

**SCHEDULE 2**

**BUILDING LEASE**

for the Academic Ambulatory Care Centre  
at Vancouver General Hospital

**Vancouver Coastal Health Authority**

**and**

**AHV Access Health Vancouver Ltd.**

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**SCHEDULE A – PLAN OF THE SITE**

## BUILDING LEASE

THIS LEASE dated for reference and made as of the 2nd day of September, 2004,

BETWEEN:

**VANCOUVER COASTAL HEALTH AUTHORITY**, a regional health board designated under the Health Authorities Act (British Columbia)

("VCHA")

AND:

**AHV ACCESS HEALTH VANCOUVER LTD.**, a British Columbia company having an address at Three Bentall Centre, Suite 2373, 595 Burrard Street, Vancouver, British Columbia

("Project Co")

WITNESSES THAT IN CONSIDERATION of the premises, the covenants contained in this Lease, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties), the parties covenant and agree as follows:

### 1. DEFINITIONS

#### 1.1 Definitions

In this Lease the following words and phrases will have the meanings ascribed to them in this Section unless the context otherwise requires:

"**Affiliate**" has the meaning ascribed to it in the *Business Corporations Act* of British Columbia, or any successor legislation, as in force from time to time;

"**Basic Rent**" ~~DELETED~~;

"**Building**" means the building described in Schedule A, and includes all additions and improvements to the Building made from time to time;

"**Business Day**" means a day other than a Saturday, Sunday or statutory holiday in Vancouver, British Columbia;

"**Commercial Leases**" has the meaning given in the Project Agreement;

"**Commercial Space**" has the meaning given in the Project Agreement;

"**Commencement Date**" means the Substantial Completion Date;

"**Design and Construction Procedures**" has the meaning given in the Project Agreement;

**"Environmental Laws"** means all statutes, laws, ordinances, codes, rules, regulations, orders, by-laws, guidelines, notices and directives having the force of law, now or at any time hereafter in effect, made or issued by any municipal, provincial or federal government, or by any department, agency, board or office thereof, relating to pollution, protection of the environment or health and safety including those relating to the use, handling, transportation, storage, disposal, release or discharge of Hazardous Substances;

**"Facility"** has the meaning given in the Project Agreement;

**"Force Majeure"** has the meaning given in the Project Agreement;

**"Governmental Authority"** has the meaning given in the Project Agreement;

**"Hazardous Substance"** has the meaning given in the Project Agreement;

**"Law"** has the meaning given in the Project Agreement;

**"Lease Year"** means each of:

- (a) the period from the date of this Lease to the next March 31<sup>st</sup>;
- (b) each subsequent period of 12 calendar months commencing on April 1<sup>st</sup>; and
- (c) the period from April 1<sup>st</sup> in the year in which this Lease expires or is terminated (for whatever reason) to the date of expiry or earlier termination of this Lease (as the case may be);

**"Mortgage"** means a mortgage or mortgages upon or in respect of and specifically charging the leasehold interest of Project Co in the Site and the Building or any part thereof and includes any debenture or deed of trust and mortgage to secure any bonds or debentures issued thereunder, and any assignment of rents made to the Mortgagee as security;

**"Mortgagee"** means a mortgagee or mortgagees under a Mortgage;

**"Operation and Maintenance Requirements"** has the meaning given in the Project Agreement;

**"Percentage Rent"** has the meaning given in Schedule 15 of the Project Agreement;

**"Person" or "person"** means any natural person, sole proprietorship, partnership, corporation, trust, joint venture, any Governmental Authority or any incorporated or unincorporated entity or association of any nature; and includes the personal or other legal representatives of such person to whom the context can apply at Law;

**"Project"** means the design, construction, financing, operation and maintenance of the Facility on the Site, in accordance with the Project Agreement;

**"Project Agreement"** means the Project Agreement between VCHA and Project Co dated September 2, 2004 and all schedules thereto (other than this Lease), as any of the foregoing may be amended, supplemented or replaced from time to time;

**"Property Taxes"** means all taxes, fees, levies, charges, assessments, rates, duties and excises which are now or may hereafter be levied, imposed, rated or assessed upon or with respect to the Site or any part of the Site and the Facility or any part of the Facility by a Governmental Authority whether or not now customary or in the contemplation of the parties on the date of this Lease. Without restricting the generality of the foregoing, Property Taxes will include all:

- (a) real property taxes, general and special assessments and capital taxes;
- (b) taxes, fees, levies, charges, assessments, rates, duties and excises for transit, housing, schools, police, fire or other governmental services or for purported benefits to the Site;
- (c) local improvement taxes, service payments in lieu of taxes, and taxes, fees, levies, charges, assessments, rates, duties and excises, however described, that may be levied, rated or assessed as a substitute for, or as an addition to, in whole or in part, any property taxes or local improvement taxes; and
- (d) costs and expenses including legal and other professional fees and interest and penalties on deferred payments incurred by VCHA in contesting or appealing any taxes, assessments, rates, levies, duties, excises, charges or other amounts as aforesaid,

but Property Taxes will exclude all of the following:

- (e) income taxes;
- (f) Tenant's Taxes; and
- (g) the Sales Taxes;

**"Release"** includes, but is not limited to, any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, migration, disposal or dumping;

**"Rent"** means Basic Rent, Percentage Rent, and all other moneys payable by Project Co under this Lease whether or not designated as rent;

**"Sales Taxes"** means any and all taxes, fees, levies, charges, assessments, rates, duties and excises (whether characterized as goods and services taxes, sales taxes, purchase taxes, value-added taxes, or any other form of tax, other than taxes on net income), which are imposed on Project Co and which VCHA is obliged to collect and remit, or which are imposed on VCHA or which VCHA is liable to pay, and which are

levied, rated or assessed in respect of this Lease, in respect of the supply of the Building or any personal property included with the Building to Project Co pursuant to this Lease, or otherwise on account of this Lease, or on the Rent or any portion of the Rent payable under this Lease;

"**Site**" means that portion of the lands in Vancouver, British Columbia legally described as:

Parcel Identifier: 007-368-704  
 Lot 1  
 Block 376  
 District Lot 526  
 Plan 16793

outlined in heavy black line and identified as the Site on the plan attached hereto as Schedule A;

"**Tenant's Taxes**" means all taxes, fees, levies, charges, assessments, rates, duties and excises (other than taxes on net income) which are now or may hereafter be levied, imposed, rated or assessed by any lawful authority against Project Co relating to or in respect of the business of Project Co, or levied, imposed, rated or assessed by any lawful authority in respect of any personal property, business and trade fixtures, machinery and equipment, leasehold improvements, furniture and movable partitions owned or installed by Project Co at the Site or being the property of Project Co, whether any such amounts are payable by law by Project Co or by VCHA;

"**Term**" means the period commencing on the Commencement Date and ending on that date which is the thirtieth anniversary of the Target Substantial Completion Date;

"**VCHA Sublease**" has the meaning given in the Project Agreement; and

"**VCHA Sublease Premises**" has the meaning given in the Project Agreement.

**Definitions in the Project Agreement apply:** Any other words used in this Lease with initial capital letters and not defined herein but which are defined in the Project Agreement shall have the meaning given in the Project Agreement.

## **2. INTENT, INTERPRETATION AND CONDITIONS**

### **2.1 Net Lease**

This Lease is intended to be a lease which is absolutely net to VCHA so that, save as otherwise expressly provided in this Lease or the Project Agreement, VCHA, in its capacity as owner of the Site, will incur no cost with respect to the Building or the development, use, operation or occupation of the Building during the Term. Accordingly, in addition to the Basic Rent and the Percentage Rent, and except as provided in the Project Agreement and the VCHA Sublease, Project Co will pay, as the same become due, all costs relating to the Building or the development, use, operation or occupation of the Building, whether such cost is of a capital or

operating nature, and whether or not such cost is presently within the contemplation of the parties. Notwithstanding the foregoing this Section will not be interpreted to make Project Co responsible for VCHA's income taxes or corporation capital taxes, if any, or any other taxes personal to VCHA.

