

APPENDIX A2 – Lease Agreement

LEASE

MATERIAL RECYCLING FACILITY, NIAGARA FALLS, ONTARIO

THIS Lease is dated as of the ____ day of **[Month]**, 2022.

B E T W E E N:

[SUCCESSFUL PROPONENT]

(the “**Tenant**”)

- and -

THE REGIONAL MUNICIPALITY OF NIAGARA

(the “**Landlord**”)

WITNESSES that in consideration of the mutual covenants and agreements herein contained, the Parties covenant and agree with each other as follows:

Article 1—Basic Terms, Definitions

1.1 Basic Terms

(a) Landlord: The Regional Municipality of Niagara

Address: 1815 Sir Isaac Brock Way, Thorold, ON, L2V 4T7

(b) Tenant: _____

Address:

(c) Premises: the lands and premises illustrated in Schedule “A”, described in Schedule “B” and municipally known as 5030 Montrose Rd and 4935 Kent Avenue, Niagara Falls, Ontario

(d) Term: ____ years, subject to Sections 2.3 and 2.4

Commencement Date: _____ subject to Section 2.4

End of Term: _____, subject to Sections 2.3 and 2.4

[NTD: it is anticipated that the Lease Commencement Date will January 6, 2023 which the Region anticipates will be approximately 6 months after the Successful Proponent’s satisfaction of the pre-conditions of award under the RFP]

- (e) Basic Rent (Section 4.1):

Period	Per Year
[date] to [date]	\$_____

[NTD: to be populated based on the successful proponent's financial submission]

- (f) Permitted Use (Section 7.1): material recovery and recycling facility/waste disposal site or any other legal use which is reasonably comparable thereto provided that, in all cases, the use is permitted by all then current Environmental Compliance Approvals in existence for the Premises.
- (g) Rent Deposit: \$_____ shall be applied to Rent and Rental Taxes as they first come due hereunder in accordance with Section 3.4 **[NTD: Rent Deposit shall be an amount equal to 3 months base rent of the successful proponent's financial submission. Amount to be populated once ascertained]**
- (h) Security Deposit: \$_____ shall be held as a security deposit in accordance with Section 3.4 **[NTD: Security Deposit shall be an amount equal to 3 months base rent of the successful proponent's financial submission. Amount to be populated once ascertained]**
- (i) Schedules forming part of this Lease:
- Schedule "A" Plan
 - Schedule "B" Legal Description
 - Schedule "C" Environmental Matters

1.2 Definitions

In this Lease, unless there is something in the subject matter or context inconsistent therewith, the following terms have the following respective meanings:

- (a) "Additional Rent" means payments on account of the Landlord's insurance, payments on account of Realty Taxes, Landlord Repair Costs, payments for utilities and all other amounts, excluding Basic Rent and Rental Taxes, payable by the Tenant in accordance with the terms of this Lease;
- (b) "Basic Rent" means the basic rent payable by the Tenant pursuant to Section 4.1;
- (c) "Business Day" means any day other than Saturday, Sunday, a statutory holiday in the Province of Ontario or any day on which banks are not open for business in the City of Thorold, Ontario.
- (d) "Commencement Date" means the date set out in Section 1.1(d), as such may be varied pursuant to the terms of this Lease;
- (e) "Environmental Compliance Approval" means all necessary permits, licences, permissions or approvals as may be required from time to time by the Ministry of the Environment, Conservation and Parks, or successor approval body, in accordance with the *Environmental Protection Act* (Ontario) as from time to time amended or any other applicable law, including any Environmental

Law, covering the same or similar subject matter from time to time replacing, extending, consolidating or amending the same.

- (f) “Environmental Laws” means any law, by-law, order, ordinance, ruling, regulation, certificate, approval, consent or directive of any applicable federal, provincial or municipal government, governmental department, agency or regulatory authority or any court of competent jurisdiction:

 - a. relating to pollution or the protection of human health or the environment (including workplace health and safety);
 - b. dealing with filings, registrations, emissions, discharges, spills, releases or threatened releases of Hazardous Substances or materials containing Hazardous Substances; and/or
 - c. regulating the import, storage, distribution, labelling, sale, use, handling, transport or disposal of a Hazardous Substance;
- (g) “Event of Default” has the meaning set out in Section 13.1;
- (h) “Hazardous Substance” means any substance capable of posing a risk or damage to health, safety, property or the environment including, without limitation, any contaminant, pollutant, dangerous or potentially dangerous substance, noxious substance, toxic substance, hazardous waste, flammable or explosive material, radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls, polychlorinated biphenyl waste, polychlorinated biphenyl related waste, and any other substance or material now or hereafter declared, defined or deemed to be regulated or controlled under any Environmental Law.
- (i) “HVAC Equipment” means heating, ventilating and air-conditioning equipment, facilities and installations;
- (j) “Landlord Obligations” has the meaning set out in section 8.2;
- (k) “Landlord Repair Costs” has the meaning set out in section 5.5;
- (l) “Lands” means the lands described in Schedule “B” and all rights and easements which are or may hereafter be appurtenant thereto;
- (m) “Leasehold Improvements” means all fixtures, improvements, installations, alterations and additions from time to time made, erected or installed by or on behalf of the Tenant or any former occupant of the Premises, including doors, hardware, partitions (including moveable partitions) and wall-to-wall carpeting, but excluding trade fixtures and furniture and equipment not in the nature of fixtures;
- (n) “Processing Contract” means the material processing contract dated [REDACTED] between the Landlord and Tenant (referred to as the ‘Contractor’ thereunder) wherein the Tenant provides the Landlord with certain recyclable material processing services, as is more particularly set out therein;
- (o) “Mortgage” means any mortgage, charge or other security against the Premises and/or the Landlord’s interest in this Lease, from time to time;
- (p) “Mortgagee” means the holder of any Mortgage from time to time;

- (q) “Premises” means the lands and premises identified in Section 1.1(c), and all rights and easements appurtenant thereto;
- (r) “Realty Taxes” means all real property taxes, rates, duties and assessments (including local improvement rates), impost charges or levies, whether general or special, that are levied, charged or assessed from time to time by any lawful authority, whether federal, provincial, municipal, school or otherwise, and any taxes payable by the Landlord which are imposed in lieu of, or in addition to, any such real property taxes, whether of the foregoing character or not, and whether or not in existence at the commencement of the Term, and any such real property taxes levied or assessed against the Landlord on account of its ownership of the Premises or its interest therein, but specifically excluding any taxes assessed upon the income of the Landlord;
- (s) “Rent” means all Basic Rent and Additional Rent;
- (t) “Rental Taxes” means any and all taxes or duties imposed on the Landlord or the Tenant measured by or based in whole or in part on the Rent payable under the Lease, whether existing at the date of this Lease or hereinafter imposed by any governmental authority, including, without limitation, goods and services tax, harmonized sales tax, value added tax, business transfer tax, retail sales tax, federal sales tax, excise taxes or duties, or any tax similar to any of the foregoing;
- (u) “Term” means the period specified in Section 1.1(d) and, where the context requires, any renewal, extension or overholding thereof;
- (v) “Transfer” means an assignment of this Lease in whole or in part, a sublease of all or any part of the Premises, any transaction whereby the rights of the Tenant under this Lease or to the Premises are transferred to another person, any transaction by which any right of use or occupancy of all or any part of the Premises is shared with or conferred upon any person, any mortgage, charge or encumbrance of this Lease or the Premises or any part thereof, or any transaction or occurrence whatsoever which has changed or will change the identity of the person having lawful use or occupancy of any part of the Premises; and
- (w) “Transferee” means any person or entity to whom a Transfer is or is to be made.

Article 2—Demise and Term

2.1 Demise

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant and the Tenant rents from the Landlord the Premises.

2.2 Condition of Premises

Tenant acknowledges that the Landlord has not made any representation or warranty with respect to the condition of the Premises or with respect to the suitability of the Premises for the conduct of Tenant’s business. Tenant acknowledges that (a) it is fully familiar with the condition of the Premises and agrees to take the same in its condition “as is” as of the Commencement Date and (b) Landlord shall have no obligation to alter, repair or otherwise prepare the Premises for Tenant’s occupancy or to pay for or construct any improvements to the Premises.

