

Draft V.3
(15/02/10)

CAMPUS GLEN PROJECT

Parking Payment Agreement

between

MUHC

and

ProjectCo

Dated as of [•]

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PARKING PAYMENT AGREEMENT

THIS AGREEMENT dated as of [•] is entered into:

BETWEEN:

(the "MUHC")

AND:

("ProjectCo")

WHEREAS:

- A. McGill University Health Centre ("MUHC") is a university health centre duly constituted by private statute of the Province of Quebec governed by the provisions of an *Act Respecting Health Services and Social Services* (R.S.Q. chapter S-4.2);
- B. The MUHC and ProjectCo have entered into an agreement dated [] with respect to the design, construction, financing and maintenance of the Facility, which includes the Parking Areas (the "**Project Agreement**");
- C. In furtherance of the public interest in the Facility, the MUHC will provide financial assistance by making a capital contribution (the "**Parking Payment**") to ProjectCo to assist with the design and construction of the Facility by ProjectCo for MUHC;
- D. The Parking Payment will be paid by MUHC to ProjectCo at the inception of this Agreement in accordance with and subject to the terms and conditions of this Agreement; and
- E. Each party acknowledges and agrees that the purpose of the Parking Payment is to assist ProjectCo with a portion of the costs of design and construction of the Facility.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged by each of the parties hereto, the parties hereto agree as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, the capitalized terms shall have the meanings set out in Schedule 1 - Definitions and Interpretation to the Project Agreement. Certain words and expressions are defined within this Agreement and the schedules hereto and such definitions shall apply, unless the context otherwise requires, in all other parts of this Agreement whether or not Exhibit 1 – Definitions of this Agreement contains a cross-reference to such definitions.

1.2 Interpretation

This Agreement shall be interpreted and construed in accordance with the provisions set out in Schedule-1 - Definitions and Interpretation to the Project Agreement.

1.3 Exhibits

The exhibits hereto and the terms set out therein shall be deemed fully a part of this Agreement.

2. THE PARKING PAYMENT AND BANK ACCOUNTS

2.1 Parking Payment

The Parking Payment shall constitute a capital contribution to be used for the sole purpose of paying the Construction Costs and Eligible Costs of the Facility. ProjectCo shall not be required to reimburse to MUHC any part or whole of the Parking Payment used for payment of Construction Costs and Eligible Costs in accordance with this Agreement.

2.2 Interest

The Parking Payment shall bear interest at the rate of •% par annum, applicable to the total amount of the Parking Payment from the date of payment until the day following receipt of the Substantial Completion Certificate. Interest will be paid by ProjectCo on a semi-annual basis, within 20 days of invoicing by MUHC.

In the event the Global Completion Certificate is not issued on the date established in the Project Agreement, ProjectCo will pay capital and interest on the Parking Payment in an amount of \$[•] per annum from the date that was established for Global Completion until the day following receipt of the Global Completion Certificate.

2.3 Parking Payment Escrow Account

On or prior to the Closing Date, ProjectCo shall establish at the Account Bank an account denominated "ProjectCo – Parking Payment Escrow Account" (the "**PPE Account**").

Subject to the terms and conditions set forth in this Agreement, the total proceeds of the Parking Payment shall be deposited into the PPE Account in an aggregate amount of \$[•], exclusive of Consumption Taxes, for value prior to 1:00PM on the Business Day following the date of this Agreement. [To the extent applicable, the amount of Consumption Taxes shall be paid by MUHC to ProjectCo in addition to the Parking Payment in accordance with Section 3.2. ProjectCo shall remit all Consumption Taxes so paid to the appropriate Governmental Authority in accordance with Applicable Law.]

2.4 Holdback Account

On or prior to the Closing Date, ProjectCo shall establish at the Account Bank an account denominated "ProjectCo. – Parking Payment Holdback Account" (the "**PP Holdback Account**"). ProjectCo shall deposit to the PP Holdback Account an amount equal to 10% of the amounts payable to the Constructor pursuant to the Construction Contract (exclusive of

Consumption Taxes, and ignoring payment of any sums previously transferred to the PP Holdback Account) as certified by the Independent Certifier which are paid with the funds withdrawn from the PPE Account. Amounts in the PP Holdback Account may be transferred to other ProjectCo accounts at the direction of ProjectCo to be applied solely in accordance with the provisions of the *Civil Code of Quebec* pertaining to legal hypothecs.

3. APPLICATION OF FUNDS

3.1 Use of Parking Payment Proceeds

The Parking Payment shall be available for drawing by ProjectCo during the Construction Period, subject to satisfaction of the conditions precedent described in Sections 5.1 and 5.2 and the other terms and conditions hereof.

Except as the parties may otherwise agree, ProjectCo shall use the proceeds of each Draw solely for the purpose of paying the Construction Costs and Eligible Costs of the Facility.

3.2 Draw of Parking Payment Proceeds

ProjectCo shall effect Draws from the PPE Account once monthly (or more frequently as may be agreed to by ProjectCo and MUHC), by delivering to MUHC a written notice in the form of Exhibit B-1 (a "**Notice of Withdrawal**"), which shall specify, among other things, the amount of the Draw and date of the Draw from the PPE Account which, except for the last Draw, shall be in a minimum amount of \$[];

ProjectCo shall give the Notice of Withdrawal to MUHC with a copy to the Independent Certifier at least ten Business Days before the Draw Date together with the other documents required pursuant to Section 5.2 excluding Section 5.2(b) and 5.2(d), which shall be provided on the date of the Draw.

3.3 The Independent Certifier

MUHC shall procure that the Independent Certifier reviews the Notice of Withdrawal, the ProjectCo Draw Certificate delivered pursuant to Section 5.2(a) and any other documents delivered by ProjectCo pursuant to Section 5.2 (collectively, the "**Withdrawal Request**"), and delivers the Independent Certifier Draw Certificate referred to in Section 5.2(b) (the "**IC Certificate**") to MUHC with a copy to ProjectCo by 12:00 noon on the seventh Business Day following receipt of the Withdrawal Request by the Independent Certifier.

If the Independent Certifier identifies any deficiencies with the Withdrawal Request, the Independent Certifier will provide ProjectCo with reasonable details of such deficiencies and the basis for its determination within five Business Days of its receipt of the Withdrawal Request, and ProjectCo may provide additional information to the Independent Certifier to support the Withdrawal Request.

MUHC shall procure that the Independent Certifier delivers its IC Certificate for the full amount of the Draw requested, less such amount as is reasonable having regard to the deficiencies it has identified in the Withdrawal Request and which have not been resolved to its satisfaction, in both cases acting reasonably.

4. TERM

4.1 Term

The term of this Agreement shall commence on the date of the execution and delivery of the Project Agreement and continue until the Global Substantial Completion or, if earlier, the Termination Date.

5. CONDITIONS PRECEDENT

5.1 Conditions Precedent to the Closing Date

The obligation of MUHC to make the Parking Payment on the Closing Date is subject to the prior satisfaction of each of the following conditions (unless waived in writing by MUHC):

- (a) Delivery to MUHC of certified copies of one or more resolutions, authorizations or similar proceedings of ProjectCo, the Major Project Participants and the Constructor, certified by the appropriate officers of each such entity as being in full force and effect on the Closing Date, authorizing the execution, delivery and performance of this Agreement and any instruments or agreements required hereunder or thereunder to which such Person is a party.
- (b) Delivery to MUHC of a certificate reasonably satisfactory in form and substance to MUHC from ProjectCo, the Major Project Participants and the Constructor signed by the appropriate authorized officer or representative of each such entity and dated the Closing Date, as to the incumbency of the natural persons authorized to execute and deliver this Agreement and any instruments or agreements required hereunder or thereunder to which such Person is a party.
- (c) MUHC shall have received a certificate, dated as of the Closing Date, signed by an Authorized Officer of ProjectCo, in substantially the form of Exhibit D-1 (the "ProjectCo's Closing Certificate").
- (d) Execution and delivery to MUHC of the Project Agreement and receipt by MUHC of ProjectCo's Completion Documents in accordance with Schedule 2 – Completion Documents to the Project Agreement.
- (e) MUHC shall have received satisfactory evidence that the PPE Account required under the Parking Payment Agreement has been opened.
- (f) Delivery to MUHC of certified copies of the following documents in form and substance satisfactory to MUHC (collectively, the "Parking Payment Performance Security"):
 - (i) an irrevocable and unconditional joint and several guarantee of ProjectCo, Constructor and the Parent Guarantors in favour of MUHC guaranteeing performance of ProjectCo of all of its obligations under the Parking Payment Agreement; and

- (ii) an irrevocable and unconditional joint and several guarantee of ProjectCo, Constructor and the Parent Guarantors in favor of MUHC guaranteeing the amount of the Parking Payment held in the PPE Account.

5.2 Conditions Precedent to a Draw from the Parking Payment Escrow Account

The obligation of MUHC to authorize a Draw is subject to the prior satisfaction of each of the following conditions (unless waived in writing by MUHC):

- (a) MUHC shall have received a certificate signed by an Authorized Officer on behalf of ProjectCo dated the date of such proposed Draw and substantially in the form of Exhibit C-2 certifying (i) the ProjectCosts incurred to such date broken down by major expense category, (ii) the estimated date of Global Substantial Completion, (iii) that the remaining ProjectCosts to be incurred or incurred but not yet paid for by ProjectCo, exclusive of Consumption Taxes, do not exceed Available Construction Funds, (iv) ProjectCo's compliance with the applicable provisions of the *Civil Code of Quebec* with respect to legal hypothec, including the making of all required holdbacks, and (v) in respect of that portion of the Withdrawal Request which relates to Construction Costs, copies of statutory declarations from the Constructor and each Material Sub-Contractor to the Constructor indicating that the respective Material Sub-Contractor has been paid up to and including the prior month, except for holdback moneys properly retained, payments deferred by agreement and amounts withheld by reason of legitimate dispute.
- (b) MUHC shall have received and be satisfied with a certificate from the Independent Certifier dated the date of such Draw and substantially in the form of Exhibit C-3 (i) stating that it is reasonable to expect the Global Substantial Completion Date to be achieved by the Longstop Date, (ii) confirming that the amounts to be funded by the Draw are all in respect of Construction Costs or Eligible Costs of the Facility, or both, and (iii) certifying the matters set forth in the certificate of ProjectCo delivered pursuant to Section 5.2(a).
- (c) ProjectCo shall have requested the Draw pursuant to a Notice of Withdrawal and delivered to MUHC at least ten Business Days before the requested date of the Draw.
- (d) MUHC shall have received a subsearch report from ProjectCo's counsel as of the date of such Draw of the applicable registries showing that the Project is free and clear of all Liens, including, without limitation, builders' Liens, provided that if any such Liens are shown in the applicable registry, MUHC shall authorize the relevant Draw but shall withhold the amount of all such registered Liens plus 25% until MUHC receives a subsearch report showing that the Project is free and clear of all Liens.