## **2.2 Entire Agreement**

This Lease includes the schedules attached to it. This Lease supersedes all negotiations and agreements between VCHA and Project Co that precede the date of this Lease for the use and occupation of the Building except as set out in the Project Agreement and the other agreements referred to in or contemplated by the Project Agreement. There are no covenants, promises, agreements, conditions, representations, warranties or understandings, either oral or written, between the parties concerning this Lease or the Building or any matter related to either of them except those that are set out in this Lease and in the Project Agreement and the other agreements referred to in or contemplated by the Project Agreement. No alteration, amendment, change or addition to this Lease is binding upon either party unless it is in writing and signed by Project Co and VCHA.

## **2.3 General Matters of Interpretation**

- (a) Each obligation under this Lease is a covenant of the party having such obligation.
- (b) The captions, Section numbers, Part numbers and Table of Contents (if any) do not define, limit, construe or describe the scope or intent of the Sections or Parts, and are for convenience of reference only.
- (c) Whenever the context so requires, the neuter gender will include the masculine, the feminine and the body corporate, and the singular number will include the plural, and vice versa.
- (d) The language in all parts of this Lease will in all cases be construed as a whole and not strictly for nor against VCHA or Project Co.
- (e) If a part of this Lease or the application of it to a Person or circumstance is to any extent held or rendered invalid, unenforceable or illegal, subject to any agreement between the parties with respect to any material provision of this Lease which may be declared invalid, unenforceable or illegal, that part:
  - (1) is independent of the remainder of the Lease and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Lease; and
  - (2) continues to be applicable to and enforceable to the fullest extent permitted by Law against any Person and circumstances except those as to which it has been held or rendered invalid, unenforceable or illegal.



- (f) No part of this Lease will be enforced against a Person, if, or to the extent that by doing so, the Person is made to breach a Law.
- (g) This Lease will be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- (h) Time is of the essence of this Lease.

## **2.4 Project Agreement is Paramount**

In the event of a conflict between the provisions of this Lease and the Project Agreement, the provisions of the Project Agreement will govern.

## **2.5 Schedule A**

Upon the Commencement Date the parties will prepare and attach hereto a revised Schedule A providing an 'as built' description of the Building and an explanatory plan or plans showing the Building and its location on the Site, in a form registrable under the *Land Title Act* (British Columbia), and suitable for attachment to the short form of this Lease described in Section 17.1.

## **3. DEMISE AND TERM**

### **3.1 Demise of the Building**

Effective as of and from the Commencement Date, VCHA hereby leases to Project Co, and Project Co hereby leases from VCHA, the Building for the Term on and subject to the terms, conditions, covenants and provisions set out in this Lease.

### **3.2 Easement**

Effective as of and from the Commencement Date, VCHA, as owner of the Site, hereby grants to Project Co, as the owner of the leasehold interest created by this Lease, and its employees, agents, invitees, licensees and contractors, for the benefit of and appurtenant to that leasehold interest, the free and uninterrupted right, liberty and easement, in common with VCHA and all persons now or hereafter having the express or implied permission of VCHA, to enter onto, go, pass and repass in, over and on the Site excluding the Building, on foot, by vehicle, with or without equipment and materials, at all times and from time to time hereafter, for the purpose of:

- (a) access to and from the Building; and
- (b) performing and observing its obligations and agreements with respect to the Site under the Project Agreement and under this Lease, including performing the Operation and Maintenance and carrying out Corrections, Repairs and Renovations, all as provided for and subject to the provisions of the Project Agreement and this Lease.

The easements granted in this section shall extend to and may be enjoyed by Project Co under this Lease and its successors and permitted assigns, and their respective employees, agents,

tenants, invitees, licensees and contractors, and shall be construed as running with the Site rather than the Building.

### **3.3 Term**

Project Co will have and hold the Building and the benefit of the easements granted in Section 3.2 for the Term, unless this Lease is earlier terminated pursuant to the provisions of this Lease.

## **4. OCCUPANCY AND POSSESSION**

### **4.1 Possession**

VCHA will deliver vacant possession of the Building to Project Co on the first day of the Term.

## **5. RENT**

### **5.1 Rent**

Project Co will pay Rent to VCHA as set out herein and in Schedule 15 of the Project Agreement.

