THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 13-121

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN ENCROACHMENT AGREEMENT FOR LANDS MUNICIPALLY KNOWN AS 379 GEORGE STREET NORTH, IN THE CITY OF PETERBOROUGH

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an Encroachment Agreement with respect to the encroachment of the building located at 379 George Street North, which said encroachment is on the lands described as George Street, in the City of Peterborough, in the form attached hereby as Schedule ‘A’, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 6th day of August, 2013.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) Natalie Garnett, Deputy Clerk
AGREEMENT made this day of August, 2013

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
hereinafter referred to as the “City”,

- and –

BRANDHEALTH PROPERTIES INC.
hereinafter referred to as the “Licencee”

-and-

PETERBOROUGH UTILITIES COMMISSION

-and-

PETERBOROUGH DISTRIBUTION INC.
Hereinafter referred to as the “Utilities”

WHEREAS the Licencee are the registered owners of the lands and premises known municipally as 379 George Street North, in the City of Peterborough, in the County of Peterborough, and being more particularly described in Schedule “A” attached hereto;

AND WHEREAS the Site is subject to a previous Encroachment Agreement, which was registered as Instrument R313403 on April 21st, 1977, and said Agreement remains in full force and effect.

AND WHEREAS part of the buildings and structures erected on the said lands encroach over City owned lands in the City of Peterborough, known as George Street, which encroachments are described in Schedule “B” attached hereto (hereinafter referred to as the “Encroachment”);

AND WHEREAS the Licencee has requested permission from the City to establish and maintain the Encroachment, on the terms and conditions hereinafter set in the position described in Schedule “B” attached hereto, during the lifetime of the building;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the covenants hereinafter contained on the part of the Licencee to be observed, fulfilled and performed, the City hereby grants to the Licencee permission to maintain the Encroachment, upon the following terms and conditions:

1. The Licencee shall maintain the Encroachment in a good and workmanlike fashion and shall comply in all respects with the provisions of the Building Code Act, all by-laws of the City, and any other applicable regulations or reasonable direction from the City.

2. The Licencee acknowledges and agrees that the permission granted by the City to maintain the encroachment is at the sole risk of the Licencee. The Licencee agrees to indemnify and save harmless, the City and the Utilities, against all actions, suits, claims and demands, which may be brought against or made upon the City or Utilities and against all loss, costs, damages, charges, or expenses whatsoever which may be sustained, incurred or paid by the City or Utilities in consequence
of the Encroachment, or otherwise by reason of the exercise by the Licencee of the permission hereby
granted to maintain the Encroachment. The Licencee hereby grants to the City or the Utilities full
power and authority to settle any action, suit, claim or demand on such terms as the City or Utilities
may deem advisable and hereby covenants and agrees with the City or Utilities to pay to the City or
Utilities, on demand, all monies paid by the City or Utilities in pursuance of any such settlement and
also such sum which shall represent the reasonable cost to the City or the Utilities, or its solicitor, in
defending or settling any action, suit, claim or demand. This Agreement shall not be alleged as a
defence by the Licencee in any action, by any person, for actual damage suffered by reason of the
permission hereby granted to maintain the Encroachment.

3. The Licencee agrees to maintain in full force and effect property damage and public liability insurance,
naming the City and the Utilities, as an additional named insured, and with a cross liability endorsement
in the minimum amount of Two Million Dollars ($2,000,000.00) per occurrence. The Licencee shall
provide the City and Utilities with a Certificate confirming the existence of the above noted insurance
coverage.

4. The Licencee acknowledges and agrees that, should the City require the use, for public purposes, the
lands upon which the Encroachment is located, the Licencee shall, upon thirty (30) days written notice
from the City, remove or relocate the encroachment, and then reinstate the encroachment, to the
satisfaction of the City all at the sole expense of the Licencee.

5. This Agreement shall enure to the benefit of, and be binding upon, the parties hereto, their respective
heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals.

SIGNED, SEALED AND DELIVERED ) THE CORPORATION OF THE
in the presence of: ) CITY OF PETERBOROUGH

Daryl Bennett, Mayor

John Kennedy, Clerk

BRANDHEALTH PROPERTIES INC.

Per: ________________________________
Name: ________________________________
Office: ________________________________
I have the authority to bind the Corporation.
PETERBOROUGH UTILITIES COMMISSION

Per: _________________________________
Name:
Office:

Per: _________________________________
Name:
Office:

I/We have the authority to bind the Corporation.

PETERBOROUGH DISTRIBUTION INC.

Per:_________________________________
Name:
Office:

Per: _________________________________
Name:
Office:

I/We have the authority to bind the Corporation.
SCHEDULE A

Legal Description

BLOCKS G & H PLAN 152(PETERBOROUGH), PART LOT 2 SOUTH OF HUNTER STREET, WEST OF GEORGE STREET(PETERBOROUGH), AS IN R512723(1STLY DESCRIBED); T/W R512723; CITY OF PETERBOROUGH
The Drawings prepared by LETT ARCHITECTS INC. to illustrate the encroachments are as follows:

2. SK2 – SITE ENCROACHMENT SECTION – dated July 11th, 2013