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**SCHEDULE 16****TITLE ENCUMBRANCES**

For purposes of this Schedule, the defined term “**Lands**” shall include any portion of the Lands.

For the avoidance of doubt, this Schedule 16 – Title Encumbrances shall be interpreted in accordance with the Timing Principle set out in Section 1.5(c) of this Agreement.

***General Title Encumbrances***

Any of the following in existence (i) as of the date of the Project Agreement (in relation to the Stage 1 Lands); or (ii) as of the date of the DB Co Works Agreement (in relation to the Stage 2 Lands):

1. Liens, charges or prior claims for taxes (which term includes charges, rates and assessments) or utilities (including levies or imposts for sewers and other municipal utility services) not yet due or if due, the validity of which is being contested in good faith, and liens or charges for the excess of the amount of any past due taxes or utilities charges for which a final assessment or account has not been received over the amount of such taxes or utilities charges as estimated and paid by the City.
2. Inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Lands or of which notice in writing shall not at the time have been given to the City pursuant to the CLA or otherwise or any lien or charge, a claim for which, although registered, or notice of which, although given, relates to obligations not overdue or delinquent and in respect of any of the foregoing cases, the City has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
3. The rights reserved to or vested in the public or any municipality or governmental or other public authority by any statutory provision.
4. Any subsisting reservations, limitations, provisions and conditions contained in any grants from the Crown of any land or interests therein, including without limitation, reservations of under-surface rights to mines and minerals of any kind including rights to enter, prospect and remove the same.
5. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, and federal, provincial or municipal by-laws and regulations.
6. Intentionally deleted.
7. Any encroachments, easements, rights of way, rights to use or similar interests revealed by any survey of the Lands or which would be revealed by an up-to-date survey of the Lands.

8. The Project Agreement, any Ancillary Documents and other agreements relating thereto approved or agreed to by Project Co or entered into pursuant to the Project Agreement, and any interests thereunder.
9. Any rights in favour of or accruing to holders of under-surface rights which could be ascertained by a review of registered title or other public records, or which do not materially interfere with the use of the Lands for the purposes of carrying out the Project Scope.
10. Agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, provided such agreements have been complied with or if not complied with, that any non-compliance does not materially interfere with the use of the Lands for the purposes of carrying out the Project Scope.
11. Unregistered agreements, authorizations, consents, postponements, subordinations, licences or instruments entered into provided that they have been complied with or if not complied with, that any non-compliance does not materially interfere with the use of the Lands for the purposes of carrying out the Project Scope.
12. Easements, rights of way, rights to use, restrictions, restrictive covenants and similar rights in real property or any interest therein which do not materially interfere with the use of the Lands for the purposes of carrying out the Project Scope.
13. Minor imperfections of title.
14. Statutory exceptions to title and any rights reserved to or vested in any person by any statutory provision.
15. The right of any prior owner, occupant or tenant of any portion of the Lands to occupy any portion of the Lands or to remove buildings, fixed machinery, equipment, fittings or other fixtures located on such portion of the Lands.
16. The rights of any person entitled to any portion of the Lands through length of adverse possession or prescription.

Title Encumbrances shall also include any Encumbrances or other matters described in paragraphs 5, 7, 9-13, 15 and 16 above, which arise (i) after the date of the Project Agreement (in relation to the Stage 1 Lands); or (ii) after the date of the DB Co Works Agreement (in relation to the Stage 2 Lands), in each case, provided that they do not materially interfere with the use of the Lands for the purposes of carrying out the Project Scope.

Title Encumbrances shall also include any Encumbrances or other matters described in paragraphs 1-4, 6, 8 and 14, which arise (i) after the date of the Project Agreement (in relation to the Stage 1 Lands); or (ii) after the date of the DB Co Works Agreement (in relation to the Stage 2 Lands).

*Specific Title Encumbrances*

- (a) All Encumbrances relating to the title to the Stage 1 Lands disclosed or noted on the land registry office parcel registers or abstract indices for the Stage 1 Lands from time to time, including those Encumbrances included in the Background Information as of the date of the Project Agreement and including those Encumbrances referred to in the legal descriptions for the Stage 1 Lands available in the applicable land registry office, in each case as assigned, amended, extended, supplemented, substituted and replaced from time to time.
- (b) All Encumbrances relating to the title to the Stage 2 Lands disclosed or noted on the land registry office parcel registers or abstract indices for the Stage 2 Lands from time to time, including those Encumbrances included in the Stage 2 Background Information as of the date of the DB Co Works Agreement and including those Encumbrances referred to in the legal descriptions for the Stage 2 Lands available in the applicable land registry office, in each case as assigned, amended, extended, supplemented, substituted and replaced from time to time.
- (c) Notwithstanding paragraphs (a) and (b), any Encumbrances referred to in that sentence which are registered after the date of the Project Agreement in the case of the Stage 1 Lands or after the date of the DB Co Works Agreement in the case of the Stage 2 Lands will not be Title Encumbrances if they:
  - (i) materially interfere with the use of the Lands for the purposes of carrying out the Project Scope;
  - (ii) have not been consented to by the City (and the City will only consent to new Encumbrances on the Stage 2 Lands pursuant to the Stage 2 Interface and Design Management Variation); or
  - (iii) are Encumbrances which Project Co is obliged to remove, vacate or discharge under the Project Agreement or that DB Co is obliged to remove, vacate or discharge under the DB Co Works Agreement.