## **6. TAXES**

### **6.1 Property Taxes and Tenant's Taxes**

Project Co will pay to the appropriate Governmental Authority, or to VCHA, as VCHA directs, before delinquency, all Property Taxes during the Term. All Property Taxes which relate to the year (or other relevant taxation period) during which the Term commences or terminates will be prorated between VCHA and Project Co according to the number of days during that year (or other relevant taxation period, as the case may be) which are within the Term. Project Co will also pay when due to the appropriate party as required by the applicable legislation all Tenant's Taxes, provided that VCHA reserves the right to require Project Co to pay the amount of such Tenant's Taxes to VCHA, as VCHA directs, for remittance by VCHA to the appropriate party, if not contrary to the applicable legislation, or alternatively to provide to VCHA on demand proof of payment of any particular Tenant's Tax.

To the extent that the Property Taxes or Tenant's Taxes are paid by Project Co to VCHA hereunder, VCHA shall immediately remit same to the appropriate Governmental Authority. Any costs or penalties arising from VCHA's failure to remit in a timely manner amounts received from Project Co in respect of Property Taxes or Tenant's Taxes will be the responsibility of VCHA. Any costs or penalties arising from Project Co's failure to pay amounts in respect of Property Taxes or Tenant's Taxes to VCHA in a timely manner will be the responsibility of Project Co. VCHA will, at the request of Project Co, promptly deliver to Project Co copies of the receipts of payment of all Property Taxes and Tenant's Taxes paid by Project Co to VCHA and remitted by VCHA to the relevant Governmental Authority.

## **6.2 Tenant's Responsibility**

Project Co will, at VCHA's request, promptly deliver to VCHA receipts for payment of all Property Taxes and Tenant's Taxes payable by Project Co, notices of any assessments for Property Taxes or Tenant's Taxes or other assessments received by Project Co that relate to the Site or the Building, and whatever other information relating to Property Taxes or Tenant's Taxes VCHA reasonably requests from time to time. VCHA will promptly provide to Project Co copies of any notices of assessment or property tax notice received by it in respect of the Site or the Building or any part of it. Project Co will deliver to VCHA, at least 10 days before the last day for filing appeals, notice of any appeal or contestation that Project Co intends to institute with respect to Property Taxes or Tenant's Taxes payable by Project Co or the Property Tax status of any portion of the Site or the Building. If Project Co does not pay the Property Taxes or Tenant's Taxes before the appeal or contestation, Project Co will deliver to VCHA whatever security for the payment of the Property Taxes or Tenant's Taxes VCHA reasonably requires, promptly and diligently prosecute the appeal or contestation, and keep VCHA informed on all aspects of it. Project Co will indemnify and save VCHA harmless from all Direct Losses arising from any such appeal or contestation of Property Taxes or Tenant's Taxes by Project Co.

## **6.3 Sales Taxes**

Project Co will pay to VCHA when due all Sales Taxes levied against Project Co but which VCHA is obliged to collect and remit to the appropriate Governmental Authority. The amount of the Sales Taxes so payable by Project Co will be calculated by VCHA in accordance with the applicable legislation and will be paid to VCHA at the same time as the amounts to which such Sales Taxes apply are payable to VCHA under the terms of this Lease. Notwithstanding anything in this Lease to the contrary, the amounts payable by Project Co under this Section 6.3 will be deemed not to be Rent, but VCHA will have all of the same rights and remedies for the recovery of such amounts as it has for recovery of Rent under this Lease.

To the extent that the Sales Taxes are paid by Project Co to VCHA hereunder, VCHA shall immediately remit same to the appropriate Governmental Authority. Any costs or penalties arising from VCHA's failure to remit in a timely manner amounts received from Project Co in respect of Sales Taxes will be the responsibility of VCHA. Any costs or penalties arising from Project Co's failure to pay amounts in respect of Sales Taxes to VCHA in a timely manner will be the responsibility of Project Co.

## **6.4 Alternative Allocation Basis**

If any Governmental Authority fails to make any one or more of the allocations necessary in order to determine any amount payable by Project Co in respect of Property Taxes or Tenant's Taxes herein, VCHA will make such allocations using then current established principles of assessment (if any) used by such Governmental Authority or on such other basis as VCHA will in its reasonable judgment establish. Such allocation will be binding upon Project Co unless Project Co submits the allocation to the Dispute Resolution Procedure within 30 days after delivery of the allocation by VCHA.

