deadlines and/or periods of time, it shall, with reasonable promptness, notify the other Party of the same (including the specific obligations impacted thereby).

(f) For greater certainty, the provisions of this Section 25.9 shall apply regardless of whether they are specifically referred to in the context of the underlying obligation and/or deadline for the completion thereof.

25.10 No Broker

The Parties acknowledge that there is no broker or agent involved in the transaction and arrangement between the Landlord and the Tenant reflected in this Lease.

25.11 Confidentiality

(a) The Parties shall keep the terms of the letter of intent preceding this Lease and information (including copies of reports) obtained by the Landlord pursuant to Article 3 in strictest confidence, except as may be mutually agreed upon in writing, and as provided in the balance of this Section. The Parties shall hold in confidence all information received about any of the other Parties, unless such information is publicly available, or disclosure is required by Applicable Law, in connection with the *bona fide* internal purposes of the Landlord, the Agent, or the Tenant, or in connection with any litigation, on the terms set out in the balance of this Section.

(b) The Landlord acknowledges that the information to be provided by the Tenant to the Landlord pursuant to this Lease (the "**Tenant Information**") will be provided by the Tenant on the basis that it is to be maintained in confidence by the Landlord and the Agent in accordance with paragraph 25.11(a), immediately preceding, and the balance of this Section, and in reliance on the covenants of the Landlord and the Agent that the Tenant Information will not be disclosed by the Landlord or the Agent except as provided in this Section. The Tenant Information constitutes commercial and financial information, the disclosure of which could reasonably be expected to result in undue loss to the Tenant, significant prejudice to the Tenant's competitive position and significant interference with the Tenant's future contractual negotiations.

(c) The Landlord, the Agent, or the Tenant, in disclosing any information in accordance with this Section, shall do so subject to the condition that they must, at the same time, indicate to the recipient that the information being disclosed is to be treated by the recipient as confidential, and only further disclosed in accordance with the restrictions set out in this Section.

(d) Should a request for any Tenant Information under the Freedom of Information and *Protection of Privacy Act*, R.S.O. 1990, Chap. F.31 be received by the Landlord, or the Agent, the Landlord agrees to give Notice of such request to the Tenant forthwith and to give the Tenant a reasonable opportunity to make representations as to why disclosure should not be made, or to pursue such other remedies as may be available to the Tenant, in each case as required and

permitted by that Act, provided that in doing so the Tenant does not interfere with the business or other operations of the Landlord or the Agent, or expose the Landlord or the Agent to risk of liability or cost. The Landlord and the Agent further agree to require anyone to whom Tenant Information is disclosed in accordance with this provision to agree for the benefit of the Tenant to notify the Tenant forthwith and to give the Tenant a reasonable opportunity to make representations concerning any request under that Act, or to pursue such other remedies as may be available to the Tenant, in each case as required and permitted by that Act. Should it appear to the Landlord that it may be required by Applicable Law to disclose any Tenant Information other than pursuant to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, the Landlord and the Agent agree with the Tenant that they will, if they may do so without risk of liability or cost, before making any such disclosure, give the Tenant a reasonable opportunity (in any case, not less than 30 days, if permitted under the relevant Applicable Law) to take such steps as the Tenant may be advised to avoid any requirement of disclosure by the Landlord or the Agent, provided that in doing so, the Tenant does not interfere with the business and other operations of the Landlord or the Agent, or expose the Landlord or the Agent to risk of liability or material costs. The Landlord and the Agent agree to require anyone to whom Tenant Information is disclosed in accordance with this Section to agree, for the benefit of the Tenant, to give the same notice hereby required in the event of a possible requirement of disclosure of Tenant Information by it. The Tenant agrees to pay, forthwith after demand therefor, all of the costs incurred by the Landlord and the Agent in complying with this paragraph (d).

25.12 Entire Agreement and Termination of Prior Agreements

It is understood and agreed that, other than the Material Ancillary Agreements, this Lease constitutes the complete agreement between the Parties and there are no covenants, representations, agreements, warranties or conditions in any way relating to the subject matter of this Lease or the tenancy created hereby, express or implied, collateral or otherwise, other than as expressly set forth herein and other than the Material Ancillary Agreements. Subject to the foregoing, the offer to lease dated July 29, 2021 made between the Parties is deemed terminated and of no further force and effect from and after the execution and delivery of this Lease. The Parties acknowledge that no representatives of any Party are authorized to make on the Party's behalf any covenants, representations, agreements, warranties or conditions of any kind or in any manner whatsoever other than as expressly set forth in writing in this Lease, in the form in which it is executed by the Parties. No amendment of this Lease shall be binding upon the Parties unless it is in writing and executed by all of the Parties.

25.13 Applicable Law

This Lease shall for all purposes be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

25.14 Counterparts and Electronic Transmission

This Lease may be signed in counterparts and by electronic signatures, and each of such electronically signed counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same instrument and, notwithstanding

the date of execution, shall be deemed to be dated as of the Lease Date. This Lease may be transmitted by fax or email, and the reproduction of signatures in counterparts by way of fax or email will constitute an original document.

25.15 Third Party Beneficiaries

Except as expressly provided in this Lease, nothing in this Lease is intended to benefit any Person who or which is not a party to this Lease. Notwithstanding the foregoing, all waivers and indemnifications in this Lease for the benefit of a particular Party shall extend to the benefit of the partners of the particular Party, and to the shareholders, directors, officers, employees and agents of that Party and of any of its partners.

25.16 Interest on Amounts in Default

If the Tenant fails to pay, when due and payable, any amount payable under this Lease, the unpaid amount will bear interest from the due date to the date of payment at the Interest Rate.

25.17 Dispute Resolution

All disputes, controversies, or claims arising out of or relating to matter in this Lease shall be resolved in accordance with the provisions of Schedule D unless otherwise provided herein.

25.18 Representations and Warranties

(a) The Landlord represents and warrants to the Tenant that:

(i) the Landlord has the requisite power, authority and capacity to perform its obligations under this Lease and the Master Development Agreement and to do all acts and things, and execute, deliver and perform all other agreements, instruments, undertakings and documents as are required by this Lease and the Master Development Agreement to be done, executed, delivered or performed;

(ii) the Landlord has obtained all of the necessary approvals to enter into and perform its obligations under this Lease and the Master Development Agreement;

(iii) each of this Lease and the Master Development Agreement has been duly authorized, executed, and delivered by or on behalf of the Landlord and constitutes a legal, valid, and binding obligation of the Landlord, enforceable against the Landlord in accordance with its terms, subject only to:

(A) limitations with respect to the enforcement of remedies by bankruptcy, insolvency, moratorium, winding-up, arrangement, reorganization, fraudulent preference and conveyance and other laws of general application affecting the enforcement of creditors' rights generally;

(B) general equitable principles and the fact that the availability of equitable remedies such as specific performance and injunction are not available against the Landlord and that a court may stay proceedings or the execution of judgments;

(C) statutory limitations of general application respecting the enforceability of claims against the Landlord or its property, it being confirmed that such statutory limitations do not limit the enforceability of the provisions of Article 16 of this Lease; and

(D) section 11.3 of the *Financial Administration Act* (Ontario); and

(iv) the execution, delivery and performance by the Landlord of this Lease and the Master Development Agreement do not and will not violate or conflict with, or constitute a default under any Applicable Law.

(b) The Tenant represents and warrants to the Landlord that:

(i) the Tenant has the requisite power, authority and capacity to perform its obligations under this Lease and the Master Development Agreement and to do all acts and things, and execute, deliver and perform all other agreements, instruments, undertakings and documents as are required by this Lease and the Master Development Agreement to be done, executed, delivered or performed;

(ii) the Tenant has obtained all of the necessary approvals to enter into and perform its obligations under this Lease and the Master Development Agreement;

(iii) each of this Lease and the Master Development Agreement has been duly authorized, executed, and delivered by or on behalf of the Tenant and constitutes a legal, valid, and binding obligation of the Tenant, enforceable against the Tenant in accordance with its terms, subject only to:

(A) limitations with respect to the enforcement of remedies by bankruptcy, insolvency, moratorium, winding-up, arrangement, reorganization, fraudulent preference and conveyance and other laws of general application affecting the enforcement of creditors' rights generally;

(B) general equitable principles and the fact that the availability of equitable remedies such as specific performance and injunction are not available against the Tenant and that a court may stay proceedings or the execution of judgments; and

(C) statutory limitations of general application respecting the enforceability of claims against the Tenant or its property, it being confirmed that such statutory limitations do not limit the enforceability of the provisions of Article 16 of this Lease;

(iv) the execution, delivery and performance by the Tenant of this Lease and the Master Development Agreement do not and will not violate or conflict with, or constitute a default under any Applicable Law;

(v) no Restricted Person has direct or indirect Control over the Tenant as of the Lease Date; and.

(vi) to the knowledge of the Tenant, no Restricted Person directly or indirectly owns or holds an interest in the Tenant as of the Lease Date.

25.19 Concurrent Termination

Each of the Material Ancillary Agreements shall automatically terminate concurrently with the termination of this Lease.

[Remainder of page intentionally left blank; signature pages and schedules to follow]

IN WITNESS WHEREOF THE PARTIES have executed this Lease.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES AS REPRESENTED BY ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

By: _____

Name: MICHAEL LINDSAY

Title: PRESIDENT AND CEO

THERME CANADA OP INC.

By: _____

Name:

Title:

IN WITNESS WHEREOF THE PARTIES have executed this Lease.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES AS REPRESENTED BY ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

By: _____

Name:

Title:

THERME CANADA OP INC.

By: _____

Name: ROBERT C HANEA

Title: COMPANY OFFICER

SCHEDULE A

ONTARIO PLACE AND THE LANDS

(see attached)

DRAWING 1

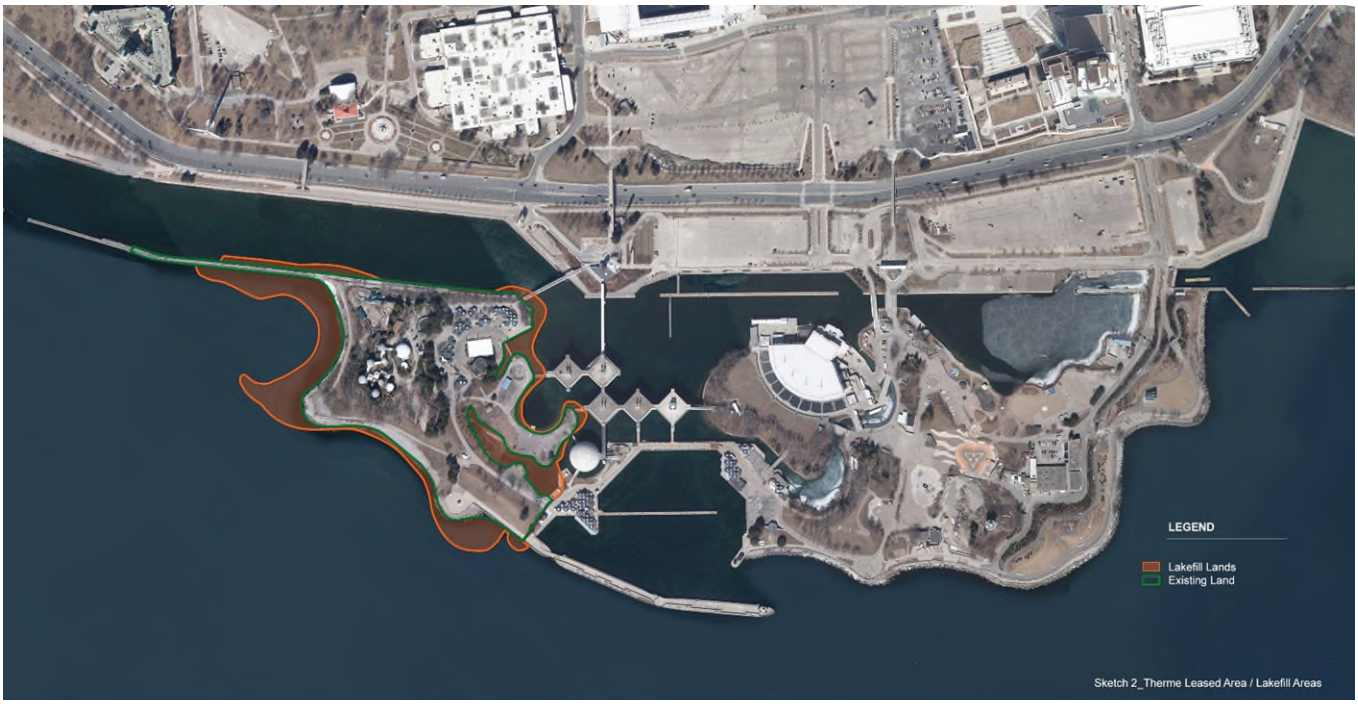
LANDS, INCLUDING CORE LANDS AND THERME PUBLIC AREAS

(see attached)

DRAWING 2

LAKEFILL AREAS

(see attached)



DRAWING 3

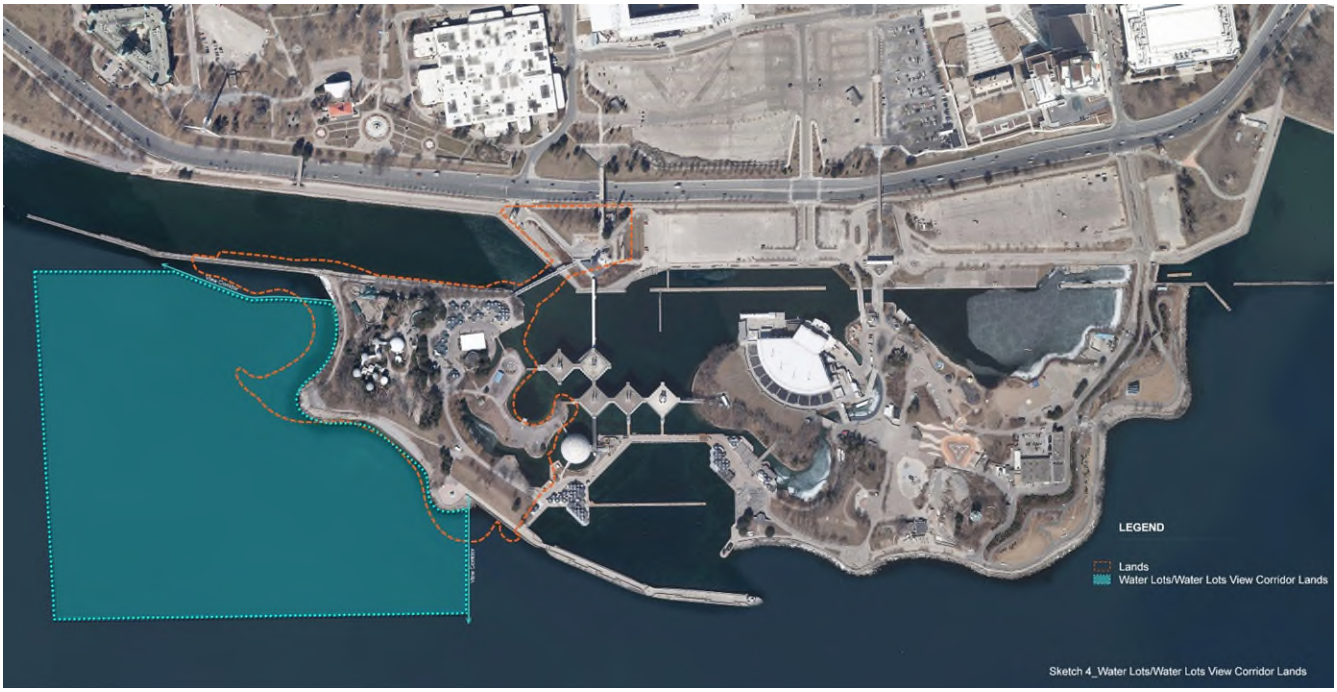
WATERLOTS LICENSED AREAS

(see attached)

DRAWING 4

WATERLOTS VIEW CORRIDORS

(see attached)



DRAWING 5

ONTARIO PLACE

(see attached)

DRAWING 6

OTHER LANDS

(see attached)

DRAWING 7

MARINA, CINESPHERE AND PODS

(see attached)

DRAWING 8

PUBLIC PLAZA

(see attached)

SCHEDULE B

CONSTRUCTION LICENSES AND OPERATING PERIOD RIGHTS

Construction Licenses

The Landlord on behalf of itself, its successors and its assigns, hereby agrees to grant or cause to be granted, in either case as or by the owner (freehold or leasehold) of the applicable area (in its capacity as owner and not as governing authority), in favour of the Tenant, its agents, employees, representatives, contractors, subcontractors, architects, engineers, consultants, appraisers, lenders and designers, and each of its and their respective successors and assigns (the "**Construction Licensed Persons**"), effective as of and from the Initial Land Acquisition Deadline until the one hundred and eightieth (180th) day following the final completion of the development and construction of the Project (including Therme Public Areas), including rectification of all deficiencies, one or more temporary, non-transferable, non-exclusive licenses and rights in the nature of licenses (each, a "**Construction License**") to access, occupy and use the Prescribed Construction License Area solely for the purpose of carrying out the development and construction of the Project (including, without limitation, staging and access therefor) in accordance with the Lease, the Master Development Agreement and all Material Ancillary Agreements, each such Construction License being permitted to incorporate the relevant provisions of Section 12 of Schedule G and any required Construction Interface and Coordination Agreement applicable thereto. "**Prescribed Construction License Area**" means those areas within the boundaries identified in Appendix 1 to this Schedule B and such other areas as may be agreed to by the Parties on or prior to the one hundred and eightieth (180th) day prior to the Land Acquisition Deadline (the "**Boundaries**") as are reasonably necessary for the Tenant to carry out (or cause to be carried out) the development and construction of the Project in accordance with the Lease, the Master Development Agreement and all Material Ancillary Agreements.

The Parties agree to cooperate, acting reasonably and in good faith, to: (i) identify any areas beyond those in Appendix 1 to this Schedule B that are reasonably necessary for the Tenant to carry out (or cause to be carried out) the development and construction of the Project in accordance with the Lease, the Master Development Agreement and all Material Ancillary Agreements; and (ii) more narrowly identify on or prior to the one hundred and eightieth (180th) day prior to the Initial Land Acquisition Deadline the reasonably specific areas for which the Tenant requires the Construction License and any required Construction Interface and Coordination Agreement applicable thereto.

Without derogating from the covenant to provide Construction Licenses, the Landlord on behalf of itself, its successors and its assigns, hereby agrees to:

(i) grant from time to time in favour of the Construction Licensed Persons such further (after-identified) temporary, non-transferable, non-exclusive licenses and rights in the nature of licenses to access, occupy and use such portions of the areas within the Boundaries that are owned (freehold or leasehold) by the Landlord; and

(ii) use commercially reasonable efforts and cooperate with the Tenant, to cause to be granted from time to time in favour of the Construction Licensed Persons such further (after-identified) temporary, non-transferable, non-exclusive licenses and rights in the nature of licenses to access, occupy and use such portions of the areas within the Boundaries that are not owned by the Landlord,

in each case, as are determined from time to time after the one hundred and eightieth (180th) day prior to the Initial Land Acquisition Deadline to be reasonably necessary for the Tenant to carry out (or cause to be carried out) the development and construction of the Project, each being permitted to incorporate the relevant provisions of Section 12 of Schedule G and any required Construction Interface and Coordination Agreement applicable thereto.

Operating Period Rights

The Landlord shall on behalf of itself, its successors and its assigns, grant or cause to be granted, in either case as or by the owner (freehold or leasehold) of the applicable area of Ontario Place (in its capacity as owner and not as governing authority), in favour of the Tenant, its agents, employees, representatives, contractors, subcontractors, architects, engineers, consultants, appraisers, patrons, visitors, guests, lenders and designers, and each of its and their respective successors and assigns, in each case to the extent appropriate, such rights with respect to Ontario Place as are reasonably required for the operation, existence, maintenance, repair and replacement of the Project by the Tenant in the manner and for the uses contemplated in the Lease (the "**Operating Period Rights**"), which rights may incorporate provisions that recognize and require coordination in respect of the operation of Ontario Place and the Adjacent Tenants, all as shall be agreed by the Parties, acting reasonably and as further provided below. The Operating Period Rights shall include, without limitation, (i) rights required for pedestrian and vehicular access to and from Lakeshore Boulevard, for pedestrian and vehicular access to and from the Parking Facility and the Dedicated Spaces, for pedestrian and vehicular access to and from the Public Plaza and any vehicular pick-up or drop-off areas on the Other Lands and to carry out the repairs, maintenance and replacement that the Tenant is responsible for pursuant to the Lease and (ii) such rights as are reasonably required for the existence, maintenance, replacement and repair of the bridge that will connect the main land of the Demised Premises to the west island of the Demised Premises, notwithstanding that such rights relating to such bridge may be with respect to areas that are not part of Ontario Place.

In order to determine the specifics and details for any Operating Period Rights to be granted, the Tenant shall notify the Landlord from time to time of the specifics, details and nature of any Operating Period Rights that it requires and the Parties shall act reasonably and in good faith to agree thereon (including all applicable terms and conditions) and grant or cause to be granted as soon as reasonably practicable from time to time following such notification. It shall be unreasonable for the Landlord to refuse to grant or agree to any Operating Period Rights that are customarily granted in Ontario in connection with the operation of a project built by a tenant under a ground lease and/or to require payment or other consideration therefor.

The Construction Licenses and Operating Period Rights shall include provisions that preclude the underlying property from being transferred unless the Construction Licenses and Operating Period Rights thereto are transferred concurrently therewith to the same transferee (and such transferee delivers an assumption agreement in favour of the Tenant with respect thereto) and shall permit the Tenant to transfer the Construction Licenses and Operating Period Rights concurrently with, and as part of, a transfer of the Lease.

APPENDIX 1

CONSTRUCTION LICENSE AREA PRELIMINARY BOUNDARIES

(see attached)

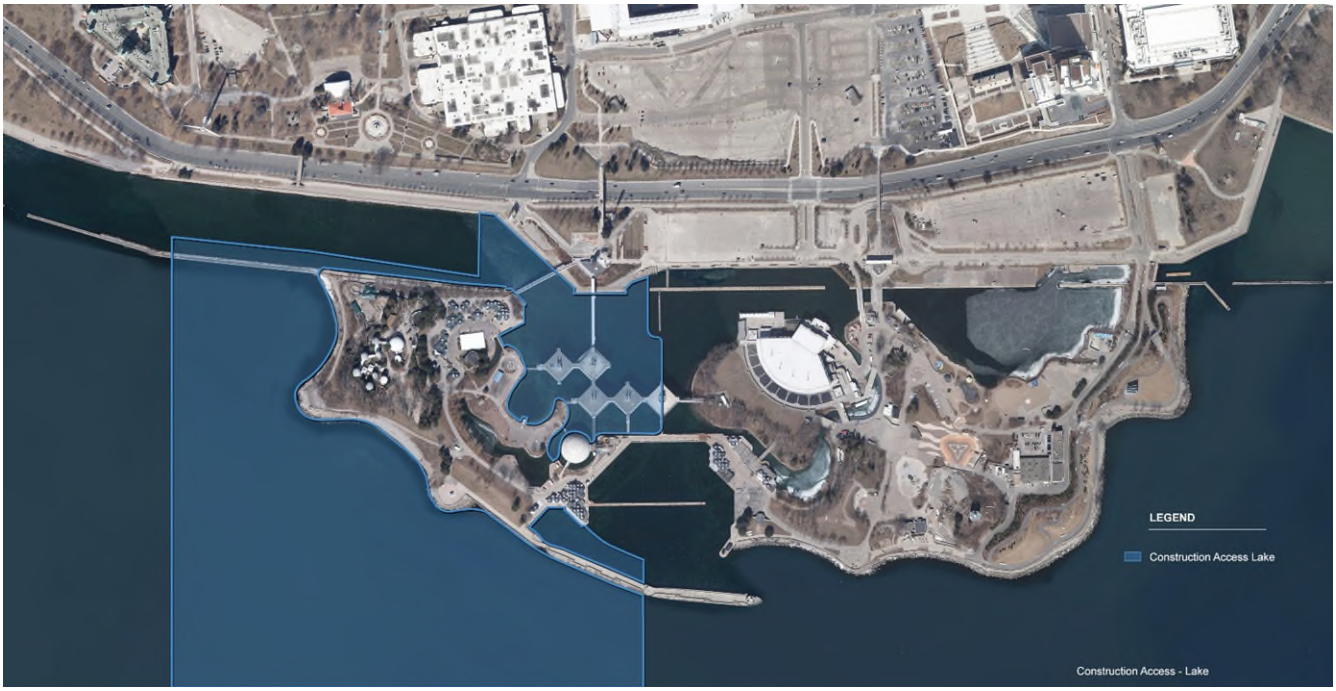
For the purpose of interpreting the sketches attached as Appendix 1:

The boundary reflected in the sketch entitled Construction Access – Air does not extend above Lake Shore Boulevard

The boundary reflected in the sketch entitled Construction Access – Land extends to Lake Shore Boulevard

CONSTRUCTION ACCESS - LAND:

CONSTRUCTION ACCESS – WATER:



CONSTRUCTION ACCESS – AIR:

THERMEGROUP™

Note: This construction plan will likely change to accommodate new information / changing circumstances.

