

APPENDIX 2K

ENERGY

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APPENDIX 2K

ENERGY

1. INTERPRETATION

1.1 Definitions

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

“Agreed Proportions” means the relative proportions of the different types of Energy to be consumed in the Facility, being 52.6% electricity and 47.4% natural gas, as may be adjusted pursuant to Section 3.3 of this Appendix or a Change;

“Cooling Degree Days” for a period means the figure published by Environment Canada showing the extent to which the average outdoor temperature during that period at Victoria International Airport was greater than a mean temperature of +18 degrees Celsius;

“Design and Construction Energy Target” means 1.79 Gj/m², as adjusted pursuant to Section 3.3 of this Appendix;

“Energy” means electricity, gas, oil, coal and any other fossil-based fuel;

“Energy Consumption” for a period means the total number of equivalent Gigajoules of Energy actually consumed at the Facility during that period;

“Energy Consumption by Area” for a period means the Energy Consumption for that period divided by the Facility Area;

“Environmental Credit” means any income, credit, right, benefit or advantage relating to environmental matters including type and level of emissions, means of production of Energy, input sources and compliance with any environmental laws, regulations, rules or orders;

“Facility Area” means the total number of square metres of interior gross area in the Facility (with gross floor space being measured in accordance with the Standard Method for Measuring Floor Area in Office Buildings (Gross Building Area), published by the Building Owners and Managers Association International, in effect on the Service Commencement Date);

“Gigajoule” or **“Gj”** means the international unit of energy being 1,000,000,000 Joules;

“Gj/m²” means equivalent Gigajoules per square metre of Facility Area;

“Heating Degree Days” for a period means the figure published by Environment Canada showing the extent to which the average outdoor temperature during that period at Victoria International Airport was less than a mean temperature of +18 degrees Celsius;

“Monitoring Period” means the period commencing on the Service Commencement Date and ending on the last day of the calendar month in which the second anniversary of the Service Commencement Date occurs; and

“**Test Period**” means the 12 month period commencing on the first day of the calendar month that is at least 12 months after the Service Commencement Date.

2. ENERGY SUPPLY AND CONSUMPTION

2.1 Energy Supply and Payment

The Authority will from time to time as required enter into contracts with Energy suppliers for the supply of Energy to the Facility, and will be responsible for all payments related to such contracts. Project Co will administer such contracts, including dealing with suppliers to resolve issues from time to time, and will provide such other reasonable assistance related to such contracts as may be requested by the Authority.

2.2 Measurement of Energy Consumption

Project Co will install equipment to record and monitor consumption of each type of Energy in the Facility. Such equipment must be suitable to enable a detailed monitoring of Energy trends and consumption to allow analysis of the data collected to enable various matters, including:

- (a) comparisons to be made with the declared energy targets; and
- (b) early warning of malfunctions and deviations from norms.

Project Co will secure all such information so that it is not lost or degraded as a result of any equipment or service malfunctions, and will secure such information from any adjustment, modification or loss from any source.

2.3 Energy Consumption Certificate

Promptly after the end of each month following the Service Commencement Date, Project Co will deliver to the Authority a certificate showing:

- (a) the Energy Consumption in Gigajoules and the Energy Consumption by Area in GJ/m² for each type of Energy in that month;
- (b) the Heating Degree Days or Cooling Degree Days for that month;
- (c) building occupancy; and
- (d) any other variable that affects the energy consumption relative to the energy model assumptions.

2.4 Energy Mix

In managing the usage of different types of Energy at the Facility, Project Co will wherever practicable ensure that the relative proportions of the different types of Energy consumed in the Facility will be the Agreed Proportions. Except to the extent it results from a Change or is caused by climatic variations or a change in the Authority's usage of a particular type of Energy, if the proportion of a type of Energy actually consumed at the Facility differs by more than 2.5% from the Agreed Proportion for such type of

Energy without the approval of the Authority, any resultant net increase in the cost of purchasing Energy will be for Project Co's account and will take effect by way of a reduction to the Service Payments.

3. DESIGN AND CONSTRUCTION ENERGY GUARANTEE

3.1 Facility to Meet or Beat Design and Construction Energy Target

Project Co warrants to the Authority that the Facility will be designed and constructed so that the Energy Consumption by Area per year will not exceed the Design and Construction Energy Target. The consequences to Project Co for breach of this warranty are limited to those set out in Section 3.4 of this Appendix.

3.2 Monitoring of Energy Consumption

During the Monitoring Period, Project Co and the Authority will monitor Energy Consumption in order to determine average Energy Consumption by Area for the Test Period and the Monitoring Period and to establish whether and to what extent the thermal and energy efficiency of the Facility differs from the Design and Construction Energy Target.

3.3 Adjustment to Design and Construction Energy Target

Prior to Service Commencement, Project Co will engage an independent energy consultant acceptable to the Authority, acting reasonably, to determine the adjusted Design and Construction Energy Target and Agreed Proportions. The energy consultant will document adjustments based on factors which in the energy consultant's professional opinion are applicable, including actual climate conditions, occupancy, equipment use and Authority controlled effects during the Monitoring Period.

3.4 Failure to Achieve Design and Construction Energy Target

If the average annual Energy Consumption by Area in the Test Period exceeds the Design and Construction Energy Target, then Project Co will do one of the following:

- (a) modify the Facility as required so that Energy Consumption by Area does not exceed the Design and Construction Energy Target, subject to compliance with the Design and Construction Specifications and the approval of such modifications by the Authority, not to be unreasonably withheld or delayed; or
- (b) pay to the Authority a lump sum amount that the Authority agrees, acting reasonably, represents the lesser of \$1,000,000 and the net present value of the cost to the Authority during the expected life of the Facility of the amount by which Energy Consumption by Area will exceed the Design and Construction Energy Target, on the assumption that the excess in the Monitoring Period will continue for the balance of the expected life of the Facility, and if this Section 3.4(b) is applied the provisions of Schedule 9 [Compensation on Termination] will be amended as necessary to ensure that the Authority will not, as a consequence of the application of this Section 3.4(b), face any additional liability upon early termination of this Agreement.

4. ENVIRONMENTAL CREDITS

4.1 Entitlement to Environmental Credits

The Authority will be entitled to any and all Environmental Credits related to the Facility and its operation. If, however, there is an increase in Environmental Credits after the Monitoring Period as a result of improvements or innovations by Project Co, Project Co will be entitled to, and the Authority will transfer to Project Co, 50% of such incremental Environmental Credits.