VCHA shall cause such allocation to be completed on a timely basis. Any costs or penalties arising from an untimely allocation (resulting in a late payment) will be the responsibility of VCHA.

Any allocation made by VCHA under this Section is subject to adjustment to match the allocation made by the relevant Governmental Authority if that Governmental Authority subsequently allocates the Property Taxes or Tenant's Taxes payable in a manner consistent with this Lease.

## **7. UTILITIES**

### **7.1 Utilities and Services**

The obligations of VCHA and Project Co with respect to utilities and related services are set out in Schedule 7 to the Project Agreement, except with respect to VCHA's obligation to deliver steam which obligation is set out in Section 13.4(d) of this Schedule.

## **8. USE OF THE FACILITY**

### **8.1 Suitability of the Building**

Project Co acknowledges that the Building will be constructed by Project Co pursuant to the terms of the Project Agreement, and agrees that any Defects will not be the responsibility of VCHA except as provided in the Project Agreement.

### **8.2 Insurance**

Project Co and VCHA will effect, or will cause to be effected, and will maintain (or cause to be maintained) and keep in force the insurance specified in Schedule 14 to the Project Agreement to be obtained and maintained by each party. All proceeds of such insurance will be dealt with as provided in the Project Agreement.

## **9. OWNERSHIP OF BUILDINGS AND FIXTURES**

### **9.1 Property of Lessor**

The Building will be part of the Site and the property of VCHA, and Project Co will have only a leasehold interest in the Building, on the terms of this Lease.

## **10. CONDITION OF THE FACILITY, MAINTENANCE, REPAIRS AND ALTERATIONS**

### **10.1 Repairs**

Project Co will throughout the Term, at its own cost and expense, keep and maintain the Building in accordance with the Operation and Maintenance Requirements. VCHA will not be obligated to make any repairs, improvements, replacements or renewals of any kind whatsoever to the Building, except as provided in this Lease, the VCHA Sublease or the Project Agreement.

## **10.2 Lessor's Right to Repair the Building**

Subject to the applicable provisions of the Project Agreement, if at any time during the Term Project Co fails to maintain the Building in the condition required by the provisions of Section 10.1, VCHA through its agents, servants, contractors, and subcontractors may, but will not be obliged to, enter upon those parts of the Building required for the purpose of making the repairs required by Section 10.1, in the manner and as provided in Section 8 of Schedule 7 to the Project Agreement.

## **10.3 Compliance with Laws**

Project Co will comply with and abide by:

- (a) all Laws affecting the Project and the Building, and in respect of any of its activities on the Site;
- (b) the Operation and Maintenance Requirements; and
- (c) the requirements of all policies of insurance (and the insurers under such policies and the underwriters of such policies) from time to time in force with respect to the Building and in respect of any of its activities on the Site, all in accordance with Schedule 14 to the Project Agreement.

The foregoing in no way diminishes the obligations or responsibilities of VCHA under the Project Agreement or this Lease.

## **10.4 Condition of Site**

The respective representations, agreements, responsibilities and obligations of VCHA and Project Co with respect to the pre-existing environmental condition of the Site are as set out in the Project Agreement.

## **10.5 Environmental Matters**

The respective responsibilities of Project Co and VCHA, as lessor under this Lease, with respect to the environmental condition of the Site, the use or presence of Hazardous Substances on the Site and compliance with Environmental Laws are as set out in the Project Agreement, including Schedules 4 and 7 thereto. The obligations of Project Co and VCHA thereunder with respect to environmental matters will survive the expiry or earlier termination of this Lease.

## **10.6 Builders' and Other Liens**

Subject to Section 10.7, Project Co will keep all of the Site and the Building free and clear of any and all encumbrances arising out of any actions or defaults of Project Co and those claiming under it or for whom it is legally responsible, other than Permitted Encumbrances.