2.3 Term

The Term shall commence on the Commencement Date, run for the period set out in Section 1.1(d), and end on the date set out in Section 1.1(d), unless terminated earlier pursuant to the provisions of this Lease. Provided that if the Commencement Date is not the first day of a month, the Term shall end on the last day of the month next following the month in which the Commencement Date occurs, after the period set out in Section 1.1(d).

2.4 Delay in Possession

Should the Tenant be delayed by any fault of the Landlord or any other reason (other than the fault of the Tenant) in taking possession of the Premises on the Commencement Date then and only then shall the start of the Commencement Date and the Term be postponed for the same number of days that the Tenant is delayed in taking possession of the Premises. The Tenant acknowledges and agrees that such postponement shall be full settlement for any claims it might have against the Landlord for such delay.

2.5 Overholding

If, at the expiration of the initial Term or any subsequent renewal or extension thereof, the Tenant shall continue to occupy the Premises without further written agreement, there shall be no tacit renewal of this Lease, and the tenancy of the Tenant thereafter shall be from month to month only, and may be terminated by either party on one (1) months' notice. Rent shall be payable in advance on the first day of each month equal to the sum of two hundred percent (200%) of the monthly instalment of Basic Rent payable during the last year of the Term and one-twelfth (1/12) of all Additional Rent charges provided for herein, determined in the same manner as if this Lease had been renewed, and all terms and conditions of this Lease shall, so far as applicable, apply to such monthly tenancy.

Article 3—Rent

3.1 Covenant to Pay, Net Lease

The Tenant covenants to pay Rent as provided in this Lease. It is the intention of the parties that the Rent provided to be paid shall be net to the Landlord and clear of all taxes, costs and charges arising from or relating to the Premises, and that the Tenant shall pay, as Additional Rent, all charges, impositions and expenses of every nature and kind relating to the Premises (except the Landlord's income taxes, and except as otherwise specifically provided) in the manner hereinafter provided, and the Tenant covenants with the Landlord accordingly.

3.2 Rental Taxes

The Tenant will pay to the Landlord the Rental Taxes assessed upon: (a) the Rent; (b) the Landlord; and/or (c) the Tenant pursuant to the laws, rules and regulations governing the administration of the Rental Taxes by the authority having jurisdiction, and as such may be amended from time to time during the Term of this Lease or any extension thereof. The Rental Taxes shall not be deemed to be Additional Rent under this Lease, but the Landlord shall have the same rights and remedies for non-payment of Rental Taxes as it does for non-payment of Rent.

3.3 Payment Method

The Landlord may at any time, and from time to time, require the Tenant to provide to the Landlord either: (a) a series of monthly postdated cheques, each cheque in the amount of the monthly instalment of Rent; or (b) authorization and documentation required to automatically debit the Tenant's bank account for such amounts. In the event of any change in the estimates of Additional Rent, the Landlord may require a new series of monthly postdated cheques or new documentation (as applicable).

3.4 Deposit

Any deposit in the Landlord's hands at the beginning of the Term shall be held by the Landlord without

interest. The amount of any such rent deposit described in Section 1.1(g) shall be applied to Rent and Rental Taxes as they fall due under this Lease. The amount of any security deposit described in Section 1.1(h) shall be held by the Landlord as security for the due performance by the Tenant of its obligations under this Lease and may be applied, in the Landlord's discretion, to remedy any default by the Tenant hereunder and, in the absence of such default, the deposit shall be applied to the Rent and Rental Taxes for the last month of the Term. If the Landlord draws moneys from the deposit for the purpose of remedying any default of the Tenant, the Tenant shall, at the request of the Landlord, pay forthwith to the Landlord the amount of money required to replace the moneys so drawn by the Landlord.

3.5 Rent Past Due

If the Tenant fails to pay any Rent when the same is due and payable, such unpaid amount shall bear interest at the rate per annum equal to the prime rate of interest charged by the Landlord's Chartered bank plus four percent (4%), from time to time, such interest to be calculated from the time such Rent becomes due until paid by the Tenant.

3.6 Partial Periods

If the Term commences on any day other than the first day of the month, or ends on any day other than the last day of the month, Rent for the fractions of a month at the commencement and at the end of the Term shall be calculated on a *pro rata* basis and shall be payable on the first day of the partial month.

Article 4—Basic Rent

4.1 Basic Rent

The Tenant covenants and agrees to pay, from and after the Commencement Date, to the Landlord at the office of the Landlord, or to such other person or at such other location as the Landlord shall direct by notice in writing, in lawful money of Canada, without any prior demand therefor and without any deduction, abatement or set-off whatsoever, as annual Basic Rent, the sum(s) set out in Section 1.1(e) of this Lease in equal monthly instalments in advance in the amount(s) set out in Section 1.1(e), on the first day of each and every month during the Term.

Article 5—Additional Rent

5.1 Additional Rent

(1) In addition to the Basic Rent reserved in favour of the Landlord, the Tenant shall, throughout the Term, pay to the Landlord or as otherwise provided in this Lease, in lawful money of Canada, without any deduction, abatement or set-off whatsoever, as Additional Rent, the following costs incurred and attributable to the entire Premises:

- (a) the cost of the Landlord's insurance as provided herein;
- (b) all Realty Taxes levied, rated, charged or assessed on or in relation to the Premises;
- (c) all charges, costs, accounts and any other sums payable by reason of the supply of utilities and services to the Premises;
- (d) all costs of the Landlord incurred in undertaking the Landlord Obligations; and
- (e) all other sums, amounts, costs, cost escalations and charges specified in this Lease to be payable by the Tenant.

(2) All of the payments set out in this Lease (other than Rental Taxes) shall constitute Basic Rent or Additional Rent, and shall be deemed to be and shall be paid as rent, whether or not any payment is payable to the Landlord or otherwise, and whether or not paid as compensation to the Landlord for expenses to which it has been put. The Landlord has all the rights against the Tenant for default in payment of Additional Rent that it has against the Tenant for default in payment of Basic Rent.

5.2 Realty Taxes

The Tenant shall pay to the Landlord, as Additional Rent, all Realty Taxes levied, rated, charged or assessed throughout the Term, on or in relation to the Premises, or any part thereof, in accordance with the following:

- (a) payment shall be due in equal monthly instalments over each calendar year or such shorter period as required such that the Landlord will have in its hands an amount sufficient to pay each instalment of Realty Taxes when due to the taxing authorities. Prior to the commencement of each year, the Landlord shall estimate the amount of such equal monthly instalments and notify the Tenant in writing of such estimate. From time to time during the year, the Landlord may re-estimate the amounts payable for such year, in which event the Landlord shall notify the Tenant in writing of such re-estimate and fix monthly instalments for the remaining balance of such year; and
- (b) if the Landlord so directs, the Tenant shall pay Realty Taxes directly to the taxing authorities. In that event, the Tenant shall make payment, on or before the due date, of each instalment and shall provide to the Landlord, on demand, evidence of payment in the form of receipted bills.

5.3 Business and Other Taxes

In each and every year during the Term, the Tenant shall pay as Additional Rent, discharge within fifteen (15) days after they become due, and indemnify the Landlord from and against payment of, and any interest or penalty in respect of, the following:

- (a) every tax, licence fee, rate, duty and assessment of every kind with respect to any business carried on by the Tenant in the Premises or by any subtenant, licensee, concessionaire or franchisee or anyone else, or in respect of the use or occupancy of the Premises by the Tenant, its subtenants, licensees, concessionaires or franchisees, or anyone else (other than such taxes as income, profits or similar taxes assessed upon the income of the Landlord); and
- (b) all Realty Taxes in respect of tenant's fixtures, Leasehold Improvements, equipment or facilities on or about the Premises, and any Realty Taxes occurring as a result of any reason peculiar to the Tenant.