SCHEDULE C

TERMINATION AGREEMENT

THIS AGREEMENT made on _____, _____ (the "**Termination Agreement**")

1. Subject Matter

A lease dated May 3, 2022 between Her Majesty the Queen in right of Ontario, as represented by the Minister of Government and Consumer Services, (the "**Landlord**") and Therme Canada OP Inc. (the "**Tenant**") (as amended, supplemented or varied to the date hereof, collectively, the "**Lease**").

2. Defined Terms

All capitalized terms used in the Termination Agreement but not defined herein shall have the meaning ascribed thereto in this Lease.

3. Termination Date

Pursuant to the terms of 20.4(e) or in consideration of the payment by the Landlord to the Tenant of the amount contemplated in Section 16.2(d)(ii)(B) of the Lease (the receipt and sufficiency of which is hereby acknowledged by the Tenant), the Tenant and the Landlord hereby agrees that this Lease and all Material Ancillary Agreements are hereby terminated and of no further force or effect whatsoever as of the date hereof (the "**Termination Date**"), save for those provisions expressly noted to survive any expiry or earlier termination of the Lease and/or any of the Material Ancillary Agreements.

4. "As Is" Condition

On the Termination Date and subject to the payment referred to in Section 3 above, the assignment and transfer by Tenant, and assumption thereof by the Landlord, of the Transferred Assets is on an "as is, where is" basis without any representation or warranty of any kind whatsoever.

5. Assignment of Contracts and Warranties

(a) Effective as of the Termination Date (but subject to the terms of the Leasehold Mortgagee Agreement), the Tenant hereby absolutely and unconditionally assigns, transfers and sets over unto the Landlord all of the Tenant's right, title and interest in and to the following (the "**Transferred Assets**"):

(i) the Contracts and the Warranties;

(ii) the benefits of any guarantees, warranties and covenants made or given by the parties to the Contracts and Warranties;

(iii) any other rights, benefits and advantages whatsoever to be derived from the Contracts and Warranties;

(iv) the plans, drawings and specifications with respect to the Project (as it exists on the Termination Date); and

(v) to the extent assignable, all licences, building permits, demolition permits, excavation permits, construction permits or other permits that have been issued by a Governmental Authority in respect of the Project,

to have and to hold the same for the Landlord's sole use and benefit, and with full power and authority, to the extent the Tenant has the right to grant same, to exercise and enforce any right of the Tenant in respect thereof, in the name of the Tenant or the Landlord, as determined from time to time by the Landlord in the Landlord's sole discretion.

(b) For the purposes hereof:

(i) "**Contracts**" means any and all contracts and agreements to which the Tenant is a party where the counterparty thereto is an arm's length third party, in each case, relating to the maintenance of the Therme Public Areas, excluding those contracts and agreements listed in Exhibit 1 hereto; and

(ii) "**Warranties**" means any and all existing warranties and guarantees in favour of the Tenant in connection with the maintenance and operation of the Project, or any Improvements or other construction made to the Project.

6. Operational Assistance

For a period of three months from and after the Termination Date, the Tenant shall make available to the Landlord, at the Landlord's reasonable request, personnel of the Tenant to assist the Landlord with any questions relating to the operation of the Project. If this Termination Agreement is entered into by reason of the expiry of the Term and the End of Lease Notice provides that the Landlord wishes to retain the Project structures on the Lands, then the costs and expenses of such assistance shall be borne by the Landlord. If this Termination Agreement is entered into by reason of the applicability of Section 16.2(d)(ii)(B), then the costs and expenses of such assistance shall be borne by the Tenant.

7. Adjustments

Any receivables, expenses, liabilities and obligations with respect to the Transferred Assets shall belong to the Tenant for the period to the Termination Date and shall belong to the Landlord for the period after the Termination Date. Any usually adjustable items with respect to the Transferred Assets based on the preceding sentence shall be adjusted between the Landlord and Tenant as of the Termination Date.

8. Income Tax Act

The Tenant agrees to produce evidence that it is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*, or in the alternative evidence that such Section is complied with before the Termination Date.

9. Time of Essence

Time in all respects shall be of the essence of this Agreement.

10. Tender

Any tender of documents or money hereunder may be made upon the Tenant or the Landlord or each of their respective solicitors. Any funds payable shall be paid by wire transfer of immediately available funds to the account designated by the payee in writing, drawn from a Canadian Chartered Bank or other financial institution.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES AS REPRESENTED BY ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

By: _____

THERME CANADA OP INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE D

DISPUTE RESOLUTION PROCEDURE

1. General

1.1 For the purposes of this Schedule D, the following applies:

"**Landlord's Representative**" means _____; and

"**Tenant's Representative**" means _____.

The Landlord or the Tenant may, from time to time, by written notice delivered pursuant to Section 25.5 of the Lease to the other party change the Landlord's Representative or the Tenant's Representative, as the case may be. Such change will have effect on the later of the date of delivery of the notice or the date specified in the notice.

All disputes, controversies, or claims arising out of or relating to a matter in this Lease or the breach, termination, enforcement, interpretation or validity of this Lease (a "**Dispute**") including all Material Disputes shall be resolved in accordance with the provisions of this Schedule D.

"Material Dispute" means a Dispute where either (a) the aggregate value of (i) the claims in dispute, and/or (ii) the obligations and liabilities relating to the matters in dispute are equal to or in excess of $5 million, or (b) the matter in dispute is or is alleged to be a Material Tenant Event of Default, a Material Tenant Construction Event of Default or a Material Landlord Event of Default (or would result in any of the foregoing).

1.2 The Parties agree that at all times, both during and after the Term, each of them will make *bona fide* efforts to resolve by amicable negotiations any and all Disputes arising between them on a without prejudice basis.

1.3 Either Party may deliver to the Landlord Representative or the Tenant Representative, as applicable, a written notice of dispute (the "**Notice of Dispute**"), which Notice of Dispute shall, subject to the terms of this Schedule D requiring resolution of a Dispute pursuant to a specific dispute resolution process set forth in this Schedule D, initiate the dispute resolution process described in Sections 2 to 4 of this Schedule D, as applicable, as more particularly described in this Schedule D. 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 the Landlord's Representative, if given by the Landlord, or by the Tenant's Representative, if given by Tenant.

2. Amicable Resolution by Party Representatives

2.1 On receipt of a Notice of Dispute, the Landlord's Representative and the Tenant's Representative (collectively "**Party Representatives**" and individually "**Party Representative**") shall each promptly and diligently make all reasonable bona fide efforts to resolve the Dispute by amicable without prejudice negotiations.

2.2 Without limiting or otherwise derogating from the 10-Business Day period referred to in Section 3.1, each Party Representative shall provide to the other 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. All discussions and negotiations, and all documents exchanged, between them related to the Dispute shall be deemed to have been exchanged on a without prejudice basis 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 Section 2 of this Schedule D (or as otherwise agreed to in writing by the Parties pursuant to [Section 5.3] of this Schedule D), a Dispute is not resolved by the Party Representatives within ten (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 in writing, then at any time after the expiry of such period of time either Party Representative may, by notice in writing to the other (the "**Dispute Referral Notice**"), refer the Dispute for resolution by a senior officer or director of each Party who:

(a) is in a position of authority above that of the Landlord's Representative or Tenant's Representative, as the case may be; and

(b) subject only to approval of the board of directors or similar governing body of a Party, has full authority to resolve and settle the Dispute for such Party,

or, in respect of a Material Dispute, may refer the Dispute for resolution by the Parties' Chief Executive Officers.

3.2 Once a Dispute is referred to them, the senior officer, director or Chief Executive Officer (as the case may be) of each Party shall promptly and diligently make all reasonable *bona fide* efforts to resolve the Dispute by amicable without prejudice negotiations. All discussions and negotiations, and all documents exchanged, between them related to the Dispute shall be deemed to have been exchanged on a without prejudice basis to facilitate the resolution of the Dispute.

3.3 The period of time for resolution of a Dispute by the senior officer, director or Chief Executive Officer (as the case may be) of each Party under this Section 3 prior to either Party being entitled to refer the dispute to arbitration pursuant to Section 4 below shall be twenty five (25) Business Days after the date of delivery of the Dispute Resolution Notice (or such longer period of time as the Landlord and the Tenant both expressly agree in writing).

4. Resolution by Arbitration

4.1 Where the Parties have first engaged in but failed to resolve a Dispute through the process set out in Sections 2 and 3 or the Parties agree to waive any of these steps pursuant to Section 5.3(b), then such Dispute may be referred to arbitration by delivery of a Notice of Arbitration by either party in accordance with the *Arbitration Act*, 1991 (Ontario) and this Section.

4.2 The Parties agree that all Disputes shall be resolved exclusively by arbitration in accordance with Section 4 and not by litigation in court.

4.3 Subject to Section 4.6, Disputes referred to arbitration shall be resolved by a single arbitrator.

4.4 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 five (5) Business Days after delivery of the Notice of Arbitration; and

(b) if the Parties fail to agree or jointly appoint the arbitrator within such five (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 only potential arbitrators meeting the necessary qualifications and experience set out in this Schedule D may be appointed by the Court; or

(ii) if one Party fails to submit its list of potential arbitrators to the Court within the five (5) Business Day period referred to in this Section 4.4(b), and subject to the Court's discretion to accept a late-filed list from a Party, from the list submitted by the other Party provided that only potential arbitrators meeting the necessary qualifications and experience set out in this Schedule D may be appointed by the Court; or

(iii) if no list is submitted by either Party, or if the list or lists submitted do not include only potential arbitrators with the necessary qualifications and experience set out in this Schedule D, the Court shall be entitled in its sole discretion to appoint anyone who meets the requirements set out in this Schedule D for the qualifications and experience of the arbitrator.

4.5 If the Parties agree to use three arbitrators, or if in respect of a Material Dispute either Party requires that the Material Dispute be determined by three arbitrators and provides written notice to the other Party of such requirement in a Notice of Arbitration or in a notice responding to the Notice of Arbitration served prior to the expiry of the five (5) Business Day period set out in Section 4.4(a), then:

(a) the arbitrators shall be appointed as follows:

(i) each Party shall appoint one arbitrator no later than ten (10) Business Days after delivery of the Notice of Arbitration;

(ii) if a Party fails to appoint an arbitrator within ten (10) Business Days after delivery of the Notice of Arbitration, 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 4.4(b) of this Schedule D;

(iii) the Parties shall, within ten (10) Business Days after the appointment of the first two arbitrators pursuant to the above provisions of this Section 4.5(a), 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 Parties fail to appoint a third arbitrator within the required time, either of the Parties 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 4.4(b) of this Schedule D.

4.6 All arbitrators shall be impartial and independent of each of the Parties and shall have experience adjudicating or litigating complex commercial disputes.

4.7 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 Ontario Place or in the business affairs of the Landlord, the Tenant, or is an advisor, consultant, subconsultant or subcontractor to either of the Parties.

4.8 The arbitrator(s) shall have the jurisdiction and power to:

(a) amend or vary any and all rules under the *Arbitration Act*, 1991 (Ontario), to the extent permitted by Applicable Law, including rules relating to time limits, either by express agreement of the Parties or, failing such agreement, as the arbitrator considers appropriate and necessary in the circumstances to fairly resolve the Dispute and render an award;

(b) determine the appropriate procedure for the arbitration, including with respect to the form in which evidence and submissions will be tendered and the conduct of any hearing;

(c) 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 Lease, including, without limitation, equitable relief, interim orders, procedural orders, interim and permanent injunctions, and specific performance; and

(d) 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.

4.9 The place of arbitration shall be Toronto, Ontario. The language of the arbitration shall be English.

4.10 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.

4.11 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.

4.12 The award of the arbitrator(s) shall be final and binding upon both Parties, and both Parties expressly waive all rights of appeal, including on a question of law, in connection with the award of the arbitrator(s). The Party prevailing in the arbitration may enforce any award by any means permitted by Applicable Law, including entering the award as a judgment of any court.

4.13 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 twenty (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 arbitrator(s), 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.

4.14 To the extent that any matter relating to the conduct of the arbitration is not specified herein, such matter shall be determined by the arbitrator(s).

4.15 This Lease, including this Schedule D, constitutes an agreement to arbitrate that shall be specifically enforceable.

4.16 Any arbitrator appointed pursuant to this Section 4 of this Schedule D shall keep all information about the Dispute confidential and shall not disclose such information to anyone other than the Parties.

5. **Miscellaneous**

5.1 The Tenant and the Landlord shall diligently carry out their respective obligations under this Lease during the pendency of any Dispute, save and except for the specific obligation that is the subject matter of the Dispute. In the event of any Dispute regarding

the occurrence of a Tenant Event of Default, Material Tenant Event of Default, a Material Tenant Construction Event of Default, Landlord Event of Default and/or a Material Landlord Event of Default, whether a Tenant Event of Default, Material Tenant Event of Default, Material Tenant Construction Event of Default, Landlord Event of Default and/or Material Landlord Event of Default has been remedied or cured and/or whether a Party is entitled to any right or remedy (including termination) under this Lease in respect of the specific obligation that is the subject matter of the Dispute, pending a final determination of the Dispute under this Schedule D (or the abandonment of the Dispute by the Party that issued the Notice of Dispute): (a) the rights and remedies under this Lease of the applicable Party in respect of the disputed Tenant Event of Default, Material Tenant Event of Default, Material Tenant Construction Event of Default, Landlord Event of Default or Material Landlord Event of Default, as the case may be, shall be stayed (save and except as expressly set out in Sections 16.9(c) and 16.9(g) of the Lease); and (b) without limiting the generality of the foregoing, with respect to a Material Tenant Event of Default, a Material Tenant Construction Event of Default or a Material Landlord Event of Default, no Party shall be entitled to terminate this Lease.

5.2 Nothing contained in this Schedule D 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 or where otherwise expressly set out in the Lease

5.3 The Parties can, by written agreement, on a Dispute by Dispute basis:

(a) extend any or all timelines set out in this Schedule D;

(b) agree to waive or by-pass any one or more of the Dispute resolution processes in this Schedule D and, instead, proceed directly to resolution of the Dispute by arbitration or litigation in court; and

(c) agree to resolve a Dispute by litigation in court rather than by arbitration.

SCHEDULE E

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT is dated _____, 202●.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED

BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES

(the "**Landlord**")

and

●

(the "**Indemnifier**")

WHEREAS:

1. Therme Canada OP Inc. (the "**Tenant**") and the Landlord have entered into a lease dated the 3rd day of May, 2022 (the "**Lease**") respecting certain demised premises (the "**Premises**") at Ontario Place, Toronto, Ontario, all as further described in the Lease; and

2. To induce the Landlord to enter into the Lease with the Tenant, the Indemnifier has agreed to enter into this agreement with the Landlord;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged by the Indemnifier, the Indemnifier makes the following indemnity and agreement ("**Indemnity**") with the Landlord:

1. The Indemnifier hereby agrees with the Landlord that from and after the date hereof (but not with respect to the prior period) it will, without duplication: (i) make the due and punctual payment of all Rent, including all monies, charges and other amounts of any kind whatsoever payable under the Lease by the Tenant; and (ii) effect prompt and complete performance of all obligations contained in the Lease on the part of the Tenant to be kept, observed and performed. As an independent obligation, the Indemnifier shall indemnify and save the Landlord harmless from any Claims arising out of any failure by the Tenant to pay any Rent, including all monies, charges or other amounts due under the Lease, that is the subject matter of a Tenant Event of Default under the Lease.

2. Notwithstanding any provision set out herein, the maximum aggregate liability of the Indemnifier under this Indemnity for any reason whatsoever (whether under this agreement, at law or in equity) shall be thirty million dollars ($30,000,000) (the "**Maximum Liability Cap**"), which Maximum Liability Cap shall be increased annually from and after Lease Date by the Inflation Factor. The Indemnifier acknowledges and agrees that the Maximum Liability Cap shall not apply in the event of fraud or wilful misrepresentation by the Tenant from and after the Lease Date, or in the event of wilful

misconduct by the Tenant in connection with a material breach of the Lease from and after the Commencement Date.

3. This Indemnity is absolute and unconditional and the obligations of the Indemnifier shall not be released, discharged, mitigated, impaired, or affected by: (i) any extension of time, indulgences or modifications which the Landlord extends to or makes with the Tenant in respect of the performance of any of the obligations of the Tenant under the Lease; (ii) any waiver by or failure of the Landlord to enforce any of the terms, covenants and conditions contained in the Lease; (iii) any Transfer by the Tenant of any of the Tenant's Interest or by any trustee, receiver or liquidator, subject to the terms of Section 14.5 of the Lease; (iv) any consent which the Landlord gives to any Transfer by the Tenant, subject to the terms of Section 14.5 of the Lease; (v) any amendment to the Lease or any waiver by the Tenant of any of its rights under the Lease; (vi) any alterations to or changes in respect of the Demised Premises; (vii) subject to Section 6 below, the expiration of the Term (with respect to those obligations that survive the expiry of the Term) or any surrender, disclaimer, repudiation or termination of this Lease (other than a termination pursuant to Article 12, Section 16.13 or Article 17 of this Lease) with respect to the obligations of the Tenant under Article 16 of the Lease and those obligations that survive such surrender, disclaimer, repudiation or termination, the Indemnifier hereby agreeing that (subject to Section 6 below) its obligations under this Indemnity shall extend throughout the Term, as same may be extended, renewed, or reinstated from time to time.

4. The Indemnifier hereby expressly waives notice of the acceptance of this Indemnity and, except as set out in Section 5 below, all notice of non performance, non payment or non observance on the part of the Tenant of the terms, covenants and conditions contained in the Lease.

5. Upon the occurrence of a Tenant Event of Default under the Lease, the Landlord agrees that it shall first pursue its remedies against the Tenant by giving the Tenant notice of such Tenant Event of Default and making a demand that the Tenant cure such Tenant Event of Default (the "**Default Notice**"), provided that in no event shall the Landlord be required to exhaust its remedies against the Tenant before pursuing its remedies hereunder against the Indemnifier. The Landlord agrees that it shall not pursue its remedies under this Indemnity unless (and it shall be a condition precedent to the Landlord's exercise of its remedies under this Indemnity that) (a) a Tenant Event of Default has occurred, is continuing and the subject Tenant Event of Default (or the applicable part thereof) is not in dispute under the Dispute Resolution Procedure, and (b) the Landlord delivers to the Indemnifier a demand notice under this Indemnity on or after the date that Landlord delivers the Default Notice to the Tenant.

6. This Indemnity shall be of no further force and effect, and shall be fully released and terminated, from and after the tenth (10th) anniversary of the date (the "**Opening Date**") on which the Project commences operations and is open to the public, subject to the second last sentence of this Section 6. Prior to the tenth (10th) anniversary of the Opening Date, this Indemnity shall be of full force and effect, and the Indemnitor shall be fully liable hereunder, except during any period when the Tenant satisfies the Financial Test, as determined by the Landlord, acting reasonably, on the basis of evidence provided by the Tenant. For greater certainty, and notwithstanding the first sentence of this Section 6, if this Indemnity is in effect on the tenth (10th) anniversary of the Opening Date, it shall remain in effect until the Tenant provides evidence, satisfactory to the

Landlord, acting reasonably, that it satisfies the Financial Test. If at any time after the tenth (10th) anniversary of the Opening Date the Tenant satisfies the Financial Test as determined by the Landlord, acting reasonably, this Indemnity shall not be reinstated or otherwise have any force or effect (and the Indemnifier shall have no obligations under this Indemnity or otherwise at law or in equity) if the Tenant thereafter fails to satisfy the Financial Test.

7. Without limiting the generality of the foregoing, the liability of the Indemnifier under this Indemnity shall continue in full force and effect and shall not be or be deemed to have been waived, released, discharged, impaired or affected by reason of the release or discharge of the Tenant in any Event of Bankruptcy, or the surrender, disclaimer, repudiation or termination of this Lease in any such proceedings and shall continue with respect to the obligations of the Tenant under Article 16 of the Lease and any other provisions that survive the termination of the Lease as if the Lease had not been so surrendered, disclaimed, repudiated or terminated (other than a termination pursuant to Article 12, Section 16.13 or Article 17 of this Lease). The liability of the Indemnifier shall not be affected by the exercise of any rights or remedies by the Landlord upon the occurrence of a Tenant Event of Default under the Lease, provided that (a) there is no double-counting, and (b) the Landlord uses its commercially reasonable efforts to mitigate its losses, costs and damages.

8. No action or proceeding brought or instituted under this Indemnity and no recovery in pursuance thereof shall be a bar or defence to any further action or proceeding which may be brought under and in accordance with this Indemnity by reason of any further default by the Indemnifier hereunder or a Tenant Event of Default under the Lease.

9. No modification of this Indemnity shall be effective unless the same is in writing and is executed by both the Indemnifier and the Landlord.

10. If two or more Persons execute this Indemnity as Indemnifier, the liability of each such Person hereunder shall be joint and several. In like manner, if any indemnifier named in this Indemnity is a partnership or other business association, the members of which are by virtue of statutory or general law subject to personal liability, the liability of each such member is joint and several.

11. This Indemnity constitutes the complete agreement between the Indemnifier and the Landlord and none of the parties hereto shall be bound by any representations or agreements made by any person which would in any way reduce or impair the obligations of the Indemnifier other than any which are expressly set out herein.

12. The obligations of the Indemnifier hereunder shall be assignable by the Landlord, together with a transfer by the Landlord of all of its interest in Ontario Place and an

assignment of the Lease all in accordance with Section 18.2 of the Lease, and such assignment of the Lease shall constitute an assignment of this Indemnity.

13. The Indemnifier shall be bound by any account settled between the Landlord and the Tenant.

14. The Indemnifier acknowledges receiving a copy of the Lease. All capitalized terms used in this Indemnity but not defined herein shall have the meaning ascribed thereto in the Lease.

15. Any notice or other communication required or permitted to be given to the Indemnifier under this Indemnity will be in writing and will be given by personal delivery, courier or electronic mail as hereinafter provided. Any such notice will be deemed to have been received on the first Business Day following the date on which it was delivered to the Indemnifier at the address noted below, either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section:

    ●

    Attention: ●.