## **10.7 Contest of Liens**

If at any time a claim of builders' lien is filed against the Site with respect to the Design or Construction, the Operation and Maintenance Services or any Corrections or Repairs required by this Lease or the Project Agreement, then Project Co will forthwith take steps as required to discharge the claim of builders' lien; provided that Project Co may dispute such builders' lien or filing thereof so long as Project Co is proceeding in such dispute in a diligent manner and Project Co, at VCHA's option, (i) delivers to VCHA security therefor as is reasonably required by VCHA, or (ii) pays into court the amount claimed and registers all such documents as may be necessary to discharge such lien. If Project Co fails to take any of the foregoing steps, then VCHA may, at its election, upon five days notice to Project Co, take all reasonable steps to obtain the discharge, including paying the amount of the lien into court, and in such event all the costs reasonably incurred by VCHA in that respect are due and payable forthwith by Project Co. If Project Co fails to pay such costs, then VCHA may set-off the amounts of such costs plus interest at the Default Interest Rate against amounts owing by VCHA to Project Co.

## **11. DAMAGE, DESTRUCTION AND EXPROPRIATION**

### **11.1 Obligations When the Building is Damaged or Destroyed**

The respective rights and obligations of VCHA and Project Co in the event of damage to or partial or substantial destruction of the Building will be as set out in the Project Agreement.

## **12. ASSIGNMENT**

### **12.1 Assignment by Project Co**

The provisions of Sections 7.4, 21.2 and 21.3 of the Project Agreement will govern with respect to the assignment, sublease or other disposition by Project Co of its interest in and to this Lease.

### **12.2 Tenant to Comply with all of its Obligations**

Subject to the terms and conditions of the Project Agreement, Project Co will observe and perform all of its obligations incurred in respect of subleases, agreements for sublease or licences, in each case entered into with any occupants of the Building, and will not suffer or allow any such obligations to be in default; and if any such default occurs and Project Co has not commenced any actions to remedy the default within five Business Days after receipt of written notice thereof, then, subject to the terms of the Project Agreement, including the Lenders' Remedies Agreement, VCHA may, but will not be obliged to, rectify such default for the account of Project Co and any amount paid by VCHA in so doing, together with all costs and expenses of VCHA, will be reimbursed to VCHA by Project Co on demand. If Project Co fails to reimburse VCHA for the amounts referred to in the preceding sentence within five Business Days of Project Co's receipt of an invoice therefor, then interest shall accrue on such amount at the Default Interest Rate until the amounts are paid in full.

This Section 12.2 does not apply to any sublease, agreement for sublease or licence relating to the VCHA Sublease Premises, including the VCHA Sublease.

### **12.3 Assignment by VCHA**

The provisions of Section 21.4 of the Project Agreement will govern with respect to the sale, assignment or other disposition by VCHA of its interest in and to this Lease.

## **13. LESSOR'S SPECIAL RIGHTS, ACCESS AND RESERVATIONS**

### **13.1 Easements and Statutory Rights-of-way**

To maintain and replace the works within any easements and statutory rights-of-way granted by VCHA for utilities and facilities and systems on or under the Site, VCHA may as a licensee only enter the Building alongside the easements and statutory rights-of-way as may be reasonably necessary, subject to (i) the obligation of VCHA to repair any damage to the Building or the property of any person resulting from VCHA's access to the Building, and (ii) the obligation of VCHA not to unreasonably interfere with the use or enjoyment of the Building by Project Co or any person lawfully entitled to use the Building or the provision of the Operation and Maintenance Services.

### **13.2 Access and Inspection by Lessor**

VCHA, its servants, agents, contractors and representatives will be entitled at all reasonable times to go and enter the Building for any of the following purposes:

- (a) inspecting the performance by Project Co of the terms, covenants, agreements and conditions of this Lease and exercising its rights of access and inspection set out in the Project Agreement;
- (b) posting and keeping posted thereon notices as required or permitted by any Law;
- (c) during the last 2 years of the Term, exhibiting the Building to prospective tenants and purchasers of the Building or the Site or any portion thereof; or
- (d) any other reasonable purpose;

provided that (i) VCHA delivers reasonable prior notice to Project Co, except in the case of an Emergency, (ii) VCHA does not interfere with the quiet possession of any subtenant or licensee of Project Co or the provision of the Operation and Maintenance Services, and (iii) VCHA repairs any damage to the Building or the property of any person resulting from such access by VCHA or any person for whom VCHA is responsible.

### **13.3 Tenant May Accompany**

Project Co will have the right to accompany any person conducting an inspection or entering the Building pursuant to Section 13.2.