5.4 Landlord's Insurance Costs

The Tenant shall pay to the Landlord, as Additional Rent, all costs of the Landlord in maintaining its insurance as contemplated herein in accordance with the following:

- (a) payment shall be due in equal monthly instalments over each calendar year or such shorter period as required, such that the Landlord will have in its hands an amount sufficient to pay its insurance invoices. Prior to the commencement of each year, the Landlord shall estimate the amount of such equal monthly instalments and notify the Tenant in writing of such estimate. From time to time during the year, the Landlord may re-estimate the amounts payable for such year, in which event the Landlord shall notify the Tenant in writing of such re-estimate and fix monthly instalments for the remaining balance of such year; and
- (b) if the Landlord so directs, the Tenant shall reimburse it for the cost of insurance upon demand.

5.5 Landlord Repair Costs

The Tenant shall pay to the Landlord, as Additional Rent, the costs of the Landlord incurred in undertaking

the Landlord Obligations (“Landlord Repair Costs”) subject to and in accordance with the following:

- (a) the Landlord Repair Costs shall be amortized in accordance with reasonable commercial real estate practices and the Tenant shall pay during the Term the annual amortized amount together with interest on the unamortized portion at a rate calculated at two (2) percentage points above the prime interest rate of the Landlord’s chartered bank from time to time;
- (b) the Landlord Repair Costs charged annually to the Tenant shall include an administration fee to the Landlord equal to fifteen percent (15%) of such annual amount;
- (c) payment shall be due in equal monthly installments following the completion of such item and thereafter over each calendar year on the same date as the payment for Basic Rent is due; and
- (d) prior to the commencement of each year, the Landlord shall reasonably estimate the amount of such installments and notify the Tenant in writing of such estimate.

5.6 Annual Readjustment of Additional Rent

As soon as practicable after the expiration of each year, the Landlord shall make a final determination of Realty Taxes, Landlord Repair Costs and other estimated Additional Rent, based on the actual costs incurred therefor by the Landlord, and shall notify the Tenant of such determination, providing reasonable details as to the breakdown and calculation thereof. If there has been a shortfall in the amounts payable by the Tenant for such period, the Tenant shall pay such shortfall within twenty (20) days after delivery of the Landlord’s notice. Any overpayment may be paid by the Landlord to the Tenant without interest, or credited to the Tenant’s account and held by the Landlord without interest, to be applied to payments falling due under this Lease. In the event of any dispute, the report of the Landlord’s auditor or accountant as to the Additional Rent shall be conclusive as to the amount thereof for any period to which such report relates. Neither the Landlord nor the Tenant may claim any adjustment on account of Additional Rent for any fiscal period more than two (2) years after the date of delivery of the statement for such period.

Article 6—Utilities, HVAC & Site Security

6.1 Payment for Utilities

The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the utilities and services to the Premises. The Tenant shall contract with and pay the supplier directly. The Tenant shall immediately advise the Landlord of any installations, appliances or machines used by the Tenant which consume or are likely to consume large amounts of electricity or other utilities and, on request, shall promptly provide the Landlord with a list of all installations, appliances and machines used in the Premises.

6.2 No Overloading

The Tenant will not install any equipment which would exceed or overload the capacity of the utility facilities in the Premises or the electrical wiring and service in the Premises, and agrees that if any equipment installed by the Tenant shall require additional utility facilities, such facilities shall be installed, if available, and subject to the Landlord’s prior written approval thereof (which approval may not be unreasonably withheld), at the Tenant’s sole cost and expense in accordance with plans and specifications to be approved in advance by the Landlord, in writing.

6.3 No Liability

In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Premises, or to any property of the Tenant or anyone else, for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses or damages of whatsoever

kind arising from any interruption or failure in the supply of any utility or service to the Premises.

6.4 HVAC

The Tenant shall, throughout the Term, operate, maintain, repair, and regulate the HVAC Equipment in such a manner as to maintain reasonable conditions of temperature and humidity within the Premises and so as to maintain the HVAC Equipment in a good and working order. The Tenant shall take out a standard servicing contract with a capable and reputable company for the service and maintenance of the HVAC Equipment. The Tenant agrees to provide the Landlord with a copy of such servicing contract upon request.

6.5 Site Security

The Tenant shall ensure that the Premises are locked and secured when not operational. The Tenant shall be responsible for all site security and shall (i) maintain the current building security system and existing closed-circuit television (CCTV) system in working order; and (ii) retain a site security alarm monitoring service at its sole cost and expense. The Tenant shall provide the Landlord with such keys, combinations, cards, passwords or other devices or information as may be required to permit the Landlord independent access to all areas of the Premises, including all buildings, equipment, gates or locks thereon.

Article 7—Use of Premises and Compliance with Laws

7.1 Use of the Premises

The Tenant acknowledges that the Premises will be used solely for the purposes set out in Section 1.1(f), and for no other purpose.

7.2 Observance of Law

The Tenant shall, at its own expense, comply with all laws, by-laws, ordinances, regulations and directives of public authority having jurisdiction affecting the Premises or the use or occupation thereof including, without limitation, police, fire and health regulations and requirements of the fire insurance underwriters. Without limiting the generality of the foregoing the Tenant shall observe and comply with all Environmental Laws, in accordance with the obligations set out in Schedule “C”.

7.3 Waste, Nuisance, Overloading

The Tenant shall not do or suffer any waste or damage, disfiguration or injury to the Premises, nor permit or suffer any overloading of the floors, roof deck, walls or any other part of the Premises, and shall not use or permit to be used any part of the Premises for any illegal or unlawful purpose or any dangerous, noxious or offensive trade or business, and shall not cause or permit any nuisance in, at or on the Premises, provided that the use specifically permitted hereunder shall not be considered waste or nuisance as contemplated by this Section 7.3

Article 8—Maintenance, Repairs and Alterations of Premises

8.1 Tenant’s Obligations

The Tenant covenants to keep the Premises clean, neat and well-kept at all times and otherwise in a good and reasonable state of repair consistent with the general standards applicable to buildings of a similar nature in the vicinity of the Premises. The obligations of the Tenant include, without limitation:

- (a) snow removal, pest control, all housekeeping services (washrooms, office, locker room,

lunchroom), lawn maintenance and gardening, maintenance and repairs to exterior lighting, security fence and the parking lot;

- (b) blowing down dust throughout the entire building and from all equipment and electrical systems and sweeping up of the dust no less than once weekly;
- (c) maintenance of all components of the Premise's fire suppressant system in accordance with all applicable laws, standards and regulations;
- (d) maintenance of the two (2) on-site fuel storage tanks and dispensing system in accordance with all applicable laws, including provision of all required spill containment measures; and
- (e) operation and maintenance of the vehicle inbound/outbound weighing scales in accordance with all applicable laws, including the *Weights and Measures Act* (R.S.C., 1985, c. W-6)

The Tenant shall, if and as requested by the Landlord, provide evidence of its maintenance and repair activities (e.g., maintenance logs, records etc.) to the satisfaction of the Landlord so as to demonstrate compliance with its maintenance responsibilities under this Lease.

The Tenant shall not be responsible for any items that are within the Landlord Obligations pursuant to Section 8.2 of this Lease.

8.2 Landlord's Obligations

The Landlord shall be responsible for the following (the "Landlord's Obligations"):

- (a) capital repairs and replacements to the structure of the building and to the roof (including, without limitation, any component thereof such as a roof deck or roof membrane), it being agreed that capital repairs and replacements to the structure and roof shall be deemed a Landlord's Obligation, and normal day-to-day maintenance of the structure and roof shall be included in the Tenant's obligations;
- (b) capital repairs and replacements to the HVAC Equipment, it being agreed that capital repairs and replacements to the HVAC Equipment shall be deemed a Landlord's Obligation, and normal day-to-day maintenance of the HVAC Equipment shall be included in the Tenant's obligations; and
- (c) capital repairs and replacements to the parking lot, driveways and other access facilities, it being agreed that capital repairs and replacements to such items shall be deemed a Landlord's Obligation, and normal day-to-day maintenance of such items shall be included in the Tenant's obligations;

8.3 Inspection and Repair on Notice

The Landlord, its employees, agents and contractors shall be entitled to enter upon the Premises at any time, without notice, for the purpose of making emergency repairs, and during normal business hours on reasonable prior written notice, for the purpose of inspecting and making repairs, alterations or improvements to the Premises (including, for greater certainty, access to the high voltage substation), or for the purpose of having access to the under floor ducts, or to the access panels to mechanical shafts (which the Tenant agrees not to obstruct). The Tenant shall not be entitled to compensation for any inconvenience, nuisance or discomfort occasioned thereby. The Landlord, its employees, agents and contractors may, at any time, and from time to time, on reasonable prior written notice, enter upon the Premises to remove any article or remedy any condition which, in the opinion of the Landlord, would likely lead to the cancellation of any policy of insurance. The Landlord will take reasonable precautions and attempt to schedule such work so as not to unreasonably interfere with the operation of the Tenant's business and to minimize interference with the Tenant's use and enjoyment of the Premises. The Tenant shall promptly effect all repairs necessitated by the Tenant's negligence or wilful misconduct or the negligence or wilful misconduct of the Tenant's agents, employees, contractors, invitees, or others for whom the Tenant is in law responsible.

