

APPENDIX 4I

RETAIL MANAGEMENT SERVICES

1. INTERPRETATION

In this Appendix, in addition to the definitions set out in Schedule 1 of this Agreement:

“Base Rent” means the amount designated as “base rent” in each Retail Tenancy Agreement;

“Net Retail Revenue” **DELETED**

“Retail Areas” means all areas within the Facility designated by the Authority for retail or other commercial use;

“Retail Management Costs” means the aggregate of:

- (a) rental agent and management fees; and
- (b) tenant inducement costs,

reasonably and properly incurred by Project Co in providing the Retail Management Services;

“Retail Management Report” means the report described in Section 2.3 of this Appendix;

“Retail Management Services” means the retail management services to be provided by Project Co pursuant to this Appendix;

“Retail Revenue” means all revenue, without deduction, generated from all Retail Areas, including all Base Rent, additional rents and common area charges and any sales or excise taxes thereon;

“Retail Tenancy Agreement” means an agreement for the use and occupation of any Retail Area between the Authority, as landlord, and a Suitable Retail Tenant, as tenant;

“Suitable Retail Tenants” means the tenants or licensees or proposed tenants or licensees of any Retail Areas who:

- (a) are of good character;
- (b) have the appropriate financial capacity, experience and competence to undertake the delivery of the proposed retail or commercial services within the Retail Area;
- (c) are not involved in a business or activity which is incompatible or inappropriate in relation to the operation of a public health care facility, as determined by the Authority, including the sale of tobacco and alcohol;

- (d) will deliver retail or commercial services which are complimentary to the intended purposes of the Facility, as determined by the Authority.

2. SERVICES

2.1 General Requirements

In addition to the standards and specifications set out in Schedule 4, Project Co will provide the Retail Management Services throughout the Term to the same standard that a reasonable and competent manager of retail or commercial property would employ.

2.2 Retail Management Services

Project Co will develop and submit to the Authority in accordance with Sections 4.1 and 4.2 of Schedule 4 and implement as part of the Annual Service Plan appropriate policies, procedures, practices, schedules and a self-monitoring inspection and reporting system relative to the Retail Management Services which will include the following obligations of Project Co:

- (a) identify opportunities for the creative use of space within the Facility to maximize the generation of Retail Revenue;
- (b) identify for approval by the Authority, not to be unreasonably withheld, Suitable Retail Tenants for any available Retail Areas;
- (c) market available Retail Areas;
- (d) assist the Authority in evaluating and assessing the financial viability, experience and competence of Suitable Retail Tenants;
- (e) assist the Authority in the negotiation of the terms and conditions of the appropriate tenancy agreement;
- (f) advise the Authority with respect to the appropriate rents and other terms and conditions of tenancy agreements for Retail Areas, including comparables to other similar commercial and retail properties,
- (g) prepare draft tenancy agreements and related documentation in such form and containing such terms and conditions as are approved by the Authority;
- (h) act as the landlord's representative and property manager at the direction of and on behalf of the Authority to monitor and manage all Retail Tenancy Agreements including the following duties:
 - (1) monitor tenant activities in accordance with the terms of the applicable Retail Tenancy Agreement and take enforcement action if needed in the event of a breach by a tenant of the terms of the applicable Retail Tenancy Agreement;

- (2) identify and take corrective action in respect of any defaults or breaches of any Retail Tenancy Agreement;
- (3) monitor tenant compliance with all statutory provisions and regulations where the Authority could be held legally responsible for tenants' actions;
- (4) maintain updated files with relevant information for each Retail Area including all correspondence, Retail Tenancy Agreements and any amendments thereto, etc;
- (5) take all reasonable and proper steps to collect rental arrears, including issuing demands for payment and/or instituting collection actions as appropriate;
- (6) if percentage rent or revenue sharing is included in a Retail Tenancy Agreement, obtain sales figures on a monthly basis, and obtain year-end certificates in accordance with the applicable Tenancy Agreements and inspect and audit the books and records of tenants as required;
- (7) calculate and notify tenants of:
 - (A) common area charges allocated to tenants in accordance with the Retail Tenancy Agreements; and
 - (B) rent escalations permitted under the Retail Tenancy Agreements.
- (i) provide maintenance, repairs, utilities, and similar landlord base building services to the Retail Areas as required in accordance with the applicable Retail Tenancy Agreement;
- (j) conduct physical inspections of all buildings, lands and equipment forming part of the Retail Areas from time to time and ensure all repairs, maintenance and upkeep relating to the Retail Areas as are necessary to keep the Retail Areas in a clean, safe and secure condition;
- (k) respond to tenant concerns and service complaints;
- (l) respond to, and address with tenants, concerns and service complaints raised by Facility Users with respect to the nature and quality of services delivered by tenants of the Retail Areas;
- (m) provide fit-up services, installations and removals of third-party equipment and improvements on a fee for service basis as may be specified in the Retail Tenancy Agreements and paid for by the applicable tenant;
- (n) ensure any tenant installations, signage, equipment and/or improvements are in compliance with all applicable regulations, standards, the provisions of this Agreement and the Authority's policies; and

- (o) perform such other acts in respect of the Retail Areas as a reasonably prudent property manager would perform in the administration and maintenance of retail or commercial property.

2.3 Reporting

Project Co will prepare and deliver to the Authority an annual Retail Management Report that includes:

- (a) detailed revenue and expense data and separate books of account for all Retail Areas;
- (b) all marking and licensing activity during the period including summaries of all current Retail Tenancy Agreements;
- (c) status and collection activities for each Retail Tenancy Agreement including any arrears;
- (d) sales tax reporting; and
- (e) summary of tenants and space occupancies.

2.4 Retail Revenue

Project Co will:

- (a) be responsible for the collection and management of Retail Revenue;
- (b) ensure that tenants deposit Retail Revenue into the bank account designated by the Authority and that there is no commingling of Retail Revenue with any monies of Project Co;
- (c) provide to the Authority with each Performance Monitoring Report an auditable report summarizing all Retail Revenue and the status of all Retail Tenancy Agreements, including arrears in payments for the reporting period; and
- (d) maintain appropriate records and calculate any sales taxes or excise taxes payable by the Authority in respect of the Retail Areas and assist the Authority in the filing of any applicable tax returns or remittances.

2.5 Property Management Fee

Provided that Project Co has satisfied all conditions of payment in accordance with Section 8.1 of Schedule 8 [Payments], the Authority will include in its payment to Project Co for each Payment Period an amount equal to the **DELETED** incurred during the applicable Payment Period plus **DELETED** of all Net Retail Revenue paid to the Authority during the applicable Payment Period.

3. PERFORMANCE INDICATORS

	Parameter	Service Failure Level	Response Time	Rectification Period	Recording Freq.	Monitoring Method
3.1	Project Co carrying out the tasks set out in Section 2.2	Low	N/A	N/A	Per Occurrence	Performance Monitoring Report
3.2	Project Co collecting and delivering Retail Revenue, tax revenue and making all necessary tax filings in accordance with Section 2.4 of this Appendix	High	N/A	N/A	Per Occurrence	Performance Monitoring Report
3.2	Project Co implementing and adhering to the Annual Service Plan related to Retail Management Services	Low	N/A	N/A	Per occurrence	Performance Monitoring Report