5.3 Omission of Longstop Date Confirmation

- (a) In the event the certificate of the Independent Certifier delivered pursuant to Section 5.2(b) in respect of a requested Draw does not contain the statement in Section 5.2(b)(i) (the "**Longstop Confirmation**"), that omission will not preclude the making of that particular Draw. The parties acknowledge that ProjectCo or MUHC may refer the omission for resolution in accordance with the Dispute Resolution Procedure under the Project Agreement.

- (b) If, at the time of the next Notice of Withdrawal, either:
- (i) the Dispute Resolution Procedure referred to in paragraph (a) has resulted in a determination that the omission of the Longstop Confirmation from the certificate of the Independent Certifier in respect of the particular Draw was appropriate, or
 - (ii) the Dispute Resolution Procedure referred to in paragraph (a) has not yet resulted in a determination of the issue;

and in either case the Independent Certifier does not include the Longstop Confirmation in its certificate in respect of a subsequent Notice of Withdrawal delivered pursuant to Section 5.2(b), then MUHC shall not be obligated to authorize the Draw.

6. REPRESENTATIONS AND WARRANTIES

ProjectCo makes the following representations and warranties to and in favour of MUHC as of the date hereof and, except as otherwise provided, as of each date such representations and warranties are repeated in a Notice of Withdrawal delivered pursuant to Section 2.3.

6.1 Existence

ProjectCo is a [•] formed under the laws of the Province of Quebec, and each of ProjectCo and each Major Project Participant has all necessary corporate or other power and authority to own its properties and carry on its business as presently carried on.

6.2 Corporate Authority

ProjectCo and each Major Project Participants have full power and authority to enter into this Agreement and the Project Agreement, Funding Agreements and the Project Documents to which it is a party.

6.3 Authorization

ProjectCo and each Major Project Participant has taken all necessary action to authorize the creation, execution, delivery and performance of the Project Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms. Each of the Project Documents to which ProjectCo and each Major Project Participant is a party has been duly executed and delivered by ProjectCo or such Major Project Participant, as the case may be.

6.4 Enforceability

The Project Agreement and the Project Documents to which ProjectCo and each Major Project Participant is a party constitute valid and legally binding obligations of ProjectCo and the Major Project Participants, enforceable against them, in accordance with their respective terms, subject to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights. Neither the execution and delivery of any Funding Agreement or any MUHC Project Document by ProjectCo or the Major Project Participants nor compliance

by them with the terms, conditions and provisions contained therein will (i) result in a violation of, breach of or contravene their Constating Documents or any Applicable Laws, or (ii) result in a breach or violation of any other Funding Agreement or Project Document to which any of them is a party or any other material agreement or instrument to which any of them is a party or by which any of them is bound.

6.5 No Draw Stop

No Draw Stop has occurred and is continuing.

6.6 Litigation

There are no Claims pending and, to the best of ProjectCo's knowledge, no Claims threatened, against ProjectCo, any Major Project Participant or the Project which could reasonably be expected to have a Material Adverse Effect. As at the date of this Agreement, to the best of ProjectCo's knowledge, there are no Claims pending or threatened against any Main Subcontractors which could reasonably be expected to have a Material Adverse Effect.

6.7 Project Documents

As at the date hereof, the Project Documents represent all of the agreements and documents material necessary to carry out the Project and to perform all obligations of ProjectCo under the Project Agreement, subject to receipt of the Parking Payment pursuant to this Agreement.

The copies of the Completion Documents which have been delivered to MUHC are the original copies or true and complete copies of those documents and all amendments thereto. Each of the Project Documents is in full force and effect, and except as disclosed to MUHC, no written notice of a default or breach thereunder, or of the occurrence of any condition entitling any party to terminate its obligations thereunder, has been delivered to ProjectCo. There are no material agreements to which ProjectCo, any Major Project Participant or, to the best of ProjectCo's knowledge, any Major Project Participant or any Major Project Participant is a party which relate to the Project or the Collateral of which copies have not been delivered to MUHC.

6.8 Applicable Laws

All Applicable Laws applicable to the works and the ongoing operation and maintenance of the Project and performance of all obligations under the Project Agreement have been complied with by ProjectCo and the Major Project Participants, except to the extent non-compliance would not have a Material Adverse Effect.

6.9 Applicable Permits

All Permits, Licenses and Approvals which are required to be obtained by or on behalf of ProjectCo and each Main Subcontractor have been obtained on or before the date they are required in order to perform the Project Actions and are in full force and effect, except to the extent such failure to obtain, revocation or cancellation would not have a Material Adverse Effect, and to the knowledge of ProjectCo no steps have been taken to revoke or cancel any such Applicable Permit.

6.10 Taxes

ProjectCo and Constructor have filed or caused to be filed all filings which are required to be filed by it in respect of all Taxes and has paid or caused to be paid all such Taxes to the extent that such Taxes have become due, except such as may be diligently contested in good faith and by appropriate proceedings or as to which a bona fide dispute may exist and for the payment of which adequate reserves have been allocated and set aside in trust or deposited in accordance with GAAP.

6.11 Debt

Neither ProjectCo nor the Constructor has any Debt or other liabilities otherwise than arising under or contemplated in the Funding Agreements and the Project Documents, other than Permitted Debt.

6.12 Financial Model

As of the date of delivery, the Financial Model and the Base Case Project Projections delivered by ProjectCo to MUHC for purposes of Financial Close take into account all the provisions of the Funding Agreements and the other Material Project Documents and contain ProjectCo's reasonable estimate of the projected receipts and expenditures and costs required to achieve the Global Substantial Completion Date in accordance with the Project Agreement, all as at such date. The Financial Model and the Base Case Project Projections have been prepared in good faith and with due care.

6.13 Disclosure

As at the date made available to MUHC by ProjectCo, all other documents, agreements and information relating to each of ProjectCo and the Major Project Participants or their properties, assets or financial condition or relating to or affecting the Collateral or the Project do not (when taken as a whole) contain any inaccurate or misleading statement of material fact and do not (when taken as a whole) omit as of such time a material fact known to ProjectCo which is necessary to make the statements contained therein not misleading as of such time in light of the circumstances in which they were made.

6.14 No Authorization or Consent Necessary

No action of or filing with any Governmental Authority is required to authorize the execution, delivery and performance by ProjectCo and by the Major Project Participants of any Funding Agreements or Project Documents to which it is a party or to render such Funding Agreement and Project Documents legal, valid, binding or enforceable, except those actions which have been taken or filings which have been made.

6.15 Financial Statements

The financial statements most recently delivered to MUHC in respect of ProjectCo and the Major Project Participants have been prepared in accordance with GAAP.

6.16 No Other Business

Neither ProjectCo nor the Constructor has engaged in any business or activities, either alone or as a shareholder or joint venture other than those contemplated in the MUHC Project Documents or the Funding Agreements. Neither ProjectCo nor the Constructor has any Subsidiaries.

6.17 No Infringement

To the best of the knowledge of ProjectCo, the design, construction and operation of the Project does not infringe and will not infringe upon any patents, trade marks, trade names, service marks, or copyrights, domestic or foreign, or any other industrial property or intellectual property rights of any other Person.

6.18 Project Facilities

No notices, complaints or orders of violation or non-compliance or liability have been issued or, to the best knowledge of ProjectCo, threatened, by any person with respect to the Project or the Facility or the present or intended future use of the Site or the Facility, except for any such notices, complaints or orders which could not reasonably be expected to have a Material Adverse Effect, and ProjectCo is not aware of any circumstances which could give rise to the issuance of any such notices, complaints or orders.

7. POSITIVE COVENANTS OF PROJECTCO

ProjectCo covenants and agrees that so long as this Agreement is in effect, it and the Major Project Participants shall, unless MUHC waives compliance in writing:

7.1 Use of Parking Payment Proceeds

Use the proceeds of the Parking Payment solely for the purposes and in the manner provided in Section 3.1. For clarity, the Parking Payment shall be deposited into the Parking Payment Escrow Account and, except as the parties may otherwise agree in writing, shall be used only to pay Construction Costs and Eligible Costs of the Facility, and not for any other purpose.

7.2 Access of the Independent Certifier

Subject to the terms of the Project Agreement, ensure that the Independent Certifier shall (i) be permitted to attend design development meetings for the Project; (ii) be kept apprised of design development in respect of the Project; and (iii) be permitted access to the Project and the Facility to the extent necessary to ensure that the design requirements set forth in the Project Agreement are being implemented and followed, that the Project Schedule is being adhered to and for the purpose of providing any certificates, reports or other advice to MUHC in respect of the Project as contemplated under this Agreement.

7.3 Construction of Project

Ensure that the Project is designed, constructed and commissioned in accordance with the Project Agreement and all Applicable Law.

7.4 Access to Project and Records

Subject to all contractual or other reasonable requirements of confidentiality to protect the business and affairs of third parties with whom it conducts business, during normal business hours and from time to time upon reasonable notice, provide to MUHC, the Independent Certifier, and any of their respective officers, employees and agents, reasonable access to the Project and the Site and to the technical and statistical data, accounting books, records and other data with respect to the Project in the possession or control of ProjectCo.