8.4 Alterations

The Tenant will not make or erect in or to the Premises any installations, alterations, additions or partitions without first submitting drawings and specifications to the Landlord and obtaining the Landlord's prior written approval, which the Landlord shall not unreasonably withhold. The Tenant must further obtain the Landlord's prior written approval to any change or changes in such drawings and specifications. The Tenant will pay to the Landlord the Landlord's reasonable out-of-pocket costs of having its architects or consultants review such drawings and specifications and any changes. Such work shall be performed by qualified contractors engaged by the Tenant (and approved by the Landlord), but in each case only under a written contract approved in writing by the Landlord and subject to all reasonable conditions which the Landlord may impose, provided nevertheless that the Landlord may, at its option, require that the Landlord's contractors be engaged for any structural work or any work that might impact the HVAC Equipment or other base building systems. The Tenant shall submit to the Landlord's reasonable supervision over construction and promptly pay to the Landlord's or the Tenant's contractors, as the case may be, when due, the cost of all such work and of all materials, labour and services involved therein and of all decoration and all changes to the Premises, its equipment or services necessitated thereby.

8.5 Signs

The Tenant shall not paint, display, inscribe, place or affix any sign, picture, advertisement, notice, lettering or direction on any part of the outside of the Premises or that is visible from the outside of the Premises without the prior consent of the Landlord, not to be unreasonably withheld.

8.6 Construction Liens

If any construction or other liens or order for the payment of money shall be filed against the Premises by reason of or arising out of any labour or material furnished to the Tenant or to anyone claiming through the Tenant, the Tenant, within five (5) days after receipt of notice of the filing thereof, shall cause the same to be discharged by bonding, deposit, payment, court order or otherwise. The Tenant shall defend all suits to enforce such liens or orders against the Tenant at the Tenant's sole expense. The Tenant indemnifies the Landlord against any expense or damage incurred as a result of such liens or orders.

8.7 Removal of Improvements and Fixtures

(1) All Leasehold Improvements shall immediately upon their placement become the Landlord's property, without compensation to the Tenant. Except as otherwise agreed by the Landlord in writing, no Leasehold Improvements or trade fixtures shall be removed from the Premises by the Tenant, either during or upon the expiry or earlier termination of the Term, except that:

(a) the Tenant may, during the Term, in the usual course of its business, remove its trade fixtures, provided that the Tenant is not in default under this Lease and, at the end of the Term, the Tenant shall remove its trade fixtures; and

(b) the Tenant shall, at its sole cost, remove such of the Leasehold Improvements as the Landlord shall require to be removed, such removal to be completed on or before the end of the Term.

(2) The Tenant shall, at its own expense, repair any damage caused to the Premises by the Leasehold Improvements or trade fixtures or the removal thereof. In the event that the Tenant fails to remove its trade fixtures prior to the expiry or earlier termination of the Term, such trade fixtures shall, at the option of the Landlord, become the property of the Landlord and may be removed from the Premises and sold or disposed of by the Landlord in such manner as it deems advisable. For greater certainty, the Tenant's trade fixtures shall not include any HVAC Equipment or light fixtures. Notwithstanding anything in this Lease, the Landlord shall be under no obligation to repair or maintain the Tenant's installations.

8.8 Surrender of Premises

At the expiration or earlier termination of this Lease, the Tenant shall peaceably surrender and give up unto the Landlord vacant possession of the Premises in the same condition and state of repair as the Tenant is required to maintain the Premises throughout the Term and in accordance with its obligations in Section 8.7.

Article 9—Insurance and Indemnity

9.1 Tenant's Insurance

(1) The Tenant shall, at its sole cost and expense, take out and maintain in full force and effect, at all times throughout the Term, the following insurance:

(a) Commercial general liability insurance, including property damage, bodily injury and personal injury liability, blanket contractual liability, premises and operations, personal and advertising injury, non-owned automobile liability, and owners' and contractors' protective insurance coverage with respect to the Premises, which coverage shall include the business operations conducted by the Tenant and any other person on the Premises. Such policies shall be written on a comprehensive basis with coverage for any one occurrence or claim of not less than five million dollars (\$5,000,000) save and except in the case of non-owned automobile which shall have a coverage limits of not less than two million dollars (\$2,000,000), or such higher limits as the Landlord may reasonably require from time to time. The policy shall be endorsed to (i) include the Landlord as an additional insured, and (ii) contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the policies or coverage affecting the additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies;

(b) Automobile insurance (OAP1) for both owned and leased vehicles with inclusive limits of not less than two million dollars (\$2,000,000). Coverage must also apply in the event the operations of the insured resulted in a pollution condition including remediation costs. Proof of automobile insurance will not be required if the Tenant provides a signed letter stating that they do not own or lease vehicles;

(c) Tenant's legal liability insurance of not less than five million dollars (\$5,000,000) to pay on behalf of the Tenant and for which the Tenant becomes obligated to pay by reason of liability imposed for compensatory damages arising from physical injury to or destruction of tangible property caused by an accident to structures or portions thereof rented to or occupied by the Tenant, including fixtures permanently attached thereto;

(d) The Tenant shall be required to provide, maintain, and pay for Pollution Liability Insurance to a limit of no less than two million dollars (\$2,000,000) per claim insuring all services and operations of the Tenant for third party losses arising from a pollution event performed by or on behalf of the Tenant and shall include coverage for but not limited to, bodily injury including death, property damage and remediation costs which are reasonable and necessary to investigate, neutralize, remove, remediate (including associated monitoring) or dispose of soil, surface water, groundwater or other contamination. The policy shall be endorsed to: (i) include the Owner/Landlord as an additional insured; (ii) contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the additional insured or cancellation of coverage before the expiration date of any of the foregoing policies; and (iii) the policy shall be maintained continuously during the Term and for two (2) years after the termination or expiration of this Lease. If coverage under the policy is cancelled within the two (2) year period after the termination or expiration of this Lease the Tenant shall provide the Landlord with notice within thirty (30) days of cancellation and shall

be required to purchase an extended reporting endorsement to confirm that coverage is maintained;

(e) Broad Form Contractor's Equipment insurance coverage covering machinery and equipment used by the Tenant for the performance of its work including costs to cleanup and restore property damaged by sudden and accidental escape of pollutants. The policy shall be in a form acceptable to the Landlord and shall not allow subrogation claims by the insurer against the Landlord. The policies shall be endorsed to provide the Landlord with not less than 30 days written notice in advance of cancellation, change or amendment restricting coverage. Subject to satisfactory proof of financial capability by the Tenant for self-insurance of the Tenant's Equipment, the Landlord may agree to waive the equipment insurance requirement;

(f) Property Insurance upon all improvements and contents owned by the Tenant or for which the Tenant is legally liable, or which is installed by or on behalf of the Tenant, and which is located in or about the Premises including, but not limited to, fittings, installations, alterations, additions, partitions, trade fixtures, and anything in the nature of a tenant improvement as well as the Tenant's, furniture and contents in an amount of no less than full replacement cost; and

(g) such other forms of insurance as may be reasonably required by the Landlord and any Mortgagee from time to time.