16. This Indemnity shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns as permitted under the Lease.

17. The Indemnifier acknowledges having the opportunity to, and waiving its right to obtain, independent legal advice.

THE LANDLORD AND THE INDEMNIFIER HAVE SIGNED BELOW, to confirm the terms of this Agreement.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES AS REPRESENTED BY ONTARIO INFRASTRUCTURE AND LANDS CORPORATION

By: _____

Name:

Title:

-

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE F

OPERATION, MAINTENANCE AND REPAIR COSTS

OPERATION AND MAINTENANCE COSTS

1. Costs Recoverable by the Province.

"**Costs Recoverable by the Province**" means, in respect of any Fiscal Year during the Term, the following costs actually incurred by the Landlord in respect of such Fiscal Year in accordance with the Lease, calculated in accordance with generally accepted accounting principles and this Lease, without duplication, in each case on account of the ownership, administration, operation, management and supervision of Ontario Place and for services provided generally to tenants thereof, excluding those costs that constitute Costs Non-Recoverable by the Province or Therme Self-Managed Expenses:

(a) reasonable amounts paid to, or reasonably attributable to the remuneration of, all personnel for carrying out the administration, marketing, operation, management, security, supervision or cleaning (including, without limitation, waste management) of the Therme Public Areas and Other Public Areas (collectively, the "**Public Areas**") in accordance with its obligations under the Lease, including reasonable fringe benefits and other employment costs, but excluding any such amounts for administering, supervising or enforcing the Lease and/or any Adjacent Lease or any agreements ancillary to the Lease and/or to any Adjacent Lease (the Lease, all Adjacent Leases and all agreements ancillary to the Lease and all Adjacent Leases being collectively referred to as the "**Ontario Place Lease Agreements**") and excluding any overhead costs;

(b) reasonable costs of providing life and safety inspections, security, waste collection, disposal and recycling, janitorial and snow removal services to the Public Areas and the reasonable costs of machinery, supplies, tools, equipment and materials reasonably attributable thereto to the extent that such costs (associated with machinery, tools and equipment) are fully chargeable in the Fiscal Year in which they are incurred in accordance with generally accepted accounting principles;

(c) auditing, accounting, legal and other professional and consulting fees and disbursements incurred in connection with the operation of the Ontario Place, but does not include any such costs that are addressed in Article 9 of the Lease nor any such costs in respect of the Other Lands that correspond with the costs that are addressed in Article 9 of the Lease;

(d) the costs of making alterations, replacements or additions to Ontario Place intended to reduce Costs Recoverable by the Province and improve the operation of Ontario Place and the systems, facilities and equipment serving Ontario Place, to the extent that such costs are fully chargeable in the Fiscal Year in which they are incurred in accordance with generally accepted accounting principles;

(e) depreciation or amortization of the costs referred to in paragraph 1(d) above (and of the machinery, tools and equipment referred to in paragraph 1(c) above) as

determined in accordance with generally accepted accounting principles, if such costs were not fully chargeable in the Fiscal Year in which they are incurred in accordance with generally accepted accounting principles;

(f) interest at the Prime Rate on the undepreciated or unamortized balance of the costs referred to in paragraph 1(e) hereof;

(g) a management fee (in respect of each Fiscal Year) of five (5%) percent of the Costs Recoverable by Province received or receivable by the Landlord in respect of Ontario Place (excluding revenues under this paragraph 1(g));

(h) the actual reasonable cost of the premiums for the insurance required pursuant to the Lease to be maintained by the Landlord in respect of Ontario Place and its operation, including insurance for loss of rent, and the amounts of losses incurred or claims paid below insurance deductible amounts, in each case to the extent that the Landlord does not self-insure;

(i) reasonable advertising, promotion and marketing costs with respect to the operation and activity conducted at Ontario Place as a whole (which is not limited to any portion of Ontario Place nor incurred in pursuit of any sale, lease or financing of Ontario Place or any part thereof); and

(j) provision and/or supply of electricity, steam, water, gas, oil and all other utilities required in connection with the use and operation of the Other Public Areas, other than any Other Public Areas that are leased to the Tenant and/or any Adjacent Tenant,

provided that, notwithstanding the foregoing, "**Costs Recoverable by Province**" shall not include: (i) any costs for which the Landlord is responsible pursuant to the Master Development Agreement (including in respect of the Landlord's Site Readiness Activities and the Landlord Initial Obligations), (ii) any costs arising as a result of the negligence or breach of obligations under any Ontario Place Lease Agreement on the part of the Landlord (or any Landlord Person) and/or any Adjacent Tenant (including any damages, fees or other charges relating to or resulting therefrom), (iii) any costs in respect of which the Landlord is required to indemnify the Tenant or any Adjacent Tenant under any Ontario Place Lease Agreement, (iv) any costs relating to the provision of parking to the Tenant and/or any other Person (including, without limitation, the development, construction, operation, maintenance and repair costs for the Parking Facility), (v) any costs incurred in satisfying the Landlord's obligations in respect of Section 10.2 of the Lease, (vi) any costs incurred specifically or primarily in respect of the Other Lands that are not Other Public Areas, (vii) any costs that were incurred prior to the Commencement Date (including any amortization or depreciation of any such costs), (viii) any Therme Self-Managed Expenses or Costs Non-Recoverable by Province, and (ix) any other costs for which the Tenant is expressly responsible pursuant to the provisions of the Lease, the Master Development Agreement and/or any other Material Ancillary Agreement.

2. Costs Non-Recoverable by the Province.

"**Costs Non-Recoverable by the Province**" means all costs and expenses that are the responsibility of the Landlord under the Lease, the Master Development Agreement and the Material Ancillary Agreement (other than as set out in Section 1 of this Schedule F), including the following:

(a) all costs relating to Ontario Place other than the Lands and the Other Public Areas, other than those costs that are the responsibility of the Tenant pursuant to the Lease, the Master Development Agreement and/or any other Material Ancillary Agreement (including as Therme Self-Managed Expenses) and costs that are specifically included as Costs Recoverable by Province;

(b) all costs relating to the creation, operation and existence of any Agent (including all overhead costs of any Agent);

(c) any Taxes not otherwise charged directly to the Tenant pursuant to Article 9 of the Lease;

(d) amounts paid to, or reasonably attributable to the remuneration of, all personnel (whether on or off -site and whether employed by Landlord, any Agent or some other management company) directly involved in the ownership, administration, marketing, operation, management, maintenance, security, supervision, landscaping or cleaning of Ontario Place excluding the Other Public Areas, including reasonable fringe benefits and other employment costs;

(e) events and programming at Ontario Place not attributable to the Tenant (other than any marketing or promotion of such events that is included as a "Cost Recoverable by Province" in paragraph 1(i) above);

(f) all costs and expenses relating to any areas of Ontario Place that are not publicly accessible, free of charge, including any administration buildings, the Parking Facility, the marina, the pods and Cinesphere. The approximate locations of the marina, the pods and Cinesphere are shown on Drawing 7 of Schedule A hereto;

(g) maintaining (including redecoration) the Other Lands, and the systems, facilities, internal roads, trails, sidewalks, walkways, shoreline and equipment serving the Other Lands and of all replacements and modifications to the Other Lands, and the systems, facilities and equipment serving the Other Lands, including without limitation those made by the Landlord in order to comply with laws or regulations or required by the Landlord's insurer or resulting from normal wear and tear to the Other Lands, and the systems, facilities and equipment serving the Other Lands;

(h) providing, installing, modifying and upgrading telecommunication systems and equipment, if any;

(i) all costs for which the Landlord is responsible pursuant to the Master Development Agreement (including in respect of the Landlord's Site Readiness Activities and the Landlord Initial Obligations);

(j) all costs arising as a result of the negligence or breach of obligations under any Ontario Place Lease Agreement on the part of the Landlord (or any Landlord Person) and/or any Adjacent Tenant (including any damages, fees or other charges relating to or resulting therefrom);

(k) all costs in respect of which the Landlord is required to indemnify the Tenant or any Adjacent Tenant under any Ontario Place Lease Agreement;

(l) all costs relating to the provision of parking to the Tenant and/or any other Person (including, without limitation, the development, construction, operation, maintenance and repair costs for the Parking Facility);

(m) all costs incurred in satisfying the Landlord's obligations in respect of Section 10.2 of the Lease, and (vi) any costs incurred specifically or primarily in respect of the Other Lands that are not Other Public Areas; and

(n) all costs that were incurred prior to the Commencement Date (including any amortization or depreciation of any such costs),

but does not include any Therme Self-Managed Expenses.

3. Therme Self-Managed Expenses. "**Therme Self-Managed Expenses**" means all operation, maintenance, landscaping and repair costs associated with the Demised Premises for which the Tenant is responsible in accordance with the provisions of the Lease but does not include any Costs Recoverable by Province or Costs Non-Recoverable by Province.

SCHEDULE G
MASTER DEVELOPMENT AGREEMENT PROVISIONS

Capitalized terms herein undefined shall have the meaning as set out in the Lease

A. DESIGN

1. Tenant's Covenants

(a) Attached hereto as Appendix 1, and forming a part of this Schedule G, are the Tenant's Schematic Design Materials, other than those components set out in Appendix 7 attached hereto (the "**Outstanding Design Components**"). The Schematic Design Materials attached hereto as Appendix 1 have been approved by the Landlord. The Outstanding Design Components shall be subject to the Approval of the Landlord on or prior to May 31, 2022. On or prior to May 31, 2022, the Landlord shall notify the Tenant in writing that it is withholding Approval of the Landlord with respect to the Outstanding Design Components. The Parties will act in good faith to achieve approval of the Outstanding Design Components in accordance with this Section 1(a). Following the Approval of the Landlord with respect to the Outstanding Design Components as provided in this Section 1(a): (i) the Outstanding Design Components shall be deemed to constitute part of the Schematic Design Materials; and (ii) the remaining provisions of this Schedule G shall apply to any further changes to the Outstanding Design Components including, for greater certainty, that only Changes Requiring Landlord Approval shall require the approval of the Landlord. The Tenant shall develop the approved Schematic Design Materials into Detailed Design Materials suitable for tendering and construction ("**Detailed Design Materials**") as per the process set out in this Parts A of Schedule G, including the deliverables set out in Appendix 4 hereto (the "**Detailed Design Phase**").

(b) The Tenant shall be responsible for, and in control of, the development, preparation and finalization of the design, plans, drawings and specifications for the Project, subject to the Changes Requiring Landlord Approval. For greater certainty, except with respect to the limited approval rights of the Landlord in respect of the Changes Requiring Landlord Approval: (i) the Landlord shall not have any approval rights with respect to the design, plans, drawings and specifications for the Project; and (ii) the Tenant shall have complete control and autonomy with respect to the design, plans, drawings and specifications for the Project. The Landlord shall not be entitled to unreasonably withhold its approval with respect to any Changes Requiring Landlord Approval. The Landlord agrees that subject to the Changes Requiring Landlord Approval, the Tenant shall be entitled to freely design the Project.

"**Changes Requiring Landlord Approval**" means:

(i) in respect of the Therme Public Areas and any exterior public areas within the Demised Premises that are located on the mainland adjacent to the Entrance Pavilion, any changes;

(ii) in respect of the Entrance Pavilion, any changes to (A) the exterior façade; (B) the exterior materials; (C) building shape and building massing (including height and gross floor area); and/or (D) the exterior signage;

(iii) in respect of the Therme Bridge, any changes to (A) the exterior façade; (B) the exterior materials; (C) public areas on, in or under the Therme Bridge; (D) building shape, building structure and building massing (including height and gross floor area); and/or (E) the exterior signage; and

(iv) in respect of the main building forming the Project, any changes:

A. to building massing (being height and gross floor area) of 10% or more, whether an increase or decrease;

B. to the quality of the exterior materials, for example, where glass is shown as the key architectural design element in the façade, it should remain glass unless approved by the Landlord in accordance with this Schedule G;

C. to the quality of materials (other than as described in (B) above) that cannot be demonstrated that the change is equal or better than the prior agreed material and is for example consistent with the then most recently completed project by the Tenant;

D. to the principal materials of the architectural facing, except to the extent such changes are for the purpose of improving sustainability/efficiency consistent with LEED Platinum certification. For greater certainty, in the event of a conflict between this paragraph D and anything else within this subsection (iv), all other clauses prevail over this paragraph D; and

E. to the exterior signage,

but does not include any changes to the interior portions of the Project nor to any internal elements (including mechanical, electrical or other similar elements).

For the purposes of this definition, "**changes**" means changes from the design, plans, drawings and specifications most recently approved (or deemed to have been approved) by the Landlord and does not include any changes driven or required by any Governmental Authority. For greater certainty, "Changes Requiring Landlord Approval" does not include changes to exterior public-facing architectural aspects relating to the specific form of building curvature or the vegetation to be planted on the green roofs.

The "Therme Bridge" means the bridge connecting the mainland to the west island to be built by the Tenant as set out in the Schematic Design Materials.

2. Landlord Review, Comment and Approvals

(a) The Tenant is required to meet (whether in person or virtually) with the Landlord throughout the Detailed Design Phase to: (i) share the latest draft of the Detailed Design Materials to permit the Landlord to review, provide comment and confirm compliance in accordance with this Section 2(a); and (ii) share any proposed revisions to the Detailed Design Materials for the Therme Public Areas, including each of the Therme Public Area

Components, Shoreline Components and Shoreline Repair, for the Landlord to complete its review, provide comments and provide any required Approval of the Landlord. The frequency and structure of such meetings will be determined by the Parties, acting reasonably. Such meetings shall occur, at a minimum in respect of the following stages of completion of the Detailed Design Materials: thirty (30%) percent, sixty (60%) percent, ninety (90%) percent and one hundred (100%) of design completion (the "**Stages of Completion**" and each a "**Stage of Completion**") in connection with the Tenant's draft submissions set out in this Section 2(a). The Landlord and the Tenant shall each identify the matters to be discussed at each meeting, on reasonable prior Notice to the other, and the Tenant shall use commercially reasonable efforts to ensure that personnel or consultants retained by the Tenant are available for the applicable meeting to address the matters so identified. The Tenant acknowledges that advancement of the Detailed Design Materials and cooperation with respect thereto (as provided herein) is required in order for the Landlord to complete certain of the Landlord Initial Obligations. The Tenant's obligation to meet with the Landlord as herein described are subject to the Landlord cooperating with respect to scheduling and the Tenant shall not be required to delay its progress in order to meet with the Landlord as herein provided, each acting commercially reasonably.

"Shoreline Repair" means the repair and protection of the shoreline located on and around the west island, which include the use of structures with a minimum 50-year design life or other means for stabilization of the shoreline, which, in all cases, shall be designed to a 100-year storm condition. For greater certainty, "Shoreline Repair" does not include grade elevation changes that may be required to reduce flood setback requirements for the development or other flood control measures.

(b) The Tenant shall submit the draft Detailed Design Materials for review and Approval of the Landlord at each Stage of Completion. The draft Detailed Design Materials to be submitted at each such Stage of Completion shall include the overall level of detail set out in Appendix 4 attached hereto. The Tenant shall also be entitled acting reasonably to submit draft Detailed Design Materials to the Landlord for review and, in the case of any Changes Requiring Landlord Approval, the Approval of the Landlord at other times and stages of design completion.

(c) The Tenant acknowledges receipt and will pay due consideration in advancing its design to the Ontario Place Open Space and Public Realm Standards and Ontario Place Development Vision and Guiding Principles.

(d) The Tenant shall not proceed with any Changes Requiring Landlord Approval that is then subject to the procedure set out in Section 2(k) below, unless otherwise expressly permitted in accordance with Section 2(k) below.

(e) Each draft of the Detailed Design Materials submitted by the Tenant to the Landlord shall be in writing and shall be sufficiently detailed to permit the Landlord to review such draft in order to make an informed decision as to whether to provide any approval thereof required in accordance with the terms set out herein (each such qualifying submission being a "**Qualifying Design Submission**"). A draft of the Detailed Design Materials submitted by the Tenant shall be deemed to constitute a Qualifying Design Submission unless: (i) it is not sufficiently detailed to permit the Landlord to review such draft in order to make an informed decision as to whether to provide any Approval thereof required in accordance with the terms set out herein; and (ii) the Landlord has

notified the Tenant in writing prior to the expiry what would be the Landlord Review Period if the submission constituted a Qualifying Design Submission of any specific additional materials that, in the good faith opinion of the Landlord, are required in order for such draft to qualify as a Qualifying Design Submission.

(f) The Tenant shall provide the Landlord with at least ten (10) days' advance written notice prior to submitting a Qualifying Design Submission, and the Tenant shall acting reasonably follow up with the Landlord to confirm receipt of same, provided that the Tenant shall not be required to delay submitting any Qualifying Design Submission in order to provide such notice.

(g) Following receipt by the Landlord of draft Detailed Design Materials submitted by the Tenant, the Landlord shall:

(i) review such draft Detailed Design Materials;

(ii) identify any additional materials that, in the good faith opinion of the Landlord, are required for such draft to constitute a Qualifying Design Submission prior to the expiry what would be the Landlord Review Period if the submission constituted a Qualifying Design Submission(or sooner, if possible, using commercially reasonable efforts) referred to in Section 2(e) above; and

(iii) either:

A. provide Approval of the Landlord in writing of such draft Detailed Design Materials to the extent required; or

B. notify the Tenant in writing that it is withholding Approval of the Landlord, with respect to any Changes Requiring Landlord Approval in which case the Landlord shall provide the reason(s) for withholding Approval of the Landlord (which reason(s) must be reasonable).

(h) For greater certainty, Approval of the Landlord does not relieve the Tenant from its obligation to comply with the terms of the Lease, the Master Development Agreement, any other Material Ancillary Agreements or the requirements of any Applicable Law, but does estop the Landlord from claiming that the Tenant is in breach thereof on the basis of the specific matter that was approved by the Landlord in accordance herewith.

(i) If the Landlord does not deliver a notice to the Tenant described in Section 2(g)(iii)B above on of the Landlord Review Period, the Landlord shall be irrevocably deemed to have approved the draft Detailed Design Materials (including, for greater certainty, all Changes Requiring Landlord Approval contained therein) that is the subject of such Qualifying Design Submission. For the purposes of this Section 2(i), "**Landlord Review Period**" means the period of time for the Landlord to review a Qualifying Design Submission, which period shall commence upon the delivery of the Qualifying Design Submission and expire on the later of (A) the thirty-first (31) day following the delivery of the advance notice with respect to a Qualifying Design Submission delivered by the Tenant pursuant to Section 2(e) above (or, if no such advance notice is delivered, the

delivery of the Qualifying Design Submission); and (B) the twenty-first (21st) day after the delivery of the Qualifying Design Submission.

(j) If in response to a notice to the Tenant described in Section 2(g)(iii)B above, the Tenant delivers an updated Qualifying Design Submission intended to address the Landlord's reasons set out in such notice, the Landlord shall be irrevocably deemed to have approved the draft Detailed Design Materials (including, for greater certainty, all Changes Requiring Landlord Approval contained therein) that is the subject of such updated Qualifying Design Submission if the Landlord does not deliver a notice to the Tenant described in Section 2(g)(iii)B above within twenty-one (21) days following delivery of such updated Qualifying Design Submission by the Tenant.

(k) Notwithstanding the foregoing provisions of this Schedule G, deviations that result from the requirements of the City of Toronto (the "**City**") and/or any other Governmental Authority shall not be Changes Requiring Landlord Approval, provided that, if such deviations are acceptable to the Tenant but the Landlord notifies the Tenant within a reasonable period of time (not to exceed ten (10) Business Days from the date on which the Tenant notifies the Landlord that such requirements are acceptable to the Tenant) that it will exercise (or cause to be exercised) such powers as may be necessary in order to eliminate the requirements of such deviation that are not acceptable to the Landlord, the Parties shall act reasonably and in good faith to enter into reasonable arrangements that enable the Tenant to proceed without requiring such deviations.

(l) Any dispute with respect to whether or not a change constitutes a Change Requiring Landlord Approval and/or whether the Landlord is acting reasonably in withholding its approval may be submitted to the Dispute Resolution Procedure for final determination, provided that, for the purposes of the determination of any such dispute and the procedure applicable thereto: (i) the process referred to in Section 2 of Schedule D to the Lease (Amicable Resolution by Party Representatives) shall not apply and the Parties shall, upon the delivery of a Notice of Dispute, proceed directly to the process referred to in Section 3 of Schedule D to the Lease (by the Chief Executive Officer of each Party and for the Tenant shall be the Chief Executive Officer of Therme Group); and (ii) such dispute may be referred to arbitration by either Party if it has not been resolved within five (5) Business Days following the delivery of the Notice of Dispute in respect thereof. To the extent the matter in dispute is or relates to a Changes Requiring Landlord Approval on the basis of or with respect to a qualitative (not quantitative) matter, and has not been resolved within five (5) Business Days following the delivery of the Notice of Dispute, the Tenant shall be entitled to proceed at its own risk with its activities (design, construction, etc.) prior to the resolution of such dispute, and such proceeding would be without prejudice to the entitlement of either Party to refer such dispute to arbitration.

(m) In addition to the meetings and submissions set out in Sections 2(a) and 2(b) above, the Tenant shall provide periodic written updates to the Landlord of any material changes in the status of the Project which occur during the periods between each Stage of Completion. The Landlord may request additional reasonable information from time to time to ensure the Tenant is complying with its obligations under the Lease and the Master Development Agreement and any other agreements with the Tenant and the Landlord and/or Governmental Authority.

(n) The Tenant and the Landlord will cooperate with each other throughout the Detailed Design Phase, each acting reasonably, to finalize the design of the Project in accordance with the terms of the Lease and the Master Development Agreement, it being confirmed that the foregoing does not derogate from the provisions of Section 2(b) hereof. Notwithstanding such cooperation, any review undertaken by the Landlord shall not constitute an endorsement of the Project or of any designs proposed by the Tenant, and the Tenant shall remain solely responsible for compliance with all requirements of the Lease, the Master Development Agreement and Applicable Law.

(o) The Tenant shall ensure that the Project adheres to standards of environmental sustainability suitable to a project of a type similar to the Project that would allow for application for LEED Platinum certification. Following the Completion of Construction, the Tenant will apply for and use commercially reasonably efforts to have the Project certified as a LEED Platinum project throughout the reminder of the Term.

(p) Notwithstanding anything contained in this Schedule G or otherwise, except as specifically contemplated herein with respect to the Therme Public Areas budget, the Landlord shall not have any approval rights with respect to Tenant's budget for development and construction of the Project.

3. Therme Public Areas Budget

(a) The Tenant acknowledges and agrees that the Landlord has the right to approve the Tenant's the budget of the Therme Public Areas, including the Therme Public Area Components, the Shoreline Components and Shoreline Repair, which budget shall be developed by the Parties through the Detailed Design Phase set out in Section 2 hereof.

(b) The Tenant acknowledges and agrees that the Landlord Contribution paid by the Landlord shall be equal to the eligible costs for the Therme Public Area Components and Shoreline Repair and protection, in accordance with Section 13 below.

B. PERMITS AND APPROVALS AND CITY LANDS

4. Permits and Approvals

(a) The Landlord shall diligently obtain those Landlord Permits, Licenses and Approvals that are identified as being the responsibility of the Landlord to obtain in Appendix 2 to this Schedule G. The Landlord shall lead the process as applicant for the Landlord Permits, Licenses and Approvals and shall be responsible for the cost thereof, except as hereinafter expressly provided.

(b) In addition to the more specific consultation and communication requirements set out herein, the Landlord shall provide the Tenant with quarterly updates on the status of the Landlord Permits, Licenses and Approvals. The Landlord shall provide the Tenant reasonable notice of relevant public meetings, hearings, proceedings and other key meetings related thereto, as determined by the Landlord, and the Tenant shall be entitled to participate in public meetings, hearings, proceedings and other key meetings related thereto, as determined by the Landlord.

(c) The Tenant shall prepare and provide to the Landlord, at the Tenant's cost, information, drawings, sketches, or any other documentation, including reports and studies, that may

be required by the Landlord to obtain and maintain the Landlord Permits, Licenses and Approvals, to the extent specifically contemplated in this Schedule G.

(d) The Tenant shall be responsible for preparing and providing the materials in accordance with Schedule 1 to Appendix 2 attached hereto in respect of the Lands and the Project (the "**Tenant OPA/ZBA Materials**") to support the official plan and zoning by-law amendment applications to be made by the Landlord to the City for the purposes of obtaining the Rezoning Approval for the Lands (the "**OPA/ZBA Applications**"). The Tenant acknowledges that the list of materials set out in Schedule 1 to Appendix 2 attached hereto is a preliminary list of materials that is subject to revision by the City at any time and from time to time, in its sole discretion, provided that the Tenant shall be entitled to a reasonable period (having regard to the nature of the materials requested) to deliver any materials required by the City that were not on such preliminary list and, to the extent that the end of such reasonable period would be more than 30 days after the Zoning Approval Deadline or Heritage Deadline, no Tenant Landlord's Permits, Licenses and Approvals Delay shall result from any failure to deliver same. At the Landlord's discretion, the OPA/ZBA Applications may address the Other Lands and the overall redevelopment of Ontario Place, provided that, at a minimum, the OPA/ZBA Applications shall seek approval of the land use designations, policies and zoning standards required to permit the Permitted Use and the development, construction, maintenance and operation of the Project on the Lands in accordance the Submitted Design. The Tenant shall not be responsible for preparing or providing (or contributing to the cost of) supporting materials associated with the Other Lands or the overall development of Ontario Place, other than materials in respect of the Lands and the Project, except as set out herein. The Tenant shall provide the OPA/ZBA Materials set out in Schedule 1 to Appendix 2 attached hereto to the Landlord by August 31, 2022, or sooner if reasonably possible.