7.5 Notices

Promptly, upon acquiring notice or giving notice, as the case may be, or obtaining knowledge thereof, give written notice to MUHC of:

- (a) any litigation pending or, to ProjectCo's actual knowledge, threatened against ProjectCo, a Major Project Participant or the Project involving claims against ProjectCo, a Major Project Participant or the Project in excess of \$[●] in the aggregate or involving any material injunctive, declaratory or other equitable relief, such notice to include copies of all material papers filed in such litigation and to be given monthly if any such papers have been filed since the last notice given;
- (b) any dispute or disputes which may exist between ProjectCo or the Major Project Participants and any Governmental Authority other than MUHC and which involve (i) claims against ProjectCo or any Major Project Participant which individually exceed \$[●] or in the aggregate in any fiscal year of ProjectCo exceed \$[●]; (ii) injunctive or declaratory relief; (iii) failure to obtain when needed, revocation, material modification, suspension or the like of any Applicable Permit or imposition of additional material conditions with respect thereto; or (iv) any Liens for Taxes in excess of \$[●] due but not paid;
- (c) any Draw Stop or Potential Draw Stop;
- (d) any casualty, damage or loss, whether or not insured, through fire, theft, other hazard or casualty, or any act or omission of ProjectCo, the Major Project Participants, or any of their respective officers, directors, employees, agents, contractors, consultants or representatives, or of any other Person if such casualty, damage or loss affects ProjectCo, a Major Project Participant or the Project, in excess of \$[●] for any one casualty or loss, or an aggregate of \$[●];
- (e) any termination, default or event of default or notice thereof under any Material Project Document;
- (f) any (i) fact, circumstance, condition or occurrence at, on, or arising from, the Site that results in a material violation of any Hazardous Substances Law or any Release of Hazardous Substances on or from the Site and that could result in a claim against ProjectCo, any Major Project Participant with respect to the Project or the Project, and (ii) material pending or, to ProjectCo's actual knowledge, threatened, Environmental Claim against ProjectCo, any Major Project Participant or the Project or to ProjectCo's actual knowledge any of its or their Affiliates, contractors, lessees or any other Persons,

arising in connection with their occupying or conducting operations on or at the Site with respect to the Project;

- (g) any abandonment of the Project or cessation of Services that ProjectCo is required to provide under the Project Agreement prior to the Global Substantial Completion Date; and

7.6 Notices under Material Project Documents

If ProjectCo or a Major Project Participant is provided with a notice of default with respect to any of the Material Project Documents provide as soon as reasonably practicable thereafter a copy of such notice of default to MUHC with a description of the applicable default or circumstance giving rise thereto and a report indicating the status of such default or circumstance and the steps taken and to be taken (as applicable) to cure such default or circumstance. If such default or circumstance is not cured within five Business Days after the receipt by ProjectCo or a Major Project Participant of such notice of default, ProjectCo shall so advise MUHC and thereafter shall co-operate and work with MUHC to attempt to cure such default promptly and within then remaining cure period available to ProjectCo, if any, under the applicable Material Project Document.

7.7 Financial Statements

Deliver to MUHC (or cause to be delivered to MUHC), in form and detail reasonably satisfactory to MUHC:

- (a) as soon as available, but no later than 60 days after the close of each of the first three (3) fiscal quarters in each fiscal year, quarterly (and year-to-date) unaudited financial statements of and prepared by ProjectCo, to include a statement of equity, a balance sheet as of the close of such fiscal quarter, an income and expense statement, a reconciliation of capital accounts and a statement of cash flows, all prepared in accordance with GAAP; and
- (b) as soon as available but no later than 120 days after the close of each applicable Person's fiscal year, audited financial statements of ProjectCo and each of the Constructor and Parent Guarantor under the Constructor Parent Guarantee, including a statement of equity, a balance sheet as of the close of such fiscal year, an income and expense statement, a reconciliation of capital accounts and a statement of cash flows, all prepared in accordance with GAAP. No certificate of a chartered accountant to be delivered in respect of ProjectCo's financial statements pursuant to this Section 6.8(b) may be materially qualified or limited because of restricted or limited examination by such accountant of any material portion of the records of ProjectCo and each set of audited financial statements shall be accompanied by an unqualified audit opinion.

7.8 Reports

- (a) Deliver to MUHC on or before the 15th day of a month for the prior month the Works Period Report in form and substance reasonably satisfactory to MUHC and the Independent Certifier.

- (b) Provide to MUHC promptly upon request such reports, statements, lists of property, accounts, budgets, forecasts and other information concerning ProjectCo or the Project and at such times as MUHC shall reasonably request.
- (c) Provide to MUHC promptly upon request a copy of monthly account statements received by ProjectCo from the Account Bank in respect of the Project Accounts during the Construction Period.

7.9 Permits

Obtain and maintain or cause to be obtained and maintained all Applicable Permits during the Construction Period.

7.10 Existence, Conduct of Business, Properties, Etc.

Except as otherwise expressly permitted under this Agreement, ProjectCo and Constructor (a) maintain and preserve its existence, in the case of ProjectCo as a Quebec [], and, in the case of Constructor, as a Quebec corporation, (b) maintain and preserve all material rights, privileges and franchises necessary or desirable in the normal conduct of its business, and (c) engage only in the business contemplated by the Operative Documents.

7.11 Separateness Covenant

Maintain books, financial records and accounts, including without limitation, chequing and other accounts, separate from each other and from their Affiliates including the Sponsors and ensure that the books, records and accounts of ProjectCo and each Major Project Participant are maintained in a manner so that it will not be difficult or costly to segregate, ascertain and otherwise identify the assets and liabilities of each such Person.

7.12 Subordinated Loans

Ensure that at all times the Junior Debt incurred by ProjectCo pursuant to a Subordinated Funding Agreement (either as to principal or interest) are not payable prior to the Global Substantial Completion Date and that no Person providing such Junior Debt has any right to demand payment of same prior to such date.

8. NEGATIVE COVENANTS OF PROJECTCO

ProjectCo covenants and agrees that so long as this Agreement is in effect, it shall not, without the prior written consent of MUHC:

8.1 Contingent Liabilities

Except as provided in this Agreement or the Material Project Documents, become liable as a surety, guarantor, endorser, accommodation endorser or otherwise, for or upon the obligation of any other Person or otherwise create, incur, assume or suffer to exist any contingent obligation; provided, however, that this Section 7.1 shall not be deemed to prohibit (a) the acquisition of goods, supplies or merchandise in the ordinary course of business on normal trade credit; or (b) the endorsement of negotiable instruments received in the ordinary course of its business; or

(c) the replacement of any Material Project Document provided that the entering into of such replacement Material Project Document has been approved as required under the Project Agreement; or (d) Permitted Debt.

8.2 Limitations on Liens

Other than pursuant to the terms of this Agreement or the Project Agreement, create, assume or consent to any Lien on the Parking Payment Escrow Account or the Parking Payment Holdback Account (other than as provided under the *Civil Code of Quebec*).

8.3 Changes

Change the nature of its business or expand its business beyond the business contemplated in the Operative Documents. Without limiting the generality of the foregoing, ProjectCo shall not carry on, directly or indirectly, any business or engage in any activity or otherwise purchase or acquire any business other than in respect of the Project.

8.4 Dissolution, Merger, etc.

- (a) Liquidate, dissolve or wind-up (or take any steps or proceedings in connection therewith) or permit any such liquidation, dissolution or winding-up;
- (b) Sell or lease or otherwise transfer or dispose of all or (except as permitted herein) any substantial part of its property, assets or business whether by way of reconstruction, reorganization, recapitalization, transfer, sale or otherwise; or
- (c) Combine, merge, amalgamate, consolidate or otherwise enter into any form of business combination with any other Person or with or into any other entity.

8.5 Amendments, Change Orders

Except as permitted pursuant to the Project Agreement, cause, consent to, or permit, any termination, amendment, modification, variance or waiver of timely compliance with any terms or conditions of any Material Project Document or the Project Schedule, other than any amendments or modifications to cure any defective provisions contained therein or to permit other non-material deviations from the terms thereof.

8.6 Name and Location; Fiscal Year

Change its name or the location of its chief executive office and principal place of business without written notice to MUHC at least 30 days prior to such change, or change its fiscal year without the prior written consent of MUHC, such consent not to be unreasonably withheld or delayed.

8.7 Assignment

Assign, transfer or otherwise dispose of its rights and interests hereunder except with the written consent of MUHC, which may be given or withheld in its discretion.

8.8 Accounts

Have any bank accounts, securities accounts, future accounts or similar accounts other than the PPE Account, the Parking Payment Holdback Account and those allowed under the Project Agreement.

8.9 Distributions

Make or declare any Distributions (which, for greater certainty, shall not include fees in respect of Letters of Credit or any other fees or payments made in the ordinary course of business on commercially reasonable terms) prior to the Global Substantial Completion Date.

9. DRAW STOPS

The occurrence of any of the following events shall constitute a draw stop (individually, a "**Draw Stop**", and collectively, "**Draw Stops**") hereunder:

9.1 Judgments

A final non-appealable judgment or judgments shall be entered against ProjectCo or a Major Project Participant in the aggregate amount of \$[] or more (net of any insurance proceeds ProjectCo reasonably expects to receive and can so demonstrate to the reasonable satisfaction of MUHC) other than (a) a judgment which is fully covered by insurance or satisfied in full or paid, bonded or discharged within 60 days after its entry, or (b) a judgment, the execution of which is effectively stayed within 60 days after its entry (but only until such stay is terminated or expires), provided such judgment could not reasonably be expected to materially impair or inhibit ProjectCo's performance of its obligations under the Project Agreement.

9.2 Equity Contribution

A failure by a Major Project Participant or Sponsor to make its equity contribution pursuant to the Equity Purchase Agreement which is not remedied:

- (a) within the applicable period after the date such Equity Contribution was to have been made pursuant to the Equity Purchase Agreement, or
- (b) by MUHC or Senior Lenders drawing on the relevant Letters of Credit delivered pursuant to the Project Agreement or Funding Agreements.