(2) The Tenant shall furnish to the Landlord, on written request, certificates of all such policies. The Tenant agrees that if it fails to take out or to keep in force such insurance or if it fails to provide a certificate of every policy and evidence of continuation of coverage as herein provided, the Landlord shall have the right to take out such insurance and pay the premium therefor and, in such event, the Tenant shall pay to the Landlord the amount paid as premium plus fifteen percent (15%), which payment shall be deemed to be Additional Rent payable on the first day of the next month following payment by the Landlord.

9.2 Landlord's Insurance

The Landlord shall provide and maintain insurance on the Premises against loss, damage or destruction caused by fire and extended perils under a standard extended form of fire insurance policy in such amounts and on such terms and conditions as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the Premises. The amount of insurance to be obtained shall be determined at the sole discretion of the Landlord. The Landlord may maintain such other insurance in respect of the Premises and its operation and management as the Landlord determines, acting reasonably. The Tenant shall not be an insured under the policies with respect to the Landlord's insurance, nor shall it be deemed to have any insurable interest in the property covered by such policies, or any other right or interest in such policies or their proceeds.

9.3 Increase of Landlord Premiums

If the occupancy of the Premises, the conduct of business in the Premises, or any acts or omissions of the Tenant in the Premises or any part thereof, causes or results in any increase in premiums for the insurance carried from time to time by the Landlord with respect to the Premises, the Tenant shall pay any such increase in premiums as Additional Rent forthwith after invoices for such additional premiums are rendered by the Landlord. In determining whether increased premiums are caused by or result from the use and occupancy of the Premises, a schedule issued by the organization computing the insurance rate on the Premises showing the various components of such rate shall be conclusive evidence of the several items and charges which make up such rate. The Tenant shall comply promptly with all requirements and recommendations any insurer now or hereafter having policies in effect, pertaining to or affecting the Premises.

9.4 Tenant Indemnity

The Tenant will indemnify the Landlord and save it harmless from any and all losses or claims, actions,

demands, liabilities and expenses in connection with loss of life, personal injury and/or damage to or loss of property: (a) arising out of any occurrence in or about the Premises; (b) occasioned or caused wholly or in part by any act or omission of the Tenant or anyone for whom it is in law responsible; or (c) arising from any breach by the Tenant of any provisions of this Lease.

9.5 Mutual Release

(1) Each of the Landlord and the Tenant releases the other and waives all claims against the other and those for whom the other is in law responsible with respect to occurrences insured against or required to be insured against by the releasing party, whether any such claims arise as a result of the negligence or otherwise of the other or those for whom it is in law responsible, subject to the following:

(a) such release and waiver shall be effective only to the extent of proceeds of insurance received by the releasing party or proceeds which would have been received if the releasing party had obtained all insurance required to be obtained by it under this Lease (whichever is greater) and, for this purpose, deductible amounts under the Tenant's insurance (but not the Landlord's) shall be deemed to be proceeds of insurance received; and

(b) to the extent that both parties have insurance or are required to have insurance for any occurrence, the Tenant's insurance shall be primary.

(2) Notwithstanding the foregoing or anything else herein contained, in no event, whether or not the result of the wilful act or the negligence of the Landlord, its agents, officers, employees or others for whom it is legally responsible, and irrespective of any insurance that may or may not be carried or required to be carried, shall the Landlord be liable for: (a) damage to property of the Tenant or others located on the Premises; (b) any injury or damage to persons or property resulting from fire, explosion, steam, water, rain, snow or gas which may leak into or issue or flow from any part of the Premises or from the water, steam or drainage pipes or plumbing works of the Premises or from any other place or quarter; (c) any damage caused by or attributable to the condition or arrangement of any electrical or other wiring; or (d) any indirect or consequential damages suffered by the Tenant.

Article 10—Assignment and Subletting

10.1 Assignment, Subletting

The Tenant shall not effect any Transfer without the prior written consent of the Landlord. No consent to any Transfer shall relieve the Tenant from its obligation to pay Rent and to perform all of the covenants, terms and conditions herein contained. In the event of a Transfer, the Landlord may collect Rent or sums on account of Rent from the Transferee and apply the net amount collected to the Rent payable hereunder, but no such Transfer or collection, or acceptance of the Transferee as tenant, shall be deemed to be a waiver of this covenant.

10.2 Landlord's Consent

If the Tenant desires to effect a Transfer, then and so often as such event shall occur, the Tenant shall make its request to the Landlord in writing. The Tenant's request shall contain the information required by Section 10.3 of this Lease. The Landlord shall, within fourteen (14) days after receipt of such request, notify the Tenant in writing either that: (a) the Landlord consents or does not consent, as the case may be; or (b) the Landlord elects to cancel and terminate this Lease if the request is to assign the Lease or to sublet or otherwise transfer all of the Premises or, if the request is to sublet or otherwise transfer a portion of the Premises only, to cancel and terminate this Lease with respect to such portion. If the Landlord elects to cancel this Lease as aforesaid and so advises the Tenant in writing, the Tenant shall then notify the Landlord in writing within fifteen (15) days thereafter of the Tenant's intention either to refrain from such Transfer or to accept the cancellation of the Lease (in whole or in part, as the case may be). Failure of the

Tenant to deliver notice to the Landlord within such fifteen (15) day period advising of the Tenant's desire to refrain from such Transfer shall be deemed to be an acceptance by the Tenant of the Landlord's cancellation of this Lease (in whole or in part, as the case may be). Any cancellation of this Lease pursuant to this Section 10.2 shall be effective on the later of the date originally proposed by the Tenant as being the effective date of the Transfer and the last day of the month sixty (60) days following the date of the Landlord's notice to cancel this Lease.

10.3 Requests for Consent

Requests by the Tenant for the Landlord's consent to a Transfer shall be in writing and shall be accompanied by the name, address, telephone numbers, business experience, credit and financial information and banking references of the Transferee, and shall include a true copy of the document evidencing the proposed Transfer, and any agreement relating thereto. The Tenant shall also provide such additional information pertaining to the Transferee as the Landlord may reasonably require. The Landlord's consent shall be subject to the following:

- (a) the Tenant remaining fully liable to pay Rent and to perform all of the covenants, terms and conditions herein contained;
- (b) the Landlord being satisfied, acting reasonably, with the financial ability and good credit rating and standing of the Transferee and the ability of the Transferee to carry on the permitted use;
- (c) the Tenant having regularly and duly paid Rent and performed all the covenants contained in this Lease;
- (d) the Transferee having entered into an agreement with the Landlord agreeing to be bound by all of the terms, covenants and conditions of this Lease;
- (e) the Tenant paying to the Landlord, prior to receiving such consent, an administrative fee and all reasonable legal fees and disbursements incurred by the Landlord in connection with the Transfer; and
- (f) the Tenant paying to the Landlord, as Additional Rent, all excess rent and other profit earned by the Tenant in respect of the Transfer.

10.4 Change of Control

Any transfer or issue by sale, assignment, bequest, inheritance, operation of law, or other disposition, or by subscription, of any part or all of the corporate shares of the Tenant or any other corporation, which would result in any change in the effective direct or indirect control of the Tenant, shall be deemed to be a Transfer, and the provisions of this Article 10 shall apply *mutatis mutandis*. The Tenant shall make available to the Landlord or its lawful representatives such books and records for inspection, at all reasonable times, in order to ascertain whether there has, in effect, been a change in control. This provision shall not apply if the Tenant is a public company or is controlled by a public company listed on a recognized stock exchange and such change occurs as a result of trading in the shares of a corporation listed on such exchange.

10.5 No Advertising

The Tenant shall not advertise that the whole or any part of the Premises is available for assignment or sublease, and shall not permit any broker or other person to do so unless the text and format of such advertisement is first approved in writing by the Landlord. No such advertisement shall contain any reference to the rental rate of the Premises.

10.6 Assignment by Landlord

In the event of the sale or lease by the Landlord of its interest in the Premises or any part or parts thereof, and in conjunction therewith the assignment by the Landlord of this Lease or any interest of the Landlord

herein, the Landlord shall be relieved of any liability under this Lease in respect of matters arising from and after such assignment.