### **13.4 City Agreements and Services**

VCHA:

- (a) will perform any of the obligations of VCHA under any agreement between VCHA and the City of Vancouver which is registered on title to the Site as of the date of this Lease;
- (b) agrees that Project Co is not obligated to observe, undertake or perform any such obligations unless Project Co is expressly required to do so pursuant to the Project Agreement, the VCHA Sublease or this Lease;
- (c) will permit Project Co to connect the Building to VCHA's steam delivery system; and
- (d) will deliver steam from VCHA's steam supply system for use in the HVAC system for the Building in sufficient quantity for purposes of the Operation and Maintenance Services for the entire Term at the price set out in Schedule 15 to the Project Agreement. In this regard:
  - (1) the steam pressure will be 125 psi to 140 psi;
  - (2) the water treatment of the steam heat will not prevent the steam to be used for humidification of the air supplied for the Building through the air handling system (with reference to CSA Standard Z317.2-01);
  - (3) VCHA will maintain adequate back-up facilities and supply to ensure that there is a constant supply of steam in accordance with the foregoing requirements for the entire Term;
  - (4) if at any time during the Term there is an interruption in the supply of steam or in the quality of such supply, then:
    - (A) VCHA will immediately take all commercially reasonable steps (including such steps which require the expenditure of moneys) to rectify the interruption and re-institute the supply of steam to the quantity and quality required hereunder;
    - (B) such interruption, and any event resulting directly therefrom, will not constitute a Deficiency for purposes of Schedule 7 to the Project Agreement or a breach by Project Co of its obligations under this Lease;
    - (C) VCHA will be liable for, and shall pay to, Project Co all Direct Losses incurred by Project Co in connection with such interruption (which Direct Losses will be paid to Project Co on a weekly basis upon receipt by VCHA of an invoice therefor) and for all direct additional costs payable to the Services Contractor, the tenants/licensees of the Commercial Space and the licensees of the Teaching Clinic Space in connection with such interruption;



- (D) Project Co and VCHA will take all reasonable steps to mitigate the effects of the interruption;
- (E) to the extent deemed necessary by Project Co, acting reasonably, Project Co may obtain other sources of heating of the Facility at the sole cost and expense of VCHA (including any termination costs relating to the other source upon the rectification of the interruption and re-institution of the supply of steam to the quantity and quality required hereunder) for the period of the interruption; and
- (F) notwithstanding any such interruption, all obligations of VCHA under this Lease and the Project Agreement will continue in full force and effect (including all payment obligations of VCHA).

## **14. STATUS STATEMENT**

### **14.1 Status Statement**

Within ten (10) Business Days after a request from a party to this Lease, the party to this Lease receiving the request will deliver to the other party hereto and any permitted mortgagee, assignee, or other transferee of part or all of the requesting party's interest in this Lease a certificate of a senior officer certifying:

- (a) that this Lease is in full force and effect, except only for any written modifications that have been agreed to by the parties hereto;
- (b) the commencement and expiry dates of the Lease;
- (c) the date to which Rent has been paid under this Lease and the amount of any prepaid Rent or any deposits held by VCHA;
- (d) that there is not any uncured default on the part of the requesting party or if there is a default, the certificate will state the particulars; and
- (e) whether there are any set-offs, defences or counter-claims against enforcement of the obligations to be performed under this Lease by the party delivering the certificate.

## **15. QUIET ENJOYMENT**

### **15.1 Quiet Enjoyment**

If Project Co pays the Rent and other amounts at the times and in the manner provided in this Lease and keeps and performs all the terms, covenants, agreements and conditions of this Lease on Project Co's part to be kept and performed, Project Co may possess and enjoy the Building for the Term without disturbance or interruption by VCHA or by any person claiming by, through or under VCHA, subject to the terms and conditions of this Lease.

## **15.2 Exception**

If during the Term Project Co is disturbed in its quiet enjoyment of the Building or any part of the Building, it will not be entitled to call upon VCHA to defend or warrant it against such disturbance unless the disturbance is caused by any act or omission of VCHA, its agents or employees or other persons for whom VCHA is legally responsible, or the default of VCHA under this Lease or the Project Agreement. In the event of such disturbance Project Co will, until evicted from the Building, abide by and fulfil each of its obligations under this Lease in the same manner as if such disturbance had not taken place but will be entitled to exercise a right of set-off against VCHA in respect of any such disturbance. If Project Co is evicted from the Building, VCHA will indemnify Project Co for any Direct Losses it suffers as a result of such eviction, except if such eviction results from a breach by Project Co of its obligations hereunder (which breach is not cured within the time period set out in this Lease).

This Section 15.2 is subject to the terms and conditions of the Project Agreement, including, without limitation, Schedule 12 thereof.

## **16. DEFAULT, TERMINATION AND EXPIRY**

### **16.1 Default, Termination and Expiry**

If the Project Agreement is terminated for any reason, VCHA may by written notice, but without entry or other action of VCHA (except as set out in the Project Agreement or the Lenders' Remedies Agreement), terminate this Lease immediately upon the sending of such notice and all rights of Project Co under this Lease and all rights of any persons claiming under Project Co will thereupon cease.

### **16.2 Tenant May Not Terminate**

Notwithstanding any statutory or other right to the contrary in effect, Project Co will have no right to terminate this Lease prior to its expiry, except as may be provided in the Project Agreement.

### **16.3 Interest**

If either party to this Lease fails to make payment of an amount due to the other party hereunder within the time period contemplated in this Lease, then the defaulting party will pay to the other party from the date the payment was due until the date payment is actually made, interest on the amount due at the Default Interest Rate, calculated monthly, not in advance. Acceptance of any late payment without interest will not constitute a waiver of a party's right to require interest on the amount due.

### **16.4 All Amounts Constitute Rent**

All amounts other than Rent payable by Project Co to VCHA under this Lease will be recoverable in the ways permitted for the recovery of Rent in arrears as though such amounts constituted Rent in arrears.

## **17. MISCELLANEOUS**

### **17.1 Registration**

Project Co will not register this Lease in any Land Title Office and VCHA will not be required to provide this Lease in registrable form. Project Co may register in the applicable Land Title Office, at Project Co's expense (including the expense of any necessary survey plan), a short form of this Lease prepared by Project Co, in a form acceptable to VCHA acting reasonably, which VCHA will execute on request.

### **17.2 Waiver**

None of the terms, covenants, agreements or conditions of this Lease will be or be deemed or construed to be waived by VCHA except by the written consent of VCHA and that if VCHA fails or neglects for any reason to take advantage of any of the terms in this Lease permitting the termination or forfeiture of this Lease in whole or in part, or any other remedy or action by VCHA, any such failure or neglect of VCHA will not be, nor be deemed nor construed to be, a waiver of any right subsequently arising to terminate or forfeit this Lease, to seek a remedy or take such action, or as a waiver of the right to require observance and performance of any of the obligations of Project Co under this Lease.

### **17.3 Notices**

All notices, demands, requests and other writing which may or are required to be given, made or sent pursuant to this Lease will be in writing and will be sufficiently given if delivered as provided in Section 21.5 of the Project Agreement.

### **17.4 Further Acts**

Each of the parties agrees to do all acts and sign such documents as may be requested by the other party in order to give effect to the terms and intentions expressed in this Lease.

### **17.5 Successors and Assigns**

This Lease will enure to the benefit of and be binding upon and apply to the respective successors and permitted assigns of VCHA and Project Co.

### **17.6 Overholding**

If Project Co remains in possession of the Building or any portion of the Building after the Term with the consent of VCHA but without executing a new lease, there will be no tacit renewal of this Lease despite any statutory provision or legal presumption to the contrary, and Project Co will occupy the Building as a tenant from month to month and Project Co will comply with the same terms, covenants and conditions as are in this Lease as far as they apply to a monthly tenancy including payment of Rent.

IN WITNESS WHEREOF the parties have executed this Lease as of the day and year first above written.

**VANCOUVER COASTAL HEALTH AUTHORITY**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**AHV ACCESS HEALTH VANCOUVER LTD.**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

## **SCHEDULE A**

The Building is the Academic Ambulatory Care Centre building to be constructed pursuant to the Project Agreement and to be located at the Site as shown on the preliminary site plan attached hereto.

[attach Lot 1 Plan with site boundaries outlined in black]