9.3 Bankruptcy, Insolvency

If in respect of any of ProjectCo, any Major Project Participant, the Constructor or a Parent Guarantor under the Constructor Parent Guarantee or the Parking Payment Performance Guarantee (each a "**Subject Person**") the following shall occur:

- (a) a decree or order of a court of competent jurisdiction is entered adjudging a Subject Person a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of a Subject Person under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or

issuing sequestration or process of execution against any substantial part of the assets of a Subject Person or ordering the winding up or liquidation of its affairs; or

- (b) any Subject Person becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition; or
- (c) any proceeding or filing is instituted or made against any Subject Person seeking to have an order for relief entered against such Subject Person as debtor or to adjudicate it bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition under any law relating to bankruptcy, insolvency, reorganization or relief of debtors (including, without limitation, the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding-Up and Restructuring Act* (Canada)), or seeking appointment of a receiver, trustee, custodian or other similar official for such Subject Person or for any substantial part of its properties or assets, unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or permanently stayed within 45 days of institution, provided that the occurrence of any of the events in Sections 9.3(a), (b) and (c) with respect to either member of the Constructor or either Parent Guarantor shall not constitute a Draw Stop until MUHC determines, in its reasonable opinion, that the remaining Constructor and/or Parent Guarantor with respect to whom an event as described above has not occurred and which are not otherwise in default under the Construction Contract or under the Constructor Parent Guarantee, as the case may be (the "**Non-Defaulting DB Entities**"), are either not financially or technically capable of fulfilling the Constructor's obligation under the Construction Contract, and if MUHC makes such a determination in respect of the Non-Defaulting DB Entities, ProjectCo fails, within 60 days (or 30 days in the case of a Parent Guarantor under the Constructor Parent Guarantee) after such determination, to diligently pursue and replace the Construction Contract (or Constructor Parent Guarantee, as the case may be) with an Additional Project Document approved by MUHC, such approval not to be unreasonably withheld or delayed.

9.4 Representations and Warranties

Any representation or warranty made or deemed made by or on behalf of ProjectCo or a Major Project Participant in or in connection with this Agreement or any other Funding Agreement or any amendment or modification thereof or waiver thereunder shall prove to have been untrue, incorrect or misleading in any material respect when made or deemed to be made; provided that if the incorrect nature of such representation or warranty can reasonably be expected to be cured

within 30 days, there shall be no Draw Stop if such incorrect representation or warranty is remedied within 30 days after notice thereof from MUHC to ProjectCo.

9.5 Breach of Material Project Documents

- (a) ProjectCo or a Major Project Participant shall breach or default in the performance of any obligation under any Material Project Document that, if not remedied, would allow the other party to suspend performance of its obligations under such Material Project Document or terminate same and such breach or default shall continue unremedied for a period of time equal to the applicable cure period afforded to ProjectCo under such Material Project Document.
- (b) Any Major Project Participant shall breach or default in the performance of any obligation under any Material Project Document which breach or default could reasonably be expected to have a Material Adverse Effect and such breach or default shall continue unremedied for a period of time equal to the applicable cure period under such Material Project Document, unless, upon the expiry of such cure period, MUHC, acting reasonably, determines that such breach or default is capable of remedy by replacing such Material Project Document or otherwise and ProjectCo diligently pursues and replaces, within 45 days of the expiry of such cure period, the Material Project Document to which such Major Project Participant is a party with an Additional Project Document approved by MUHC, such approval not to be unreasonably withheld or delayed or otherwise cures the breach or default within such period.

9.6 Breach of Terms of Agreement

- (a) ProjectCo shall fail to perform or observe any of the covenants set forth in Section 6.1 (except as the result of an administrative error that is cured within three Business Days after the occurrence thereof) and Sections 7.11, 8.2, 8.3 and 8.4.
- (b) ProjectCo shall fail to perform or observe the covenant set forth in Section 7.4 and such failure:
 - (i) could reasonably be expected to have a Material Adverse Effect; and
 - (ii) shall continue unremedied for a period of 30 days after ProjectCo becomes aware thereof or receives written notice thereof from MUHC; and
 - (iii) if there is a Dispute with regard to such failure, the Dispute has been finally resolved pursuant to the Dispute Resolution Procedure set forth in the Project Agreement.
- (c) ProjectCo or any Major Project Participant shall fail to perform or observe any other covenant to be performed or observed by it hereunder or under any Funding Agreement and not otherwise specifically provided for elsewhere in this Section 9.0, and such failure shall continue unremedied for a period of 30 days after ProjectCo becomes aware thereof or receives written notice thereof from MUHC and, in the case of a breach or default by a Major Project Participant, such breach or default could reasonably be expected to have a Material Adverse Effect.

9.7 Security

Any of the Security Documents, once executed and delivered, shall, except as the result solely of the acts or omissions of MUHC, cease to provide the first ranking Liens intended to be created thereby pursuant to the Project Agreement or cease to be in full force and effect, or the validity thereof shall be disaffirmed by or on behalf of ProjectCo or any other party thereto.

9.8 Documents Unenforceable

If any Material Project Document, or a material provision thereof, becomes wholly or partly void, voidable, unenforceable or illegal and, in the case of a Material Project Document becoming only partly void, voidable, unenforceable or illegal, same could reasonably be expected to have a Material Adverse Effect, provided that in the case of such Material Project Document becoming wholly or partly void, voidable, unenforceable or illegal it will not constitute a Draw Stop if ProjectCo diligently pursues and replaces such Material Project Document with an Additional Project Document approved by MUHC, such approval not to be unreasonably withheld or delayed.

9.9 Execution

There shall be issued or levied against all or any part of the property of ProjectCo, a writ, execution or attachment or similar process in connection with any judgment against ProjectCo for an amount in excess of \$[●], if the same is not discharged, bonded, released, cash collateralized or stayed to the satisfaction of MUHC before the earlier of (a) 60 days of issuance or levy and (b) the date which is five Business Days prior to that upon which a judgment creditor is entitled to enforce such writ, execution, attachment or similar process, and does not remain so until fully terminated or discharged by ProjectCo.

9.10 ProjectCo Event of Default

The occurrence of a ProjectCo Event of Default under the Project Agreement.

9.11 Service Commencement

Failure by ProjectCo to achieve the Global Substantial Completion on or before the Longstop Date.

9.12 Abandonment

If the Project, or any material part thereof, is abandoned, cancelled or terminated (and for this purpose abandonment shall mean no work has been performed on the Project for a continuous period of 45 days between the Closing Date and the Global Substantial Completion Date), other than where due to a Supervening Event.

9.13 Funding Shortfall

If MUHC determines, based on advice from the Independent Certifier (acting reasonably) and after consultation with ProjectCo, that the Available Construction Funds are insufficient to achieve Global Substantial Completion under the Project Agreement, and such insufficiency

shall have remained unremedied for a period of 30 days.

9.14 Failure to pay interest

The failure by ProjectCo to pay the interest due on the Parking Payment in accordance with this Agreement.

10. REMEDIES

10.1 Exercise of Remedies

Upon the occurrence and during the continuation of a Draw Stop, MUHC may, by written notice to ProjectCo refuse, and MUHC shall not be obligated, to authorize any Draw. The parties shall without delay work together diligently and in good faith to resolve any Draw Stop and shall use all reasonable endeavours to reach a mutually satisfactory solution as quickly as is practicable to enable further Installments to be made.

11. THE MUHC

11.1 Reliance by MUHC

MUHC shall be entitled to rely upon any certificate, notice or other document (including any telecopy) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by MUHC.

12. INDEPENDENT CERTIFIER

12.1 Removal and Fees

MUHC may remove from time to time the Independent Certifier in accordance with the Project Agreement.

12.2 Duties

The Independent Certifier shall be contractually obligated to MUHC to carry out the activities required of it in this Agreement and as otherwise requested by MUHC and shall be responsible solely to MUHC in the conduct of such activities. ProjectCo acknowledges that it will not have any cause of action or claim against the Independent Certifier resulting from any decision made or not made, any action taken or not taken or any advice given by the Independent Certifier in the due performance in good faith of its duties to MUHC hereunder other than as a result of the gross negligence or willful misconduct of the Independent Certifier.

12.3 Certification of Dates

ProjectCo shall provide the Independent Certifier with reasonable notice of the expected occurrence of any such dates or events that would require certificates of the Independent Certifier to be issued hereunder.

13. SECURITY INTEREST

- 13.1 Project Co hereby assigns and transfers to MUHC, and grants to MUHC a security interest in, all of Project Co's right, title and interest in, to and under the PPE Account and PP Holdback, including any sub-accounts within such accounts and all book accounts, claims, judgments, demands, moneys, and choses in action with respect to the foregoing (including, without limitation, claims under insurance policies of whatsoever nature) which now are or which may at any time hereafter be due, owing or accruing due to, or owned by, Project Co, and also all securities, instruments, bills, notes, policies and other documents now held or owned or which may be hereafter taken, held or owned by Project Co or anyone on behalf of Project Co in respect of the said accounts, book accounts, claims, judgments, demands, moneys and choses in action, or any part thereof, and also all books, documents, records, electronic or otherwise, and papers recording, evidencing or relating to the said accounts, book accounts, claims, judgments, demands, moneys and choses in action or any part thereof (all of the foregoing being hereinafter collectively called the "Assigned Property"). The grants, charges, transfers, assignments and security interest herein created and granted hereby are collectively called the "Security Interest".
- 13.2 The Security Interest shall become enforceable upon the termination of the Project Agreement for a Project Co Event of Default (such termination is referred to herein as a "Termination Event"). Upon the occurrence of a Termination Event, MUHC may demand, collect, realize, dispose of, sue for, enforce, receive or otherwise deal with the Assigned Property or any part thereof in such manner, upon such terms and conditions and at such time or times as may seem to it advisable, either in its own name or in the name of Project Co and without notice to Project Co and without prejudice to any rights MUHC may have against other parties or to the rights MUHC may have against Project Co for any deficiency. Upon the occurrence of a Termination Event MUHC may appoint an agent or agents to act on its behalf in connection with demanding, collecting, realizing, disposing, suing for, enforcing, receiving or otherwise dealing with the Assigned Property and MUHC may charge on its own behalf and may pay to such agent or agents sums for reasonable costs and expenses reasonably incurred and for services rendered (including legal advice and services) in connection with demanding, collecting, realizing, disposing, suing for, enforcing, receiving or otherwise dealing with the Assigned Property and the amount of such sums shall be added to and form part of any claim MUHC may have against ProjectCo.
- 13.3 Notwithstanding this Agreement, Project Co shall, until the occurrence of a Termination Event, be entitled to exercise all of its rights and powers in respect of the Assigned Property.
- 13.4 Neither this Agreement, nor the receipt by MUHC of any payments pursuant hereto, shall cause MUHC to be liable or accountable for any failure to collect, realize, dispose of, enforce or otherwise deal with the Assigned Property or any part thereof and MUHC shall not be bound to institute proceedings for any such purposes or for the purpose of preserving any rights of Project Co or any other Person in respect of the Assigned Property and MUHC shall not be liable or responsible for any loss or damage whatever which may accrue in consequence of any such failure.