10.7 Status Certificate

The Tenant shall, on ten (10) days' notice from the Landlord, execute and deliver to the Landlord and/or as the Landlord may direct a statement as prepared by the Landlord in writing certifying the following: (a) that this Lease is unmodified and in full force and effect, or, if modified, stating the modifications and that the same is in full force and effect as modified; (b) the amount of the Basic Rent then being paid; (c) the dates to which Basic Rent, by instalments or otherwise, and Additional Rent and other charges hereunder have been paid; (d) whether or not there is any existing default on the part of the Landlord of which the Tenant has notice; and (e) any other information and particulars as the Landlord may reasonably request.

Article 11—Quiet Enjoyment

11.1 Quiet Enjoyment

The Tenant, on paying the Rent hereby reserved, and performing and observing the covenants and provisions herein required to be performed and observed on its part, shall peaceably enjoy the Premises for the Term.

Article 12—Damage and Destruction

12.1 Damage or Destruction to Premises

If the Premises or any portion thereof are damaged or destroyed by fire or by other casualty, Rent shall abate in proportion to the area of that portion of the Premises which, in the opinion of the Landlord's architect or professional engineer, is thereby rendered unfit for the purposes of the Tenant until the Premises are repaired and rebuilt, and the Landlord shall repair and rebuild the Premises. The Landlord's obligation to repair and rebuild shall not include the obligation to repair and rebuild any chattel, fixture, leasehold improvement, installation, addition or partition in respect of which the Tenant is required to maintain insurance hereunder, or any other property of the Tenant. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may reoccupy the Premises for the purpose of undertaking its work.

12.2 Rights to Termination

Notwithstanding Section 12.1:

- (a) if the Premises or any portion thereof are damaged or destroyed by any cause whatsoever and cannot, in the reasonable opinion of the Landlord, be rebuilt within one hundred and twenty (120) days of the damage or destruction, the Landlord may terminate this Lease by giving to the Tenant, within thirty (30) days after such damage or destruction, notice of termination, and thereupon Rent and other payments hereunder shall be apportioned and paid to the date of such damage or destruction, and the Tenant shall immediately deliver up vacant possession of the Premises to the Landlord; and
- (b) in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of insurance are substantially insufficient to pay for the costs of rebuilding the Premises or are not payable to or received by the Landlord, or in the event that any Mortgagee or other person entitled thereto shall not consent to the payment to the Landlord of the proceeds of any insurance policy for such purpose or, in the event that the Landlord is not able to obtain all necessary governmental approvals and permits to rebuild the Premises, the Landlord may elect, within thirty (30) days of such damage or destruction, on written notice to the Tenant, to terminate this Lease, and the Tenant shall immediately deliver up vacant possession of the Premises to the Landlord.

12.3 Certificate Conclusive

Any decisions regarding the extent to which the Premises has become unfit for use shall be made by an architect or professional engineer appointed by the Landlord, whose decision shall be final and binding on the parties.

12.4 Landlord's Work

In performing any reconstruction or repair, the Landlord may effect changes to the Premises and its equipment and systems. The Landlord shall have no obligation to repair any damage to Leasehold Improvements or the Tenant's fixtures.

Article 13—Default

13.1 Default and Right to Re-enter

Any of the following constitutes an Event of Default under this Lease:

- (a)** any Rent due is not paid within five (5) days after notice in writing from the Landlord to the Tenant;
- (b)** the Tenant has breached any of its obligations in this Lease and, if such breach is capable of being remedied and is not otherwise listed in this Section 13.1, after notice in writing from the Landlord to the Tenant:
 - (i)** the Tenant fails to remedy such breach within ten (10) days (or such shorter period as may be provided in this Lease); or
 - (ii)** if such breach cannot reasonably be remedied within ten (10) days (or such shorter period), the Tenant fails to commence to remedy such breach within ten (10) days of such breach, or thereafter fails to proceed diligently to remedy such breach;
- (c)** the Tenant becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, an assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of the Tenant's existence or the liquidation of its assets;
- (d)** a trustee, receiver, receiver/manager or a person acting in a similar capacity is appointed with respect to the business or assets of the Tenant;
- (e)** the Tenant makes a sale in bulk of all or a substantial portion of its assets, other than in conjunction with an assignment or sublease approved by the Landlord;
- (f)** this Lease or any of the Tenant's assets are taken under a writ of execution and such writ is not stayed or vacated within fifteen (15) days after the date of such taking;
- (g)** the Tenant makes an assignment or sublease, other than in compliance with the provisions of this Lease;
- (h)** the Tenant abandons or attempts to abandon the Premises, or the Premises become vacant or substantially unoccupied for a period of ten (10) consecutive days or more without the consent of the Landlord;
- (i)** the Tenant moves or commences, attempts or threatens to move its trade fixtures, chattels and equipment out of the Premises;
- (j)** any insurance policy covering any part of the Premises is, or is threatened to be, cancelled or adversely changed (including a substantial premium increase) as a result of any action or omission by the Tenant or any person for whom it is legally responsible; or

(k) the Tenant is in default (as set out therein) under the Processing Contract.

13.2 Default and Remedies

If and whenever an Event of Default occurs, then, without prejudice to any other rights which it has pursuant to this Lease or at law, the Landlord shall have the following rights and remedies, which are cumulative and not alternative:

(a) to terminate this Lease by notice to the Tenant or to re-enter the Premises and repossess them and, in either case, enjoy them as of its former estate, and to remove all persons and property from the Premises and store such property at the expense and risk of the Tenant or sell or dispose of such property in such manner as the Landlord sees fit without notice to the Tenant. If the Landlord enters the Premises without notice to the Tenant as to whether it is terminating this Lease under this Section 13.2(a) or proceeding under Section 13.2(b) or any other provision of this Lease, the Landlord shall be deemed to be proceeding under Section 13.2(b), and the Lease shall not be terminated, nor shall there be any surrender by operation of law, but the Lease shall remain in full force and effect until the Landlord notifies the Tenant that it has elected to terminate this Lease. No entry by the Landlord during the Term shall have the effect of terminating this Lease without notice to that effect to the Tenant;

(b) to enter the Premises as agent of the Tenant to do any or all of the following: (i) relet the Premises for whatever length and on such terms as the Landlord, in its discretion, may determine, and to receive the rent therefor; (ii) take possession of any property of the Tenant on the Premises, store such property at the expense and risk of the Tenant, and sell or otherwise dispose of such property in such manner as the Landlord sees fit without notice to the Tenant; (iii) make alterations to the Premises to facilitate their reletting; and (iv) apply the proceeds of any such sale or reletting first, to the payment of any expenses incurred by the Landlord with respect to any such reletting or sale, second, to the payment of any indebtedness of the Tenant to the Landlord other than Rent, and third, to the payment of Rent in arrears, with the residue to be held by the Landlord and applied to payment of future Rent as it becomes due and payable, provided that the Tenant shall remain liable for any deficiency to the Landlord;

(c) to remedy or attempt to remedy any default of the Tenant under this Lease for the account of the Tenant and to enter upon the Premises for such purposes. No notice of the Landlord's intention to remedy or attempt to remedy such default need be given to the Tenant unless expressly required by this Lease, and the Landlord shall not be liable to the Tenant for any loss, injury or damages caused by acts of the Landlord in remedying or attempting to remedy such default. The Tenant shall pay to the Landlord all expenses incurred by the Landlord in connection therewith plus fifteen (15%) of the costs so incurred by the Landlord as an administration fee;

(d) to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of any default by the Tenant including, if the Landlord terminates this Lease, any deficiency between those amounts which would have been payable by the Tenant for the portion of the Term following such termination and the net amounts actually received by the Landlord during such period of time with respect to the Premises; and

(e) to recover from the Tenant the full amount of the current month's Rent together with the next three (3) months' instalments of Rent, all of which shall immediately become due and payable as accelerated rent.

13.3 Distress

Notwithstanding any provision of this Lease or any provision of any applicable legislation, none of the goods and chattels of the Tenant on the Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and the Tenant waives any such exemption. If the Landlord makes any claim against the goods and chattels of the Tenant by way of distress, this provision may be pleaded as an

estoppel against the Tenant in any action brought to test the right of the Landlord to levy such distress.