(e) The Tenant shall cooperate with the Landlord's consultants, as required, in the preparation of the OPA/ZBA Applications and shall be provided with an opportunity to review all materials to be submitted in support of the OPA/ZBA Applications before they are finalized to ensure consistency with the materials being submitted in support of the Project. For the purposes of this Section 4(e), the Tenant's cooperation shall include without limitation providing any information and data with respect to the Project in its possession or control that is necessary, in the opinion of the Landlord, for the Landlord to prepare and complete the OPA/ZBA Applications and the OPA/ZBA Materials, provided that the Tenant shall be entitled to a reasonable period (having regard to the nature of the information and data requested) to provide such cooperation and, to the extent that the end of such reasonable period would be more than 30 days after the Zoning Approval Deadline or Heritage Deadline, no Tenant Landlord's Permits, Licenses and Approvals Delay shall result from any failure to provide same.

(f) Prior to finalizing and submitting the OPA/ZBA Applications to the City, the Landlord and/or its consultants shall use commercially reasonable efforts to meet with the Tenant and/or its consultants on a regular basis to discuss the content of the OPA/ZBA Applications and to ensure that all materials required to support the OPA/ZBA Applications, including the Tenant OPA/ZBA Materials, are being prepared in a timely fashion satisfactory to both the Landlord and Tenant. The Tenant and its consultants shall be entitled to participate in any pre-application consultation discussions with the City and to communicate with City staff members and elected officials to discuss and

attempt to resolve in advance any anticipated issues related to the forthcoming OPA/ZBA Applications.

(g) Once the OPA/ZBA Applications have been submitted, the Landlord and/or its consultants shall meet with the Tenant and/or its consultants as needed to discuss any comments or feedback received in respect of the OPA/ZBA Applications. If requested by the Landlord, the Tenant and its consultants shall communicate with City staff members and elected officials to discuss and to attempt to resolve any issues related to the OPA/ZBA Applications. Should the City request that a resubmission be made to address issues raised in respect of the initial OPA/ZBA Applications, the Landlord shall meet with the Tenant to determine whether a resubmission will be made, and if so, to determine the appropriate timing and preparation of such resubmission, including the respective obligations of the Landlord and Tenant to prepare and provide further supporting materials in support of such resubmission. For greater certainty, no required resubmission or decision to resubmit (nor any acquiescence or cooperation by the Tenant therewith) shall derogate from the Landlord's responsibility to obtain the Zoning Approval by the Zoning Approval Deadline (which deadline shall be subject to Section 25.9 of the Lease), nor from the rights and remedies of the Tenant under the Lease in connection with any failure by the Landlord to do so.

(h) The Tenant shall:

(i) diligently obtain and maintain those Tenant Permits, Licenses and Approvals that it is responsible to obtain, as set out in Appendix 2 to this Schedule G;

(ii) assume any obligations under the Landlord Permits, Licenses and Approvals (to the extent that they are assumable) with respect to the Lands that are the Tenant's responsibility pursuant to the terms of the Lease and the Master Development Agreement. The Landlord shall: (A) provide the Tenant with relevant information and copies of notices received under the applicable the Landlord Permits, Licenses and Approvals; and (B) if required, execute any documents under the applicable the Landlord Permits, Licenses and Approvals, which Applicable Law dictates that only the Landlord can execute, provided that the Landlord shall receive an indemnity as contemplated in Section 4(l)(ii)B below; and

(iii) comply with all Permits, Licenses and Approvals in accordance with their terms.

(i) For greater certainty, the Tenant shall be responsible for all costs of satisfying the Tenant's obligations under this Schedule G associated with obtaining, maintaining and complying with the Permits, Licenses and Approvals, including but not limited to development charges, notwithstanding whether such Permits, Licenses and Approvals are Landlord Permits, Licenses and Approvals or Tenant Permits, Licenses and Approvals.

(j) Without limiting the Tenant's obligations in Section 4(h)(i) above, the Tenant shall obtain Approval from the Landlord of any application (which approval requirement will not, for greater certainty, apply to any design, plans, drawings and specifications contained

within such applications to the extent the same do not require the Approval from the Landlord or have already been Approved by the Landlord) and applicable Detailed Design Materials prior to making any submissions to the City or any other Governmental Authority (including resubmission of materials or modified submissions throughout the Detailed Design Phase or in respect to comments from the City or others) for any of the following in respect of the Project:(i) any application for a building permit or a material amendment to a building permit;

(i) any permits and approvals related to lake fill, land creation, in-water works and/or shoreline works, including but not limited to dewatering, shoreline restoration, habitat creation;

(ii) site plan approval applications and any material revisions thereto;

(iii) installing any exterior signage or making application for a variance to the City's sign by-laws; and

(iv) any permits or approvals under or pursuant to the City's sign by-law,

and the Landlord shall not be entitled to unreasonably withhold or delay the Approval of the Landlord in respect of the design, plans, drawings and/or specifications forming part of such submissions, provided that, it is confirmed that, it shall be unreasonable for the Landlord to withhold its approval in connection with design, plans, drawings and/or specifications for the Project that have been approved or do not require approval.

(k) The Landlord will undertake (and the Tenant acknowledges that the Landlord will undertake) any governmental consultation processes as may be deemed necessary or desirable by the Landlord in connection with the proposed Project and the Lease, including, without limitation, consultation with one or more Indigenous communities that may have existing or asserted rights with respect to the Lands.

(l) The Landlord acknowledges that in order to develop and construct the Project, the Tenant will need to obtain the Tenant Permits, Licenses and Approvals. The Landlord agrees that from and after the Lease Date:

(i) The Landlord will use commercially reasonable efforts to cooperate with the Tenant in respect of the Tenant's applications for Tenant Permits, Licenses and Approvals, at no cost to the Landlord. Any out-of-pocket costs reasonably incurred by the Landlord in connection with this Section 4(l)(i) shall be promptly reimbursed by the Tenant upon Tenant's receipt of an invoice therefor.

(ii) if necessary for the development, construction and/or operation of the Project and upon the request by the Tenant, the Landlord will use commercially reasonable efforts to, at no cost to the Landlord, enter into agreements and grants such transfers (including dedications of land), easements and other rights as may be required by any Governmental Authority or any provider of such utility, service or improvements, and secure any necessary partial discharges or postponements of any encumbrances, where the Landlord as owner of the fee simple interest in the Lands, is required to do, provided that:

A. the Tenant shall reimburse the Landlord for its third party costs to review such agreements, transfers, easements, discharges, postponements, or other document required pursuant to this Section 4(l)(ii), including any third party legal costs. Any costs incurred by the Landlord in connection with this Section 4(l)(ii) shall be promptly reimbursed by the Tenant upon Tenant's receipt of an invoice therefor;

B. the form of such agreements shall be satisfactory to the Landlord, acting reasonably (it being unreasonable for the Landlord not to be satisfied with a form where the Landlord is not responsible or is indemnified by the Tenant for any obligations);

C. the Tenant acknowledges that the Tenant is responsible for all and all costs, obligations, covenants or other liabilities any agreement or other document required pursuant to this Section 4(l)(ii), and the Tenant indemnifies and holds the Landlord harmless as against the same;

D. the Tenant will not object to the Landlord excluding from any agreement (to the extent acceptable to the counterparty) or other document required pursuant to this Section 4(l)(ii), any obligation on the part of the Landlord to pay or otherwise be responsible for contingent liabilities or interest on overdue payments;

E. to the extent reasonably required in order to review any of the foregoing agreements, transfers, easements, discharges, postponements, or other document the Tenant shall provide to the Landlord copies of all as-built drawings, references plans, or any additional documentation, in the Tenant's possession or control; and

F. the Tenant shall perform at its sole cost and expense all obligations to be performed under such agreement (other than those obligations that are the responsibility of the Landlord pursuant to the Lease, the Master Development Agreement or any other Material Ancillary Agreement).

(iii) With respect to any agreements referred to in Section 4(l)(ii) above, in the event that the Landlord, acting reasonably and in good faith, objects to the location thereof, the Landlord and the Tenant will use commercially reasonable efforts to work, in good faith, with the Governmental Authority or any provider of such utility in order to agree upon an alternate location which functions as effectively as the originally proposed location.

(iv) The Landlord shall use commercially reasonable efforts to cooperate with and support the efforts of the Tenant in connection with the design, construction, alteration and maintenance of the Project at no cost to the Landlord (other than those costs that are the responsibility of the Landlord pursuant to the specific terms of the Lease, the Master Development Agreement or any Material Ancillary Agreement).

(v) The Landlord shall cooperate with the Tenant's pursuit of any benefits and accommodations that may reasonably be available in connection with the Project at no cost to the Landlord other than those that the Tenant agrees to reimburse. Any costs incurred by the Landlord in connection with this Section 4(l)(v) that the Tenant has agreed to reimburse shall be promptly reimbursed by the Tenant upon Tenant's receipt of an invoice therefor.

(m) The Landlord shall obtain the Zoning Approval, Heritage Designations and EA Approval by no later than the applicable Landlord Initial Obligation Deadline.

C. LANDLORD'S SITE READINESS ACTIVITIES

5. Landlord's Site Readiness Activities

(a) The Landlord shall, at the Landlord's sole cost and expense:

(i) on or before the Permanent Utility Services Deadline, provide and/or install adequate infrastructure to those points of the boundaries of the Lands set out in Appendix 6 for Utility Services adequate for the construction and operation of the Project in accordance with the following:

A. Water:

a) Peak: 25 L/s

b) Fire: 317 L/s

B. Wastewater:

a) Max Day: 2.0 MLd

b) Peak: 25 L/s

C. Electrical: 5 MVA

D. Telecom: One (1) service provider, with redundancy

E. Gas: 41 MBTU (with a potential upgrade to 51 MBTU)

(ii) on or before the Demolition Deadline, as permitted by the Heritage Determinations in effect as of the Regime Change Date, demolish all Improvements (including any fixtures and equipment affixed to the Lands) on the Lands (including Below Grade Improvements) to the extent that is reasonably necessary to allow for the construction and operation of the Project, as agreed between the Parties, acting reasonably; and

(iii) on or before the Final Environmental Deadline (as defined below), undertake all soil remediation on the Lands required by Environmental Laws to prepare for the development and operation of the Project for its contemplated use and purpose, and, to the extent required by

Environmental Laws, file an RSC for any applicable portion of the Lands in Ontario's Environmental Site Registry,

(collectively, the "**Landlord's Site Readiness Activities**").

(b) For all purposes of the Lease and the Master Development Agreement:

(i) "**Demolition Deadline**" means, subject to Section 25.9 of the Lease, April 30, 2026.

(ii) "**Final Environmental Deadline**" means, subject to Section 25.9 of the Lease, April 30, 2025.

(iii) "**Initial Environmental Deadline**" means, subject to Section 25.9 of the Lease, December 31, 2023.

(iv) "**Permanent Utility Services Deadline**" means the date which is one hundred eighty (180) days prior to the anticipated Completion Date.

(v) "**Initial Environmental Obligations**" means: (i) to the extent required by Environmental Law, file an RSC for those portions of the Lands that are located on the west island and the mainland owned by the Province and, if applicable, provide to the Tenant the RMMs and CPUs for such lands; and (ii) obtain and provide to the Tenant the draft RMMs (the "**Draft RMMs**"), if any, for the City Lands.

(vi) "**Interim Utility Services**" means the temporary site servicing for the mainland and Province-owned lands on the west island, in all cases sufficient for the Tenant to commence construction of the Project and acceptable to the Parties, acting reasonably.

(vii) "**Interim Utility Services Deadline**" means, subject to Section 25.9, December 31, 2023.

(viii) "**Below Grade Improvements**" means those improvements existing below grade which include: (i) servicing infrastructure, utilities and associated conduits, (ii) concrete footings and foundations, intact concrete slabs and pads, buried sub walls, and (iii) amusement ride materials, and in each case, the removal of which is necessary to construct the Project. For greater certainty, Below Grade Improvements shall not include: soil, natural vegetation and roots, land fill (including lake fill comprised of remnant construction debris, concrete, rebar, metal or other debris contained in lake fill from the original construction of Ontario Place land base), tierods or reinforced concrete associated with existing shoreline protection measures, or any other material not explicitly set out herein.

(c) Without derogating from the Landlord's obligations to complete the Landlord's Site Readiness Activities in accordance with Section 5(a) above, the Landlord shall, at the Landlord's sole cost and expense:

(i) provide and/or install the Interim Utility Services by the Interim Utility Services Deadline, and thereafter continue to provide and install such further adequate site servicing infrastructure sufficient for the Tenant to proceed with and progress the construction of the Project without being delayed in any of its Construction Activities by the absence of adequate site servicing infrastructure; and

(ii) complete the Initial Environmental Obligations by the Initial Environmental Deadline.

(d) The Tenant acknowledges that: (i) the Landlord's Site Readiness Activities shall be limited to the Lands only and shall not be extended to any portion of the Other Lands except in respect of the infrastructure referred to in Section 5(a)(i) above; and (ii) references in the description of the Landlord's Site Readiness Activities to the development and operation of the Project and its contemplated use and purpose shall be limited to the Project in accordance with the Schematic Design Materials attached hereto as Appendix 1, as such Schematic Design Materials are updated from time to time in accordance with the Lease and this Schedule G prior to December 31, 2024.

(e) Notwithstanding the foregoing, in the event that any of the Landlord's Site Readiness Activities are modified to accommodate an increase of more than ten (10%) percent in the massing of the Project, or, after December 31, 2024, an increase in the massing of the Project by any amount, any incremental cost directly resulting from such modification shall be at the sole cost of the Tenant.

(f) In the event that the Utilities Services specifications set out in Section 5(a)(i) are determined to be in excess of what is required by the Tenant (including a reasonable contingency) for the operation of the Project, the Tenant shall reimburse the Landlord for the cost of the excess Utilities Services, which reimbursement shall be paid within thirty (30) days of such determination.

(g) In respect of the specific components of the Landlord's Site Readiness Activities that relate to the Lands, the Landlord shall provide to the Tenant copies of all applications for and reports in respect of environmental approvals and permits submitted to any Governmental Authority.

(h) Upon completion of the applicable component of the Landlord's Site Readiness Activities, the Landlord shall deliver the following to the Tenant:

(i) in the case of the installation of infrastructure for Utility Services, copies of the as-built drawings;

(ii) in the case of the demolition to the prescribed specifications as agreed to in accordance with Section 5(a)(ii), a certificate from the Landlord that such demolition has been completed to the agreed specifications; and

(iii) in respect of the environmental remediation required pursuant to Section 5(a)(ii), a report (including Phase I, and, if applicable, Phase II environmental site assessment(s) and Risk Assessment reports) from a qualified third party consultant addressed to the Tenant and its lender(s)

(or with a reliance letter addressed to the Tenant and its lender(s)) reflecting the completion of such matters,

and the applicable component of the Landlord's Site Readiness Activities shall not be considered to have been completed without such delivery.

(i) Upon completion of the Initial Landlord's Site Readiness Activities, the Landlord shall deliver the following to the Tenant:

(i) in the case of the installation of the provision and/or installation of the Interim Utility Services, documentation evidencing completion (including details and specifications) acceptable to the Tenant, acting reasonably; and

(ii) in respect of the Initial Environmental Obligations, a report (including Phase I, and, if applicable, Phase II environmental site assessment(s) and Risk Assessment reports) from a qualified third party consultant addressed to the Tenant and its lender(s) (or with a reliance letter addressed to the Tenant and its lender(s)) reflecting the completion of such matters,

and the applicable component of the Initial Landlord's Site Readiness Activities shall not be considered to have been completed without such delivery.

6. Post Regime Change Landlord Site Readiness Activities and Concurrent Construction Activities

(a) The Parties acknowledge and agree that the Landlord's Site Readiness Activities other than the Initial Landlord's Site Readiness Activities will be undertaken after the Regime Change Date (such remaining Landlord's Site Readiness Activities being the "**Post Regime Change Landlord Site Readiness Activities**") It is confirmed that the Post Regime Change Landlord Site Readiness Activities: (i) are a subset of the Post-Handover Landlord Site Readiness Activities; and (ii) include the Concurrent Construction Activities, which may be undertaken concurrently with the Tenant's Construction Activities. The Concurrent Construction Activities include certain demolition activities, including the removal of Below Grade Improvements.

(b) The Parties may discuss whether any of the Concurrent Construction Activities should be carried out and completed by the Tenant on behalf of the Landlord. Except to the extent that the Parties, each acting in its Sole Discretion, enter into an agreement for the Tenant to carry out and complete the Concurrent Construction Activities or any portion thereof on behalf of the Landlord (a "**Therme-Managed Concurrent Construction Activities Agreement**"), the Landlord shall carry out and complete the Concurrent Construction Activities on its own behalf. Any Concurrent Construction Activities that are agreed between the Parties to be carried out by the Tenant on behalf of the Landlord as aforesaid are referred to as "Therme-Managed Concurrent Construction Activities". Except to the extent expressly provided in a Therme-Managed Concurrent Construction Activities Agreement, the Landlord shall carry out and complete each element of the Therme-Managed Concurrent Construction Activities by the applicable deadline therefor set out in Section 5(a), in each case at its sole cost, and shall be fully responsible for any failure to do so.

(c) On or before the Regime Change Date, the Parties shall enter into a Coordination and Interface Agreement in respect of such Concurrent Construction Activities that are not Therme Managed Concurrent Construction Activities. "**Coordination and Interface Agreement**" means, in the case of any Concurrent Construction Activities, an agreement that sets out the arrangements between the Parties with respect to the coordination and interface between the carrying out such Concurrent Construction Activities and the Construction Activities, in a form: (i) to be agreed between the Parties on or before the earlier of: (A) the ninetieth (90th) day prior to the anticipated Regime Change Date; and (B) the ninetieth (90th) day following notice from either Party to the other Party that the notifying Party elects for the applicable Concurrent Construction Activities to be carried out and completed by the Landlord directly, with each Party acting reasonably and in good faith with respect to such form; or (ii) if not agreed by the Parties by the deadline set out in (i), determined pursuant to the Dispute Resolution Procedure based on customary terms having regard to the provisions of the Lease, the Master Development Agreement and all other Material Ancillary Agreements.

(d) Each Therme-Managed Concurrent Construction Activities Agreement (if any) and each Coordination and Interface Agreement (if any) shall constitute a Material Ancillary Agreement. Any Therme-Managed Concurrent Construction Activities Agreement and Coordination and Interface Agreement shall set out the responsibilities, risks and liabilities of each of the Parties.

7. Incremental Environmental Costs

(a) Notwithstanding anything to the contrary contained in the Lease, the Master Development Agreement or any other Material Ancillary Agreement, and without derogating from the provisions of Article 8 of the Lease, the Landlord shall, throughout the Term, be responsible for and pay any Incremental Environmental Costs.

(b) The Tenant shall, throughout the Term, be entitled to reimbursement by the Landlord for all Incremental Environmental Costs incurred by the Tenant (including, for greater certainty, any such costs incurred by the Tenant in carrying out its obligations with respect to the construction of the Project and/or the maintenance and repair of the Project, except to the extent that such costs are incurred due to the negligence of the Tenant in carrying out such obligations).

(c) In connection with any request by the Tenant for payment or reimbursement of any Incremental Environmental Costs, the Landlord shall upon request of the Tenant pay the Incremental Environmental Costs. The Tenant shall provide to the Landlord copies of all invoices (including a breakdown of the amounts thereof that constitute Incremental Environmental Costs) and other documentation or materials reasonably required to substantiate that the underlying costs constitute Incremental Environmental Costs. The Tenant shall cooperate to provide any additional information or documentation in the possession or control of the Tenant that is reasonably requested by the Landlord in order to substantiate that the underlying costs constitute Incremental Environmental Costs

(d) In connection with any bona fide request for payment or reimbursement pursuant to Section 7(c), the Landlord shall:

(i) in the case of direct payment, pay such Incremental Environmental Costs when due and payable (but on no less than 30 days' prior request by the Tenant); or

(ii) in the case of a request for reimbursement, reimburse the Tenant for such Incremental Environmental Costs within 30 days of a request therefor, failing which the Tenant shall be entitled to set off the amount owing by the Landlord from any obligation to pay Rent,

provided for greater certainty that the provisions of Section 16.12 of the Lease shall apply in respect of any dispute with regards to any such payment or reimbursement.

D. FRONT END INSTALLATIONS AND ENHANCED SERVICES

8. Front End Installations and Enhanced Services

(a) The Landlord agrees that if, as part of the development of the Lands, a Governmental Authority requires the Tenant to install improvements, installations, services or other amenities which are not any of the Landlord's Site Readiness Activities (a "**Front End Installation**") for the benefit of the Lands and any part of the Other Lands, the Landlord agrees to use commercially reasonable efforts to facilitate payment from the relevant Adjacent Tenant, if applicable, to the Tenant of the cost of such Front End Installation, less the Tenant's share of such cost, at such time as the Adjacent Tenant proceeds with making use of such Front End Installation in or for any other part of the Other Lands. The Landlord shall make commercially reasonable efforts to facilitate a direct agreement between the Tenant and any such Adjacent Tenant(s) for such purpose.

(b) Without derogating from the Landlord's obligations described in Section 5 of this Schedule G, the Tenant may use and install in, under and through the Lands such additional services, utilities and other related improvements as may be useful or desirable in order to permit the Tenant to develop, construct, use and operate the Project, with the consent of the Landlord, acting reasonably, and at the Tenant's expense. For certainty, to the extent that the additional services, utilities and other related improvements (including locations) have otherwise been agreed to or permitted through a process set out in the Lease or the Master Development Agreement, no further consent shall be required therefor.

(c) The Tenant agrees that, to the extent that the Landlord wishes to have the Tenant increase the size or capacity of any improvements, installations, services or other amenities required as a Front End Installation by a Governmental Authority beyond the capacity or size specified by a Governmental Authority, the Tenant shall undertake such Front End Installation at the capacity or size requested by the Landlord (the "**Enhanced Services**"), provided that: (i) such request is made in writing within fifteen (15) days of the Landlord being advised of the proposed Front End Installation, (ii) the Governmental Authority approves of such Enhanced Services, and (iii) the Landlord pays for or otherwise makes arrangements for payment for the full cost (including design, planning, delay, construction and other additional costs) of such Enhanced Services beyond the costs of the Front End Installations required and specified by the Governmental Authority, which costs are to be agreed upon by the Landlord and the Tenant prior to commencement of work relating to the Enhanced Services (failing which the Tenant shall not be required to undertake such Enhanced Services), and (iv) such Enhanced

Services shall be at no cost to the Tenant (including no obligation to contribute its proportionate share of the incremental capital or operating costs for the Enhanced Services).

E. CONSTRUCTION

9. Construction

(a) The Tenant shall not commence construction of the Project until it has provided to the Landlord the following:

(i) evidence that the Tenant has obtained each of the Tenant's Permits, Licenses and Approvals required to commence construction of the Project;

(ii) evidence that the Tenant has obtained, or caused to be obtained, insurance in accordance to the terms of the Lease;

(iii) the Construction Plan; and

(iv) delivery of the Performance Security.

The Tenant shall perform and complete the development and construction of the Project, including the Therme Public Areas, the Therme Public Area Components, the Shoreline Components and Shoreline Repair, in accordance with: (i) the final Detailed Design Materials; (ii) all terms and conditions of the Master Development Agreement, the Lease, including any heritage requirements therein, and Material Ancillary Agreements; (v) Applicable Law; (vi) the Strategic Conservation Plan; (vii) all RMMs; and (vii) all Permits, Licenses and Approvals.

(b) Notwithstanding anything to the contrary contained in the Master Development Agreement or in the Lease, the Tenant shall not be required to commence Construction Activities (or activities related thereto) earlier than the date (the "**Triggers Completion Date**") that:

(i) the Landlord has completed the Landlord's Site Readiness Activities (save and except for those activities which are Therme-Managed Concurrent Construction Activities and the Landlord's Site Readiness Activities described in Section 5(a)(i) of this Schedule G that are not the provision and/or installation of the Interim Utility Services);

(ii) is 30 days after the Landlord has completed the Landlord's Site Readiness Activities set out in Section 5(a)(ii); and

(iii) the Landlord has completed all of the Landlord Initial Obligations.

(c) Notwithstanding anything to the contrary contained in the Master Development Agreement or in the Lease, the Tenant shall not be required to commence Construction Activities in respect of any portion of the Project on, or reasonably connected (from a construction efficiency perspective) to, any portion of the Lands for which an RSC is required to be filed by Environmental Law prior to such RSC being filed.