- 13.5 Project Co shall, from time to time, whether before or after the occurrence of a Termination Event, do all such acts and things necessary or expedient to be done, observed or performed by it for the purpose of creating, perfecting, maintaining and keeping maintained this Agreement as a valid and effective assignment, transfer and security interest of and in the Assigned Property, including filing such financing statements, executing such further agreements, assignments or documents and doing such other acts, matters and things reasonably necessary to preserve, protect and perfect the Assigned Property secured by this Agreement and reasonably necessary to ensure that MUHC obtain the full benefits of this Agreement.
- 13.6 Project Co hereby represents and warrants that it has not heretofore assigned or otherwise disposed of or encumbered any right, title or interest of Project Co in and to the Assigned Property and that Project Co has the right and power to transfer to MUHC all of its right, title and interest in and to the Assigned Property pursuant to the terms and conditions set forth herein.
- 13.7 This Agreement has been entered into pursuant to the provisions of the Project Agreement and is subject to all the terms and conditions thereof and, if there is any conflict or inconsistency between the provisions of this Agreement and the provisions of the Project Agreement, the rights and obligations of Project Co and MUHC shall be governed by the provisions of the Project Agreement. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between Project Co and MUHC with respect to the subject matter hereof except as expressly set forth herein or in the Project Agreement or the Funding Documents.
- 13.8 This Agreement shall be binding upon Project Co and its successors and shall enure to the benefit of MUHC. Project Co shall not assign its rights or obligations hereunder except to a Person to whom it is permitted to assign its rights or obligations under the Project Agreement in accordance with the terms thereof. If MUHC should be replaced as a party in the Project Agreement in accordance with the provisions thereof, then this Agreement shall be binding upon Project Co and its successors and shall enure to the benefit of any replacement health authority and its successors and assigns.
- 13.9 This Agreement shall remain in full force and effect until, and shall terminate upon, the Global Substantial Completion Date, provided that if MUHC has commenced enforcement of the Security Interest prior to the Global Substantial Completion Date (whether by legal proceedings or in any other manner permitted hereunder or by law), this Agreement shall continue in full force until all enforcement steps or proceedings by MUHC have been completed. MUHC hereby authorizes Project Co or its legal counsel, upon the termination of this Agreement, to register such financing change statements as may be necessary to discharge any registration or registrations made in respect of this Agreement. Upon termination of this Agreement, MUHC shall, at the request and sole expense of Project Co, execute such further releases and discharges as Project Co reasonably requires.

14. MISCELLANEOUS

14.1 Addresses

Any communications between the parties hereto or notices provided herein to be given may be given to the following addresses:

(a) If to MUHC:

[_____]

Attention: [_____]

Facsimile: [_____]

E-mail: [_____]

(b) If to ProjectCo:

Attention: [_____]

Facsimile: [_____]

E-mail: [_____]

All notices or other communications required or permitted to be given hereunder shall be in writing and shall be considered as properly given (a) if delivered in person, (b) if sent by overnight delivery service, (c) in the event overnight delivery services are not readily available, if mailed by first class mail, postage prepaid, registered or certified with return receipt requested, (d) if sent by facsimile, confirmed by telephone or (e) if sent by e-mail. Notwithstanding the foregoing, any notice hereunder sent by e-mail shall be solely for the distribution of (i) routine communications such as financial statements and (ii) documents and signature pages for execution by the parties hereto, and for no other purpose. Notice so given shall be effective upon receipt by the addressee, except that any communication or notice so transmitted by facsimile shall be deemed to have been validly and effectively given on the day (if a Business Day and, if not, on the next following Business Day) on which it is transmitted if transmitted before 4:00 p.m., recipient's time, and if transmitted after that time, on the next following Business Day; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. Any party shall have the right to change its address for notice hereunder to any other location within Canada by giving five Business Days' written notice to the other parties in the manner set forth herein above.

14.2 Delay and Waiver

No delay or omission to exercise any right, power or remedy accruing to MUHC upon the occurrence of any Draw Stop or any breach or default of ProjectCo under this Agreement or any other Funding Agreement shall impair any such right, power or remedy of MUHC, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any other breach or default thereafter occurring (whether or not similar), nor shall any waiver of any single Draw Stop or other breach or default be deemed a waiver of any other Draw Stop or other breach or default theretofore or thereafter occurring. Any waiver, indulgence, permit, consent or approval of any kind or character on the part of MUHC of any Draw Stop or other breach or default under this Agreement or any other Funding Agreement, or any waiver on

the part of MUHC of any provision or condition of this Agreement or any other Funding Agreement, must be in writing expressly referencing this Agreement and signed on behalf of MUHC and shall be effective only to the extent in such writing specifically set forth.

14.3 Entire Agreement

This Agreement and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument, the terms, conditions and provisions of this Agreement shall prevail. Notwithstanding the foregoing, nothing in this Agreement shall prejudice, impair or otherwise affect any remedies either party may have under the Project Agreement for any failure of the other party to comply with the Project Agreement or for any other event or circumstance. This Agreement and the other Funding Agreements may only be amended or modified by an instrument in writing signed by ProjectCo and MUHC and in accordance with the terms of this Agreement.

14.4 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Quebec and the laws of Canada applicable therein, without prejudice to or limitation of any other rights or remedies available to MUHC (but not ProjectCo or Major Project Participants) under the laws of any jurisdiction where property or assets of ProjectCo or Major Project Participants may be found.

14.5 Severability

- (a) In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision.
- (b) If any provision of this Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or the validity, legality or enforceability of any other provision of this Agreement.

14.6 Headings

Section headings and a table of contents have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such section headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

14.7 Accounting Terms

All accounting terms not specifically defined herein shall be construed in accordance with GAAP and practices consistent with those applied in the preparation of the financial statements

submitted by ProjectCo to MUHC, and (unless otherwise indicated) all financial data submitted pursuant to this Agreement shall be prepared in accordance with such principles and practices.

14.8 Limitation on Liability

No claim shall be made by any party hereto or any of its affiliates, directors, employees, attorneys or agents against any other party hereto or any of its affiliates, directors, employees, attorneys or agents for any special, indirect, consequential or punitive damages (whether or not the claim therefore is based on contract, tort, duty imposed by law or otherwise), in connection with, arising out of or in any way related to the transactions contemplated by this Agreement or the other Funding Agreements or any act or omission or event occurring in connection therewith; and each party hereby waives, releases and agrees not to sue upon any such claim for any such special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favour.

14.9 Attornment

For the purposes of any legal actions or proceedings brought by any party hereto against the other party, the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the Province of Quebec and acknowledge their competence and the convenience and propriety of the venue and agree to be bound by any judgment thereof and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

14.10 Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. ProjectCo may not assign or otherwise transfer any of its rights under this Agreement.

14.11 Confidentiality

MUHC agrees to maintain the confidential nature of, and shall not use or disclose ProjectCo's or any Major Project Participant's financial information or confidential information identified in writing by ProjectCo or a Major Project Participant as such without first obtaining ProjectCo's or such Major Project Participant's prior written consent; provided, that nothing in this Section 13.11 shall require MUHC to obtain any consent of ProjectCo in connection with (and ProjectCo hereby authorizes MUHC to disclose any financial information or confidential information with respect to ProjectCo, the Project, any Material Project Document or any Funding Agreement or the parties thereto without any consent of ProjectCo to the extent reasonably necessary in connection with):

- (a) exercising any of its rights under the Funding Agreements, including those exercisable upon the occurrence of a Draw Stop;
- (b) any situation in which MUHC is required by law or required by any Governmental Authority to disclose information but then only to the extent so requested;

- (c) providing information to the Province or the respective counsel to MUHC or the Province in connection with the transactions contemplated by any of the Funding Agreements;
- (d) providing information to the Independent Certifier or any other consultants retained by MUHC in accordance with this Agreement;
- (e) any information that is in or becomes part of the public domain otherwise than through a wrongful act of MUHC or any employees or agents thereof;
- (f) any information that is in the possession of MUHC prior to receipt thereof from ProjectCo or any other Person known to MUHC to be acting on behalf of ProjectCo;
- (g) any information that is independently developed by MUHC; and
- (h) any information that is disclosed to MUHC by a third party that has no obligation of confidentiality with respect to the information disclosed.

14.12 Counterparts

This Agreement may be executed in one or more duplicate counterparts and by facsimile, portable document format (pdf) or similar electronic means and when signed by all of the parties listed below shall constitute a single binding agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

MUHC

Per:

Authorized Signatory

Per:

Authorized Signatory

PROJECTCO. [_____]

[_____]

Per:

Authorized Signatory

Per:

Authorized Signatory

Per:

Authorized Signatory

Per:

Authorized Signatory

Funding Agreement

EXHIBIT 1 TO PARKING PAYMENT AGREEMENT

DEFINITIONS

"**Account Bank**" means [_____] or such other financial institution appointed by ProjectCo, and satisfactory to MUHC acting reasonably, to hold the Project Accounts.

"**Additional Project Documents**" means any contracts or agreements related to the construction, testing, maintenance, repair, operation or use of the Facility entered into by ProjectCo and any other Person subsequent to the Closing Date and during the Construction Period that replaces or substitutes for an existing Material Project Document.

"**Affiliate**" has the meaning given in the Project Agreement.

"**Applicable Law**" has the meaning given in the Project Agreement.

"**Applicable Permit**" means any Permit, including any zoning, environmental protection, forestry occupation, pollution, sanitation, safety, siting, construction or building Permit that is necessary under Applicable Law at any given time (having regard to then given state of construction of the Project) to construct, operate, maintain, repair, own or use the Facility as contemplated by the Operative Documents.

"**Assigned Property**" has the meaning given in Section 13 of this Agreement.

"**Authorized Officer**" means in relation to ProjectCo and the Major Project Participants and any communication to be made on behalf of such Person or any document to be executed or certified by such Person, any of the Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, Director or Secretary or such other Person as is acceptable to MUHC.