13.4 Costs

The Tenant shall pay to the Landlord all damages, costs and expenses (including, without limitation, all legal fees on a solicitor-and-client basis) incurred by the Landlord in enforcing the terms of this Lease, or with respect to any matter or thing which is the obligation of the Tenant under this Lease, or in respect of which the Tenant has agreed to insure or to indemnify the Landlord.

13.5 Remedies Cumulative

Notwithstanding any other provision of this Lease, the Landlord may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Lease, by statute, or common law, all of which rights and remedies are intended to be cumulative and not alternative. The express provisions contained in this Lease as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute or common law.

Article 14—General

14.1 Entry

(1) Provided that the Tenant has not exercised any option to extend this Lease as provided herein, the Landlord shall be entitled at any time during the last twelve (12) months of the Term:

(a) without notice to or consent by the Tenant to place on the exterior of the Premises the Landlord's usual notice(s) that the Premises are for rent; and

(b) on reasonable prior notice, to enter upon the Premises during normal business hours for the purpose of exhibiting same to prospective tenants.

(2) The Landlord may enter the Premises at any time during the Term, on reasonable notice, for the purpose of exhibiting the Premises to prospective Mortgagees and/or purchasers, or for the purpose of inspecting the Premises. The Landlord shall have the right to place on the Premises a "for sale" sign of reasonable dimensions.

14.2 Force Majeure

Notwithstanding any other provision contained herein, in the event that either the Landlord or the Tenant should be delayed, hindered or prevented from the performance of any act required hereunder by reason of any unavoidable delay, including strikes, lockouts, unavailability of materials, inclement weather, acts of God or any other cause beyond its reasonable care and control, but not including insolvency or lack of funds, then performance of such act shall be postponed for a period of time equivalent to the time lost by reason of such delays. The provisions of this Section 14.2 shall not under any circumstances operate to excuse the Tenant from prompt payment of Rent and/or any other charges payable under this Lease.

14.3 Effect of Waiver or Forbearance

No waiver by any party of any breach by any other party of any of its covenants, agreements or obligations contained in this Lease shall be or be deemed to be a waiver of any subsequent breach thereof or the breach of any other covenants, agreements or obligations, nor shall any forbearance by any party to seek a remedy for any breach by any other party be a waiver by the party so forbearing of its rights and remedies with respect to such breach or any subsequent breach. The subsequent acceptance of Rent by the Landlord shall not be deemed a waiver of any preceding breach by the Tenant of any term, covenant or condition regardless of the Landlord's knowledge of such preceding breach at the time of the acceptance of such Rent. All Rent and other charges payable by the Tenant to the Landlord hereunder shall be paid without any deduction, set-off or abatement whatsoever, and the Tenant waives the benefit of any statutory or

other right in respect of abatement or set-off in its favour at the time hereof or at any future time.

14.4 Notices

(1) Any notice, delivery, payment or tender of money or document(s) to the parties hereunder may be delivered personally or sent by prepaid registered or certified mail or prepaid courier to the address for such party as set out in Section 1.1(a), (b) or (c), as applicable, and any such notice, delivery or payment so delivered or sent shall be deemed to have been given or made and received upon delivery of same or on the third Business Day following the mailing of same, as the case may be. Each party may, by notice in writing to the others from time to time, designate an alternative address in Canada to which notices given more than ten (10) days thereafter shall be addressed.

(2) Notwithstanding the foregoing, any notice, delivery, payment or tender of money or document(s) to be given or made to any party hereunder during any disruption in the service of the Canada Post Office shall be deemed to have been received only if delivered personally or sent by prepaid courier.

14.5 Registration

Neither the Tenant nor anyone on the Tenant's behalf or claiming under the Tenant (including any Transferee) shall register this Lease or any Transfer against the Premises. The Tenant may register a notice, short form or caveat of this Lease provided that: (a) a copy of the Lease is not attached; (b) no financial terms are disclosed; (c) the Landlord gives its prior written approval to the notice, short form or caveat; and (d) the Tenant pays the Landlord's reasonable costs on account of the matter. Upon the expiration or earlier termination of the Term, the Tenant shall immediately discharge or otherwise vacate any such notice or caveat.

14.6 Number, Gender, Effect of Headings

Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and words importing persons shall include firms and corporations and *vice versa*. The division of this Lease into Articles and Sections and the insertion of headings are for convenience of reference only, and shall not affect the construction or interpretation of this Lease.

14.7 Severability, Subdivision Control

If any Article or Section or part or parts of an Article or Section in this Lease is or is held to be illegal or unenforceable, it or they shall be considered separate and severable from the Lease and the remaining provisions of this Lease shall remain in full force and effect and shall be binding on the Landlord and the Tenant as though such Article or Section or part or parts thereof had never been included in this Lease. It is an express condition of this Lease that the subdivision control provisions of the applicable provincial legislation be complied with, if necessary. If such compliance is necessary, the Tenant covenants and agrees to diligently proceed, at its own expense, to obtain the required consent, and the Landlord agrees to cooperate with the Tenant in bringing such application.

14.8 Entire Agreement

There are no covenants, representations, warranties, agreements or other conditions expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Lease, save as expressly set out or incorporated by reference herein, and this Lease constitutes the entire agreement duly executed by the parties, and no amendment, variation or change to this Lease shall be binding unless the same shall be in writing and signed by the parties.

14.9 Successors and Assigns

The rights and liabilities of the parties shall enure to the benefit of their respective heirs, executors, administrators, successors and assigns, subject to any requirement for consent by the Landlord hereunder.

14.10 Confidentiality and Personal Information

The contents, terms and conditions of this Lease shall be kept strictly confidential by the Tenant. The Tenant shall not, under any circumstances, discuss or reveal the details of this Lease with any arm’s-length parties including, but not limited to, any prospective tenants, real estate agents or others, except the Tenant’s legal and financial advisors, any *bona fide* Transferee, and except as may be required by law.

IN WITNESS WHEREOF the parties have duly executed this Lease.

[PURCHASER]

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

**THE REGIONAL MUNICIPALITY OF
NIAGARA**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Schedule "A"

Plan

[NTD: Sketch/Diagram/Plan showing property to be included]

Schedule "B"

Legal Description

ALL OF PIN 64417-0086 (LT)

LTS 49, 51, 52, 53, 54 & 55, BLK B, PT LT 50, KENT AV (CLOSED BY BYLAW RO382263) PL 160; PT BLKS E & F PL 5; PT STAMFORD TWP LT 115 PTS 1, 2, 3, 4, 5, 6, 7, & 8, 59R14311; EXCEPT PT 1 59R15812; SUBJECT TO AN EASEMENT OVER PT 2, 59R14311 IN FAVOUR OF THE CORPORATION OF THE CITY OF NIAGARA FALLS AS IN RO182832; SUBJECT TO AN EASEMENT OVER PTS 4 & 5 ON 59R14311 IN FAVOUR OF THE CORPORATION OF THE CITY OF NIAGARA FALLS AS IN RO382266; SUBJECT TO AN EASEMENT OVER PTS 5, 6 & 7 ON 59R14311 IN FAVOUR OF BELL CANADA & NIAGARA FALLS HYDRO-ELECTRIC COMMISSION AS IN RO382264; SUBJECT TO AN EASEMENT OVER PT 7, 59R14311 IN FAVOUR OF THE CORPORATION OF THE CITY OF NIAGARA FALLS AS IN RO382266; SUBJECT TO AN EASEMENT AS IN RO182711; CITY OF NIAGARA FALLS

Schedule "C"

Environmental Matters

1. Compliance with Environmental Laws

Without limiting any other obligation of the Tenant in this Lease, the Tenant covenants and agrees that it shall, at its sole cost and expense, observe and otherwise comply with, and cause its sublessees, invitees and all other occupants of the Premises to observe and comply with all Environmental Laws. Without limiting the generality of the foregoing, the Tenant covenants and agrees that:

- (a) it shall not cause or permit any Hazardous Substance to be brought into, stored, kept or used in or about the Premises or any part thereof, other than any Hazardous Substance that is used in the ordinary course of the permitted use being carried on at the Premises and which is stored, kept and used in strict compliance with all Environmental Laws pertaining thereto;
- (b) it shall not permit any emissions, discharges or releases of Hazardous Substances or materials containing Hazardous Substances from the Premises, other than where such occurs in the ordinary course of the permitted use being carried on at the Premises in strict compliance with all Environmental Laws pertaining thereto;
- (c) it shall not construct or install any underground storage tank in the Premises; and
- (d) on the expiration or earlier termination of this Lease, it shall cause each and every Hazardous Substance which is then located on the Premises to be removed from the Premises in compliance with all Environmental Laws pertaining thereto. Notwithstanding the foregoing, the Tenant shall not be required to remove from the Premises any Hazardous Substance which was located on the Premises at the commencement of the Term.

2. Notice of Orders

The Tenant shall immediately provide the Landlord with written notice of any order, direction, notice of default or notice of legal action received by the Tenant pursuant to any Environmental Laws and relating to the Premises, the use and occupation of the Premises or the business carried on at the Premises.

3. Right of Inspection

The Landlord and its Mortgagees and their agents, servants, employees and representatives shall have the right (but not the obligation), from time to time, to inspect (including the right to conduct an environmental audit or assessment) the Premises for the purpose of determining whether the Tenant is in compliance with its obligations in this Schedule "C". The Tenant shall pay, as Additional Rent, any reasonable costs incurred by the Landlord in making such inspections of the Premises if, by virtue of said inspection, the Tenant is determined to be in default under this Lease. Such costs shall be paid forthwith on demand. The Landlord shall also have the right to examine all of the Tenant's relevant files, books, records, statements, plans and other written information in the Tenant's possession relating to the compliance with Environmental Laws at the Premises. The Tenant authorizes the Landlord to make inquiries from time to time with any governmental authority having jurisdiction in respect of matters relating to the Tenant's compliance with Environmental Laws at the Premises, and the Tenant agrees to provide any further authorizations as may be required to facilitate the obtaining of such information. Without limiting the generality of the foregoing, the Tenant acknowledges and agrees to provide the Landlord and its contractors with all such access to the Premises as the Landlord may require from time to time to complete the environmental activities set out in Appendix 1 to the Schedule "C".

4. Audit Report at End of Term

Upon the request of the Landlord, given to the Tenant within six (6) months preceding the calendar month in which the Term or any extension or renewal thereof (as the case may be) expires, the Tenant shall provide to the Landlord, at the sole cost of the Tenant, an independent audit or assessment report, in form and substance and from a qualified consultant approved by the Landlord, acting reasonably, regarding Hazardous Substances in, on or under the Premises (the "Exit Report"). Should the Exit Report reveal that the presence of any Hazardous Substances beyond those permitted by Environmental Laws were found in, on or under the Premises that were released, discharged, emitted or otherwise produced by the Tenant or its employees, agents, invitees or contractors, the Tenant shall complete all remediation required on or before the end of the Term (or renewal or extension) to the standards required by all Environmental Laws at that time. If for reasons beyond the control of the Tenant such remediation cannot be completed by the end of the Term (or renewal or extension as the case may be) the Tenant shall be entitled, by notice to the Landlord given within ten (10) days of the delivery of the Exit Report to the Landlord, to an additional two (2) months to complete such remediation. All terms and conditions shall continue during such two (2) month period including all of the Tenant's obligations in respect of Rent. Landlord and Tenant acknowledge and agree

5. Rectification of Breach

In the event that the Landlord determines that the Tenant is in breach of its obligations in this Schedule "C", the Landlord may, without limiting any other rights or remedies, provide the Tenant with notice in writing of the breach, and the Tenant shall commence to rectify such breach at the Tenant's sole cost and expense, and shall complete such rectification as soon as reasonably possible. In the event that the Tenant does not commence to rectify such breach, the Landlord may, at its option and in its sole discretion, terminate this Lease without any further notice, or may rectify such breach at the cost of the Tenant, and the Tenant shall forthwith, on demand, reimburse the Landlord for the cost of rectification together with an administration fee of fifteen percent (15%) of the cost of rectification. Such amount shall be payable and collectible as Additional Rent.

6. Remediation

If any governmental authority shall require the clean-up of any Hazardous Substance held, released, spilled, abandoned or placed on the Premises or released into the environment by the Tenant, its sublessees or anyone permitted on the Premises by the Tenant, or as a result of the use or occupancy of the Premises by the Tenant or its sublessees, invitees or other occupants, the Tenant shall, at its own expense: (a) prepare all necessary studies, plans and proposals required as a result thereof; (b) obtain all necessary approvals of such authorities required to complete the remediation to the standards required by all Environmental Laws together with any other work required; (c) provide all bonds and other security required by such authorities; and (d) carry out and complete the remediation to the standards required by all Environmental Laws together with any other work required. The Tenant shall also provide the Landlord with copies of the plans and proposals and keep the Landlord advised from time to time as to the status of its remediation and other work.

7. Hazardous Substances Remain Property of Tenant

If the Tenant or its sublessees or anyone else permitted on the Premises by the Tenant creates or brings to the Premises any Hazardous Substance, or if the conduct of business at the Premises shall cause there to be any Hazardous Substance at the Premises, then, notwithstanding any provision in this Lease or rule of law to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant, and shall not become the property of the Landlord notwithstanding the degree of affixation to the Premises of the Hazardous Substance or the goods containing the Hazardous Substance, and notwithstanding the expiration or earlier termination of this Lease.

8. Tenant Indemnity

The Tenant agrees to indemnify and save harmless the Landlord, its Mortgagees, and their agents, servants, employees and others for whom Landlord is in law responsible, against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, reasonable costs of professional advisors, consultants and experts in respect of any investigation, and all costs all remediation and other clean-up costs and expenses) arising in any manner whatsoever out of:

- (a) any breach by the Tenant of any provisions of this Schedule “C”, or any noncompliance by the Tenant, its sublessees, invitees and other occupants, with any Environmental Laws;
- (b) any generating, manufacture, refinement, treatment, transportation, storage, handling, disposal, transfer, production or processing of any Hazardous Substance by the Tenant, its sublessees, invitees and other occupants; and
- (c) any illness, injury or death of persons, or any loss or damage to property, on or about the Premises.

9. Survival of Obligations

The covenants and agreements of, and indemnification by, the Tenant contained in this Schedule “C” shall survive the expiration or earlier termination of this Lease notwithstanding anything herein contained to the contrary.

APPENDIX 1 to Schedule “C”

MRF Routine Environmental Activities (as of October 20, 2021)

An overview of key environmental activities and associated frequency are included in the following table.

Task	Frequency	Description
Groundwater Treatment System (GWTS) Efficiency Monitoring and Operation	Monthly	Process water sampling to assess when the carbon in the system is spent and requires replacement.
	Monthly	Measuring/recording/adjusting system operating parameters.
	As- needed	Respond to system alarm callouts.
	As-needed	Minor repairs to the system like pipe leaks, valves, well repairs, and adding new carbon to the treatment vessels.
GWTS Infiltration Gallery Injections	Semi-annual	Remediation enhancement solution injected into the infiltration gallery by MECP-licensed contractor.
GWTS Granular Activated Carbon (GAC) Replacement	Annual	Remove, transport and disposal of the spent GAC and supply new GAC.
GWTS Pumping Well Cleaning	Annual	Oversee the cleaning of the pumping well (including pump and pressure transducer) by a MECP licenced water well contractor.
Groundwater Monitoring	Semi-Annual	Water level measurement, sampling and chemical analysis of 50 groundwater wells in the overburden and bedrock.
Progress Reports	Monthly	Details and observations of activities performed during the period.
Annual Report	Annual	Results and interpretation of the reporting year of operation, maintenance and monitoring for submission to the MECP for their comment.
Potential Future Air Quality Monitoring	To be determined	Sampling, analysis, and reporting (data interpretation, conclusions and recommendations) of air from select sub-slab vapour pins and the indoor air where sub-slab vapours indicated potential for air quality impacts.