(d) Notwithstanding anything to the contrary contained in the Master Development Agreement or in the Lease, the Tenant shall not be required to commence Construction Activities in respect of any portion of the Project on, or reasonably connected (from a construction efficiency perspective) to, any portion of the Lands for which the Tenant has not been notified in writing that the RMMs and CPUs have been finalized (it being confirmed that if there will not be any RMMs and CPUs applicable to a portion of the Lands, the Landlord may deliver a notice in writing that the RMMs and CPUs in respect thereof have been finalized and determined to be none); provided that, without derogating from the foregoing, if the Tenant chooses to commence Construction Activities based on the Draft RMMs, the Landlord shall be responsible and indemnify the Tenant for all Claims suffered or incurred by the Tenant that arise as a result of any change to or difference in the RMMs from those reflected in the Draft RMMs, including, without limitation, any incremental costs incurred by the Tenant as a result of having proceeded with its Construction Activities relying on the accuracy and completeness of the Draft RMMs, provided that the Tenant has acted in good faith in doing so.

(e) Notwithstanding anything to the contrary contained in the Master Development Agreement or in the Lease, the Tenant shall not be required to commence Construction Activities (or activities related thereto) with respect to the Therme Public Areas, including the Therme Public Area Components, the Shoreline Components and the Shoreline Repair prior to the Completion of Construction.

10. Construction Plan

(a) By no later than the date that is nine (9) months prior to the Construction Commencement Date (as such date is estimated by the Tenant, acting reasonably), the Tenant shall prepare and submit to the Landlord a construction plan for the Construction Activities (as may be amended from time to time, the "**Construction Plan**"). The Construction Plan shall set out each Milestone for the Project, and support the completion of the various phases throughout the development and construction of the Project.

(b) The Construction Plan shall, at a minimum, include:

(i) all Milestones;

(ii) the target dates for receiving Tenant Permits, Licenses and Approvals;

(iii) all construction activities, including any known Therme Managed Concurrent Construction Activities, subcontractor work, both on and off the Lands;

(iv) a target timeline for the Completion of Construction of the Project, a target timeline for Completion of Construction of each Therme Public Area Component, Shoreline Component and Shoreline Repair, and the Tenant's intended plan for staging the various phases of development and construction;

(v) a detailed plan for all activities leading up to Completion of Construction of the Project, including, but not limited to, as appropriate, the rectification of minor deficiencies; and

(vi) any additional materials reasonably requested by the Landlord and agreed to by the Tenant.

(c) Where the Tenant shall endeavor to provide the Landlord with reasonable updates of any changes to the critical path or has incurred significant delays in respect of any Milestones in the Construction Plan, but shall not be in default for any failure to do so.

(d) During the Construction Period, the Tenant shall use commercially reasonable efforts to Complete each Milestone in accordance with the Construction Plan, which will be confirmed in writing by a Compliance Consultant, who shall be retained by the Landlord at the Tenant's sole cost.

(e) Notwithstanding anything to the contrary contained in this Section 10(e) or in any other provision of the Lease and/or Master Development Agreement, the Parties acknowledge and agree that the Construction Plan and the Milestones referred to therein are for indicative purposes only and, accordingly, the Tenant shall not have any liability (nor be in default) as a resulting of failing to Complete any Milestone by the Target Completion Date set out therefor in the Construction Plan. For greater certainty, in no event shall the Landlord be entitled to terminate the Lease or the Master Development Agreement (nor shall the Landlord be entitled to any other remedies) in connection with any failure to Complete any Milestone by the targeted date therefor set out in the Construction Plan except as specifically set out in Section 16.2(e) of the Lease.

11. Tenant's Obligation to Construct

(a) The Tenant shall use commercially reasonable efforts to obtain the First Building Permit within a reasonable period and within six (6) months of the Commencement Date.

(b) The Tenant shall commence Construction Activities in good faith upon the Lands by the date (the "**Above-Grade Construction Activities Deadline**") that is the later of: (i) the Above-Grade Construction Activities Outside Date; and (ii) the Triggers Completion Date. The sole rights and remedies available to the Landlord for the failure by the Tenant to commence Construction Activities in good faith upon the Lands by the Above-Grade Construction Activities Deadline shall be set out in Section 16.2(e) of the Lease.

(c) The Tenant shall Complete the Construction of the Project by the date (the "**Target Completion Date**") which is the later of: (i) twenty-four (24) months following the Above-Grade Construction Activities Deadline; and (ii) one hundred eighty (180) days following the completion of the last of the Landlord's Site Readiness Activities. The Tenant's obligations with respect to the Completion of Construction of the Project and the sole rights and remedies available to the Landlord for the failure by the Tenant to achieve same, shall be as set out in Section 16.2(e) of the Lease.

12. Shared Use during Construction

(a) The Tenant acknowledges that coordination may be required with the Adjacent Tenants with respect to construction on the Lands and on the Other Lands, including without limitation with respect to staging and access. The Tenant agrees that any such construction shall be conducted in a manner that minimizes interference with the Adjacent Tenants, and their respective use and operation of their respective lands. The Tenant further acknowledges that construction activities on the Other Lands may

commence throughout the Term of the Lease, and the Landlord is entitled to limit access to certain portions of the Ontario Place without any compensation to the Tenant to facilitate construction activities, provided such limitations shall be done in a manner that minimizes interference (including any physical interference, noise disruptions and scenic interference), using commercially reasonable efforts, with the Tenant's use and operation.

(b) The Landlord shall ensure that each Adjacent Tenant is bound by coordination provisions corresponding to those agreed to with the Tenant.

(c) The Tenant may use and install in, under and through the Lands such additional services, Utility Services and other related improvements as may be useful or desirable in order to permit the Tenant to develop, construct, use and operate the Project, with the consent of the Landlord, acting reasonably, and at the Tenant's expense.

13. Therme Public Areas Construction

(a) The Tenant shall be solely responsible to develop and construct the Therme Public Areas, including the Therme Public Area Components, Shoreline Components and Shoreline Repair, in accordance with the design and specifications set out in the final Detailed Design Materials, provided that the Landlord has, , (i) completed the Landlord's Site Readiness Activities, and (ii) obtained the Landlord Permits, Licenses and Approvals (including, for greater certainty, any part of the EA Approvals required in connection with the Therme Public Areas, including the Therme Public Area Components, Shoreline Components and/or Shoreline Repair).

(b) The Tenant agrees that construction of the Shoreline Components will be required to accommodate the Therme Public Areas and will be completed in accordance with the Detailed Design Materials. The Parties agree that, except as otherwise contemplated in the Lease and/or the Master Development Agreement, the Shoreline Components, shall be at the cost of the Tenant.

(c) The Therme Public Areas, including the Therme Public Area Components, the Shoreline Components and Shoreline Repair, by no later than twenty-four (24) months following the Completion Date (the "**Therme Public Areas Deadline**").

(d) Except for the Landlord's Contribution, the Incremental Environmental Costs, the Costs Recoverable by Province, the Costs Non-Recoverable by Province and any other costs that are the responsibility of the Landlord under this Lease, the Master Development Agreement and the other Material Ancillary Agreements, the Tenant shall be solely responsible for the costs of designing, constructing and maintaining Therme Public Areas and Shoreline Components. The Landlord Contribution shall be allocated as follows: (a) fifteen million dollars ($15,000,000) shall be contributed to those eligible costs which are part of the Shoreline Repair and protection, and (b) ten million dollars ($10,000,000) shall be contributed to those eligible costs for parts of the Therme Public Area Components which are specifically related to the Ontario Gardens and wetlands, canoe and kayak pier and related amenities, swimming piers, waterside multi-use pathways/William G Davis Trail extension connecting to the Martin Goodman Trail, site lighting, furnishing and furniture, and any hard or soft landscaping cost on the West Island (each an "**Eligible Component**" and, collectively, the "**Eligible Components**").

(e) In the event that the Tenant is unable to complete the Therme Public Areas, including any Therme Public Area Components, Shoreline Components or Shoreline Repair, by the Therme Public Areas Deadline, or if the Tenant abandons Completion of any Therme Public Area Components, Shoreline Components or Shoreline Repair because the actual cost to Complete such Therme Public Area Components, Shoreline Components or Shoreline Repair exceed the estimated cost to Complete same, the Landlord shall be entitled to, at the Landlord's discretion, complete such work and recover from the Tenant its costs plus an additional fifteen (15%) percent of such costs as Additional Rent. The Tenant shall pay such costs to the Landlord within 30 days of request for same, provided such request shall include all applicable invoices in respect of such costs, together with such supporting documentation as the Tenant may reasonably require. The supporting documentation shall include, but is not be limited to: (i) a letter from the Landlord's contractor or engineer, as applicable, to confirm that the Completion of such component is in accordance to the final Detailed Design Materials; and (ii) an actual cost breakdown.

(f) Notwithstanding anything to the contrary contained in this 14 or otherwise, the Tenant shall not be required to, nor have any liability or be in default under, for any failure to develop and construct any Therme Public Area Components, Shoreline Components and Shoreline Repair that results from the failure of the Tenant to obtain requisite approvals from Governmental Authorities in respect of such development or construction, provided that the Tenant makes a good faith effort to pursue such approvals and makes all reasonable attempts to obtain the same.

(g) The Parties will review and agree upon the target costs and contributions on the basis of the updated information and plans for the Therme Public Area Components, Shoreline Components and Shoreline Repair during the Detailed Design Phase. Notwithstanding anything to the contrary, the Landlord Contribution shall be the fixed amounts set out in Section 13(d) above (but subject to Section 13(h) below), and the Tenant shall be solely responsible to fund any and all costs to Complete the Therme Public Area Components, Shoreline Components and Shoreline Repair.

(h) The Landlord acknowledges and agrees that the Landlord Contribution will be paid by reimbursing the Tenant for the cost of developing and constructing the Eligible Components described in Section 13(d) above in accordance with Section 13(j) below, provided that, in the event the cost to complete the Eligible Components is less than the Landlord Contribution, the Landlord shall only be required to reimburse the Tenant for the actual cost to complete the Eligible Components and no further contribution shall be made by the Landlord.

(i) For greater clarity, the Landlord shall provide the Landlord Contribution as the initial funding of the applicable Eligible Components. In the event that the cost to Complete the Eligible Components is less than the Landlord Contribution, the Landlord Contribution shall be limited to the actual eligible costs incurred, and in no event to exceed the amounts set out in Section 13(d) of this Schedule G.

(j) Payments on account of the Landlord Contribution will be paid by the Landlord to the Tenant (or as otherwise directed by the Tenant) within sixty (60) days of the Tenant delivering a written request therefor, together with evidence that the subject progress in respect of the Eligible Component has been completed. To ensure that the appropriate funding is within the Landlord's fiscal allocation at the appropriate time, the Tenant shall

provide the Landlord with written notice one (1) year in advance of any activity which will incur eligible costs and the target date for commencement of such Eligible Component. In addition to a written request for payment for the progress that has been completed in respect of such Eligible Component, the Tenant shall deliver all applicable invoices in respect of such progress for the Eligible Component to the Landlord, together with such supporting documentation as the Landlord may reasonably require. The supporting documentation to confirm that the subject work has been progressed shall include, but is not be limited to, a letter from the Tenant's Contractor or engineer, as applicable, (i) to confirm that progress has been made on such component is in accordance to the final Detailed Design Materials; and (ii) include an actual cost breakdown reflecting the eligible cost and the total cost estimated to Complete such Eligible Component.

(k) The Landlord shall review the invoice and supporting documentation submitted and (i) confirm that the submissions are adequate, (ii) request additional documentation, if required by the Landlord, and/or (iii) request a meeting to review invoices and supporting documentation within forty-five (45) Business Days after receipt of the Tenant's request for reimbursement.

(i) For greater certainty, the Landlord shall not be obligated to make any payment to the Tenant unless:

(ii) the cost referenced in such invoices and supporting documentation was incurred in respect of the completion of the applicable progress for the Eligible Component and are eligible costs;

(iii) the applicable progress for the Eligible Component has been completed in accordance with the final Detailed Design Materials; and

(iv) any applicable lien holdback period has expired.

(l) The Landlord acknowledges and agrees that the Landlord Contribution is in addition to any costs incurred by the Landlord in connection with the Landlord's Site Readiness Activities and obtaining the Landlord's Permits, Licenses and Approvals, in each case in respect of the Therme Public Areas. The Landlord shall also be responsible for any costs or losses incurred by the Tenant as a result of any failure to pay (or unreasonable delay in payment of) the Landlord Contribution or any portion thereof.

(m) For greater certainty, the rights and remedies of the Landlord in respect of the Tenant's failure to Complete the Therme Public Areas, including the Therme Public Area Components, Shoreline Components and Shoreline Repair shall not include termination of the Lease or the Master Development Agreement, it being confirmed that no such failure shall constitute a Material Tenant Event of Default.

(n) To the extent that an EA Approval is required (or is determined to have been required) for the Therme Public Areas (including the Therme Public Area Components, the Shoreline Components and the Shoreline Repair), the Landlord shall be responsible to obtain such EA Approval at its sole cost, notwithstanding that the Landlord had satisfied the Landlord Initial Obligations.

(o) Notwithstanding anything to the contrary contained in the Lease, the Master Development Agreement or any other Material Ancillary Agreement, without limiting the

generality of the provisions of Section 25.9, the Tenant shall not be in breach of its obligations (or penalized in any manner) if, to the extent and at such times, that it is not reasonably possible to carry out the development and construction of the Therme Public Areas (including the Therme Public Area Components, the Shoreline Components and the Shoreline Repair) in accordance with the existing Schematic Design Materials as a result of: (i) higher or lower lake levels; and/or (ii) the Landlord not having obtained an EA Approval required in connection therewith, provided that the Tenant shall carry out such obligations when reasonably possible.

14. Contractors

(a) The Tenant shall appoint Contractor(s) for the purposes of the development and construction of the Project. Each agreement appointing a Contractor shall include the terms and conditions set out in Section 4.9 of the Lease.

(b) The Tenant shall enter into construction agreements with each Contractor and require the Contractor to complete its applicable portion of the Project in accordance with the Standard.

(c) The Landlord shall have the right to approve the Tenant's Contractors (but not, for greater certainty, any subcontractors), acting reasonably, to ensure each such Contractor shall be qualified to practice in Ontario (to the extent it is doing so) and in accordance with appropriate industry standards, and that such Contractor does not constitute a Restricted Person pursuant to clause (f) of the definition thereof. For greater certainty, the approval of the Landlord shall not be required for any subcontractors of the Tenant.

(d) In the event the Tenant enters into any Contract in connection with the development and construction of any Therme Public Area Component or Shoreline Repair that will be paid in whole or in part by the Landlord Contribution, the Landlord's right of approval referred to in Section 13(c) above shall also be to ensure that such Contractor is neither the subject of a criminal proceeding nor in any active litigation with the Landlord, in each case for fraud against the Landlord (or an allegation or accusation thereof).

(e) The Landlord's right to approve the Tenant's Contractor(s) shall be solely for the reasons set out in Section 13(c) and, where applicable, Section 13(d) and it shall be unreasonable for the Landlord to withhold or delay its approval of any Contractor on any basis other than those described in such Section(s).

F. FORCE MAJEURE, LANDLORD DELAY AND TENANT EVENTS OF DEFAULT

15. Force Majeure and Delays caused by other Party

For greater certainty, the provisions of Section 25.9 of the Lease apply to the provisions of this Schedule G and the deadlines set out herein.

APPENDIX 1

APPROVED SCHEMATIC DESIGN MATERIALS

The design, plans, drawings, specifications and/or other materials provided to Infrastructure Ontario on February 4, 2022 (and as subsequently supplemented on April 25, 2022) by or on behalf of the Tenant for or in respect of each of the following:

A. Updated Design Statement:

- Updated description of concept, objectives and site organization.
- Identification of specific property requirements (including easements and/or rights of way, as appropriate).
- Summary of proposed floor areas, broken up into commercial uses.
- Design excellence targets including relevant LEED and/or Toronto Green Standard scorecards.
- Approach to servicing and utilities.
- Construction Plan, complete with narrative description of phasing, requirements for staging/lay-down areas, temporary closures and access.
- Functional program complete with description of major programmatic areas (note: updated pavilion information sent via email to be reflected in drawing/stats table).
- Approach to site circulation, servicing, loading, parking and access (by all modes).

B. Schematic architectural plans, including:

- Annotated site plan renderings including property requirements (reflecting easements and/or rights of way, as appropriate) and public areas;
- Context Plan showing relationship to full Ontario Place site;
- Floor plans
- Building elevations
- Building sections

C. Renderings:

- Aerial perspective from the four cardinal directions that indicate massing and convey materiality;

APPENDIX 2

PLAA TABLE – PERMITS, LICENSES AND APPROVALS

(see attached)

APPENDIX 2 – THERME GROUP

PERMITS, LICENCES, APPROVALS AND AGREEMENTS ("PLAA")

LANDLORD AND TENANT PLAA RESPONSIBILITY TABLE

Note 1: Where both Landlord and Tenant are identified as having the same responsibility, please refer to the "Comment" column in the following Responsibility Table for an explanation.

Note 2: The following Responsibility Table is for the purpose of the performance of the Permits Licences and Approvals with respect to the Works unless otherwise noted, all subject to and in accordance with the terms of the Lease.

Note 3: The following Responsibility Table is subject to the applicable requirements in respect to the Permits Licences and Approvals. The Tenant is responsible for satisfying itself with respect to compliance with the foregoing requirements and any changes thereto.

Note: 4: Notwithstanding any other provision of this Appendix 2, Landlord will not indemnify or be liable for any matters in respect of Tenant obtaining any permits, licences, approvals or agreements as required for the Works, with respect to the City of Toronto or any third party, thus Tenant is required to execute any City documents and satisfy any and all such City obligations to obtain any necessary permits, licences, approvals and agreements for the Works, subject to and in accordance with the terms of the Lease.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
I OFFICIAL PLAN and ZONING BY-LAW						
	Preparation of materials to address City of Toronto submission requirements in support of applications for Official Plan Amendment and Zoning Approval (the "OPA/ZBA Application")	X	X		X	The materials to be filed with the City of Toronto in support of the Landlord's applications for Official Plan Amendment and Zoning Approval are set out in Schedule 1 to this PLAA Table (the "OPA/ZBA Materials"). The Tenant is responsible to provide the OPA/ZBA Materials as set out in Schedule 1 to the satisfaction of the Landlord and to revise, refine, update or amend any of its OPA/ZBA Materials in response to comments received from the City and its agencies, to the satisfaction of the Landlord.
	Official Plan Amendment	X				The Landlord is responsible to obtain the Official Plan Amendment to provide for the Landlord's Site Readiness Activities and the Works.

Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
Zoning Approval/Minor Variance	X		X	X	The Landlord is responsible to obtain the Zoning Approval to provide for the Landlord's Site Readiness Activities and the Works. For any future changes to the Works which are not in compliance with the Zoning Approval as obtained by the Landlord, the Tenant is to obtain a zoning by-law amendment or minor variance, or request an amendment to the MZO or Enhanced MZO as the case may be, in accordance with the terms of the Lease Conditional upon review and acceptance of the form and substance of an application for zoning by-law amendment or minor variance to be filed by the Tenant, which acceptance is in the sole discretion of the Landlord, the Landlord will sign the application as owner of the Lands, and if required, provide supporting information that is reasonably available. Conditions of a minor variance decision or City Council's approval of a zoning by-law amendment application that impact or may impact the Landlord must be to the satisfaction of Landlord in its sole discretion, including but not limited to, the requirement that the terms of any agreement or conditions must not be in conflict with any requirements of the Lease or any of the Works. There will be no appeal of the application for by-law amendment or minor variance decision by the Tenant without the consent of the Landlord in its sole discretion. The Tenant is responsible to satisfy any conditions of a minor variance decision or City Council's approval of a zoning by-law amendment application, except as otherwise agreed to by the Landlord.

Permits, Licences, Approvals and Agreements		Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Public Realm Master Plan	X			X	The Public Realm Master Plan will inform the City's review of the OPA/ZBA Application and future applications for Site Plan Approval. The Public Realm Master Plan will assist the City in its review of the Tenant's applications for Site Plan Approval. Landlord to prepare site-wide Public Realm Master Plan not including the Lands. Public realm design for the Lands to be prepared by the Tenant to the Landlord's satisfaction, and will be included as part of the Landlord's Public Realm Master Plan to be submitted with OPA/ZBA Application in accordance with Schedule 1. The Tenant is responsible to ensure the Works are completed in accordance with the approved Public Realm Master Plan.
	Landlord's Site Readiness Activities including Concurrent Construction Activities	X	X			The Landlord is obligated to complete the Landlord's Site Readiness Activities, including obtaining any required permits, licenses, approvals and agreements, subject to an agreement between the Landlord and the Tenant with respect to any Therme-Managed Concurrent Construction Activities to be completed by the Tenant in accordance with Schedule G of the Lease.
II CONSENT						
	Consent application for long-term lease					Consent not to be undertaken given Crown is explicitly exempt under Section 53(c) of the Planning Act, Landlord's Crown Right process is to be followed.
III HERITAGE APPROVALS						
	Ontario Heritage Act - Standards & Guidelines ("S&G")	X	X		X	Landlord to comply with S&G, including the preparation of the SCP. Tenant to implement the requirements of the SCP and requirements of the Landlord with respect to the Works satisfactory to the Landlord.
	Heritage Restrictions			X	X	If required by the Landlord, the Tenant shall enter into a heritage easement agreement or otherwise secure any other restriction in accordance with the requirements of the Lease.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Heritage Impact Assessment ("HIA") for Landlord's Site Readiness Activities and non-tenanted Other Lands and, if required, a Conservation Plan and adaptive re-use strategy	X	X		X	The Landlord is responsible for preparing an HIA for the Landlord Site Readiness Activities and for the non-tenanted Other Lands, as well as if required, a Conservation Plan. The Tenant is responsible to implement the requirements of the HIA with respect to the Works and if applicable the Conservation Plan, as may be required for the Works, all to the satisfaction of the Landlord.
	Heritage Impact Assessment for the Lands (comprised of the HIA First Submission and the HIA Second Submission and if required, a Conservation Plan and adaptive re-use strategy			X	X	Tenant will prepare a HIA on behalf of the Landlord, as well as if required, a Conservation Plan, to the Landlord's satisfaction, in accordance with and subject to the Lease, the SCP and Schedule 1. The Tenant is responsible to implement the requirements of: the HIA with respect to the Works and if applicable the Conservation Plan, as may be required for the Works, all to the satisfaction of the Landlord.
	Cultural Heritage Landscape Assessment for Landlord's Site Readiness Activities and non-tenanted Other Lands	X	X		X	The Landlord is responsible for preparing a Cultural Heritage Landscape Assessment for the Landlord's Site Readiness Activities and for the non-tenanted Other Lands. The Tenant is responsible to implement the requirements of Cultural Heritage Landscape Assessment with respect to the Works, to the satisfaction of the Landlord.
	Cultural Heritage Landscape Assessment for the Lands (comprised of the HIA First Submission and the HIA Second Submission) and if required, a Conservation Plan and adaptive re-use strategy			X	X	Tenant will prepare a Cultural Heritage Landscape Assessment on behalf of the Landlord, to the Landlord's satisfaction, in accordance with and subject to the Lease, the SCP and Schedule 1. The Tenant is responsible to implement the requirements of: the Cultural Heritage Landscape Assessment with respect to the Works, to the satisfaction of the Landlord.
	Ontario Heritage Act Approvals/Permits	X			X	The Landlord is responsible to obtain all Ontario Heritage Act approvals and permits as may be required for the Works and the Tenant is to undertake the Works in accordance with such permits and approvals.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
IV	**SITE PLAN AND RELATED APPROVALS**					
	Site Plan Approval and Site Plan Agreement with respect to the Lands and the Works	X		X	X	Tenant to make an application for Site Plan Approval, obtain Notice of Approval Conditions ("NOAC") and final Site Plan Approval for the Works satisfactory to the Landlord. The Tenant is to perform all obligations set out in the NOAC and Site Plan Approval, satisfactory to the Landlord. The Landlord is responsible to sign applications for Site Plan Approval, and such other documentation required in the ordinary course, as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available. Tenant to finalize the form of the Site Plan Agreement, satisfactory to the Landlord. The Landlord and Tenant will both execute the Site Plan Agreement, where the Tenant will be responsible for all obligations required by the Site Plan Agreement, other than the Landlord's obligation to confirm ownership. Under the terms of the Lease, an Enhanced MZO may be made, in which case the Tenant is to undertake the Works in accordance with the Enhanced MZO, to the satisfaction of the Landlord, as set out above in line item 3, where the Lands are exempt from the application of Site Plan Control.
	Municipal Right-of-Way Encroachment or Streetscape Permissions	X		X	X	Tenant to apply for and obtain any encroachment permissions required for the Works. The Landlord is responsible to execute an Encroachment Agreement, and such other documentation required in the ordinary course, if required as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available. Any conditions of an Encroachment Agreement must be satisfactory to the Landlord acting reasonably.
	Compliance with requirements of Green Roof By-law	X		X	X	The Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Toronto Green Standards			X	X	The Tenant is to comply with the applicable minimum Toronto Green Standard requirements with respect to the Works.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Compliance with all other applicable by-laws.	X		X	X	The Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
V OTHER PERMITS, LICENCES, APPROVALS AND AGREEMENTS						
	Private utility and other agreements necessary for construction of private utilities.	X		X	X	Tenant to coordinate and obtain all necessary approvals and coordinate the installation of utilities with all private utilities. Landlord to approve all utility and service connections and locations to services and utilities upon being satisfied with same. Landlord's approval in this regard to be obtained prior to connection to private services, which approval shall not be unreasonably withheld. Tenant will be required to sign any necessary agreements.
	Permission for improvements to Utility Services, including water, wastewater, electrical, telecom and gas to provide for the Works in accordance with Schedule G of the Lease.	X	X	X	X	Landlord responsible for the Utility Services, in accordance with Schedule G of the Lease and Tenant responsible for Utility Services in accordance with Schedule G of the Lease. The Landlord will sign any necessary applications, to assist the Tenant with its responsibilities with respect to Utility Services, including any other documentation required in the ordinary course, if required as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available. Tenant to apply for and secure all necessary permissions and carry out such improvements. Tenant is required to obtain any approvals and implement Enhanced Services and or Front End Installations in accordance with Schedule G of the Lease satisfactory to the Landlord.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Municipal Infrastructure Agreement ("MIA") or any other required agreements to implement the Utility Services, Enhanced Services and or Front End Installation	X		X	X	The Tenant to obtain an MIA or any other required agreements. The Tenant is to perform all obligations set out in the MIA, any other required agreements and Site Plan Approval issued by the City with respect to the Lands. The Landlord is responsible to sign the MIA or any other required agreements, and such other documentation required in the ordinary course, as the owner of the Lands, upon being satisfied with same and provide, if required, supporting information that is reasonably available. Any conditions of the MIA or any other required agreements must be satisfactory to the Landlord acting reasonably.
	Road Occupancy Permits to permit construction-related use of public roads			X	X	Tenant to apply for and secure all necessary Road Occupancy Permits, including but not limited to road occupancy permit(s), temporary road closures and other construction-related uses of applicable streets.
	Offer to Connect (with Toronto Hydro) and Provision of Toronto Hydro Services	X		X	X	Subject to Schedule G of the Lease, Tenant is responsible for paying all fees related to the Offer to Connect, posting all securities required by Toronto Hydro, and executing any required agreements with Toronto Hydro. The Tenant shall, in addition, undertake all work to implement such services as required by Toronto Hydro in accordance with Toronto Hydro's standards and specifications in effect at the commencement of construction, with the exception of the Landlord's Site Readiness Activities. Landlord's only obligations are to execute any agreement, as owner, with Toronto Hydro if Toronto Hydro will not enter into such agreement with Tenant and subject to Landlord being satisfied with the form of such agreement.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Erosion and Sedimentation Control Permits	X		X	X	Tenant to apply for and obtain all required Erosion and Sedimentation Control Permits. As required, Tenant shall comply with the provisions of O. Reg. 166/06 and any other applicable legislation. If required, Tenant to prepare and file an application for permission to undertake development with the Toronto Region and Conservation Authority in accordance with O. Reg 166/06, prior to the construction, to the satisfaction of Toronto Region and Conservation Authority and the City of Toronto. Landlord to sign application, if required, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Grading Permits	X		X	X	Tenant to apply for and obtain all required Grading Permits. Landlord to sign application, if required, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Temporary Hoarding			X	X	Tenant is responsible for designing, installing and removing any temporary hoarding required to perform the Works.
	Permissions to Injure or Destroy City owned Trees - Chapter 813 (Trees), Article II (City trees) and Article III (Private trees), City of Toronto Municipal Code, as may be amended from time to time.	X		X	X	Tenant to obtain all permissions to injure/destroy trees from Urban Forestry if required for the Works, not including the Landlord's Site Readiness Activities. Landlord is responsible to sign applications as required, and such other documentation required in the ordinary course, as owner subject to Landlord being satisfied with the same in its sole discretion.
	Development Charges, Educational Development Charges and/or Parks Levy			X	X	
	All levies, fees, charges, letters of credit and costs associated with the required Permits, Licences, Approvals and Agreements.	X		X	X	Tenant to satisfy all requirements with respect to the payment of levies, fees, charges, letters of credit and costs. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	All necessary building permits, including demolition, shoring, excavation, hoarding, plumbing, HVAC and signage including the preparation and submission of all supporting materials required for any such permits	X	X	X	X	Tenant to obtain and perform all obligations set out in the various permits with respect to the Works. For greater certainty, the Landlord shall be responsible for obtaining any demolition permits associated with the Landlord's Site Readiness Activities. Landlord's obligation with respect to the Works is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Construction Staging/Phasing Plans			X	X	Any construction phasing that affects the operation of the Lands, the Adjacent Tenants, the Other Lands or Ontario Place must be satisfactory to the Landlord or as otherwise provided for in the Lease.
	Tie backs, crane swing permits/agreements			X	X	Save and except for construction licences required pursuant to Schedule B of the Lease, which are the Landlord's obligation.
	Municipal Address/Numbering Approvals			X	X	Subject to approval of the Landlord
	Building Identification Signage Approvals/Permits			X	X	Subject to approval of the Landlord
	LEED Certification			X	X	LEED Platinum requirements in accordance with Schedule G of the Lease.
VI FEDERAL AND PROVINCIAL ENVIRONMENTAL PERMITS AND APPROVALS						

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Ontario *Environmental Assessment Act* ("EAA")	X	X			The Landlord is undertaking a Category B Public Works Class EA for site servicing upgrades and a Category C Public Works Class EA for the non-tenanted Other Lands. It is the Landlord's obligation to complete any environmental assessments required in connection with the Landlord's Site Readiness Activities or, to the extent required in connection with the Therme Public Areas" Except as set out above, the Tenant shall undertake an environmental assessment if required by applicable law for the Works, to the satisfaction of the Landlord.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Record of Site Condition ("RSC") An RSC is being completed by the Landlord. Generally, a building permit cannot be issued until an RSC is filed (see section 168.3.1(c) of the Environmental Protection Act). However, section 12 of Regulation 153/04 allows a building permit to be issued for: (a) the removal of soil, rock or fill for the purpose of making an excavation; or (b) the erection of a retaining structure or other structure, (i) to support the sides of the excavation, (ii) that are erected to assist in the conduct of an investigation in relation to property, or (iii) for any other activity necessary for the purpose of filing a record of site condition.	X			X	An RSC is required under the *Environmental Protection Act* and Regulation 153/04 where a property use changes to a more sensitive use, such as, for example, from a commercial use to a residential use. The Landlord is completing a Phase 1 and Phase 2 report and will be obtaining an RSC based on a Risk Assessment. Tenant is responsible to implement any Risk Management measures as necessary to provide for the Works.
	Completion of an impact assessment under the *Impact Assessment Act* and *Physical Activities Regulations* – federal environmental assessment process	X		X	X	With respect to the Works the Tenant to complete any required assessment and obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Species at Risk Act ("SARA") permit	X	X	X	X	The Tenant will need to assess whether the Works will require an approval under SARA in respect of any regulated species not including any approvals required for the Landlord's Site Readiness Activities. With respect to the Works, the Tenant is to obtain all required approvals and permits and perform all obligations in accordance therewith, to the satisfaction of the Landlord. The Landlord's obligation is to sign applications, and such other documentation required in the ordinary course as may be required, as the owner, upon being satisfied with same, and to provide, if required, supporting information that is reasonably available. The Landlord is to obtain all required approvals and permits for the Landlord's Site Readiness Activities and to perform all obligations in accordance with such approvals and permits.
	Overall Benefit Permit or Notice of Activity – Ontario *Endangered Species Act, 2007*	X		X	X	The Tenant will need to assess whether the Works will require an approval in respect of any regulated species not including any approvals required for the Landlord's Site Readiness Activities . With respect to the Works, the Tenant is to obtain all required approvals and permits and perform all obligations in accordance therewith, to the satisfaction of the Landlord. The Landlord's obligation is to sign applications, and such other documentation required in the ordinary course as may be required, as the owner, upon being satisfied with same, and to provide, if required, supporting information that is reasonably available. The Landlord is to obtain all required approvals and permits for the Landlord's Site Readiness Activities and to perform all obligations in accordance with such approvals and permits.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Permit to engage in activities affecting species – migratory birds (*Migratory Birds Convention Act* and *Migratory Birds Regulation)*	X		X	X	The Tenant will need to assess whether the Works will require an approval in respect of any regulated species not including any approvals required for the Landlord's Site Readiness Activities. With respect to the Works, the Tenant is to obtain all required approvals and permits and perform all obligations in accordance therewith, to the satisfaction of the Landlord. The Landlord's obligation is to sign applications, and such other documentation required in the ordinary course as may be required, as the owner, upon being satisfied with same, and to provide, if required, supporting information that is reasonably available. The Landlord is to obtain all required approvals and permits for the Landlord's Site Readiness Activities and to perform all obligations in accordance with such approvals and permits.
	Permit under the *Fisheries Act*, Section 35(2) – approval for harmful alteration, disruption or destruction of fish habitat	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Aeronautical obstruction clearance form ("AOCF") pursuant to section 601.24, Standard 621 of the *Canadian Aviation Regulations* under the *Aeronautics Act*	X		X	X	With respect to the Works the Tenant to obtain all required approvals, clearances and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Navigation approval under the *Canadian Navigable Waters Act* (Transport Canada) – Lakefilling permit	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Land use clearance – TP 1247 E Aviation – Land use in the vicinity of aerodromes (Airport Zoning Regulations) (NAV CANADA)	X		X	X	With respect to the Works the Tenant to complete any required assessment and obtain all required clearances, approvals and permits, and perform all obligations in accordance with such clearances, approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Permit to take water – Section 34.1, *Ontario Water Resources Act*	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Work Permits on Crown Lands – *Public Lands Act;* O.Reg.239/13: *Activities on Public Lands and Shore Lands*	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Environmental Compliance Approval ("ECA") and/or Registration – Environmental Protection Act ("EPA"), section 20.2 and/or registration under Part II.2	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Confirmation of ECA – EPA section 20.2 – Waste Management System	X		X	X	Tenant to ensure that the party responsible for removal and disposal of all excavated materials (and any other wastes) has a valid ECA. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	ECA – EPA, section 20.2 – Sewage Works	X		X	X	With respect to the Works the Tenant to complete any required assessment and obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord Landlord's obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	Approval from the Toronto Port Authority under the *Port Authorities Operations Regulations* under the *Canada Marine Act*	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.
	Approval of the Toronto Region Conservation Authority under the Conservation Authorities Act and/or regulations	X		X	X	With respect to the Works the Tenant to obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

	Permits, Licences, Approvals and Agreements	Landlord Obligation to Obtain or Execute Identified by an X	Landlord Obligation to Perform Identified by an X	Tenant Obligation to Obtain or Execute identified by an X	Tenant Obligation to Perform identified by an X	Additional Comments/Status
	All other Permits, Licences, Approvals and Agreements with respect to the lake filling or island construction The Works include land filling or island construction.	X		X	X	As may be required, including but not limited to: • Environmental assessment under the Ontario *Environmental Assessment Act*; • Approval under section 35(2) of the federal *Fisheries Act* for the harmful alteration, disruption or destruction of fish habitat; • Approval from the Toronto Port Authority under the *Port Authorities Operations Regulations* under the *Canada Marine Act;* • Any other permits required for the lakefilling/construction of the islands, including any approvals under the federal *Species at Risk Act* or the provincial *Endangered Species Act, 2007*, the federal *Migratory Birds Convention Act*, and/or the provincial *Conservation Authorities Act*.
	All other Permits, Licences, Approvals and Agreements, including but not limited to environmental permits, licences, approvals and agreements.	X		X	X	Tenant to complete any required assessment and obtain all required approvals and permits, and perform all obligations in accordance with such approvals and permits, to the satisfaction of the Landlord. Landlord's only obligation is to sign applications, and such other documentation required in the ordinary course, as may be required as the owner, upon being satisfied with same and provide, if required, supporting information that is reasonably available.

Schedule 1

City of Toronto

Planning Application Checklist – Ontario Place

Official Plan and Zoning By-law Amendment Application (the "OPA/ZBA Application")

Preliminary OPA/ZBA Application Submission Requirements:

Note 1: The OPA/ZBA Materials set out in this Schedule 1 are to be provided as necessary to secure the Zoning Approval, subject to and in accordance with the terms of the Lease.

Note 2: The Tenant is responsible to revise, refine, update or amend any of its OPA/ZBA Materials, information, drawings, sketches, or any other documentation, including reports and studies ,as set out below, in response to comments received from the City of Toronto during the processing of the OPA/ZBA Application, to the satisfaction of the Landlord, as necessary to achieve an in-force and effect Official Plan Amendment and Zoning Approval

Note 3: Where the preparation of the OPA/ZBA Material is identified as a Landlord and Tenant Obligation, the Landlord is responsible to prepare the OPA/ZBA Materials and the Tenant is responsible to provide plans, drawings, information and other documentation, as necessary to provide for the Works, for inclusion in the OPA/ZBA Materials prepared by the Landlord.

Note 4: Where the preparation of the OPA/ZBA Material is identified as a Landlord Obligation, the Tenant shall cooperate with the Landlord's consultants and provide input into the materials as required to provide for the Works. The Tenant shall be provided with an opportunity to review and comment on such OPA/ZBA Materials before they are finalized.

Note 5: The following list is subject to change pending further pre-application consultation between the Landlord, the Tenant and the City of Toronto. In addition to the OPA/ZBA Materials noted in the following list, the Tenant is responsible to provide any further information requested by the City of Toronto in support of the OPA/ZBA Application with respect to the Works, to the satisfaction of the Landlord and at the Landlord's discretion.

Note 6: The Landlord may share the OPA/ZBA Materials, including those provided by the Tenant, with the Adjacent Tenants.

Note 7: The Landlord may include additional materials in support of the OPA/ZBA Application at the Landlord's discretion.

Note 8: Copies of the City of Toronto Planning Application Checklist and the City of Toronto Ontario Place Redevelopment Planning Application Checklist, September 2021 (the "Supplementary Checklist") are attached as Schedule 2.

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
A.	**City of Toronto Planning Application Checklist**				
1.	Architectural Control Guidelines	Initial submission		X	
2.	Draft Official Plan Amendment	Initial submission		X	
3.	Draft Zoning By-law Amendment	Initial submission		X	
4.	Energy Strategy	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission	X		
5.	Heritage: Heritage Impact Assessment prepared on behalf of the Landlord for the Lands, (comprised of the HIA First Submission and the HIA Second Submission), and if required, to include a conservation plan and an adaptive re-use strategy	Initial submission	X		
6.	Heritage: Heritage Impact Assessment for non-tenanted Other Lands and Landlord's Site Readiness	Initial submission			X

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
	Activities, and if required, a conservation plan				
7.	Natural Heritage Impact Study Landlord to prepare terms of reference, if required	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	
8.	Pedestrian Level Wind Study	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission	X		
9.	Planning Rationale	Initial submission			X
10.	Public Consultation Strategy	Initial submission		X	
11.	Sun/Shadow Study	Initial application	X		
12.	Green Standards Checklist	Initial submission	X		
13.	Green Standards Statistic Template on architectural drawings	Initial submission	X		
14.	Geotechnical Study/ Hydrological Review	Initial submission		X	
15.	Loading Study	Initial submission		X	
16.	Parking Study	Draft for Initial Submission, to the		X	

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
		satisfaction of the Landlord Finalized material to be provided at first resubmission			
17.	Servicing Report	Initial submission		X	
18.	Stormwater Management Report	Initial submission		X	
19.	Traffic Operations Assessment	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	
20.	Transportation Impact Study	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	
21.	Arborist and Tree Preservation Report(s)	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
22.	1:50 Scale detailed colour building elevations	Initial submission	X		
23.	Floor plans	Initial submission	X		
24.	Roof Plans	Initial submission	X		
25.	Site and Building Elevations	Initial submission	X		
26.	Context Plan	Initial submission		X	
27.	Perspective Drawings	Initial submission	X		
28.	Site Plan	Initial submission		X	
29.	Site and Building Sections	Initial submission	X		
30.	Underground Garage Plan	Initial submission	X		
31.	Construction Management Plan	Potential to defer to Site Plan Approval (To Be Confirmed with City)	X		
32.	Public Utilities Plan	Initial submission		X	
33.	Erosion and Sediment Control Plan	Potential to defer to Site Plan Approval (To Be Confirmed with City)		X	
34.	Site Grading Plan	Initial submission	X		
35.	Concept Site and Landscape Plan	Initial submission		X	
36.	Tree Preservation Plan	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
37.	Landscape and Planting Plan	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission	X		
38.	Soil Volume Plan	Draft for Initial Submission, to the satisfaction of the Landlord Finalized material to be provided at first resubmission		X	
B. Supplementary Checklist (see Attachment 1 to Supplementary Checklist: Terms of Reference)					
1.	Context Area Plan	Initial submission		X	
2.	Naturalization Plan	Initial submission		X	
3.	Public Realm Master Plan	Initial submission		X	
4.	Public Art Master Plan	Initial submission		X	
5.	Cultural Heritage Landscape Assessment prepared on behalf of the Landlord for the Lands	Initial submission		X	
6.	Cultural Heritage Landscape Assessment for non-tenanted Other Lands	Initial submission			X

Item No.	Reports, Plans, Drawings or other Documentation (the "OPA/ZBA Materials")	Submission stage	Tenant Obligation *(Tenant shall provide the following OPA/ZBA Materials to the Landlord as necessary to provide for the Works, to the satisfaction of the Landlord, in support of the OPA/ZBA Application)*	Landlord and Tenant Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application. The Tenant is responsible to provide plans, drawings, information and other documentation as necessary to provide for the Works, to the satisfaction of the Landlord, to be submitted as part of the OPA/ZBA Materials)*	Landlord Obligation *(The Landlord is responsible to prepare the following OPA/ZBA Materials in support of the OPA/ZBA Application.*
	and Landlord's Site Readiness Activities				
7.	Detailed Shoreline and Hazard Assessment Landlord to prepare terms of reference in consultation with TRCA	Initial submission		X	
8.	Natural Heritage Impact Study Landlord to prepare terms of reference in consultation with TRCA	Initial submission		X	

APPENDIX 3

SCHEMATIC DESIGN MATERIALS LIST

The submission shall include, but is not limited to the following:

A. Updated Design Statement:

- Updated description of concept, objectives and site organization.
- Identification of specific property requirements (including easements and/or rights of way, as appropriate).
- Functional program complete with description of major programmatic areas.
- Summary of proposed floor areas, broken up into commercial uses.
- Design excellence targets including relevant LEED and/or Toronto Green Standard scorecards.
- Material palette for exterior elements of all proposed structures (materials and finish specs).
- Approach to site circulation, servicing, loading, parking and access (by all modes).
- Approach to servicing and utilities.
- Requirements for any shared access, storage, loading, servicing areas or joint programming with Master Developer of other tenants.
- Exterior signage and branding requirements (including any third-party sponsorship or advertising), including draft specs.
- Approach to Tenant Permit, Licenses and Approvals, complete with timelines (prepared by a registered professional planner licensed in the Province of Ontario).
- Construction Plan, complete with narrative description of phasing, requirements for staging/lay-down areas, temporary closures and access.
- Updated cost estimates for building and Therme Public Areas including the Therme Public Area Components, Shoreline Components and shoreline repair (separate).

B. Schematic architectural plans, including:

- Context Plan showing relationship to full Ontario Place site;
- Annotated site plan renderings including property requirements (reflecting easements and/or rights of way, as appropriate) and public areas;
- Floor plans (1:350);
- Building elevations (1:350);
- Building sections (1:350);
- Landscape plan (scaled), including identification of plantings, paving treatments, furniture and furnishings; and
- Preliminary outline specifications for exterior elements.

C. Renderings:

- Aerial perspective from the four cardinal directions that indicate massing and convey materiality;
- Ground level perspectives illustrating primary entrances; and
- Annotated renderings that convey materials, quality and design.

D. Commitments:

- Commitment to meet intent of *Ontario Place Open Space and Public Realm Standards* and *Ontario Place Development Vision and Guiding Principles* as set out in Appendix 5 of this Schedule G;
- Commitment to ensure integration and compatibility of Therme Public Areas design with Site's broader design, including standardization of street furniture, signage and compatibility with public realm materials.
- Commitment on Therme Public Areas compatibility and working collaboratively with Landlord's landscape design team.
- Commitment to participate in design review process with the Landlord as design evolves over the Detailed Design Phase.
- Confirmation to recognize cultural heritage status of the Site and related Strategic Conservation Plan and Heritage Impact Assessment requirements

APPENDIX 4

DETAILED DESIGN PHASE
DESIGN DEVELOPMENT MATERIALS
TIMELINES AND REQUIRED MATERIALS

As part of the Tenant's submissions during the Detailed Design Phase, the Tenant shall deliver to the Landlord design submissions at each 30%, 60%, 90% and 100% design completion.

The following table sets out the overall level of detail for each submission:

Stage of design completion	**Common milestones**
30%	• Overall scope, scale and budget confirmed; • Major program elements fixed; • Major structural, mechanical and electrical systems identified; • General architectural plans complete; • Major occupancies identified, exiting considered and preliminary code approach identified; and • Materials and finishes identified.
60%	• Complete floor plans; • Typical wall assemblies, systems and ratings identified and illustrated on wall sections; • Typical roof assemblies, systems and details identified and illustrated in details; • Preliminary reflected ceiling plans; • Preliminary details for special conditions; and • Additional details and materials suitable for municipal approvals.
90%	• Complete architectural drawings including details. • Final structural, mechanical, electrical and civil systems complete; • Final materials and finishes complete (interior and exterior); • Interior details and millwork complete; • Final draft specifications complete.
100%	• Also known as "Issued for Construction" or "IFC" package. • Final submission, ready for construction tender

The design materials to be provided shall include, but are not limited to:

- Updated Schematic Design Materials/Design Statement which includes:
  - Narrative outline of project objectives and design intent;
  - Approach to urban integration with and site-wide master planning principles;
  - Description of site organization, building footprint(s) and property requirements (including easements and/or rights of way, as appropriate);
  - Functional program complete with narrative description of major programmatic areas, function and circulation including requirements for shared spaces with the master developer (storage, access, ticketing, utilities, etc);
  - Approach to architectural concept and design excellence (including confirmation of Design excellence targets including relevant LEED and/or Toronto Green Standard scorecards);
  - Approach to architectural and cultural heritage;
  - Detailed material palette for exterior elements (including landscape);
  - Updated landscape design, including but not limited to exterior lighting, planting, furniture, wayfinding, etc;
  - Updated plans for structural, mechanical and electrical systems;
  - Updated plans for site circulation, servicing, loading, parking and access (by all modes);
  - Updated plans for servicing and utilities;
  - Updated plans for shared access, maintenance, storage and/or back-of-house areas;
  - Updated plans for existing structures and required modifications;
  - Updated plans for corporate exterior signage and branding; and
  - Updated development approvals strategy (including environmental, TRCA and others) complete with timelines and mitigation strategies (prepared by a registered professional planner).
- Detailed summary of proposed floor areas, broken up into sub-areas according to commercial terms;
- Drawings, including:
  - Context plan showing relationship to full property;
  - Site plan including property requirements (including easements and/or rights of way, as appropriate) and public areas;
  - Floor plans (1:500 – 1:200);
  - Building elevations (1:500 – 1:200);
  - Building sections (1:500 – 1:200);
  - Structural drawings and calculations for proposed modifications to existing structures;

  - Civil, storm water and site servicing drawings and associated calculations;
  - Mechanical systems and approach to LEED;
  - Electrical site layout drawings showing location of incoming electrical services, switchgear and duct banks to each building,
  - Exterior lighting plan;
  - Key details;
  - Landscape plan, including planting schedule, paving and furniture.
- Renderings, including:
  - Aerial perspective from the four cardinal directions;
  - Ground level perspectives illustrating primary entrances, approaches and public realm.
  - Annotated renderings that convey materials, quality and design.
- Preliminary through to final code compliance report; and
- Detailed Construction Plan including schedule, complete with narrative description of phasing, requirements for staging/lay-down areas, temporary closures and access.

APPENDIX 5

Ontario Place Open Space and Public Realm Standards
and
Ontario Place Development Vision and Guiding Principles
(see attached)

Due to file size, these documents have been shared with the Tenant electronically.

APPENDIX 6

Installation Boundaries for Utility Services
(see attached)

TMIG
A PALIN INTERNATIONAL COMPANY
8800 Dufferin Street, Suite 200
Vaughan, ON
L4K 0C5
p: 905.738.3700
f: 905.738.0588

THERME DEMARCATION POINT

SCALE: NTS		TMIG PROJECT No. 10309
DATE: JANUARY 2022		FIGURE No. DP1
DRAWN BY: R.S.	CHECKED BY: K.B.	

APPENDIX 7

Outstanding Design Components

A. Updated Design Statement:

- Material palette for exterior elements of all proposed structures (materials and finish specs).
- Exterior signage and branding requirements (including any third-party sponsorship or advertising), including draft specs.
- Approach to Tenant Permit, Licenses and Approvals, complete with timelines (prepared by a registered professional planner licensed in the Province of Ontario).
- Updated cost estimates for building and Therme Public Areas including the Therme Public Area Components, Shoreline Components and shoreline repair (separate).

B. Schematic architectural plans, including:

- Landscape plan (scaled), including identification of plantings, paving treatments, furniture and furnishings; and
- Preliminary outline specifications for exterior elements.
- Annotated floor plans (note: while floor plans were provided, annotation was illegible)

C. Renderings:

- Ground level perspectives illustrating primary entrances; and
- Annotated renderings that convey materials, quality and design.

SCHEDULE H

LEASEHOLD LENDER AGREEMENT

THIS AGREEMENT is made as of the ____ day of _____, 20____ (the "**Lenders' Direct Agreement**").

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as represented by **THE MINISTER OF GOVERNMENT CONSUMER SERVICES**, in its capacity as head landlord under the Lease

("**Landlord**")

- AND -

[THERME CANADA OP INC.], in its capacity as tenant under the Lease

("**Tenant**")

- AND -

[●], acting as agent for and on behalf of the Lenders

("**Leasehold Mortgagee**")

WHEREAS:

A. The Landlord is the registered and beneficial owner of certain lands located at 851 and 955 Lake Shore Boulevard West, Toronto as more particularly described in Exhibit A attached hereto (the "**Lands**");

B. The Landlord and the Tenant entered into a ground lease dated May 3, 2022 (as amended from time to time, the "**Lease**") pursuant to which the Landlord leased to the Tenant the Lands on and subject to the conditions set forth therein;

C. Under the Lending Agreements (as defined below), including the Leasehold Mortgage, financing is to be provided to the Tenant by the Lenders to finance the Project, including the Construction Activities and the operation and maintenance of the Project after the Completion Date;

D. The Leasehold Mortgagee is entering into this Agreement as agent for and on behalf of the Lenders; and

E. Pursuant to Section 15.2 of the Lease, the Tenant and the Landlord have agreed to enter into this Agreement.

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**

All capitalized terms used and not otherwise defined herein shall have the meanings given to them in Section 1.1 of the Lease. In this Agreement, unless the context otherwise requires:

[Note to Draft: Definitions will need to be conformed to the Lending Agreements.]

"**Appointed Representative**" means any of the following to the extent so identified in an Appointed Representative Notice:

(a) the Leasehold Mortgagee;

(b) a Person directly or indirectly owned or controlled by the Leasehold Mortgagee;

(c) a Leasehold Receiver Manager;

(d) a trustee in bankruptcy or court-appointed receiver of the Tenant; or

(e) any other Person appointed by the Leasehold Mortgagee and approved by either the Landlord (such approval not to be unreasonably withheld or delayed) or any court of competent authority.

"**Appointed Representative Notice**" has the meaning set out in Section 9(b).

"**Default Notice**" has the meaning set out in Section 8(b)(i).

"**Disposition Date**" has the meaning given in Section 11(a).

"**Disposition Notice**" has the meaning given in Section 11(a).

"**Enforcement Action**" means any acceleration of amounts due and owing to the Lenders and/or Leasehold Mortgagee under any of the Lending Agreements and any enforcement proceeding or enforcement action commenced or taken under the Leasehold Mortgage.

"Enforcement Event" means an "event of default" or similar concept under the Lending Agreements which permits an Enforcement Action.

"**Indebtedness Notice**" has the meaning set out in Section 8(b)(ii).

"**Lands**" has the meaning set out in the recitals.

"**Landlord**" has the meaning set out in the preamble.

"**Lease**" has the meaning set out in the recitals.

"**Leasehold Mortgagee**" has the meaning set out in the preamble.

"**Leasehold Security**" means any one or more leasehold charges in favour of the Leasehold Mortgagee over the Tenant's Interest, and _____.

"**Lender**" means each bank, financial institution, fund or other Person which is a provider of debt under the Lending Agreements, including any participating parties, trustees and agents, and their respective successors and assigns.

"**Lending Agreements**" means the loan commitment, credit agreement, Leasehold Security, and all other material ancillary agreements between the Tenant and each of the Lenders with respect to loans advanced by a Lender to the Tenant that is secured by Leasehold Security.

"**Notice Period**" means the period starting on the date of delivery of a Default Notice under Section 8(b)(i) and ending on the later of: (a) thirty (30) days after the expiry of the applicable cure period set out in Section 16 of the Lease; or (b) ninety (90) days.

"**Party**" means any of the Tenant, the Landlord, or the Leasehold Mortgagee, and "Parties" means all of the Tenant, the Landlord and the Leasehold Mortgagee.

"**Step-In Date**" means the date on which the Landlord receives a Step-In Notice from the Leasehold Mortgagee.

"**Step-In Notice**" means the notice given by the Leasehold Mortgagee to the Landlord pursuant to Section 10(a) stating that the Leasehold Mortgagee is exercising its step-in rights under this Agreement.

"**Step-In Period**" means the period from the Step-In Date up to and including the earlier of:

(a) the Step-Out Date;

(b) the Termination Date (provided that the Landlord has complied with its obligations in Article 8 of this Agreement); and

(c) the date that a transfer of the Tenant's Interest to an Appointed Representative pursuant to Section 9(c) or a third party in accordance with Article 11 becomes effective.

"**Step-Out Date**" means the date on which the Landlord receives a Step-Out Notice.

"**Step-Out Notice**" has the meaning set out in Section 8(c).

"**Subsequent Indebtedness Notice**" has the meaning set out in Section 8(c).

"**Tenant**" has the meaning set out in the preamble.

"**Termination Date**" means the date upon which the Lease is terminated, surrendered, disclaimed, or otherwise at an end.

2. INTERPRETATION

This Agreement shall be interpreted according to the following provisions:

(a) the captions to Sections and any provided table of contents are for convenience of reference only and in no way define, limit, enlarge or affect the scope or intent of this Agreement or its interpretation;

(b) this Agreement is to be construed and enforced in accordance with the laws of the Province of Ontario and of Canada applicable therein as an Ontario contract;

(c) all of the provisions of this Agreement shall be construed as covenants as though the words importing such covenants were used in each separate provision of this Agreement;

(d) no supplement, modification or waiver of or under this Agreement shall be binding unless executed in writing by the Party to be bound thereby, and no waiver by a Party of any provision of this Agreement shall be deemed or shall constitute a waiver by such Party of any other provision or a continuing waiver unless otherwise expressly provided;

(e) all the terms and provisions of this Agreement, including the definitions, shall be binding upon the Parties and enure to the benefit of the Parties and the same shall be construed as covenants running with the land (but this shall not permit or imply any permission enabling any Party to assign its rights under this Agreement except pursuant to the express provisions of this Agreement);

(f) the singular or masculine includes the plural or feminine or body corporate or politic wherever the context or the Parties so require;

(g) 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;

(h) where this 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;

(i) 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 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”;

(j) references in this Agreement to any enactment, including any statute, law, by-law, regulation, ordinance or order, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

3. **CONFLICT OF DOCUMENTS**

(a) In the event of any ambiguity, conflict or inconsistency between the provisions of this Agreement and the Lease or any other Material Ancillary Agreement, the provisions of this Agreement shall prevail and govern to the extent of such ambiguity, conflict or inconsistency.

4. **COVENANTS BETWEEN THE PARTIES**

(a) The Parties acknowledge that the proceeds of any property and builder's risk insurance policies maintained by the Tenant that are received by any of them will be applied in accordance with the terms of the Lease (other than the delay in start-up coverage and business interruption coverage).

5. **TERM**

(a) This Agreement shall terminate automatically on the earliest of:

(i) the date on which all amounts which may be or become owing to the Lenders and/or the Leasehold Mortgagee under the Lending Agreements have been irrevocably paid in full;

(ii) the Termination Date (provided that the Landlord has complied with its obligations in Article 8 of this Agreement); and

(iii) the date that any transfer of the Tenant's Interest pursuant to Article 11 becomes effective and the agreements contemplated in Article 11 are executed and delivered by the parties thereto.

6. **LENDING AGREEMENTS AND LEASEHOLD SECURITY**

(a) The Tenant and the Leasehold Mortgagee shall not amend or modify the Lending Agreements in a manner that would adversely affect the Tenant's ability to perform its obligations under the Lease or any other Material Ancillary Agreement, or have the effect of increasing any liability of the Landlord, or any material adverse effect rights or liabilities of the Landlord, whether actual or potential.

(b) The Landlord and the Tenant shall not make any amendments to the Lease that results in an increase to the Rent payable by the Tenant thereunder, or the shortening of the Term thereof, or provides the Landlord with any additional termination rights, materially increases the obligations of the Tenant under the Lease, or reduces, fetters or removes rights of the Tenant under the Lease, in each case without the approval of the Leasehold Mortgagee. Any amendment of the Lease by the Landlord and the Tenant in breach of this Section 6(b) shall not be binding on a Leasehold Mortgagee or a Lender until such Leasehold Mortgagee's approval is obtained in respect thereof.

(c) The Tenant acknowledges and consents to the arrangements given in this Agreement, and agrees not to do or omit to do anything that may prevent the Leasehold Mortgagee from enforcing its rights under this Agreement.

(d) The Landlord and the Tenant confirm to and in favour of the Leasehold Mortgagee that they have delivered true and complete copies of the Lease and the Material Ancillary Agreements, and the Leasehold Mortgagee acknowledges having received copies of same and acknowledges the terms thereof.

(e) The Leasehold Mortgagee and the Tenant confirm to and in favour of the Landlord that they have delivered true and complete copies of the Lending Agreements in existence on the date hereof, and the Landlord acknowledges having received copies of same and acknowledges the terms thereof. The Parties acknowledge and agree that the Leasehold Mortgagee or the Tenant may deliver to the Landlord after the date of execution and delivery of this Agreement true and complete copies of Lending Agreements entered into after the date hereof with existing or future Lenders and that, immediately following the delivery thereof, such Lending Agreements (including Leasehold Security) shall constitute Lending Agreements and Leasehold Security for purposes of this Agreement.

(f) The Landlord acknowledges notice of and consents to the Leasehold Security, and confirms that it has not received notice of any other security interest granted over the Tenant's Interest.

(g) The Landlord agrees that any enforcement by the Leasehold Mortgagee or any Appointed Representative of a security interest in the Tenant's Interest granted in favour of the Leasehold Mortgagee following an Enforcement Event shall be permitted, provided such enforcement is effected in accordance with the requirements of this Agreement and the Lease, including that any Transferee is not a Restricted Person.

(h) The Landlord agrees that any enforcement by the Leasehold Mortgagee or any Appointed Representative of a security interest in the securities of the Tenant granted in favour of the Leasehold Mortgagee following an Enforcement Event shall be permitted, provided such enforcement is effected in accordance with the requirements of this Agreement and that any Transferee is (a) not a Restricted Person, (b) has, whether itself, together with its Affiliates and/or through arrangements with one or more third parties, the capability equal to or greater than that of the Tenant to operate the Project (it being confirmed that operational capability may be achieved by the Tenant providing the requisite operational know-how, contracting with a third party and/or another operational plan), and (C) has the financial capability (having regard to all applicable circumstances, including the provision of any guarantees or indemnities) to perform all of the obligations of the Tenant under the Lease.

(i) The Tenant and the Leasehold Mortgagee hereby authorize and instruct the Landlord (and the Landlord agrees) to pay all sums payable to the Tenant under the Lease to the [enter account particulars], and the Tenant and the Landlord agree that upon the occurrence of an Enforcement Event, if so directed in writing by the Leasehold Mortgagee, the Landlord shall pay any sum which the Landlord is obliged to pay to the Tenant under the Lease to a bank account specified by the Leasehold Mortgagee. Any payment by the Landlord of the amounts described in this Section 6(i) shall constitute full and final payment in respect of its obligation under the Lease to pay such amount or amounts to the Tenant.

(j) The Landlord acknowledges that Section 13 constitutes written notice to the Landlord of the name and address for service of notices of the Leasehold Mortgagee and hereby agrees that it will deliver a copy of any Warning Notice to the Leasehold Mortgagee concurrently with the delivery thereof to the Tenant. Before the Landlord delivers a Landlord Second Notice as set out in Section 16.2(c) of the Lease entitling the Landlord to terminate the Lease, the Landlord shall deliver the Leasehold Mortgagee notice that it intends to terminate the Lease in accordance with this Agreement.

(k) Prior to the irrevocable payment in full of all amounts owing to the Leasehold Mortgagee and/or the Lenders under the Lending Agreements, in the case of a Material Tenant Event of Default under Section 16.2(b)(iii) of the Lease and until the expiry of the Notice Period, the Landlord will not take any action to wind-up, liquidate, dissolve or appoint a receiver or receiver and manager of the Tenant or to institute or sanction a voluntary arrangement or any other bankruptcy or insolvency proceedings in relation to the Tenant.

7. ENFORCEMENT OF LEASEHOLD SECURITY BY LEASEHOLD MORTGAGEE

(a) The Leasehold Mortgagee shall, concurrently with the delivery thereof to the Tenant, notify the Landlord of any Enforcement Event, any Enforcement Action, any notice from the Leasehold Mortgagee to the Tenant to accelerate the maturity of any amounts owing by the Tenant to the Leasehold Mortgagee and/or the Lenders under the Lending Agreements or any notice from the Leasehold Mortgagee to the Tenant to demand repayment of any amounts owing by the Tenant to the Leasehold Mortgagee and/or the Lenders under the Lending Agreements, and the Parties acknowledge and agree that the receipt of such notice by the Landlord shall be sufficient evidence for the Landlord to substantiate that the relevant event has taken place, without any obligation of the Landlord to conduct any independent investigation in respect of such event.

(b) The Leasehold Mortgagee, within ten (10) Business Days of receiving a written request by the Landlord, shall provide to the Landlord a statement of the status of any and all loans from the Lenders to the Tenant and the outstanding balance thereof. The Landlord agrees that it will deliver to the Leasehold Mortgagee, within ten (10) Business Days of receiving a written request by the Leasehold Mortgagee, the certificate referred to in section 25.2 of the Lease.

(c) The Leasehold Mortgagee may enforce its Leasehold Security in any lawful way and, without limitation, the Leasehold Mortgagee may cause a Leasehold Receiver-Manager to be appointed to take possession and manage the Project and, upon foreclosure or upon assignment of the Tenant's estate under the Lease or upon the exercise of any contractual or statutory power of sale, may enter into a Leasehold Mortgagee Disposition, subject to Article 11 and subject, in every instance, to providing the Landlord with prior notice of the Leasehold Mortgagee's intention to realize on its Leasehold Security in respect of the Lease and/or Project in accordance with Section 7(a).

(d) If the Leasehold Mortgagee should at any time foreclose or in any way realize upon its rights under the Leasehold Security granted to it by the Tenant against the Lease and the Project, then if the Leasehold Mortgagee causes a Leasehold

Receiver-Manager to be appointed and such Leasehold Receiver-Manager enters into actual possession of the Project, provided that such Leasehold Receiver-Manager shall pay all Rent payable under the Lease and other amounts payable by the Tenant to other Persons under the Lease and observe and perform all other terms, covenants and conditions applicable to the Tenant (including, without limitation, having remedied any defaults that were in existence and were capable of being remedied at such time), the Leasehold Mortgagee or the Leasehold Receiver-Manager will be entitled to enforce its rights under such Leasehold Security without incurring any liability under the Lease in respect of any matter arising after the period of actual possession of the Project enjoyed by the Leasehold Mortgagee or the Leasehold Receiver-Manager.

(e) The Landlord hereby waives and releases, in favour of such Leasehold Mortgagee and the Leasehold Receiver-Manager, for the benefit of such Leasehold Mortgagee or such Leasehold Receiver-Manager, during the subsistence of the Leasehold Security, any right to distrain or take any similar proceedings in respect of the goods and inventory which the Landlord presently has or may hereafter have arising out of the Lease (or any renewal thereof) and further agrees not to levy or authorize to be levied any proceedings in connection with any such right so waived and released.

(f) The Landlord hereby authorizes such Leasehold Mortgagee or such Leasehold Receiver-Manager, during the subsistence of the Leasehold Security, to remove or cause to be removed any of the goods and inventory (as defined in the *Personal Property Security Act* (Ontario)) owned by the Tenant from the Project in the lawful exercise of the rights granted to the Leasehold Mortgagee or the Leasehold Receiver-Manager under and by virtue of the Leasehold Security or under or by virtue of any other security granted to the Leasehold Mortgagee or the Leasehold Receiver-Manager in respect of such goods and inventory.

(g) The Landlord agrees that any and all of the goods and inventory (as defined in the *Personal Property Security Act* (Ontario)) owned by the Tenant and located at the Project are and shall remain and be deemed to be removable property, notwithstanding their mode of attachment to the Project.

(h) Unless and until the Leasehold Mortgagee exercises its Step-In rights hereunder, enforces its security under the Leasehold Security by entering into possession of the Project or otherwise and by delivering notice to the Landlord of its assumption of the Tenant's rights and obligations under the Lease while in possession of the Project or by executing a new lease as provided for in Section 8(f), the Leasehold Mortgagee shall not be liable for any of the Tenant's obligations under the Lease, nor shall it be entitled to any of the Tenant's rights and benefits under the Lease except by way of security.

8. TERMINATION OF LEASE BY LANDLORD

(a) Subject only to the rights expressly afforded to the Leasehold Mortgagee pursuant to and the restrictions set forth in this Article 8, the Landlord may, at any time, serve notice terminating the Lease if it is entitled to do so under the terms of the Lease. For clarity, nothing in this Article 8 shall in any way fetter the

Landlord's right to terminate the Lease in accordance with Section 17.1(a) of the Lease upon delivery of a Cancellation Notice.

(b) At any time other than during the Step-In Period (with the restriction on termination during the Step-In Period as provided in Section 8(d)), the Landlord shall not exercise any right it may have to terminate or serve a second notice terminating the Lease or triggering the forced sale provisions of the Lease on account of a Tenant Event of Default thereunder unless:

(i) The Landlord has delivered to the Leasehold Mortgagee a copy of any related Warning Notice or Construction Warning Notice, together with sufficient detail describing the nature of the Material Tenant Event of Default or Material Tenant Construction Event of Default, as applicable (such notice, a "**Default Notice**");

(ii) not later than thirty (30) days after the date of a Default Notice, the Landlord delivers written notice (an "**Indebtedness Notice**") to the Leasehold Mortgagee setting out:

A. all amounts owed by the Tenant to the Landlord under the Lease, and any other existing liabilities and unperformed obligations of the Tenant under the Lease of which the Landlord is aware (having made reasonable enquiry), in each case, as of the date on which the Landlord sent the Default Notice; and

B. (x) all amounts which will become owing by the Tenant to the Landlord under the Lease in ordinary course or as a result of unperformed obligations of the Tenant under the Lease of which the Landlord is aware (having made reasonable enquiry), in each case, prior to the end of the Notice Period, and (y) the date or dates on which such amounts are scheduled to become due in accordance with the terms of the Lease; and

(iii) the Notice Period has expired and the Leasehold Mortgagee has not delivered a Step-In Notice.

(c) At any time after the Landlord sends an Indebtedness Notice but before the Landlord receives a Step-In Notice, if the Landlord discovers amounts that have become owing by the Tenant to the Landlord or any other liabilities or obligations of the Tenant which the Landlord is aware (having made reasonable enquiry) come due but which were not included in the Indebtedness Notice, the Landlord shall deliver written notice (a "**Subsequent Indebtedness Notice**") to the Leasehold Mortgagee setting out those amounts, liabilities or obligations.

(d) During the Step-In Period, the Landlord shall not terminate the Lease on grounds:

(i) that the Leasehold Mortgagee has served a Step-In Notice or enforced any Leasehold Security; or

(ii) arising prior to the Step-In Date of which Landlord was aware (having made due inquiry) and whether or not continuing at the Step-In Date unless the grounds arose prior to the Tenant having completed the Construction of the Project, and the Tenant fails to Complete the Construction of the Project prior to the Ultimate Outside Completion Date; or

(iii) arising solely in relation to the Tenant.

(e) The Landlord shall be entitled to terminate the Lease by written notice to the Tenant and the Leasehold Mortgagee:

(i) if any amount referred to in Section 8(b)(ii)A has not been paid to the Landlord on or before the Step-In Date;

(ii) if any amount referred to in Section 8(b)(ii)B has not been paid to the Landlord on or before the earlier of:

A. five (5) Business Days following the date such amounts became due in accordance with the terms of the Lease; or

B. the last day of the Notice Period;

(iii) if amounts included in a Subsequent Indebtedness Notice have not been paid to the Landlord on or before the later of:

A. the date falling thirty (30) days after the date on which the Subsequent Indebtedness Notice is delivered to the Leasehold Mortgagee; and

B. the Step-In Date;

(iv) on grounds arising after the Step-In Date in accordance with the terms of the Lease.

(f) If, within 30 days of receiving the second notice terminating the Lease, the Leasehold Mortgagee delivers a notice to the Landlord pursuant to which the Leasehold Mortgagee requests a new lease of the Demised Premises, the Landlord may terminate the Lease, provided that so long as the Leasehold Mortgagee remedies any defaults on the part of the Tenant that were in existence at the time of termination of the Lease and were capable of being remedied, then the Landlord shall thereupon grant a new lease of the Project to the Leasehold Mortgagee or its Appointed Representative for the balance of the term of the Lease and otherwise upon the same terms and conditions of the Lease.

9. **STEP-IN RIGHTS**

(a) Subject to Section 9(b) and otherwise without prejudice to rights of the Leasehold Mortgagee to enforce the Leasehold Security, the Leasehold Mortgagee may give the Landlord a Step-In Notice at any time:

(i) during which a Tenant Event of Default is subsisting (whether or not a Default Notice has been served);

(ii) during the Notice Period; or

(iii) during which an Enforcement Event is subsisting.

(b) At least five (5) Business Days before the Leasehold Mortgagee delivers a Step-In Notice, the Leasehold Mortgagee shall deliver written notice (an "**Appointed Representative Notice**") to the Landlord of:

(i) its intention to deliver a Step-In Notice; and

(ii) the identity of its proposed Appointed Representative.

(c) Upon issuance of a Step-In Notice, the Appointed Representative in the capacity as agent of the Tenant shall assume, jointly with the Tenant, all of the Tenant's rights under the Lease.

(d) During the Step-In Period, the Landlord shall respectively deal with the Appointed Representative instead of the Tenant in connection with all matters related to the Lease. The Tenant agrees to be bound by all such dealings between the Landlord and the Appointed Representative to the same extent as if they had been between the Landlord and the Tenant.

10. **STEP-OUT RIGHTS**

(a) The Appointed Representative may, at any time during the Step-In Period, deliver written notice (a "**Step-Out Notice**") to the Landlord to terminate the Step-In Period on the Step-Out Date.

(b) On expiry of the Step-In Period:

(i) the rights and obligations of the Appointed Representative in relation to the Landlord under the Lease arising prior to the expiry of the Step-In Period shall be assumed by the Tenant to the exclusion of the Appointed Representative;

(ii) the Landlord shall no longer deal with the Appointed Representative and shall deal with the Tenant in connection with all matters related to the Lease; and

(iii) the Appointed Representative on the one hand, and the Landlord on the other hand, shall be and hereby are released from all obligations and liabilities to one another under the Lease.

(c) There shall not be more than one Step-In Period in respect of any one Default Notice.

11. **LEASEHOLD MORTGAGEE DISPOSITION**

(a) Subject to Section 11(b), at any time:

(i) after an Enforcement Event has occurred;

(ii) during the Notice Period; or

(iii) during the Step-In Period,

the Leasehold Mortgagee may deliver to the Landlord a written notice (a "**Disposition Notice**") that it wishes to effect a disposition of the Lease, either directly through an assignment of the Lease or indirectly through a disposition of all of the equity interest in the Tenant (each a "**Leasehold Mortgagee Disposition**"). The Disposition Notice shall specify a Business Day not less than thirty (30) days from the date on which the Landlord receives the Disposition Notice (the "**Disposition Date**") for the transfer of the Tenant's Interest to the proposed Transferee in accordance with this Section 11.

(b) In connection with the Disposition Notice, the Leasehold Mortgagee shall specify the identity of the Transferee, the type of Leasehold Mortgagee Disposition contemplated, and the financial and other terms of the Leasehold Mortgagee Disposition, and shall provide such financial, business or other information relating to the proposed Transferee and its principals as the Landlord reasonably requires, together with copies of all documents which record the particulars of the proposed Leasehold Mortgagee Disposition.

(c) Prior to the Leasehold Mortgagee Disposition becoming effective, the Transferee shall enter into an agreement with the Landlord (to be prepared by the Landlord, at the Transferee's expense, and to be in form and substance satisfactory to the Landlord and the Transferee) pursuant to which, inter alia, the Transferee agrees to be bound by all of the terms of the Lease as a primary obligor.

(d) If there is a Leasehold Mortgagee Disposition in accordance with this Agreement, and the Landlord collects rent from the Transferee, no acceptance by the Landlord of any such rent payments from a Transferee shall be deemed to be a waiver of the Tenant's covenants or any acceptance of the Transferee as a tenant or a release of the Tenant from the further performance by the Tenant of its obligations under the Lease.

(e) If the Leasehold Mortgagee has complied with this Section 11, upon any Leasehold Mortgagee Disposition, the Leasehold Mortgagee shall cease to be liable for the future performance of any of the Tenant's obligations under the Lease and shall cease to be entitled to any of the Tenant's rights and benefits contained in the Lease except, if the Leasehold Security remains outstanding, by way of security.

(f) Any Leasehold Mortgagee Disposition not expressly permitted under this Agreement or the Lease shall be null and void and of no force and effect.

(g) Neither the Leasehold Mortgagee nor the Leasehold Receiver-Manager shall advertise that the whole or any part of the Project is available for a Leasehold Mortgagee Disposition and shall not permit any broker or other Person to do so unless the text and format of such advertisement is Approved by the Landlord, such Approval not to be unreasonably withheld or delayed.

12. **ASSIGNMENT**

(a) No Party to this Agreement may assign, transfer or otherwise dispose of any part of its rights or obligations under this Agreement save as provided in this Article 12.

(b) The Tenant may assign, transfer or otherwise dispose of the benefit of this Agreement to any Person to whom the Tenant assigns, transfers or otherwise disposes of its interest in the Lease in accordance with the Lease and the provisions of the Lending Agreements, and shall provide written notice to the Landlord and the Leasehold Mortgagee of such assignment, transfer or other disposition. The Tenant shall provide written notice to the Landlord and the Leasehold Mortgagee of any such assignment, transfer or other disposition. Such assignee, as a condition precedent to any such assignment, transfer or other disposition, shall assume the obligations and acquire the rights of the Tenant under this Agreement pursuant to an assumption agreement with, and in form and substance satisfactory to, the Landlord and the Leasehold Mortgagee, each acting reasonably. The Landlord and the Leasehold Mortgagee shall, at the Tenant's cost and expense, do all things and execute all further documents as may be necessary in connection therewith.

(c) The Landlord may assign, transfer or otherwise dispose of the whole or part of this Agreement to any Person to whom the Landlord assigns, transfers or otherwise disposes of its interest in the Lease in accordance with the Lease and shall provide written notice to the Tenant and the Leasehold Mortgagee of such assignment, transfer or other disposition. The Landlord, as a condition precedent to any such assignment, transfer or other disposition, shall cause the assignee to enter into a new agreement with the Tenant and the Leasehold Mortgagee on substantially the same terms as this Agreement and the Tenant and the Leasehold Mortgagee shall enter into such new agreement with the assignee. The Tenant, the Landlord, the Leasehold Mortgagee and the assignee shall, at the Landlord's cost and expense, do all things and execute all further documents as may be necessary in connection therewith.

(d) The Leasehold Mortgagee may only assign, transfer or otherwise dispose of any interest in this Agreement to any person (in this Section 12(d), the "assignee") as permitted by the Lending Agreements, and shall provide written notice to the Tenant and the Landlord of such assignment, transfer or other disposition; provided that, notwithstanding any provision to the contrary in the Lending Agreements, the Leasehold Mortgagee may not assign, transfer or otherwise dispose of any interest in this Agreement to a Restricted Person. The Leasehold Mortgagee, as a condition precedent to any such assignment, transfer or other disposition, shall cause the assignee to enter into a new agreement with the Tenant and the Landlord on substantially the same terms as this Agreement and the Tenant and the Landlord shall enter into such new agreement with the assignee. The Tenant and the Landlord, the Leasehold Mortgagee and the assignee shall, at the Leasehold Mortgagee's cost and expense, do all things and execute all further documents as may be necessary in connection therewith.

13. **NOTICES**

(a) All notices, requests, demands, instructions, certificates, consents and other communications required or permitted under this Agreement shall be in writing (whether or not "written notice" or "notice in writing" is specifically required by the applicable provision of this Agreement) and served by sending the same by registered mail or by hand (in each case with a copy by electronic submission to the address set out below) as follows:

If to the Tenant:	**[Address]** Email: [●] Attn: [●]
If to the Landlord:	**[Address]** Email: [●] Attn: [●]
If to the Leasehold Mortgagee :	**[Address]** Email: [●] Attn: [●]

or to such other address, or electronic mail address as any Party may, from time to time, designate in the manner set out above. Any such notice or communication shall be considered to have been received:

(i) if delivered by registered mail or by hand during business hours (and in any event, at or before 5:00 pm local time in the place of receipt) on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business hours on the next Business Day; or

(ii) if sent by electronic transmission during business hours (and in any event, at or before 5:00 pm local time in the place of receipt) on a Business Day, upon receipt, and if not delivered during business hours, upon the commencement of business hours on the next Business Day, provided that:

A. the receiving party has, by electronic transmission, by hand delivery or by mail transmission, acknowledged to the notifying party that it has received such notice; or

B. within twenty-four (24) hours after sending the notice, the notifying party has also sent a copy of such notice to the receiving party by hand delivery or electronic mail transmission

(b) 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 electronic transmission in accordance with this Article 13.

14. AMENDMENTS

This 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 Agreement.

15. WAIVER

(a) No waiver made or given by a Party under or in connection with this 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 shall 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.

16. RELATIONSHIP BETWEEN THE PARTIES

The Parties are independent contractors. This 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 Agreement, of principal and agent.

17. ENTIRE AGREEMENT

Except where provided otherwise in this Agreement, this 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 Agreement.

18. SEVERABILITY

Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this 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 Agreement. If any such provision of this 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 Agreement as near as possible to its original intent and effect.

19. **ENUREMENT**

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

20. **FURTHER ASSURANCE**

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

21. **NO CONTRA PREFERENTUM**

This Agreement has been negotiated and approved by the Parties and notwithstanding any rule or maxim of law or construction to the contrary, any ambiguity or uncertainty shall not be construed against any Party by reason of the authorship of any of the provisions contained in this Agreement.

22. **LANGUAGE OF AGREEMENT**

Each Party acknowledges having requested and being satisfied that this 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. The Parties acknowledge and agree that notices or other communication between them related to the subject matter herein may be issued and received in French or English.

23. **COUNTERPARTS**

This 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 Agreement which was so faxed.

Remainder of this Page Intentionally Left Blank

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

[Insert signature blocks]

EXHIBIT A

LANDS DESCRIPTION

[NTD: To be completed.]

SCHEDULE I

PUBLIC AREA STANDARDS

Ongoing Maintenance Item	Frequency
Tree and Planting Bed Maintenance	
Tree Inspection	Monthly
Planting Bed Inspection	Monthly
Pruning/Trimming/Weeding	Yearly (Maximum)
Lawn and Turf Maintenance	
Mowing	Bi-weekly (May-Sept) As Needed (Apr-Oct) Yearly (Natural Areas)
Edge Trimming	As Needed
Fertilization/Aerating	Yearly (Fertilizer) As Needed (Aerating)
Over Seeding	As Needed (Damaged Areas)
Ground Maintenance (Hardscaped Areas)	
Hand Weeding	As Needed
Herbicidal Spot Spraying	As Needed
Blowing Surfaces	As Needed
Salt and Snow Removal	As Needed
Leaf Removal	As Needed
Irrigation Maintenance	
Inspection/Repairs	Monthly
General Maintenance	
Litter Pick Up/Removal	Weekly
Graffiti/ Property Damage Reports	Weekly

SCHEDULE J

PERMITTED ENCUMBRANCES

ONTARIO PLACE

(as of February 25, 2022)

Legal description:
PIN 21417-0001 (LT)
PCL LOT 31-1 SEC CL3368; PART BED OF LAKE ONTARIO IN FRONT OF ORDNANCE RESERVE AND LOT 31, BROKEN FRONT CON CL3368 TORONTO PART 1, PLAN 66R13434; CITY OF TORONTO.

Registered owner:
Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services

Registered documents:

1. Instrument No. C92422, registered September 28, 1983, is an Order in Council (No. 2328/83) whereby the property is vested / transferred pursuant to section 2 of the *Public Lands Act,* R.S.O. 1980, c. 413, to Ontario Place Corporation, a body corporate incorporated by Special Act of the Legislature of Ontario for the sum of $200.

2. Instrument No. C92422z, registered September 28, 1983, are Restrictive Covenants contained in the Vesting Order as follows:

2.1 when the said public lands are no longer required for the stated purpose, the administration, control and the exercise of the beneficial use of the said public lands will be retransferred, without charge or cost to the Minister of Natural Resources, in a safe and clean condition satisfactory to the said Minister of Natural Resources, and

2.2 at the request of the Minister of Natural Resources, and immediately before the retransfer referred to in clause 2.1 above, all improvements, structures, buildings, chattels or things will be removed from the said public lands without any charge or cost to the said Minister of Natural Resources.

3. Instrument No. AT729615, registered February 10, 2005, is an Application containing Orders in Council (Nos. 2630/93 and 1896/94), whereby Order in Council No. 2630/93 is revoked because the legal description is no longer accurate. The administration, control and the exercise of the beneficial use of the public lands situate, lying and being in the City of Toronto (as described in the Order in Council) is transferred pursuant to section 2 of the *Public Lands Act*, R.S.O. 1990, Chapter P.43 to Ontario Place Corporation for the sum of $1 for the period during which the said public lands are required by the said grantee for the purpose of carrying out its objectives as set out in the *Ontario Place Corporation Act*, and upon conditions that:

3.1 when the said public lands are no longer required for the stated purpose, the administration, control and the exercise of the beneficial use of the said public lands will

be retransferred, without charge or cost to the Minister of Natural Resources, in a safe and clean condition satisfactory to the said Minister of Natural Resources, and

3.2 at the request of the Minister of Natural Resources, and immediately before the retransfer referred to in clause 3.1 above, all improvements, structures, buildings, chattels or things will be removed from the said public lands without any charge or cost to the said Minister of Natural Resources.

4. Instrument No. AT4341183, registered September 14, 2016, is an Application to Amend the Parcel, whereby Ontario Place Corporation hereby applies to amend the parcel by adding “save and except Parts 1, 2, 3, 4, 5 and 6, Location CL 8833, Plan 66R-16805”.

5. Instrument No. AT4341198, registered September 14, 2016, is an Application to Open Crown Leasehold Parcel (now PIN 21417-0002 (LT)).

6. Instrument No. AT5208684, registered August 12, 2019, is a Certificate of Requirement pursuant to section 4.9 of Certificate of Property Use number 1477-AU7KPM.

7. Instrument No. AT5228363, registered September 3, 2019, is an Application containing Executive Council of Ontario No. 796/2018, whereby the purpose of this Application is to have the description of the property amended pursuant to Order in Council 796/2018. The administration and control of the Leased Lands was transferred from the Minister of Natural Resources and Forestry to Ontario Place Corporation. Order in Council 796/2018 was not registered on title at the time it was issued therefore the thumbnail description for the subject PIN still excepted the Leased Land described as Parts 1, 2, 3,4 5 and 6 on Plan 66R-16805. By registering OIC 796/2018 it showed that Ontario Place Corporation had ownership of all the lands. By Order in Council 1119/2019, approved and ordered August 16, 2019, the administration and control of the Original Lands including the Leased Lands was transferred from Ontario Place Corporation to the Applicant (“Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services”).

8. Instrument No. AT5228364, registered September 3, 2019, is an Application containing Executive Council of Ontario No. 1119/2019, whereby the purpose of this Application is to have the description of the property amended pursuant to Order in Council 1119/2019. The administration and control of the Island Lands (including the Leased Lands) and the Parking Lot Lands, being all the lands owned by Ontario Place Corporation are transferred from Ontario Place Corporation to Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services. Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services hereby makes an application to be entered as the owner for the said lands and amend the name of the registered owner for the said lands to Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services

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LEASEHOLD PIN (freehold PIN is 21417-0001)

Legal description:
PIN 21417-0002 (LT)

ALL OF LOCATION CL 8833, BEING PART OF THE BED OF LAKE ONTARIO, IN FRONT ON THE ORDNANCE RESERVE PARTS 1, 2, 3, 4, 5 & 6, PLAN 66R16805; GEOGRAPHIC TOWNSHIP OF YORK; CITY OF TORONTO.

Registered owner of leasehold parcel: MCA Concerts Canada

Registered documents:

2. Instrument No. **C940087**, registered March 21, 1995, is a Notice of Lease between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Natural Resources, as Landlord, Ontario Place Corporation, as Agent for the Landlord, and MCA Concerts Canada, as Tenant, for a term commencing September 13, 1994 and expiring on December 31 following the third anniversary of the date on which the amphitheatre to be constructed by the Tenant on the lands is open to the public. The Tenant shall have the option of renewing the term for five (5) subsequent renewal terms of two (2) years, ten (10) years, ten (10) years, five (5) years and five (5) years, respectively.

9. Instrument No. AT4341198, registered September 14, 2016, is an Application to Open Crown Leasehold Parcel (now PIN 21417-0002 (LT)).

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Legal description:
PIN 21418-0099 (LT)
PT WATER LT IN FRONT OF PL ORDNANCE RESERVE TORONTO PT 1 63R1786, PT 1 63R2034; CITY OF TORONTO.

Municipal address:
851 Lakeshore Boulevard West, Toronto

Registered owner:
Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services

Registered documents:

1. Instrument No. CT687333, registered October 19, 1984, is an Order in Council (No. 1849/84). Whereas Her Majesty the Queen in right of Ontario as represented by the Minister of Government Services is the owner of land described as Part 1 on Plan 63R-1786 and Part 1 on Plan 63R-2034 and the lands are presently used to provide parking facilities at Ontario Place. And whereas Ontario Place Corporation has requested that administration and control of the said lands be transferred to it. And whereas the lands are not required for any other use or purpose of the government. Pursuant to Sections 5 and 8 of the *Ministry of Government Services Act* R.S.O. 1980, c. 279 as amended and Subsection 5(1) of the Executive Council Act, the administration and control of the lands described above are hereby transferred to **Ontario Place Corporation** (grantee), a body incorporated by Special Act of the Legislature of Ontario for the sum of $200 for the period during which the said lands are required by the grantee for the purpose of carrying out its objectives as set out in the said Special Act, and upon conditions:

9.1 when the said lands are no longer required for the stated purpose, the administration and control of the said lands will be retransferred to the Minister of Government Services;

9.2 at the request of the Minister of Government Services all improvements, structures, buildings, chattels or things will be removed from the said lands prior to the retransfer without any charge or cost to the Minister of Government Services; and

9.3 at the time of retransfer the said lands shall be in a safe and clean condition satisfactory to the said Minister of Government Services.

10. Instrument No. CT687334, registered October 19, 1984, is a Transfer between Her Majesty the Queen in right of Ontario as represented by the Minister of Government Services, as Grantor, and Ontario Place Corporation, as Grantee. This grant/transfer is authorized by Order-in-Council number O.C. 1849/84 dated July 12, 1984.

This grant is made to the Grantee for the period during which the said lands are required by the Grantee for the purpose of carrying out its objectives as set out in the Special Act incorporation Ontario Place Corporation and shall be upon the following conditions:

10.1 when the said lands are no longer required for the stated purpose, the administration and control of the said lands will be retransferred to the Minister of Government Services;

10.2 at the request of the Minister of Government Services all improvements, structures, buildings, chattels or things will be removed from the said lands prior to the retransfer without any charge or cost to the Minister of Government Services; and

10.3 at the time of retransfer the said lands shall be in a safe and clean condition satisfactory to the said Minister of Government Services.

11. Instrument No. CT751273, registered November 1, 1985, is a Notice of Island Airport Zoning Regulations.

12. Instrument No. AT719797, registered January 31, 2005, is a Land Registrar's Order to add Order in Council registered as Instrument No. CT687333 which was omitted from the property upon conversion of the property records.

13. Instrument No. AT5228364, registered September 3, 2019, is an Application containing Executive Council of Ontario No. 1119/2019, whereby the purpose of this Application is to have the description of the property amended pursuant to Order in Council 1119/2019. The administration and control of the Island Lands (including the Leased Lands) and the Parking Lot Lands, being all the lands owned by Ontario Place Corporation are transferred from Ontario Place Corporation to Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services. Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services hereby makes an application to be entered as the owner for the said lands and amend the name of the registered owner for the said lands to Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services.

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Legal description:
PIN 21418-0100 (LT)
PT BLK A, M PL D1397 TORONTO; PT WATER LT IN FRONT OF PL ORDNANCE RESERVE TORONTO LYING E OF WATER LT AT FOOT OF DUFFERIN ST & S OF LAKE SHORE BLVD W, GRANTED TO THE TORONTO HARBOUR COMMISSIONERS BY DOMINION GOVERNMENT ON JUNE 5, 1934 BY WF17942 AS IN WF55391 (PARCEL 5) EXCEPT 63R1786 & 63R2034 AND AS IN OF24339 EXCEPT WF55391; S/T CA208787; CITY OF TORONTO

Registered owner: The Corporation of the City of Toronto

Registered documents:

1. Instrument No. OF24339, registered February 29, 1904, is a Quit Claim Transfer whereby the lands quit claimed are part of a public harbour vested in His Majesty as represented by the Government of Canada and the said lands are not required for public purposes and have been sold to The Corporation of the City of Toronto for the price of $10. (sketch attached).

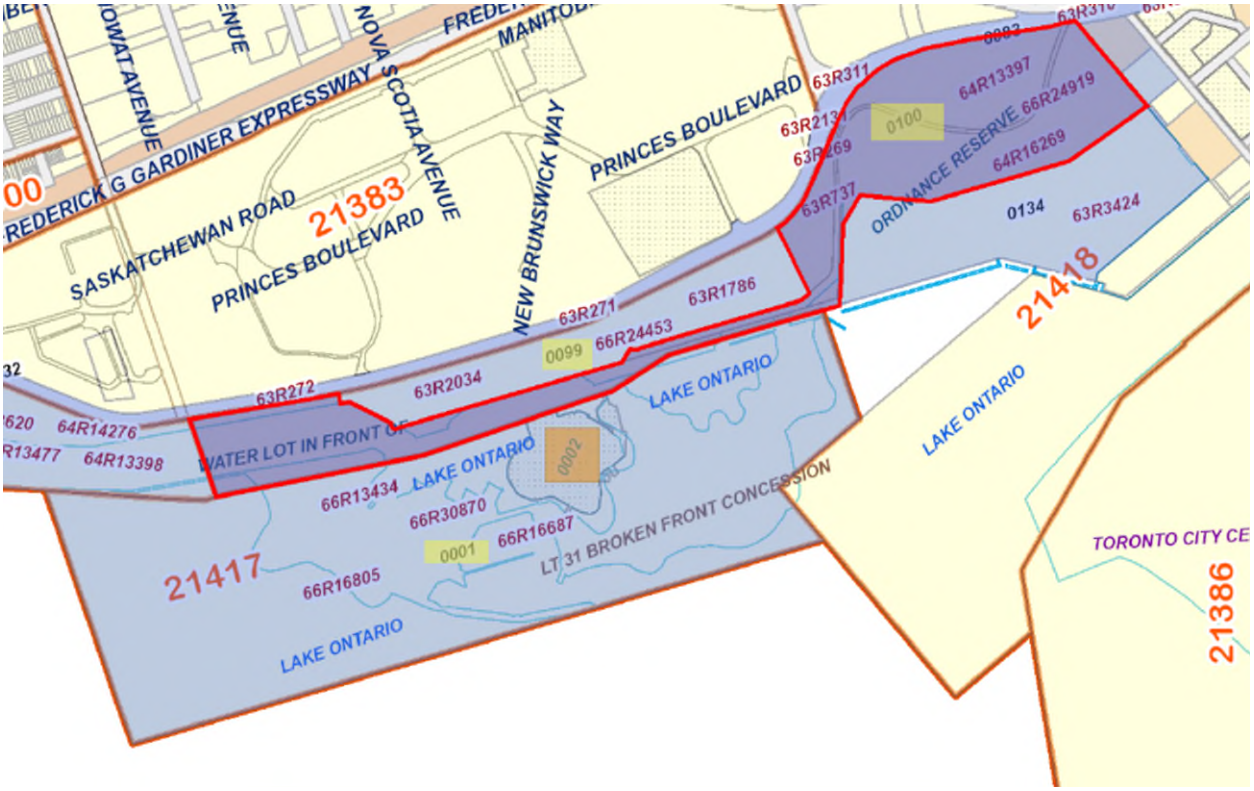
14. Instrument No. WF555391, registered April 20, 1967, is a Transfer between The Toronto Harbour Commissioners, as Grantor, and The Corporation of the City of Toronto, as Grantee, being a transfer of the western waterfront lands (sketch attached).

15. Instrument No. CT751273, registered November 1, 1985, is a Notice of Island Airport Zoning Regulations.

16. Instrument No. CA208787, registered September 30, 1992, is a Transfer of Easement between The Municipality of Metropolitan Toronto, as Grantor, and Ontario Hydro, as Grantee, being a perpetual easement to lay, construct, operate, maintain, inspect, repair, replace with the same or equivalent material and works, reconstruct and remove two 115kV pipe type cable circuits one insulating fluid return line and two PVC ducts and equipment.

17. Instrument No. AT2390859, registered May 27, 2010, is a Land Registrar's Order whereby "granted to the Toronto Harbour Commissioners by Dominion Government on June 5, 1934 by WF17942" be added to the thumbnail description.

PIN MAP:


FREDERICK G GARDINER EXPRESSWAY
NOVA SCOTIA AVENUE
MANITOBA
NEW BRUNSWICK WAY
PRINCES BOULEVARD
SASKATCHEWAN ROAD
21383
63R311
64R13397
66R24919
64R16269
63R737
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63R3424
21418
63R271
63R1786
66R24453
0099
63R272
63R2034
64R14276
64R13398
WATER LOT IN FRONT OF
LAKE ONTARIO
66R13434
66R30870
66R16687
0001
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LT 31 BROKEN FRONT CONCESSION
21417
66R16805
TORONTO CITY CE
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