"**Available Construction Funds**" means at any time the aggregate committed amount of all sources of capital available to ProjectCo by way of (a) the undrawn proceeds of the Parking Payment, (b) cash in the Proceeds Account (not previously committed to be paid to the Constructor provided the invoiced amount committed to be paid to the Constructor shall, if deducted from cash in the Proceeds Account hereunder, be correspondingly deducted from the calculation of ProjectCosts), (c) the undrawn portion of the [] Funding, and (d) the undisbursed proceeds of the Total Equity Commitment.

"**Base Case Project**" means a projection of cash flow for the Project over the term of the Project Agreement showing at a minimum ProjectCo's reasonable good faith estimates, as of the Closing Date, of revenue, operating expenses (including major maintenance allocations) and sources and uses of revenues over the forecast period, which projection is attached as Schedule 7 of the Project Agreement.

"**Business Day**" has the meaning given in the Project Agreement.

"**Claim**" means any claim, litigation, demand, cause of action, suit, action, judgment, assessment, reassessment or proceedings of any kind, including before any Governmental Authority.

"Closing Date" means the date when each of the conditions precedent listed in Section 5.1 has been satisfied (or waived in writing by MUHC).

"Collateral" means all personal property (and the Insurance Proceeds, issues, profits, proceeds and products of the foregoing) which are subject, or are intended or required to become subject, to the security interests or Liens granted under any of the Security Documents.

"Constating Documents" means, with respect to any Person, its articles or certificate of incorporation, amendment, amalgamation or continuance, by-laws, Major Project Participantship agreement, limited Major Project Participantship agreement, declaration of trust, trust indenture or other similar document as may be applicable together with any Major Project Participants' agreements, unanimous Major Project Participant declarations, voting trust agreements or similar agreements or arrangements applicable to such Person's shares, units, Major Project Participantship interests or other similar rights in such Person's equity or capital from time to time.

"Construction Costs" means all costs, expenses and fees, including applicable Consumption Taxes, properly incurred and payable by ProjectCo to the Constructor under the Construction Contract as set out in the Project Agreement.

"Construction Contract" has the meaning given in the Project Agreement.

"Construction Performance Security" has the meaning given in Section 5.1(q).

"Construction Period" means the period from and including the Closing Date to and including the Global Substantial Completion Date.

"Constructor" has the meaning given in the Project Agreement.

"Consumption Taxes" means the GST tax imposed and payable pursuant to Part IX of the *Excise Tax Act* (Canada) and the QST tax imposed and payable pursuant to *An Act respecting the Quebec Sales Tax* (Quebec)

"Control" (and correlative terms) means the possession, directly or indirectly, through one or more intermediaries, of one of the following: (a) in the case of a corporation, 50% or more of the outstanding voting or economic securities thereof; (b) in the case of a limited liability company, Major Project Participantship, limited Major Project Participantship or joint venture, the right to 50% or more of the distributions therefrom (including liquidating distributions); (c) in the case of a trust or estate, including a business trust, 50% or more of the beneficial interest therein; and (d) in the case of any other entity, 50% or more of the economic or beneficial interest therein; or in the case of any entity, the power or authority, through ownership of voting securities, by contract or otherwise, to exercise a controlling influence over the management of that entity.

"Debt" of any Person at any date means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person under leases which are or should be, in accordance with

GAAP, recorded as capital leases in respect of which such Person is liable, (e) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (f) all deferred obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other similar instrument, (g) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person (provided that the amount of such Debt shall be the lesser of (i) the fair market value of such asset at the relevant date of determination and (ii) the amount of such Debt), and (h) all Debt of others guaranteed directly or indirectly by such Person or as to which such Person has an obligation substantially the economic equivalent of a guarantee. A reference to "Debt" in this definition means Debt as otherwise defined in this definition if the applicable reference were not included.

"Design/Construction Data" has the meaning given in the Project Agreement.

"Design and Construction Output Requirements" has the meaning given in the Project Agreement.

"Dispute" and **"Dispute Resolution Procedure"** have the respective meanings given in the Project Agreement.

"Distribution" has the meaning given in the Project Agreement.

"Dollars" and **"\$"** means Canadian dollars or such coin or currency of Canada as at the time of payment shall be legal tender for the payment of public and private debts in Canada.

"Draw" means a withdrawal from the Parking Payment Escrow Account made in accordance with the terms of this Agreement.

"Draw Date" has the meaning given in Section 3.2.

"Draw Stop" and **"Draw Stops"** have the respective meanings given in Section 9.0.

"Eligible Costs" means audit and tax fees, amounts payable under the Management Agreement, insurance costs, banking fees, and fees, costs and disbursements of the Independent Certifier and ProjectCo's legal advisers.

"Environmental Claim" means any and all administrative, regulatory, judicial or other actions, suits, demands, decrees, claims, Liens, judgments, warning notices, directions, notices of non-compliance or violation, investigations, proceedings, removal or remedial actions or orders, whether actual or contingent, relating in any way to any Hazardous Substances Law, any Release of or exposure to Hazardous Substances, or any Permit issued under any Hazardous Substances Law (including any liability for damages, fines, penalties or indemnities) (hereafter in this definition **"Claims"**), including (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Hazardous Substances Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Substances or arising from alleged injury or threat of injury to health, safety or the environment.

"Equity Contributions" means the equity contributed to ProjectCo by (i) the Major Project Participants, by way of Major Project Participant Equity, or (ii) the Major Project Participants or the Sponsors by way of Major Project Participant Loans pursuant to the Equity Purchase Agreements.

"Equity Purchase Agreement" has the meaning given in the Project Agreement.

"Facility" has the meaning given in the Project Agreement.

"Financial Close" means the execution and delivery of all Funding Agreements and Project Documents required under the Project Agreement for the financing of the Project.

"Financial Model" has the meaning given in the Project Agreement.

"Funding" has the meaning given in the Project Agreement.

"Funding Agreements" means this Agreement, the Collateral Documents and any other documents, agreements or instruments entered into in connection with any of the foregoing, other than Material Project Documents.

"GAAP" has the meaning given in the Project Agreement.

"Global Substantial Completion Certificate" has the meaning given in the Project Agreement.

"Global Substantial Completion Date " has the meaning given in the Project Agreement.

"Governmental Authority" has the meaning given in the Project Agreement.

"Hazardous Substances" has the meaning given in the Project Agreement.

"Independent Certifier" has the meaning given in the Project Agreement.

"Independent Certifier Contract" has the meaning given in the Project Agreement.

"Interface Agreement" means the interface agreement in respect of the Project dated [●] between ProjectCo, the Constructor and the Hard FM Service Provider.

"Legal Requirements" means, as to any Person, the articles of incorporation, bylaws or other organizational or governing documents of such Person, and any Applicable Laws and any requirement under a Permit, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its property is subject.

"Lien" on any asset means any mortgage, deed of trust, hypothec, lien, pledge, charge, security interest, restrictive covenant or easement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under Applicable Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever intended as security including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Longstop Date" has the meaning given in the Project Agreement.

"Main Subcontractors" has the meaning given in the Project Agreement.

"Major Project Participants" means (a) the Constructor, (b) the Parent Guarantors, and (c) each other Person party to an Additional Project Document which has material obligations thereunder.

"Major Project Participant Equity" means any funds contributed to ProjectCo by any Major Project Participant as equity, in accordance with the Equity Purchase Agreement or otherwise in relation to the Project.

"Major Project Participant Loan" means any funds contributed to ProjectCo by a Major Project Participant or Sponsor as loans in accordance with the Equity Purchase Agreement or otherwise in relation to the Project.

"Management Agreement" has the meaning given in the Project Agreement.

"Material Adverse Effect" means the result or consequence of any event, act or omission by or affecting ProjectCo or any Major Project Participant which result or consequence has, or could reasonably be expected to have, a material adverse effect on:

- (a) the business, assets, operations or financial condition of ProjectCo, or the Project;
- (b) the legality, validity or enforceability of a Funding Agreement or a Material Project Document;
- (c) ProjectCo's ability to observe and perform its obligations under any Funding Agreement; or
- (d) the rights of MUHC under the Funding Agreements.

"Material Contract Party Collateral Agreement" has the meaning given in the Project Agreement.

"Material Project Documents" means the Equity Purchase Agreement, Construction Contract, Construction Performance Security, Interface Agreement and the Independent Certifier Agreement.

"Material Sub-Contractor" means a Person which has directly entered into any contract or contracts with the Constructor in connection with the carrying out of the Constructor's obligations under the Construction Contract that have an aggregate value of more than \$[●]

"Notice of Withdrawal" has the meaning given in Section 3.2.

"Operating Account" means a single account established by and under the daily control of ProjectCo at any bank designated by ProjectCo.

"Operative Documents" means the Funding Agreement and the Material Project Documents.

"Parent Guarantors" means the respective guarantors under the Constructor Parent Guarantee.

"Parking Areas" has the meaning given in the Project Agreement.

"Parking Payment" has the meaning given in Article 2.1 of this Agreement.

"Parking Payment Escrow Account" has the meaning given in Article 2.3 of this Agreement.

"Parking Payment Holdback Account" has the meaning given in Article 2.4 of this Agreement.

"Permits, Licenses and Approvals" has the meaning given in the Project Agreement.

"Permitted Debt" means:

- (a) trade or other similar indebtedness incurred in the ordinary course of business under the Material Project Documents and not more than 90 days past due (unless being contested in good faith and with appropriate proceedings with an adequate reserve therefore in accordance with GAAP having been placed on the ProjectCo's books and records);
- (b) Taxes and governmental charges, salaries, related employee payments and trade payables;
- (c) contingent liabilities relating to the endorsement of negotiable instruments received in the normal course of business or incurred with respect to any Permit, Material Project Document or this Agreement; and
- (d) Debt incurred by way of Major Project Participant Loans.

"Permitted Liens" means, collectively, (a) the rights and interests of MUHC as provided in the Funding Agreements; (b) Liens imposed by any Governmental Authority for Taxes, either secured by a bond reasonably satisfactory to MUHC or not yet due or delinquent or being contested in good faith and by appropriate proceedings and, if over \$[•], in respect of which appropriate reserves have been established in accordance with GAAP, so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of the Project, title thereto or any interest therein and shall not interfere in any material respect with the construction, use or disposition of the Project; (c) legal hypothecs, material men's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business, either for amounts not yet due or which at the time have not yet been registered in accordance with Applicable Law against the Site or part thereof or for which no notice has been given to ProjectCo, or for amounts being contested in good faith and by appropriate proceedings so long as such proceedings shall not involve any danger of the sale, forfeiture or loss of any part of the Project, title thereto or any interest therein and shall not interfere with the construction, use or disposition of the Project; (d) Liens incurred in the ordinary course of business in connection with worker's compensation, unemployment insurance, social security and other requirements of Governmental Authorities and that do not in the aggregate materially impair the use of the property or assets of ProjectCo or the value of such property or assets for the purposes of such business; (e) Liens arising out of judgments or awards so long as an appeal or proceeding for review is being prosecuted in good faith and for the payment of which adequate reserves in accordance with GAAP, bonds or other security satisfactory to MUHC in its reasonable

discretion have been established or are fully covered by insurance; (f) easements, rights-of-way, restrictions, minor title defects or irregularities and other similar encumbrances incurred in the ordinary course of business and encumbrances consisting of zoning restrictions, licenses, restrictions on the use of property or minor imperfections in title, which do not materially impair the use of the property affected thereby for the purpose for which ProjectCo's interest therein was acquired or interfere with the construction, use or operation of the Project as contemplated by the Operative Documents; (g) Liens, deposits or pledges to secure statutory obligations or performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or for purposes of like general nature in the ordinary course of its business; (h) involuntary Liens (including a Lien of an attachment, judgment or execution) securing a charge or obligation, on any of ProjectCo's property, either real or personal, whether now or hereafter owned in the aggregate sum of less than \$[●]; (i) Liens created in connection with Permitted Debt, including Subordinated Sponsor Liens; and (j) Liens to which MUHC consents from time to time in writing. Inclusion of a Lien as a Permitted Lien shall not constitute an acknowledgement by MUHC that such Lien ranks prior to the Liens constituted by the Collateral Documents.

"Person" means any natural person, corporation, limited liability company, Major Project Participantship, firm, association, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Potential Draw Stop" means any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time, the giving of notice or both, would constitute a Draw Stop.

"Project" has the meaning given in the Project Agreement.

"Project Accounts" means the Parking Escrow Account, the Parking Payment Holdback Account, all other accounts opened in accordance with the Funders Agreements and the Project Agreement and any sub-accounts within such accounts but excluding, for all purposes, the Operating Account.

"Project Agreement" means the Agreement made as of ● day of ●, 2010, between the MUHC and ● ("ProjectCo") for the design, construction, financing and maintenance of the new Glen Campus of the MUHC, including the Parking Areas.

"Project Documents" has the meaning given in the Project Agreement.

"ProjectCo" means ProjectCo., a [●] formed under the laws of Quebec.

"ProjectCo Event of Default" has the meaning given in the Project Agreement.

"ProjectCo's Closing Certificate" has the meaning give in Section 5.1(c).

"Project Costs" means the following costs to the extent incurred prior to the Service Commencement Date: (a) the cost of designing, equipping, procuring, constructing, starting up and testing the Project, (b) Taxes payable with respect to the Project during the period prior to the Service Commencement Date (including Taxes on income or capital of ProjectCo or any Major Project Participant, and including penalties, fines or interest arising from a failure to pay Taxes when due, but only to the extent funded by Equity Contributions), (c) initial working

capital requirements of the Project, (d) the costs of acquiring Permits for the Project, (e) all development fees and costs and management, general and administrative fees and costs of ProjectCo or any Major Project Participant attributable to the Project, (f) other fees and expenses relating to the development, construction and closing of financing of the Project, including financial, legal and consulting fees, costs and expenses, and (g) all Eligible Costs, all as described in the Construction Budget.

"Province" means Her Majesty the Queen in Right of the Province of Quebec.

"Release" means disposing, depositing, discharging, injecting, spilling, leaking, leaching, dumping, pumping, pouring, emitting, escaping, emptying, seeping, flowing, leaching, placing and any similar method of release, into or upon any land or water or air, or otherwise entering into or migrating into the environment and **"Released"** shall have a corresponding meaning.

"Security Interest" has the meaning given in Section 13 of this Agreement.

"Security Documents" has the meaning given in Schedule 4 – Lenders' Direct Agreement to the Project Agreement.

"Services" has the meaning given in the Project Agreement.

"Site" has the meaning given in the Project Agreement.

"Sponsors" means [●].

"Subject Person" has the meaning given in Section 9.3 of this Agreement.

"Subordinated Sponsor Lien" means a Lien made in connection with a Major Project Participant Loan which is subordinate to and ranks in priority behind the Liens granted under the Security Documents.

"Subsidiary" means, with respect to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation is at the time owned by such Person and/or one or more Subsidiaries of such Person; and (ii) any Major Project Participants, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has an equity or income interest greater than 50% of all equity or income interests and which is controlled by such Person.

"Supervening Event" means an event or circumstances which give rise to termination of the Project Agreement in accordance with the terms and conditions thereof.

"Taxes" has the meaning given in the Project Agreement.

"Termination Date" has the meaning given in the Project Agreement.

"Total Equity Commitment" means an aggregate amount of \$[●].

"Variation" has the meaning given in the Project Agreement.

"Withdrawal Schedule" means the schedule attached hereto as Exhibit C-2.

"Works Period Report" has the meaning given in the Project Agreement.

RULES OF INTERPRETATION

1. The singular includes the plural and the plural includes the singular.
2. The word "or" is not exclusive.
3. A reference to a code, statute, by-law or other legislative enactment of any Canadian or foreign jurisdiction (including any political subdivision or a municipality) (a "**Governmental Rule**") includes any amendment or modification to such Governmental Rule, and all regulations, rulings, official interpretations, directives and other Governmental Rules promulgated under such Governmental Rule.
4. A reference to a Person includes its successors and permitted assigns.
5. Accounting terms have the meanings assigned to them by GAAP, as applied by the accounting entity to which they refer.
6. The words "**include**", "**includes**" and "**including**" are not limiting.
7. A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.
8. References to any document, instrument or agreement, including the Parking Payment Agreement, (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.
9. The words "hereof", "herein" and "hereunder" and words of similar import when used in any document shall refer to such document as a whole and not to any particular provision of such document.
10. References to "**days**" shall mean calendar days, unless the term "**Business Days**" shall be used. References to a time of day shall mean such time in [●], Quebec, unless otherwise specified.
11. The Funding Agreements are the result of negotiations between, and have been reviewed by ProjectCo, MUHC and their respective counsel. Accordingly, the Funding Agreements shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favour of or against ProjectCo or MUHC.

EXHIBIT B-1 TO PARKING PAYMENT AGREEMENT

FORM OF NOTICE OF WITHDRAWAL

TO: AUTHORITY

Re: ProjectCo.

This Notice of Withdrawal is delivered to you pursuant to Sections 2.3 and 5.2(c) of the Parking Payment Agreement, dated as of [] (as amended, modified and supplemented from time to time, the "**Parking Payment Agreement**"), between ProjectCo., a [Quebec] ("**ProjectCo**") and the McGill University Health Center (the "**MUHC**"). All capitalized terms used herein shall have the respective meanings specified in the Parking Payment Agreement unless otherwise defined herein or unless the context requires otherwise.

This Notice of Parking Payment constitutes a request for a Draw from the Parking Payment Escrow Account as set out below:

- 1. The requested date of the Draw is •, which is a Business Day.
- 2. The total amount of the requested funds is:

Draw:	\$•
GST:	\$•
QST:	\$•
Total:	\$•

The undersigned further confirms and certifies to MUHC that as of the date hereof and as of the date of the requested Draw:

- (a) Each representation and warranty set forth in Section 6.0 of the Parking Payment Agreement is and will on the date of the requested Draw be true and correct in all material respects as of such date (or if stated to have been made solely as of an earlier date, such representation and warranty was true and correct as of such earlier date);
- (b) No Draw Stop has occurred and is continuing or will result from the deposit of such Draw; and
- (c) Each Funding Agreement and Material Project Document remains in full force and effect.

Dated this • day of.

PROJECTCO., by T

Per:

Name: Title: Per:

Name: Title:

EXHIBIT C-1 TO PARKING PAYMENT AGREEMENT

DRAW SCHEDULE

The references in Column B to a month are references to the last day of the month. On or subsequent to the Closing Date, ProjectCo shall provide a schedule of Draw to MUHC as per this Exhibit C-1. The schedule of Draw may be updated from time to time to reflect actual progress in completing the Facility (as documented in the Works Period Report) or changes in Design and Construction Costs.

Draw Number	Date of Draw	Draw Amount (\$)
1	Closing Date	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
etc.		

EXHIBIT C-2 TO PARKING PAYMENT AGREEMENT
FORM OF PROJECTCO DRAW CERTIFICATE

[Letterhead of ProjectCo]

To MUHC:

1. This ProjectCo Draw Certificate (this "**Certificate**") is delivered to you pursuant to Section 3.2 and 5.2(a) of the Parking Payment Agreement, dated as of [•] (as amended, modified and supplemented from time to time, the "**Parking Payment Agreement**"), among ProjectCo., a [Quebec] ("**ProjectCo**") and McGill University Health Center ("MUHC"). All capitalized terms used and not otherwise defined in this Certificate shall have the respective meanings specified in the Parking Payment Agreement.

2. I, being the • of T, in its capacity as T Major Project Participant of ProjectCo, have read the provisions of the Parking Payment Agreement which are relevant to the furnishing of this Certificate.

3. On behalf of T, as T Major Project Participant of ProjectCo and for and on behalf of and in the name of ProjectCo, I, •, being a • of T, hereby certify in that capacity and not in my personal capacity that, as of the date hereof:

- (a) I am a duly authorized representative of ProjectCo, authorized to execute and deliver this Certificate on behalf of ProjectCo.
- (b) The ProjectCosts incurred to date by or on behalf of ProjectCo are \$•. Such ProjectCosts, segregated by major expense category, are described in Column • on Appendix I hereto.
- (c) The Construction Costs and/or Eligible Costs to be paid with the proceeds of the Draw are \$•. Such Construction Costs and/or Eligible Costs, segregated by major expense category, are described in Column • on Appendix I hereto. The sources of funds, segregated by source, are also described in Column • on Appendix I hereto.
- (d) Attached hereto is a copy of the Monthly Payment Application and the Works Period Report submitted by the Constructor, together with copies of the statutory declarations from the Constructor and Material Sub-Contractors to the Constructor as described in Section 5.2(a) of the Parking Payment Agreement. [Also attached are copies of supporting invoices received by ProjectCo for any other Construction Costs and/or Eligible Costs to be paid with the proceeds of the requested Draw.]
- (e) The estimated date that the Project will achieve Global Substantial Completion is [•].
- (f) The estimated ProjectCosts to Global Substantial Completion are set out in Column 5 on Appendix I hereto and total \$•. Such ProjectCosts, segregated by major expense category, are summarized in Column 5 on Appendix I hereto.

- (g) A detailed description of Cost Overruns or other variances from the estimated Design/Construction Budget as of the Closing Date is summarized on Appendix II hereto.
- (h) The Available Construction Funds, as set out in Column • on Appendix I hereto under "Sources of Funding", are sufficient to attain Global Substantial Completion and to pay all remaining ProjectCosts, exclusive of GST and QST, to be incurred or incurred but not yet paid.
- (i) ProjectCo has complied with all applicable provisions of the *Civil Code of Quebec* including the making of all required holdbacks.
- (j) The aggregate amount of all Draws under the Parking Payment Agreement does not exceed the Parking Payment amount.
- (k) There has not occurred any development which materially adversely affects the likelihood of achieving Global Substantial Completion by_____.
- (l) All Draws from the PPE Account made prior to the date hereof have been applied in accordance with the Parking Payment Agreement.
- (m) All insurance required under the Parking Payment Agreement is in place, in good standing and in full force and effect and all premiums due thereon have been paid.
- (n) All Applicable Permits with respect to the construction of the Project that are both required to have been obtained by the date of the Draw from the PPE Account for which this Certificate is provided from any Governmental Authority and are necessary for the current status of the Project have been issued.
- (o) ProjectCo has not incurred or permitted to exist any Liens (other than Permitted Liens) on the Project or the Collateral or any part thereof or on any other assets of ProjectCo, except as permitted under the Parking Payment Agreement. No Liens, claims of Lien, attachments or similar claims (including, without limitation, builder's liens) have been registered or filed with respect to the Project or the Collateral or any part thereof, except Permitted Liens and such Liens, claims of Lien, attachments or similar claims as will be released, removed and discharged from the funds requested by this Certificate and the corresponding Notice of Parking Payment or have been released, removed or discharged in accordance with the Project Agreement.
- (p) ProjectCo has not waived performance or released from liability any party to any Material Project Document except with the consent of MUHC or as otherwise permitted under the Parking Payment Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be duly executed as of the _____ day of _____, _____.

PROJECTCO., by T

Per:

Name: Title:

Appendix I to Exhibit C-2
PROJECT/PROJECTCO COST BUDGET
AND FUNDING SUMMARY

See the attached.

Appendix II to Exhibit C-2

Summary description of variances from estimated Project Budget.

Expense	Design and Construction Budget	Actual	Variance
----------------	---------------------------------------	---------------	-----------------

Total:

EXHIBIT C-3 TO PARKING PAYMENT AGREEMENT

FORM OF INDEPENDENT CERTIFIER DRAW CERTIFICATE

To MUHC:

1. [●], (the "**Independent Certifier**"), submits this Certificate pursuant to Section 5.2(b) of the Parking Payment Agreement, dated as of [●] (as amended, modified and supplemented from time to time, the "Parking Payment Agreement"), between ProjectCo., a [Quebec] ("**ProjectCo**") and McGill University Health Center ("**MUHC**").
2. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Parking Payment Agreement.
3. the Independent Certifier hereby certifies as of the date hereof:
 - (a) The individual executing this Certificate is a duly authorized representative of the Independent Certifier, authorized to execute and deliver this Certificate on behalf of the Independent Certifier;
 - (b) the Independent Certifier is a corporation incorporated under the laws of [●] and is in good standing under such laws;
 - (c) the Independent Certifier has performed its services in a professional manner, and in accordance with the standards of care practiced by consulting engineers on similar projects. the Independent Certifier represents that it has the required skills and capacity to perform its services in the foregoing manner;
 - (d) the Independent Certifier has received the information it has requested and has no reason to believe that such information is untrue, incorrect or incomplete in any material respect;
 - (e) the Independent Certifier has read the provisions of the Parking Payment Agreement which identify the responsibilities of the Independent Certifier in relation to the provision of this Certificate;
 - (f) the Independent Certifier has reviewed the matters and conducted such observations as it believes are pertinent to this Certificate with ProjectCo and appropriate third parties including the Constructor;
 - (g) the Independent Certifier has reviewed the ProjectCo Draw Certificate, in the form of Exhibit C-2 to the Parking Payment Agreement, dated [●], 20● (the "**ProjectCo's Certificate**") and the attachments thereto including the Constructor's Monthly Payment Application and Works Period Report, together with copies of the statutory declarations from the Constructor and Material Sub-Contractors to the Constructor as described in Section 5.2(a) of the Parking Payment Agreement. [the

Independent Certifier has also reviewed the following additional material:];

- (h) To the extent practical, the Independent Certifier has periodically reviewed the progress of design, engineering, procurement and construction for the Project and in the course of such review the Independent Certifier has not discovered any material errors or omissions in the claims for materials that have been procured and work performed for which payment has been made to the Constructor or in respect of which payment has been requested by the Constructor in the Monthly Payment Application attached to ProjectCo's Certificate;
 - (i) The estimated Project Costs to Global Substantial Completion are as set forth in ProjectCo's Certificate and the Available Construction Funds, as set out in Column • on Appendix I to ProjectCo's Certificate, are sufficient to attain Global Substantial Completion and to pay all remaining Project Costs, exclusive of GST and QST, to be incurred but not yet paid;
 - (j) There are no material variances from the Design and Construction Budget of which the Independent Certifier is aware and the Monthly Payment requested by the Constructor in its Monthly Payment Application is in accordance with the Project Agreement;
 - (k) It is reasonable to expect the Global Substantial Completion to be achieved by the Longstop Date;
 - (l) the Independent Certifier's review [has/has not] brought to its attention any errors in the information contained in ProjectCo's Certificate;
 - (m) Based on the Independent Certifier's monitoring, on a sampling basis, of the design, construction and commissioning works in respect of the Project, the Constructor has performed such works in accordance with the Constructor's quality control and quality assurance procedures;
 - (n) The Construction Costs as set forth in ProjectCo's Certificate are properly due and owing to the Constructor in accordance with the Project Agreement;
 - (o) the Independent Certifier has received copies of [invoices, utilization requests etc.] supporting the request; and
 - (p) The amounts to be funded by the Draw are all in respect of Construction Costs and/or Eligible Costs, or both.
4. Without having specifically reviewed the matter, the Independent Certifier does not know of any pending or proposed changes in any codes or regulations affecting the design, construction or use of the Project which would affect completion of the Project or the ability to obtain any authorizations, approvals, certificates or permits necessary for the use and operation of the Project.
5. The information contained herein is for the benefit of MUHC and may be relied upon for

the purposes of making Draws of Parking Payment pursuant to the Parking Payment Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be duly executed as of this • day of •, •

Per:

Name: Title:

EXHIBIT D-1 TO PARKING PAYMENT AGREEMENT
FORM OF PROJECTCO'S CLOSING CERTIFICATE

PROJECTCO.

a [Quebec]

("ProjectCo")

CLOSING CERTIFICATE

TO: AUTHORITY

This Closing Certificate is being delivered pursuant to Section 5.1 of the Parking Payment Agreement, dated as of [] (the "**Parking Payment Agreement**"), between ProjectCo and McGill University Health Center ("MUHC"). All capitalized terms used and not otherwise defined herein shall have the respective meanings specified in the Parking Payment Agreement.

On behalf of T, in its capacity as T Major Project Participant of ProjectCo and for and on behalf of and in the name of ProjectCo, I •, being a • of T, hereby certify in that capacity and not in my personal capacity and without personal liability, as to the following:

1. Attached to that certain certificate dated the date hereof delivered by ProjectCo to MUHC pursuant to Section 5.1 (d) of the Parking Payment Agreement are true, correct and complete copies of each Material Project Document on the date hereof, including amendments and supplements thereto.
2. All appropriate financing statements, filings, registrations and recordings in respect of the Security Documents were filed or will be filed or recorded as required by the Project Agreement and by law.
3. All insurance required pursuant to Schedule 28 – Insurance, Bonds and other Guarantee Requirements to the Project Agreement is in full force and effect and all premiums due thereon have been paid.
4. ProjectCo does not have any material liabilities, except as have been disclosed in writing to MUHC prior to the date hereof.
5. All Project Accounts have been established and funded to the extent required under the Parking Payment Agreement.
6. ProjectCo has obtained all the Permits, Licenses and Approvals needed to commence the Project Actions in accordance with the Project Agreement and ProjectCo believes, and is using commercially reasonable efforts to ensure, that all such Permits, Licenses and Approvals will be obtained on or prior to the dates by which they are required.
7. All of the Funding Agreements and Material Project Documents are in full force and effect without change or amendments other than such amendments approved by and delivered to

MUHC or as otherwise permitted under the Parking Payment Agreement.

8. There has not been filed with or served upon ProjectCo with respect to the Project or any part thereof any notice of Lien, claim of Lien or attachment upon or claim affecting the right to receive payment of any moneys payable to any Persons named on such notice which has not been released, other than Permitted Liens.
9. Each representation and warranty set forth in the Parking Payment Agreement is true and correct as of the date hereof with the same force and effect as if each such representation and warranty had been made on and as of the date hereof.

ProjectCo has duly executed the Independent Certifier Contract in accordance with the provisions of the Project Agreement. ProjectCo represents and warrants that it has delivered to MUHC on or prior to the date of this Agreement all ProjectCo's Completion Documents listed in Schedule 2-1 of Schedule 2 – Completion Documents to the Project Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Closing Certificate as of the first date written above.

PROJECTCO., by T

Per:

Name: Title: Per:

Name: Title:
