THIS AGREEMENT made this 24th day of February, 2015

B E T W E E N:

GUILD INN ESTATE INC.
(hereinafter referred to as the "Tenant")

OF THE FIRST PART

- and –

CITY OF TORONTO
(hereinafter referred to as the "City")

OF THE SECOND PART

WHEREAS the Tenant, the Toronto Region and Conservation Authority (TRCA) and the City entered into a lease dated January 22nd, 2015 attached hereto as Schedule "A" (hereinafter referred to as the "Lease"), whereby the Tenant agreed to lease certain premises (hereinafter referred to as the "Premises") from the City know as the Guild Inn, 201 Guildwood Parkway, Toronto, Ontario (Assessment Roll No. 190107330001900) more particularly described in By-law No. 967-2014 enacted by City Council at its meeting of August 28, 2014, as amended by By-law No. 78, 2015, attached hereto as Schedule "B" (together referred to as the "By-law").

AND WHEREAS the Tenant and the City entered into an operating agreement (hereinafter referred to as the "Operating Agreement") dated February 12th, 2015 to implement those aspects of the operation of the Project relating to community use.

AND WHEREAS the provisions of the Lease require the Tenant to pay to the City rent together with taxes for municipal and school purposes attributable to a portion of the Premises.

AND WHEREAS Section 252 of the *City of Toronto Act, 2006* (the "Act"), provides that the City may enter into agreements for the provision of a municipal capital facility by any person and that the City may exempt from taxation for municipal and school purposes land or a portion of land on which municipal capital facilities are located.

AND WHEREAS Ontario Regulation No. 598/06, as amended, prescribes municipal facilities used for community centre purposes as eligible municipal capital facilities for the purpose of section 252 of the Act, provided that such facilities are used primarily for local community activities and are declared to be for City purposes and for public use by resolution of Council of the City of Toronto.

AND WHEREAS the portion of the Premises described as "Eligible Premises" in the By-law and described as MCF Area in the Operating Agreement and in the Lease (the "Eligible

Premises") will be used primarily for local community activities and have been declared to be for City purposes and for public use by City Council.

AND WHEREAS the By-law authorizes the City to enter into an agreement with the Tenant for the provision of a municipal capital facility at the Eligible Premises, being more particularly a facility for use for community centre purposes, and exempts the Eligible Premises from property taxation.

NOW THEREFORE this Agreement witnesseth that in consideration of the following covenants, the parties agree as follows:

1. The parties agree that it is their shared intention that this Municipal Capital Facility Agreement be read in concert with the Lease and Operating Agreement. Unless the context requires otherwise or unless specifically provided for in this Municipal Capital Facility Agreement, capitalized terms used in this Municipal Capital Facility Agreement shall have the same meaning as the terms defined in Article 1 of the Lease.

2. The City confirms that the Tenant is leasing from the City the Eligible Premises (which forms part of the Premises) and are available to be used predominantly as a municipal capital facility for the provision of a facility used for community centre purposes in accordance with the Lease.

3. The City warrants that it is the manager of the Premises which are leased to the Tenant.

4. The Lease permits the Eligible Premises to be used for community centre purposes.

5. The Tenant hereby acknowledges and agrees that the termination of this Agreement and/or the repeal of the By-law shall not terminate or in any way affect the obligations or covenants of the Tenant under the Lease.

6. The By-law shall be deemed repealed:

   (a) if the Tenant ceases to lease the Premises without having assigned this Agreement to the new tenant of the Premises;
   (b) if the Eligible Premises cease to be used for community centre purposes;
   (c) when the Lease or any renewal or extension of the Lease expires;
   (d) if the Lease or any renewal or extension of the Lease is terminated, for any reason whatsoever; or
   (e) if this Agreement is terminated, for any reason whatsoever.

7. This Agreement shall terminate immediately:

   (a) if the Tenant ceases to lease the Premises without having assigned this Agreement to the new tenant of the Premises;
   (b) if the Eligible Premises cease to be used for community centre purposes;

(c) when the Lease or any renewal or extension of the Lease expires;
(d) if the Lease or any renewal or extension of the Lease is terminated, for any reason whatsoever; or
(e) if the By-law is repealed or is deemed repealed pursuant to paragraph 5 of this Agreement

and upon the City giving to the Tenant notice of such termination.

8. As soon as reasonably possible after learning of the deemed repeal of the By-law under section 6 or the termination of this Agreement under section 7, the City shall give notice to the Tenant of such repeal or termination.

9. The City and the Tenant agree that any designation in writing, instruction in writing, provision of information, notification, or notice provided for in or required by this Agreement to be given, shall be delivered personally, by regular mail or by facsimile transmission.

(a) if to the City, at:

CITY OF TORONTO
City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2
Fax No.: (416) 397-5236

Attention: Chief Financial Officer and Treasurer

(b) if to the Tenant, at:

Guild Inn Estate Inc.
955 Lakeshore Boulevard West
Toronto ON M6K 3B9
Attention: President

Fax: (416) 260-0552

with a copy to its solicitors at:

Parente Borean LLP
3883 Highway 7, Suite 207
Woodbridge ON L4L 6C1

Attention: Don Parente
Fax: (905) 850-6069

10. This Agreement shall enure to the benefit of and be binding upon the parties and their executors, administrators, successors and, in the case of the Tenant, assignees.

IN WITNESS WHEREOF the parties have caused to be affixed their corporate seals under the hands of their proper officers duly authorized in their behalf.

CITY OF TORONTO

~~City Clerk~~ Marilyn M. Toft
for Ulli S. Watkiss
City Clerk

S. Murji for
Deputy City Manager and Chief Financial Officer

APPROVED AS TO FORM
For ANNA KINASTOWSKI
City Solicitor

GUILD INN ESTATE INC.

Per: SAM D'UVA
Name:
Title: PRESIDENT

Per: PIERO SUPPA
Name:
Title: SECRETARY

I/We have authority to bind the Corporation

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

Marilyn M. Toft City Clerk

SCHEDULE "A"
(Lease)

PROJECT LEASE

THE GUILD INN

Dated as of January 22, 2015

BETWEEN:

CITY OF TORONTO

and

GUILD INN ESTATE INC.

and

TORONTO AND REGION CONSERVATION AUTHORITY

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THIS INDENTURE OF LEASE made as of _____, 2015

BETWEEN:

CITY OF TORONTO
(hereinafter called the "Landlord")

OF THE FIRST PART

- and -

GUILD INN ESTATE INC.
(hereinafter called the "Tenant")

OF THE SECOND PART

- and -

TORONTO AND REGION CONSERVATION AUTHORITY
(hereinafter called "TRCA")

OF THE THIRD PART

WHEREAS:

1. TRCA is the owner the Total Site, comprised of approximately 88 acres more or less of natural woodland and public park, which contains the Existing Guild Inn and other buildings, historic and artistic artifacts;

2. The Landlord manages and operates certain lands owned by TRCA, including the Total Site, pursuant to a Memorandum of Agreement between the TRCA and the Landlord dated June 14, 1972;

3. By a lease dated September 1, 1988 between TRCA (formerly known as The Metropolitan Toronto and Region Conservation Authority) and the Landlord (formerly known as The Municipality of Metropolitan Toronto), registered in the Land Titles Office as Instrument No. C51006, included in this Lease as Schedule "D" (the "Original Lease"), as amended by a lease amending agreement dated January 19, 2015 between the TRCA and the Landlord to give permission to the Landlord to enter into this Lease, the TRCA leased the Total Site to the Landlord for a term of ninety-five (95) years and one (1) day commencing September 1st, 1988;

4. In its role as a municipality, the Landlord has declared the Leased Lands to be surplus to its requirements pursuant to the Declare Surplus Authority;

5. In addition to the provisions contained in this Lease, certain other elements relating to the use and operation of the Project on the Leased Lands will be dealt with in the Ancillary Agreements;

6. TRCA, at the meeting of its Board on May 24, 2014, consented to this Lease on the terms and conditions set out herein;

7. By its adoption of (i) Government Management Committee Item No. GM28.10 at its meeting held on April 1, 2, 3 and 4, 2014, and (ii) Member Motion No. MM55.51 at its meeting held August 25, 26, 27 and 28, 2014. City Council authorized the entering into of this Lease; and

8. The Landlord has agreed, with TRCA as a consenting party, to sublease to the Tenant, and the Tenant has agreed to sublease from the Landlord, the Leased Lands on the terms and conditions in this Lease.

NOW THEREFORE in consideration of and subject to the Rent reserved and the covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord does demise and lease the Leased Lands to the Tenant and the Tenant leases from the Landlord the Leased Lands, to have and to hold during the Term and any extension thereof, unless sooner terminated as expressly provided in this Lease, in accordance with the following terms and conditions, and the Landlord and the Tenant covenant and agree, each with the other, as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Lease, unless the context otherwise requires, the following terms shall have the following meanings:

"Additional Rent" means the money or charges which the Tenant is required to pay under this Lease (except Minimum Rent and HST), whether or not they are designated "Additional Rent" and whether they are payable to the Landlord or third parties, as more particularly described in Article 4;

"Affiliate" means, with respect to any Person, any legal entity which directly or indirectly controls or is controlled by such Person or any legal entity which is directly or indirectly controlled by a second Person which directly or indirectly controls such Person and to the extent not provided for herein, shall have the meaning ascribed under the *Business Corporations Act* R.S.O. 1990, c. B.16;

"Ancillary Agreement(s)" means those collateral agreements between the Tenant, TRCA and the Landlord concerning, amongst other matters, the timing and method of the Project construction and subsequent operation, and shall include: the Operating Agreement, Municipal Capital Facilities Agreement, Heritage Easement Agreement, Heritage Artifacts and Fine Art Loan Agreement, Effective Date Agreement, Initial Construction Period Agreement, Insurance Trust Agreement, Leasehold Mortgage Acknowledgement Agreement, Assignee's Assumption Agreement, Site Plan Agreement and related planning documents;

"Applicable Law" means all provisions or any present or future law, statute, by-law, rule, regulation, guidelines, standards, code or order enacted or made by Federal, Provincial or Municipal authority having jurisdiction including all the TRCA's and City's policies as may be adopted by the TRCA Board of Directors and by City Council from time to time and any policy adopted by any Authority;

"Applicable Standard" means, at any particular time during the Term and any extension thereof:

(a) with respect to the state or condition of the maintenance and repair of the Project and the Leased Lands or any part, being kept to a standard consistent with a comparable facility similar in size, age and sophistication as chosen by the General Manager in the General Manager's sole and absolute discretion, acting reasonably, subject only to reasonable wear and tear not inconsistent with the same standard; and

(b) with respect to the operation of the Project and the Leased Lands or any part, being managed to a standard of a professionally operated licensed restaurant/event/banquet facility consistent with those of similar size, age, location and sophistication as chosen by the General Manager in the General Manager's sole and absolute discretion acting reasonably;

"Approvals" means all official plan amendments, re-zonings, Site Plan Agreements, heritage approvals, and other approvals required to be obtained from TRCA under the *Conservation Authorities Act* R.S.O. 1990 c. C.27 and the City's Authorized Members in its role as a municipality, (including Approvals for demolition and building permit approval purposes) and/or from TRCA and the Landlord as Parties to this Lease before the Project can begin;

"Approved" means a written endorsement of the approving Party's agreement with a given matter, which endorsement may not be arbitrarily withheld or delayed except where otherwise indicated;

"Approved Plans" means:

(a) a complete set of fully resolved design and development plans and outline specifications for the Project Development, including all related Parking Facilities and other Improvements. Such plans and specifications shall be to a level of detail as required by all applicable Authorities to successfully complete any site plan approval process required for the Project Development;
(b) the Reference Plan; and
(c) the Site Plan;

all of which shall have been Approved by TRCA and the Landlord and filed with the CCO;

"Arbitration Act" means *Arbitration Act, 1991* S.O. 1991, c. 17 as the same may be amended from time to time, or any successor or replacement legislation;

"Architect" means the architectural firm accredited by the Ontario Association of Architects and approved by the CCO which is the lead and responsible project architect for the Project and the Leased Lands, acting in conjunction with any Approved Architect's Consultant from time to time;

"Architect's Consultant" means (i) third party architect(s), engineers or professional consultants qualified to perform the specific function for which such Person is named and is retained by the Tenant on prior written Notice to and Approval by the Landlord; or (ii), such third party architect(s) or engineer(s) or professional consultant qualified to perform the specific function for which such Person is named as is retained by the Landlord on prior written Notice to the Tenant;

"As-Built Record Drawings and Specifications" means a complete set of fully resolved structural engineering, mechanical and electrical engineering, landscape architectural and working drawings and specifications for the construction of the Project in conformity with the Approved Plans and to a level of detail as required by all applicable Authorities, all of which shall have been Approved of in final form by all such Authorities, the TRCA and the Landlord and filed with the CCO;

"Assignee" means any person or entity to which an Assignment is or is to be made;

"Assignee's Assumption Agreement" means an agreement whereby the Landlord confirms its consent to the Tenant's proposed Assignee which shall be substantially in the form of attached Schedule **"J"** - Form of Assignee's Assumption Agreement.

"Assignment" means **(i)** an assignment, sale, conveyance, sublease, or disposition of this Lease or the Project, or any part of them, or any interest in this Lease (whether or not by operation of law); **(ii)** licensing of the Project or any part thereof except for short-term, single-event service contracts where such licensees do not have use of space within the Project; **(iii)** a mortgage, charge, lien or debenture (floating or otherwise) or other encumbrance of this Lease or the Project or any part of them or of any interest in this Lease or of a partnership or partnership interest under this Lease (but for greater certainty, does not include permitted Leasehold Mortgages in accordance with the provisions of Section **16.1** of this Lease); **(iv)** a parting with or sharing of possession of all or part of the Project; or **(v)** at any time after the termination of the Initial Construction Period, a transfer or issue by sale, assignment, operation of law or other disposition, or by subscription of all or part of the shares of Tenant which results in a change in the effective voting control of Tenant, whether directly or indirectly unless (a) such change occurs as the result of trading in shares listed upon a recognized stock exchange, or (b) such transfer of shares is made to affiliated or subsidiary companies through an internal reorganization, or (c) the shares of the Tenant are sold or transferred to an existing shareholder or any Person that is an Affiliate or an Immediate Family Member of an existing shareholder, or (d) such transfer of shares are the result of the death of a shareholder of the Tenant or a Person that controls a shareholder of the Tenant, provided the Transfer is to an Immediate Family Member of the deceased pursuant to an estate administration, or (e) such transfer of shares is part of a *bona fide* corporate reorganization;

"Authority" or **"Authorities"** means any court or tribunal or commission or government (federal, provincial, municipal), regulatory or administrative body, board, agency, department or authority of any country, province, municipality having jurisdiction in the relevant circumstances (including, without limitation, the Minister of Natural Resources for the Province, TRCA, the Preservation Board, the City in its role as a municipality, and/or suppliers of public utilities including Toronto Hydro);

"Authorized Member(s)" means the following Persons authorized by the Landlord, TRCA and the Tenant:

(a) in the case of the Landlord or TRCA, the elected officials of City Council, the directors, officers, workers, employees, invitees, subtenants, licensees, agents and contractors designated by the City or TRCA, as applicable, and all other Persons for whom the Landlord or TRCA is responsible under Applicable Laws and, in the case of the Landlord, includes all members of the public from time to time assessed by it in its sole discretion as eligible to enter Guildwood Park or any part; and

(b) in the case of the Tenant, the directors, officers, workers, employees, invitees, subtenants, licensees, agents and contractors designated by the Tenant, and all other Persons for when the Tenant is responsible under Applicable Laws;

"Authorized Use(s)" has the meaning, depending on the context ascribed to it in Section **8.1**;

"*Bankruptcy and Insolvency Act*" means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as the same may be amended from time to time, or any successor or replacement legislation;

"Business Day(s)" means any day on which the City is open for business and, more particularly, does not include a Saturday, Sunday or a day observed as a statutory or civic holiday in Ontario;

"Capital Tax" means the applicable amount (as hereinafter defined) of any tax or taxes payable under the legislation of the Province of Ontario and, if applicable, the "large corporations tax" imposed under the *Income Tax Act (Canada)*, by the Landlord or TRCA, based on or computed by reference to the paid up capital or place of business of the Landlord or TRCA or the taxable capital employed by the Landlord or TRCA as determined for the purposes of such tax; provided that for the purpose of this definition the phrase **"applicable amount"** of such tax or taxes shall mean the amount that would be payable if the Leased Lands were the only property of the Landlord or TRCA in the Province of Ontario;

"CCO" means the Chief Corporate Officer of the City or such other Person as may be designated by him or her from time to time, and includes his or her successor, if any;

"City" means the City of Toronto, its successors and assigns;

"City Council" means the Council of the City from time to time;

"*City of Toronto Act*" means the *City of Toronto Act 2006*, S.O. 2006, c. 11 Schedule A, as amended, superseded or replaced from time to time;

"City Solicitor" means the head of the City's Legal Services Division, his or her designate and includes his or her successor, if any;

"City's Work" means the following work, all in accordance with the Site Plan Agreement:

(i) relocate historic artifacts and/or heritage elements from the Leased Lands to elsewhere in the Cultural Precinct or Guildwood Park;

(ii) demolish the following structures, as shown shaded grey in the cross-sections and the footprint drawings attached hereto as Schedule **"A-4"**
   a. demolition of the wings added in the 1930s and 1940s, returning the Guild Inn structure to its original 1914 size;
   b. removal of the roof dormers added in 1937;
   c. removal of the north front addition back to the 1932 north wall; and
   d. remove the green house;

(iii) demolish and/or move the tennis court and service buildings indicated in Schedule **"A-3"** to accommodate the Project;

(iv) upgrade the existing parking lots shown in Schedule **"B"**, which upgrades will be completed to a standard comparable as required for similar parking facilities within the Project to be completed by the Tenant;

(v) remove all toxic and hazardous material from the structures, including but not limited to asbestos, PCBs, mercury, mould and any other hazardous or toxic substances that may be found during the course of demolition by the Landlord or new construction by the Tenant. This shall cover those sections to be demolished as outlined above, and the sections to remain and be restored by the Tenant; and

(vi) mitigate those storm water management issues affecting the Leased Lands directly resulting from tree removal work within Guildwood Park undertaken by the City in Winter/Spring, 2014, which are not mitigated by the storm water tank to be installed in Guildwood Park pursuant to the Site Plan Agreement.

"Claims" means claims, losses, costs, damages (direct, indirect, consequential or otherwise), suits, judgements, causes of action, legal proceedings, executions, demands, penalties or other sanctions of every nature and kind whatsoever, whether accrued, actual, contingent or otherwise and any and all costs and expenses arising in connection, including without limitation, reasonable legal fees and disbursements on a substantial indemnity basis (including, without limitation, all such reasonable legal fees and disbursements in connection with any and all appeals);

"Commence" or **"Commenced"** or **"Commencement"** means, for the purposes of the construction of the Project Development, the date which is 30 days after the start of the Initial Construction Period and **"commence"** or **"commenced"** or **"commencement"** has corresponding meanings;

"*Commercial Tenancies Act*" means the *Commercial Tenancies Act*, R.S.O. 1990, c.L.7, as the same may be amended from time to time, or any successor or replacement legislation;

"*Companies' Creditors Arrangement Act*" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C.36, as the same may be amended from time to time, or any successor or replacement legislation;

"Completed" or **"Complete"** or **"Completion"** means the date on which the Project is completed as defined in the *Construction Lien Act* and in accordance with the requirements of this Lease, as certified by the Architect to the City and TRCA in accordance with a certificate reasonably satisfactory to their legal counsel, and the Project is in operation and open for business to the public;

"*Conservation Authorities Act*" means the *Conservation Authorities Act*, R.S.O. 1990, C.7, as the same may be amended from time to time, or any successor or replacement legislation;

"Construction Contract(s)" means the agreement between the Tenant and the Contractor for the Tenant's Construction Work, and the contracts and agreements with Persons which provide for services or materials or both for the foregoing, as the same may be amended, from time to time in compliance with City policies and in accordance with this Lease;

"*Construction Lien Act*" means the *Construction Lien Act*, R.S.O. 1990, c. C. 30, as same may be amended from time to time, or any successor or replacement legislation;

"Construction Procedures Agreement" means that protocol agreement between the Tenant, and the Landlord concerning the co-ordination of access and of the Tenant's Project Development construction activities in the Leased Lands with the City's construction activities regarding the Cultural Precinct and the ongoing operation of Guildwood Park;

"Construction Security" shall mean

(i) Canadian tender;

(ii) an irrevocable, unconditional and automatically renewed letter of credit in a form and from a Canadian Schedule I chartered bank acceptable to the City's Deputy City Manager and Chief Financial Officer, in a form satisfactory to the City's Deputy City Manager and Chief Financial Officer acting reasonably; or

(iii) such other manner that is satisfactory to the Landlord,

in an amount equal to five million, one hundred and ninety-seven thousand, five hundred dollars ($5,197,500.00), which amount shall be reviewed and Approved by the CCO.

"Contamination" means contamination by a Hazardous Substance of soil and/or groundwater in, on or on the Leased Lands or on neighbouring properties and/or adjacent bodies of water as a result of emanation from the Leased Lands, in each case, above levels permitted for industrial and/or commercial lands, in accordance with applicable Environmental Laws, and **"Contaminate"** and **"Contaminating"** and **"Contaminant"** have corresponding meanings;

"Contractor" means a reputable construction firm(s), chosen by the Tenant at its sole discretion from a list of potential construction firms which list has been Approved by the Landlord;

"CPI" means the overall Consumer Price Index (base year 2016=100) for the City, all items, not seasonally adjusted, as defined by Statistics Canada (or by a successor or other government agency, including a provincial agency); or, if the Consumer Price Index is no longer published or is not published for the relevant period or time, an index published in substitution for such Consumer Price Index or for such relevant period or time, or any comparable replacement index designated by the Landlord, acting reasonably. If a substitution or replacement is required, the Landlord, acting reasonably, will make the necessary conversions. If the base year for the Consumer Price Index (or the substituted or replacement index) is changed by Statistics Canada (or by its successor or other governmental agency), the Landlord will make the necessary conversion. If any calculation is required to be made under this Lease based on the CPI as at a particular date or for a particular period and the CPI for such date or period is not available as at the time such calculation is required to be made, the Landlord, acting reasonably, shall be entitled to estimate the CPI for the purposes of such calculation, subject to adjustment following the CPI for the relevant date or period becoming available;

"Cultural Precinct" means a cultural programming space in a newly constructed area and/or the renovation of existing Building 191, the Osterhaut Log Cabin and Sculpture Cabin, upgrades to the Greek Amphitheatre and Public Art, Artifact and Architectural Collections installed and displayed in Guildwood Park and ancillary lands all to be constructed by or on behalf of the Landlord within a portion of Guildwood Park;

"Declare Surplus Authority" means, collectively, those items listed below adopted by City Council on the dates set out as follows: (i) Administration Committee Report No. 9, Clause 17, City Council meeting September 22, 23, 24 and 25, 2003; (ii) Administration Committee Report No. 3, Clause 21, City Council meeting April 12, 13 and 14, 2005; (iii) Government Management Committee, Item No. GM 6.18, City Council meeting July 16, 17, 18 and 19, 2007, as amended, Tracking No. 2009-081; and (iv) Executive Committee, Item No. EX 43.7 City Council meeting May 11 and 12, 2010, as amended, Tracking No. 2014-089.

"Development Charges" means all development charges, levies and impost fees that are charged by the City or any other Authority, under or pursuant to the *Development Charges Act 1997* S.O. 1997 c. 27, the *Education Act* R.S.O. 1990 c. E.2, if any, or any re-enacted, replacement or related or successor legislation and any applicable regulations with respect to the development or construction of the Project Development;

"Development Timetable" means the construction schedule for the Project, prepared and agreed to by the Tenant and Landlord, as the same may be amended or modified from time to time with the Approval in writing of the Landlord and Tenant;

"Effective Date Agreement" means the agreement attached hereto as Schedule **"L"** which records the commencement date and expiry date of this Lease and which the Parties agree to execute forthwith after the Term Commencement Date;

"Environmental Laws" include any Applicable Laws relating in any way to the natural or human environment (including land, surface water, groundwater, and real, personal, moveable and immovable property), public or occupational health and safety, in the manufacture, importation, handling, use, re-use, recycling, transportation, storage, disposal, elimination and treatment of a substance, hazardous or otherwise;

"Event of Default" has the meaning given to it in Section **17.1**;

"Event of Insolvency" means the occurrence of any one of the following events:

(a) if the Tenant shall:

(i) be wound up, dissolved, or liquidated, or become subject to the provisions of the *Winding Up and Restructuring Act*, R.S.C. 1985, c.W-11, as the same may be amended from time to time, or any successor or replacement legislation, or have its existence terminated or have any resolution passed, unless, in any such case it forms part of a bona fide corporate reorganization not forming part of any relief being sought under any present or future law relative to bankruptcy, insolvency or other relief for debtors, provided that it shall not be an Event of Insolvency if the Tenant, being a corporation, is dissolved involuntarily pursuant to its governing legislation and the Tenant is revived within forty-five (45) Business Days of any of the directors or officers of such corporation at the time of its dissolution becoming aware of such dissolution;

(ii) become insolvent or unable to pay debts as they become due or file a petition in bankruptcy or make a general assignment for the benefit of its creditors or a proposal under the *Bankruptcy and Insolvency Act*, or any successor or replacement legislation or any other insolvent debtors' legislation, or shall be declared bankrupt or insolvent by a court of competent jurisdiction, or if any involuntary petition seeking the adjudication of the Tenant is not removed within thirty (30) consecutive days and satisfactory evidence of the same given to the City Solicitor;

(iii) propose a compromise or arrangement under the *Companies' Creditors Arrangement Act* RSC. 1985 c.36 or any similar legislation, from time to time, or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or similar relief for itself under any present or future law relative to bankruptcy, insolvency or other relief for debtors;

(iv) abandons the Leased Lands, provided that the Leased Lands will not be deemed to have been abandoned if the Tenant has vacated the same to make necessary repairs or if the Tenant has vacated the Leased Lands for less than ten (10) consecutive days; or

(v) make a sale under the *Bulk Sales Act* R.S.O 1990 c. B.14 as the same may be amended from time to time, or any successor or replacement legislation of the goods and chattels at the Leased Lands without the Landlord's consent;

(b) if the leasehold interest created by this Lease is at any time seized or taken in execution or in attachment; or

(c) in the event of a writ of execution, judgement or writ of attachment or any other similar process having been made, given or issued in respect of the Tenant which may, in the reasonable opinion of the Landlord, materially impair the ability of the Tenant to perform its obligations hereunder and such petition, order, writ of attachment, judgement or process is not vacated or stayed within thirty (30) days and satisfactory evidence of the same given to the City Solicitor; or

(d) if a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against the Tenant seeking any reorganization, arrangement, composition, re-adjustment, liquidation, dissolution, winding up, termination of existence, declaration of bankruptcy or insolvency or similar relief under any present or future law relating to bankruptcy, insolvency or other relief for or against debtors, and the Tenant shall acquiesce in the entry of such order, judgment or decree or such order, judgment or decree shall remain unvacated and un-stayed for an aggregate of forty-five (45) Business Days (whether consecutive or not) from the day of entry ; or if any trustee in bankruptcy, receiver or receiver and manager, liquidator or any other officer with similar powers shall be appointed for the Tenant, or of all or any substantial part of its property with the consent or acquiescence of such, the Tenant, or such appointment shall remain unvacated and unstayed for an aggregate of forty-five (45) Business Days (whether or not consecutive); or

(e) if an order of any court or other Authority appointing an receiver and/or receiver/manager or trustee of the Tenant or for all or a substantial portion of its/their property and assets is made;

"Existing Guild Inn" means the original 1914 Bickford House with subsequent additions currently located on the Leased Lands identified as the 2 storey stucco building on the sketch attached hereto as Schedule "**A-2**";

"First Extension Term" means a period of five (5) years directly following the Term;

"Force Majeure" means any bona fide event beyond the control of a party (other than (i) as a result of financial incapacity of such party or of a Person not at arm's length with such party or (ii) non-satisfaction of any monetary obligation), and not caused by an act or omission of such party or Person not at arm's length with such party, in the nature of:

(a) any new statute, law, by-law or order-in-council or any regulation or order or amendment thereto passed or made pursuant thereto, whether Federal, or Provincial;
(b) an order or direction of any administrator, controller or board, or any governmental department or officer or other Authority (exclusive of the Municipality);
(c) a strike, lock-out, slowdown or other combined action of workers or labour trouble;
(d) power failure;
(e) an act of terrorism, riot, insurrection, sabotage or war; or
(f) an act of God;

which such Party cannot reasonably be expected to have foreseen as a reasonable likelihood and to have overcome by alternate means without the expenditure of an amount of money and/or other resources that is substantially disproportionate to the value to be gained or the loss to be avoided by such alternative means, and which in any such case shall cause such Party to be unable to fulfil or to be delayed or restricted in the fulfilment of any obligation hereunder;

"GAAP" means Generally Accepted Accounting Principles which are in effect from time to time in

Canada;

"General Manager" means the General Manger of Parks, Forestry and Recreation, his or her successor or his or her designate from time to time;

"Gross Revenue(s)" means all income and proceeds of sales of every kind (whether in cash or on credit) resulting from the operation of the Project and all of the facilities therein received by the Tenant or any Person not dealing at arm's length with the Tenant whether or not such sales are made or such services are performed in the Project or on the Leased Lands or elsewhere on the Total Site including, without limitation, all income received from sub-subtenants, licensees and concessionaires and other persons occupying space and/or rendering services, all service charges, commissions and gratuities (to the extent such gratuities are not distributed to employees), any revenues from catering, food production or similar services produced in the Project and the proceeds of use or occupancy insurance actually received by the Tenant with respect to the operations of the Project (after deducting from said proceeds all necessary expenses incurred in the adjustment or collection thereof). The term Gross Revenues shall not include (i) refunds granted to customers or other persons, to the extent that such receipts were included in Gross Revenues; (ii) meals provided to the Tenant's employees; (iii) proceeds from the sale by the Tenant of fixtures, furnishings, trade machinery or equipment; (iv) amounts paid by customers to arm's length third parties, whether directly or through the Tenant, for goods and services such as security, florists or photographers, except for any revenues or commissions received by the Tenant or any Person not dealing at arm's length with the Tenant resulting from such amounts payable for such goods and services; and (v) Harmonized Sales tax, levies or other direct taxes imposed upon sales, collected from the customers and remitted to the applicable governmental authority as such taxes.

"Guildwood Park" means all or any part of the Total Site other than the Leased Lands;

"Hazardous Substance" means a **"contaminant"** as defined by the *Environmental Protection Act*, R.S.O. 1990, as the same may be amended from time to time, or any successor or replacement legislation;

"Heritage Artifacts and Fine Art Loan Agreement" means that loan agreement between the Tenant and the Landlord for the Tenant's use of certain City-owned artifacts, required to be executed by the Landlord and the Tenant as a precondition to using any City-owned artifacts on the Leased Lands, the form of which is attached hereto as Schedule **"G"**;

"Heritage Easement Agreement" means the agreement between the Tenant, TRCA and the Landlord to be registered in the Land Titles Office against title to the Leased Lands prior to the issuance of Site Plan Approval in respect of the Project and with all applicable appeal periods having lapsed;

"HST" means the tax imposed under Part IX of the *Excise Tax Act (Canada)*, as the same may be amended from time to time, or any successor or replacement legislation, or any tax replacing such tax, including goods and services tax and harmonized sales tax with respect to the rental of the Leased Lands and the provision of administrative services to the Tenant hereunder and any interest and penalties (due to the Tenant's fault), provided that in the event any similar tax is introduced by the Province of Ontario;

"Immediate Family Member" means a parent, spouse, child or grandchild;

"Improvements" means all fixed improvements, structures, fixtures, equipment, mechanical and electrical systems, machinery, installations and other items generally considered to be leasehold improvements (exterior or interior) from time to time made, erected or installed by or on behalf of the Tenant or any Approved Assignee on or under the Leased Lands throughout the Term and any extension thereof and includes any additions, substitutions, alterations or replacements, including the Project and its facilities, all of which are and will remain the property of the Tenant subject to the terms of this Lease;

"Initial Construction Period" means a period of time commencing on the latestof:

(i) approval of the Lease by the Province;
(ii) approval of Site Plan and issuing of construction permits for the Project;
(iii) substantial completion (as defined by the *Construction Lien Act* (Ontario)) of those components of the City's Work listed at subparagraphs (ii), (iii), (v) and (vi) of the definition; and
(iv) the execution of the Lease;

and expiring on the earlier of

(i) 60 days following substantial completion (as defined by the *Construction Lien Act*) of construction of the Project; and
(ii) twenty-four (24) months after commencement of the Initial Construction Period.

"Initial Construction Period Agreement" means the agreement attached hereto as Schedule **"K"** which records the Parties' agreement of the first date of the Initial Construction Period and which the Parties agree to execute forthwith after the commencement of the Initial Construction Period;

"Injury" means, without limitation, bodily injury, personal injury, personal discomfort, mental anguish, shock, sickness, disease, death, false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character, invasion of privacy, wrongful entry or eviction and discrimination, or any

of them, as the case may be;

"Insurance Proceeds" has the meaning given to it in Section **10.8**;

"Insurance Trust Agreement" means an agreement substantially in the form attached hereto as Schedule "**E**" which the Landlord may, at any time during the Term and any extension thereof, require be entered into between an Insurance Trustee, the Landlord and the Tenant (which may be entered into with any Leasehold Mortgagee) with such changes as these Parties mutually agree (including, to accommodate such Leasehold Mortgagee), as the same may be amended from time to time with the Approval of TRCA and the Landlord;

"Insurance Trustee" means a Person Approved by the Landlord, TRCA and the Tenant who has entered into the Insurance Trust Agreement;

"Land Titles Office" means the Land Titles Division of the Toronto Registry Office (No. 66);

"Landlord" means the City of Toronto, its successors and assigns;

"Landlord Representatives" means any of (i) the City, its officers, employees, agents, representatives, employees, anyone for whom the City is at law responsible; and (ii) the TRCA, its board members, officers, employees, agents, representatives, employees and anyone for whom the TRCA is at law responsible.

"Lease", **"Lease"**, **"this Lease"**, **"the Lease"**, **this "Agreement"**, **"in this document"**, and similar expressions as used in this document mean or refer to this Lease, including its recitals and all Schedules annexed hereto, any amendments if any, as evidenced by agreements in writing duly executed by the Landlord and the Tenant and TRCA, and all documents which are stipulated to form part of this Lease;

"Leased Lands" means that part of the Total Site shown outlined on Schedule "**B**" and as Parts 1 and 2 on the draft Reference Plan attached hereto as Schedule "**C**", having an area of approximately 62,060 square feet, and on which the Tenant shall construct and operate the Project Development, in accordance with this Lease;

"Lease Year" means, with the exception of the first and last year during the Term and any extension thereof, a period during the Term and any extension thereof comprising twelve (12) consecutive calendar months commencing on the 1st day of January in each year and ending on the 31st day of December in each year; the first Lease Year shall commence on the Term Commencement Date and shall end on the next 31st day of December; the last Lease Year shall, subject to prior termination, end on the last day of the Term and any extension thereof;

"Leasehold Mortgage(s)" means any bona fide mortgage, charge, pledge, hypothecation, security interest or other encumbrance granted by the Tenant of or affecting its interest in this Lease or to leasehold interest in the Leased Lands or any part, issued in compliance with the terms of this Lease, including, in particular, Section **16.1(2)** and includes any bona fide arrangement under which the interest of the Tenant in and to this Lease or the Leased Lands or any part becomes security for any indebtedness or other obligation, any bona fide deed of trust and mortgage securing bonds, debentures or notes by any such mortgage, charge or other security and includes any Leasehold Mortgage, all as amended or supplemented from time to time in compliance with the terms;

"Leasehold Mortgage Acknowledgement Agreement" means an agreement substantially in the form of Schedule "**F**" hereto with such changes as the Parties have mutually Approved;

"Leasehold Mortgagee" means the holder of a Leasehold Mortgage that has entered into a Leasehold Mortgage Acknowledgement Agreement with the Tenant and the Landlord and TRCA from time to time during the Term and any extension thereof;

"Leasehold Mortgagee Notice" means written Notice of a Leasehold Mortgage;

"Leasehold Mortgagee's Service Address" means an address of the Leasehold Mortgagee in Ontario to which Notice may be served or delivered;

"Leasing Records" has the meaning given to it in Subsection **2.9(3)(e)**;

"Loan" means a loan, on commercially reasonable terms, made by a lender to the Tenant in compliance with Article **16**, as same may be renewed or replaced from time to time, all in accordance with the provisions of Article **16**;

"Material Change" means any amendment to the Approved Plans as previously approved by TRCA and the Landlord, or any changes to the Project and Leased Lands, which would in each case, reasonably be considered as being material in relation to the development of the Project as provided for in this Lease, including, without limitation, any applicable amendment or change:

(a) that would contemplate the demolition and/or replacement or substitution or construction of a new building(s) in, on or to the Leased Lands;

(b) where the value of the work represented by such proposed demolition, construction, replacements, alterations, additions, changes, substitutions, amendment(s) or change(s) to the Project or Leased Lands or any part after Completion, exceeds Five Million Dollars ($5,000,000.00) (which amount shall be adjusted annually to reflect CPI Changes);
(c) that would alter the height of the Project by greater than 5%;
(d) that would alter the gross floor area of the Project by greater than 5%;
(e) a significant change in the style of architecture;
(f) materially interfering with the Landlord's operations of Guildwood Park; or
(g) not in accordance with Paragraph 2.1.1 of the Heritage Easement Agreement.

"Material Contracts" means:

(a) all contracts affecting the Project which are significant to the construction, development, operation and/or financing including, without limitation, the Heritage Easement Agreement and any Leasehold Mortgage Acknowledgment Agreement;
(b) all agreements with the Architect and Architect's Consultants for the Project Development;
(c) any project management agreement;
(d) the Construction Contract; and
(e) the Operating Agreement;

"MCF Area" means those portions of the Leased Lands which are the subject of (i) a municipal capital facility by-law enacted by City Council and (ii) the Municipal Capital Facilities Agreement, regardless of whether those portions of the property are returned as exempt from taxation on the assessment roll;

"Minimum Rent" means the annual basic rent payable by the Tenant hereunder pursuant to and in the manner set out in Section **3.3**, plus HST, subject to Sections **2.10** and **3.4**;

"Municipal Capital Facilities Agreement" means an agreement between the City and the Tenant which provides for the use by the City of a portion of the Project as a municipal capital facility, pursuant to Section **4.2**;

"Municipal Freedom of Information and Protection of Privacy Act" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O, 1990, C.M.56 as the same may be amended from time to time, or any successor or replacement legislation;

"Name" has the meaning given to it in Section **9.1**;

"Notice" means any notice or other communication other than a Leasehold Mortgagee Notice which may or is required to be given pursuant to this Lease, which Notice shall be given in accordance with the provisions of Section **21.19**;

"Ontario Fire Code" means the *Fire Code*, O. Reg. 388/97 as the same may be amended from time to time, or any successor or replacement legislation;

"Ontario Heritage Act" means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as same may be amended from time to time, or any successor or replacement legislation;

"Operating Agreement" means an agreement that shall be entered into between the Tenant and the Landlord to be prepared by the City Solicitor containing further terms and conditions for the City's use of the Project and Leased Lands as provided for in Section **7.7**;

"Other Taxes" has the meaning set out in Section **4.7**;

"Parking Facilities" means the additional parking areas and driveways in Guildwood Park in locations to be set out in the Site Plan Agreement;

"Parties" means the Landlord, the Tenant and TRCA, their respective successors and permitted assigns, and **"Party"** means any one of them;

"Percentage Rent" means a rental amount being a percentage of the Tenant's Gross Revenues;

"Percentage Rent Threshold" means six million dollars ($6,000,000.00) (the "Current PRT Figure"). During Year 11 of the Tenant's occupancy (that is, Year 1 of the Second Extension Term), the Current PRT Figure shall be adjusted by multiplying the Current PRT Figure by a factor that reflects the amount by which growth in the Consumer Price Index (all items, Toronto) has exceeded 3% per annum during the ten years prior to Year 11 (the "Year 11 PRT Figure"). Where the CPI (all items, Toronto) growth does not exceed 3% per annum, compounded, during the ten years prior to Years 11 and 21 respectively, there shall be no change in the Current PRT Figure (a "No Growth Situation").

During Year 21 of the Tenant's occupancy (that is, Year 11 of the Second Extension Term), the Year 11 PRT Figure (or the Current PRT Figure in a No Growth Situation) shall be adjusted by multiplying the then-Current PRT Figure by a factor that reflects the amount by which growth in the Consumer Price Index (all items, Toronto) has exceeded 3% per annum during the ten years prior to Year 21 of Tenant's occupancy. Where the CPI (all items, Toronto) growth does not exceed 3% per annum, compounded,

during the ten years prior to Year 21, there shall be no change in the Year 11 PRT Figure (or the Current PRT Figure, if applicable).

"Permitted Encumbrances" means those encumbrances set out in Schedule **"M"**;

"Person" or **"person"** if the context allows, includes but is not limited to any individual, firm, association, partnership, corporation or trust or any group or combination thereof;

"*Planning Act*" means the *Planning Act*, R.S.O. 1990, c. P.13 as the same may be amended from time to time, or any successor or replacement legislation;

"Pre-Existing Contamination" means any and all Contamination in, or upon the Leased Lands prior to the date on which the Tenant is given possession of the Leased Lands and any pre-existing Contamination which has emanated from it to other lands (for which the Tenant would otherwise be held liable to any Person, or to an Authority pursuant to Applicable Environmental Laws);

"Preservation Board" means the Municipal Heritage Committee as referred to in the *Ontario Heritage Act*, or such other official delegated responsibility by Council;

"Prime Rate" means the prime commercial annual lending rate of interest used by the bank designated by the Landlord, from time to time on demand loans in Canadian dollars (any change in such rate of interest to be effective from the date the change in such prime commercial lending rate becomes effective) at its head office in Toronto as a basis to determine interest in Canada on Canadian dollar loans to its largest and most credit-worthy commercial borrowers and designated by such bank as its prime rate;

"Project" means a restaurant, community space and private event/banquet/conference centre, Tenant's administrative office space and overnight accommodation suites, operation operated on the Leased Lands out of a combination of heritage and new components incorporating the Existing Guild Inn;

"Project Development" means the construction of the Project on the Leased Lands and the construction of the Parking Facilities and roadways on Guildwood Park, all as detailed in the Approved Plans;

"Province" means the Province of Ontario;

"Reference Plan" means that reference plan of survey of the Leased Lands prepared by the Tenant at its expense and approved of in writing by TRCA and the Landlord, (a draft of which is attached hereto as Schedule **"C"**), which shall be deposited in the Land Titles Office;

"Rent" means all amounts payable under this Lease, including Minimum Rent, Percentage Rent and Additional Rent but excluding HST;

"Rental Year" means a twelve (12) month period commencing on the first day of the Term or on any anniversary date of such date and in each case terminating three hundred and sixty-five (365) days after such date of commencement except in the case of a year in which February has twenty-nine (29) days in which case the said period shall terminate three hundred and sixty-six (366) days after the date of commencement. However, notwithstanding the foregoing, the last Rental Year of this Lease shall terminate on the expiration or earlier termination of this Lease, as the case may be;

"Second Extension Term" means a period of twenty (20) years directly following the First Extension Term;

"Site Plan" means the plans and drawings showing the operation of the proposed Project Development as required under Section **114** of the City of Toronto Act, including plans or drawings showing the location of all buildings, structures, facilities and works to be erected or provided therein or in connection therewith, and as approved of in writing by the Landlord, TRCA and any Leasehold Mortgagee;

"Site Plan Agreement" means the agreement entered into pursuant to Section **114** of the City of Toronto Act;

"Site Plan Approval" means the approval of the final plans and drawings related to the Site Plan in accordance with the Provisions of Section **114** of the *City of Toronto Act*;

"Special Event" means a City-organized or City-Authorized cultural or community event taking place in Guildwood Park or part thereof and expected to attract 250 people or more;

"Substantially Performed" or **"Substantial Performance"** has the meaning given to it in the *Construction Lien Act* as the same may be amended from time to time, or any successor or replacement legislation;

"Taxable Area" means those portions of the Leased Lands which are assessed as taxable by the Municipal Property Assessment Corporation (or any other Authority) now or in the future, other than the MCF Area, which portions include of the restaurant, Tenant office space and any overnight accommodation suites;

"Taxes" means all real property taxes, rates, duties, fees, charges, assessments, impositions, levies, charges for local improvements and/or licence fees, impost charges or levies whatsoever, that are levied, rated, charged, assessed against or imposed by any authority having jurisdiction, including but not limited to, federal, provincial, regional, municipal or other government, agency, board or commission, general and special, ordinary and extraordinary, foreseen and unforeseen, of every nature and kind whatsoever on or in respect of the Leased Lands and/or the Project, whether or not liability for same exists as of the date of the Tenant's occupancy, the existence or operation of the Project or Leased Lands or any part(s), whether real or personal property and any taxes or other type of levy imposed on the Landlord or the Tenant or anyone else on account or in lieu of, by any authority having jurisdiction, whether or not forming a charge on the Leased Lands itself, and any other taxes, rates, duties or assessments which may hereinafter be levied in lieu of, or of a nature similar to the foregoing, and whether recurring annually or at other intervals or on a special or single instance basis only, and any Capital Taxes, business taxes, business occupancy taxes or other taxes levied against the Landlord and/or the Tenant and attributable to the Leased Lands, in whole or in part and, without limiting the generality of the foregoing, any applicable commercial concentration tax, any business occupancy tax and any applicable goods and services tax or any other or similar taxes which may in the future be imposed from time to time, whether or not same are exigible as at the date hereof, all the above to be paid by the Tenant to the proper authorities as and when due, Other Taxes and any corporate, income profits or excess profits or similar taxes personal to the Landlord;

"Tenant" means Guild Inn Estate Inc. and its successors and permitted Assignees;

"Tenant's Contamination" means any and all Contamination other than:

(a) Pre-Existing Contamination; and

(b) Contamination which the Tenant successfully demonstrated has migrated from other lands to the Leased Lands during the Term and any extension thereof;

"Tenant's Construction Work" means the completion of the Project and the Parking Facilities, exclusive of the Landlord's Work, by or on behalf of the Tenant at its expense in accordance with the provisions of Section **6.3** of this Lease all ancillary services thereon or connected therewith and all sub-grade work which may be necessary in connection with the construction of the Project and the provision of all labour, materials, tools, machinery, equipment, appliances, shoring, hoarding, scaffolding, falsework, transportation and all other facilities necessary for the execution and final completion of the construction of the Project;

"Term" means the period of five (5) years commencing on the day after the expiry of the Initial Construction Period and ending on the date as set out in the Effective Date Agreement;

"Term Commencement Date" means the first day of the Term and any extension thereof, next following the end of the Initial Construction period, and shall be certified by all Parties in writing in accordance with the Effective Date Agreement;

"Third Extension Term" means a period of ten (10) years directly following the Second Extension Term;

"Total Site" means the lands leased by the City from the TRCA, which comprise Guildwood Park, legally described in Schedule **"A-1"** and as shown outlined in heavy black on Schedule **"A-2"**;

"Trade Fixtures and Chattels" means furnishing, kitchen equipment and kitchen-wares, vehicles, equipment, machinery, tools, potted plants inside the Project, parts and materials inventory, communications hardware that is not part of the Improvements, personal property and all other items generally considered to be trade fixtures, installed and used by the Tenant or a Approved Assignee, in its business, but excluding any Improvements;

"TRCA" means Toronto and Region Conservation Authority and its successors and assigns;

"Work" means the construction of the Project and all Improvements carried out by or on behalf of the Tenant prior to the use of the Project as a Project with all ancillary services thereon or connected therewith and all sub-grade work which may be necessary in connection with the construction of the Project and the provision of all labour, materials, tools, machinery, equipment, appliances, shoring, hoarding, scaffolding, falsework, transportation and all other facilities necessary for the execution and final completion of the construction of the Project Development;

"*Workplace Safety and Insurance Act*" means the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, C.16, Schedule A, as the same may be amended from time to time, or any successor or replacement legislation.

1.2 Headings

The paragraph headings are inserted herein only as a matter of convenience and for reference and are in no way intended to be part of this Lease or to define, limit or describe the scope or intent of this Lease or the particular paragraphs to which they refer.

1.3 Section References

Where reference is made in this document to an Article, such reference shall include all of the subdivisions of such Article, and where reference is made in this document to a Section, such reference shall include all of the subdivisions of such Section.

1.4 Persons

Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter gender and words importing persons shall include firms, associations and corporations and vice versa and wherever two or more persons are bound to any obligation their liability shall be joint and several.

1.5 Extended Meanings

All references in this Lease to clauses, subclauses, sections and other sub-divisions refer to the corresponding paragraphs, sections and other sub-divisions of this Lease unless otherwise expressly provided.

1.6 Statute Reference

Any reference in this Lease to any statute or any section shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

1.7 Currency

All references to money in this document are references to lawful money of Canada.

1.8 Calculation of Interest

In calculating interest payable under this Lease for any period of time, the first day of such period shall be included and the last day of such period shall be excluded. Interest shall accrue from day to day on the basis of a 365 day year, for the actual number of days elapsed and shall be calculated semi-annually. Where the calendar year of calculation contains 366 days, each rate of interest in this document shall be expressed as a yearly rate for purposes of the *Interest Act*, R.S.C. 1985, C.1-15 as the same may be amended from time to time, or any successor or replacement legislation as such rate multiplied by 366 and divided by 365.

1.9 GAAP

Unless otherwise specifically provided for in this document, all calculations to be made hereunder are to be made in accordance with GAAP, consistently applied.

1.10 Days

If the date on which something is required to be done hereunder or on which a day expires hereunder should fall on a day that is not a Business Day, such things shall be done or such day shall expire on the next following Business Day.

1.11 Obligations as Covenants

Each obligation or agreement of the Landlord or the Tenant expressed in this Lease, even though not expressed as a covenant, is considered to be a covenant for all purposes.

1.12 Due Authority

The signatories for each entity set out below warrant and represent that they are authorized to bind the corporation or entity for which they are signing.

1.13 Schedules

The following schedules are attached to this Agreement and are incorporated by reference and are deemed to be part of this Lease, and the content thereof have the same force and effect as if the information contained therein were contained in the body of this Lease. The following schedules form an integral part of this Lease:

The following Schedules form part of this Lease:

- Schedule "A-1" Legal Description for Total Site;
- Schedule "A-2" Sketch showing Total Site
- Schedule "A-3" Removal Items - City's Works
- Schedule "A-4" Structures to be Demolished
- Schedule "B" Sketch showing Leased Lands;

- Schedule "C" Draft Reference Plan
- Schedule "D" Original Lease
- Schedule "E" Insurance Trust Agreement
- Schedule "F" Leasehold Mortgage Acknowledgement Agreement
- Schedule "G" Heritage Artifacts and Fine Art Loan Agreement
- Schedule "H" City of Toronto's Fair Wage Policy and Labour Trade's Contractual Obligations in the Construction Industry
- Schedule "I" Non-Discrimination, Occupational Health, Safety and Ergonomics Principles
- Schedule "J" Assignee's Assumption Agreement
- Schedule "K" Initial Construction Period Agreement
- Schedule "L" Effective Date Agreement
- Schedule "M" Permitted Encumbrances
- Schedule "N" Green Development Standards

ARTICLE 2
GRANT AND TERM

2.1 Demise

(1) In consideration of the Rent reserved and the covenants and agreements on the part of the Tenant contained in this Lease, the Landlord demises and leases to the Tenant the Leased Lands without interference or interruption, together with the use of all driveways and entrances to Guildwood Park from Guildwood Parkway, for purposes of access to and from the Leased Lands as shown on Schedule **"B"**, for the Term and any extension(s) thereof at the Rent and on the terms and conditions stated in this Lease.

(2) Provided the Tenant (or any Approved Assignee) (i) is in occupation of the whole of the Leased Lands, subject to any Approved licences or subleases, (ii) is not then in default, and (iii) during the Term or any extension thereof, has remedied any and all defaults in a timely and satisfactory manner, then upon delivery of written notice exercising this right and given to the Landlord not less than (9) months before expiration of the Term or the First Extension Term or the Second Extension Term, as the case may be, the Tenant shall have the right to renew the Term for the whole of the Leased Lands for the First Extension Term, the Second Extension Term or the Third Extension Term, as the case may be.

(3) **(a)** The First Extension Term shall be on the same terms and conditions as the Term, save and except for:

(i) there shall only be two (2) further rights of renewal, namely the Second Extension Term and the Third Extension Term;

(ii) the Rent shall be as set out in Section **3.3**; and

(iii) there shall not be any City's Work, Rent-free period, leasehold improvement allowance or other inducements;

(b) The Second Extension Term shall be on the same terms and conditions as the First Term, save and except for:

(i) there shall only be one (1) further right of renewal, namely the Third Extension Term;

(ii) the Rent shall be as set out in Section **3.3**; and

(ii) there shall not be any City's Work, Rent-free period, leasehold improvement allowance or other inducements; and

(c) The Third Extension Term shall be on the same terms and conditions as the Term, save and except for:

(i) there shall be no further right to renew;

(ii) the Rent shall be as set out in Section **3.4**; and

(iii) there shall not be any City's Work, Rent-free period, leasehold improvement allowance or other inducements.

For any of the foregoing extension terms, the parties shall execute a lease extension agreement prepared by the City Solicitor to reflect the terms of the First Extension Term, the Second Extension Term or the Third Extension Term, as the case may be.

(4) The following documents shall be executed by all relevant parties by February 17, 2015:

(a) Heritage Easement Agreement;
(b) Operating Agreement;
(c) amending agreement for the Original Lease; and
(d) Municipal Capital Facilities Agreement.

Notwithstanding the foregoing, if any of the foregoing documents have not been executed by all relevant parties by February 13, 2015 and subject to the Landlord and the Tenant mutually agreeing in writing to extend such date, then either the Landlord or the Tenant may, at any time commencing February 18, 2015 by giving written Notice to the other Parties, terminate this Lease. Should such termination Notice be delivered by either the Landlord or the Tenant, then the following shall apply:

(i) this Lease shall terminate immediately and the Parties shall be relieved of all further obligations hereunder;

(ii) each Party shall and does release the other and each of such Party's employees, officers, directors, servants, and agents, from all Claims of whatsoever nature and kind relating to this Lease; and

(iii) the Tenant shall remove any registrations on Title to the Leased Lands made by the Tenant, its contractors, mortgagees or anyone for whom the Tenant is responsible in law.

(5) The Tenant shall be allowed until February 27, 2015 at 5:00pm to examine, at the Tenant's own expense, title to the Leased Lands and to satisfy itself that there are no unregistered hydro easements that would materially interfere with the Project Development or the Authorized Uses. Where Notice of satisfaction or waiver of this condition has not been delivered to the Landlord and to the TRCA by the time set out herein, the following shall apply:

(i) this Lease shall terminate immediately and the Parties shall be relieved of all further obligations hereunder;

(ii) each Party shall and does release the other and each of such Party's employees, officers, directors, servants, and agents, from all Claims of whatsoever nature and kind relating to this Lease; and

(iii) the Tenant shall remove any registrations on Title to the Leased Lands made by the Tenant, its contractors, mortgagees or anyone for whom the Tenant is responsible in law.

2.2 Title of TRCA and Landlord

(1) TRCA covenants and agrees with the Tenant that it has full ownership of the Leased Lands free and clear of any liens and encumbrances except for any registrations on Title to the Leased Lands as of the date of this Agreement.

(2) TRCA and the Landlord each shall have the right to sell, lease, convey, transfer, mortgage, encumber or otherwise dispose of its interest in the Leased Lands provided that such sale, lease, conveyance, transfer, mortgage, encumbrance or other disposition is subordinate to all rights of the Tenant under the Lease. TRCA and the Landlord each covenant and agree that it will not make any sale, lease, conveyance, transfer, mortgage, encumbrance or otherwise dispose of any interest in the Leased Lands unless the proposed purchaser or transferee of such interest shall have provided an acknowledgement to the Tenant under which such proposed purchaser or transferee covenants with the Tenant that, so long as such proposed purchaser or transferee retains any interest in the Leased Lands, it will perform the obligations of TRCA or the Landlord, as the case may be, hereunder and be bound by all the provisions of this Lease, including this provision as to sale or transfer, which shall apply to each and every subsequent sale or transfer of the interests of TRCA and the Landlord in the Leased Lands.

(3) The Tenant covenants to assume and be bound by all the provisions of the Original Lease, to the extent that it pertains to the Leased Lands. The Tenant covenants with the Landlord to perform all the obligations of the Landlord and TRCA under the Original Lease except insofar as the Landlord or TRCA is obligated to perform corresponding obligations hereunder, and so as to avoid any default, and not to release any of its rights thereunder and to enforce for the benefit of the Landlord and TRCA as well as itself all of the obligations as set out in the Original Lease. The Landlord and TRCA agree to execute all documents and do all things reasonably necessary to enable the Tenant to perform the obligations of the Landlord and TRCA, to comply and to permit the other Parties to the Original Lease to exercise all their rights thereunder. The Tenant covenants that in the exercise of the rights of the Tenant under this Lease, the Tenant will not do or neglect to do any act or thing which will constitute a breach of any of the provisions of the Original Lease.

(4) As long as the Tenant is not in default, TRCA and the Landlord covenant and agree with the Tenant to perform all their respective obligations under the Original Lease and so as to avoid any default, and without the consent of the Tenant not to surrender or agree to any termination

otherwise than for default of the Original Lease.

(5) In the event that TRCA terminates the Original Lease as a result of default by the Landlord, and provided that the Tenant is not in default of its obligations under this Lease, the TRCA covenants and agrees that it will not disturb the Tenant's use and enjoyment, notwithstanding any default by the City under the Head Lease.

2.3 Title to Leased Lands

The Tenant shall, by reason of this Lease, have a leasehold interest in the Leased Lands until the expiry or earlier termination of the Term or any extension thereof and on such expiry or earlier termination, the Leased Lands and all Improvements (excluding Trade Fixtures and Chattels) thereon shall become the absolute property of the Landlord free from any leasehold interest of the Tenant and without compensation to the Tenant. The Landlord and TRCA's absolute right of property in the Leased Lands, which will arise at the end of the Term or any extension thereof, shall take priority over any other interest in the Leased Lands which may now or from now be created by the Tenant and all dealings by the Tenant with the Leased Lands, including any Leasehold Mortgages, which in any way affect title shall be subject to this right of the Landlord and TRCA.

2.4 Heritage Interpretation and Artifacts

The Tenant will act as custodian and the Landlord will act as curator, all in accordance with the Heritage Artifacts and Fine Arts Loan Agreement, and the Tenant will insure against loss or wilful damage all art work situate within the Project and identified in the Heritage Artifacts and Fine Arts Loan Agreement.

2.5 Initial Construction Period

(1) The Tenant shall take possession of the Leased Lands starting as of the first date of the Initial Construction Period for the purpose of completing the Project in accordance with the provisions of this Lease.

(2) During the Initial Construction Period, all terms of the Lease shall be applicable to the Tenant's possession of the Leased Lands except that the Tenant shall not be obligated to pay Minimum Rent or Percentage Rent, but shall pay for all waste and refuse removal, all utilities and all items of Additional Rent.

(3) Notwithstanding the foregoing, the Initial Construction Period shall be extended by the Landlord if there is delay caused by (I) the Province; (II) the Landlord's non-completion of the City's Work listed at subparagraphs (ii), (iii), (v) and (vi) of the definition; or (III) in the event of a strike, labour disruption, inability to obtain materials or services, riots, insurrection, sabotage, rebellion, war, or natural disaster. The foregoing does not excuse any delay caused by the Tenant's financial inability or excuse the Tenant from payment of amounts that it is required to pay, in the amounts and at the times specified in this Lease.

(4) Despite anything herein contained (but subject to Subsection **2.5(3)**, if the Tenant does not start construction activity (as evidenced by obtaining a building permit) within the later of (i) one hundred and eighty (180) days from commencement of the Initial Construction Period or (ii) sixty (60) days from receiving notice from the City that it has completed its work pursuant to the Site Plan Approval (the "Outside Construction Start Date"), and all Parties, in their unfettered discretion have not agreed in writing to otherwise extend or waive the provisions hereof on terms and conditions satisfactory to each of them, then the City may terminate the Lease by written notice without compensation owing to the Tenant. If this Lease is terminated in accordance with the foregoing, then:

(i) this Lease shall terminate and the Parties shall be relieved of all further obligations hereunder, save and except any liability incurred or arising prior to the termination of the Lease as contemplated in Section **2.9** and except for the indemnity in Sections **6.3(3)(a)**, **14.1** and **15.6**, and the release in Sections **6.3(3)(a)**, **10.7** and **15.6**, all of which shall continue to survive, notwithstanding such termination, to the extent applicable to this termination;

(ii) the Tenant agrees that the Letter of Credit and/or Completion Bond may, at the sole option of the Landlord, be immediately drawn-down by the Landlord pursuant to Section **5.1** as a result of such breach, all without prejudice to all other rights and remedies of the Landlord; and

(iii) each Party shall and does release the other and each of such Party's employees, officers, directors, servants, and agents, from all Claims of whatsoever nature and kind relating to this Lease, save and except for Claims for liquidated amounts (and specifically excluding Claims for consequential or indirect damages) in respect of breaches by the Parties hereunder that occurred prior to the Construction Complete Date (and in respect of which notice of such breach had been given as required in this Lease prior to the Construction Complete Date unless the breach only came to the attention of the Party on or after such

date) with respect to the Tenant's failure to pay utilities or other amounts which may constitute liens or encumbrances affecting title to the Leased Lands, including construction liens registered against title to the Leased Lands as a result of work authorized by the Tenant; and

(iv) the Tenant shall remove any registrations on Title to the Leased Lands made by the Tenant, its contractors, mortgagees or anyone for whom the Tenant is responsible in law.

2.6 Acceptance of Leased Lands

The Tenant acknowledges and agrees that, except for the City's Work to be undertaken as set out in Section **2.7** below, it has inspected the Leased Lands prior to execution of this Lease, and further agrees that the Leased Lands are fit and proper for the purposes intended in this document and accepts the Leased Lands in their present condition. The Tenant irrevocably accepts the Leased Lands **"as is"** in its present state and condition and subject to the Permitted Encumbrances, except as set out in this document, knowing the condition and agreeing that the Landlord and TRCA have made no representations, warranties or agreements with respect as to the condition of the Leased Lands, structural or otherwise, as to the fitness of the Leased Lands for the Tenant's intended use, or as to the environmental condition of the Leased Lands, except as expressly set out in this document. Without limiting the foregoing, the Tenant expressly accepts the soil conditions of the Leased Lands and Guildwood Park and is satisfied that the soil conditions are adequate for its purposes in all respects except for the City's Work to be undertaken by the City. The Tenant further acknowledges that the Leased Lands and this Lease are subject to the Permitted Encumbrances and any restrictions set out in legislation, governmental or municipal regulations, and, that by signing this Lease, the Tenant accepts leasehold title subject to them in all respects and agrees that the same do not and will not affect or reduce the Tenant's liabilities and obligations under this Lease and that TRCA and the City have no obligation to the Tenant. The Tenant shall not occupy or commence any work prior to the commencement of the Initial Construction Period, without the Approval of the City. Notwithstanding the foregoing, the Tenant shall only be responsible for the Tenant's Contamination.

2.7 City's Work

(1) The Landlord shall, at its own cost, perform the City's Work in a good and workmanlike manner. In carrying out the City's Work, the Landlord shall ensure that it conserves, preserves or salvages all heritage artifacts, building materials and other items required for the successful completion of the Project.

(2) Upon completion of the works contained in subsections (i), (ii), (iii), and (v) of the City's Work, the remaining structure shall be left in an "as is" condition which is accepted by the Tenant.

(3) The City shall provide written notice to the Tenant on completion of the City's Work to confirm the completion of subsection (v) of the City's Work.

2.8 Completion of City's Work

The City shall use reasonable commercial efforts to complete the City's Work within ten (10) months after Site Plan Approval.

2.9 End of Term: Surrender of Leased Lands and Ownership of Project and Improvements

(1) TRCA and the Landlord acknowledge that the Tenant will own the Project and Improvements throughout the Term and any extension thereof, save as specifically otherwise provided for in this Lease. TRCA, the Landlord and the Tenant agree with each other that the Project and Improvements, as may be modified from time to time in accordance with this Lease shall automatically become the absolute property of the Landlord on the expiration or earlier termination of this Lease, whether by forfeiture, termination, effluxion of time or otherwise, free and clear of encumbrances except for Permitted Encumbrances and in the state and condition provided for in this Lease.

(2) Provided that the City has not exercised its first right of refusal in Subsection **11.3**, the Tenant shall, at the request of the Landlord (which request shall be delivered by way of Notice not less than two (2) months prior to the termination), remove the Trade Fixtures and Chattels from the Leased Lands on the expiration or earlier termination of this Lease, whether by forfeiture, termination, effluxion of time or otherwise, free and clear of encumbrances except for Permitted Encumbrances and in the state and condition provided for in this Lease.

(3) On the expiry of this Lease, whether by forfeiture, default, effluxion of time, or otherwise:

(a) the Tenant shall surrender the Project and Leased Lands to the Landlord free and clear of all liens, charges, subleases, licences, agreements and encumbrances of every nature, save and except as explicitly otherwise provided in this document including the Permitted Encumbrances, in the condition meeting the Applicable Standard and the requirements of this Lease;

(b) title to the Project and all Improvements shall immediately vest in the Landlord;

(c) the Tenant shall turn over and assign to the Landlord such of the Material Contracts, as the Landlord so requires;

(d) it is understood and agreed that all right and interest of the Tenant in respect of

(i) all specifications and other intellectual property relating to the Approved Plans and all other plans and specifications for the Project and Leased Lands, and

(ii) all goodwill associated with the Tenant's business name and in association with "The Guild Inn",

shall become the property of the TRCA and the Landlord and the Tenant shall use its commercially reasonable efforts to permit the Landlord to obtain access and use without cost or damage, whether by forfeiture, default, effluxion of time. Notwithstanding the foregoing, the Tenant shall be entitled to use the name "Guild Inn Estate Inc." as its business name during the Term or any extension thereof so long as there has been no Assignment"; and

(e) the Tenant shall make available to the Landlord and the Landlord may take possession of all leasing records and files for the Leased Lands and the Project for the then current period and for the five (5) years preceding such period (the "**Leasing Records**"), and the Tenant and TRCA shall be entitled to retain a copy of any of the Leasing Records.

(4) In addition and notwithstanding anything in this Lease contained to the contrary, for a period of five (5) years after the expiry, or termination of the Term, the Landlord shall have reasonable access to all of the Leasing Records and files for the Project and Leased Lands for periods prior to such five (5) year period but only to the extent that records and files are in the possession or subject to the control of the Tenant. Such access shall be afforded to the Landlord on receipt of reasonable advance notice and during normal business hours and shall not materially interfere with the operations of the Tenant. The Landlord shall be solely responsible for any costs or expenses incurred by it pursuant to the foregoing. The Tenant shall be free to dispose of any of such Leasing Records and files prior to the expiration of such five (5) year period, provided that the Tenant shall, prior to such disposition, give the Landlord a reasonable opportunity, at the Landlord's expense, to segregate and remove such of the Leasing Records and files as the Landlord may select, all at the Landlord's sole expense.

(5) To the extent not otherwise directed by the Landlord, the Material Contracts shall be terminated, along with any Subleases which were not Approved by the Landlord and TRCA, or the Landlord may, at its option, have assigned to it any Material Contracts.

2.10 Overholding

If, at the end of the Term or any extension thereof, by effluxion of time, the Landlord permits the Tenant to remain in possession of the Leased Lands and accepts Rent in respect thereof, a tenancy from year to year or otherwise shall not be created by implication of law. In such event the Tenant shall be deemed to be a monthly tenant only and Rent shall be payable monthly in advance at one hundred and twenty-five (125%) the Rent during the last year of the Term or any extension thereof, which tenancy may be terminated on one (1) month's written notice and otherwise on and subject to the terms and conditions contained in this Lease. If the Landlord has entered into a lease or agreement to lease with a third party for the renting of all or any part of the Leased Lands after a date on or before which the Tenant is obliged to vacate, and failure by the Tenant so to vacate causes the Landlord to incur liability to such third party, the Tenant shall, in addition to all other obligations under this Lease, fully indemnify the Landlord for all such liability.

2.11 Relocation

The Tenant acknowledges that the TRCA and the Landlord have not made any commitment, direct or indirect, to relocate the Project and agrees that the Tenant does not have the right to request TRCA and/or the Landlord respecting any relocation of the Leased Lands and/or the Tenant for any revision during the Term. The Tenant further agrees that TRCA and the City shall have no responsibility whatsoever, financial or otherwise, in this regard, and TRCA and the Landlord may successfully plead the provisions of this Section as a complete defence.

ARTICLE 3
RENT

3.1 Payment of Rent

The Tenant covenants and agrees to pay, starting on the Term Commencement Date, to the Landlord, or as otherwise in this document provided, as Rent in lawful money of Canada without notice or demand and, subject to as otherwise provided in this Lease without any deduction, compensation, set-off,

abatement or defalcation whatsoever hereunder or pursuant to Applicable Law or any other agreement with the Landlord and/or TRCA or pursuant to Section **35** of the *Commercial Tenancies Act*, (the benefit of which is expressly waived by the Tenant), Minimum Rent, Percentage Rent and Additional Rent to paid at the times and in the manner hereinafter set out.

3.2 Net Lease

(1) It is the intention of the parties that this Lease and the Rent payable hereunder shall be absolutely net and carefree to the Landlord, and the City is not responsible during the Term or any extension thereof for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the use and occupancy of the Leased Lands or the contents thereof or the business carried on therein, except as may otherwise be provided under this Lease. The Tenant shall be responsible for and shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Lands and the use and occupancy thereof.

(2) Except as otherwise in this document expressly provided, there shall be no abatement or deferral of Rent and the Tenant shall at its expense and to the complete exoneration of the Landlord, pay or cause to be paid all costs, outlays and expenses of every nature and kind whatsoever relating to or affecting the Leased Lands, the contents, the use or occupancy, or the business carried on. The Tenant shall not set-off against any Rent due hereunder and all rights of abatement of or deduction from Rent and agrees to pay Rent regardless of any claim or set-off which may be asserted by the Tenant or on its behalf.

3.3 Minimum Rent and Percentage Rent

(1) The Tenant shall, throughout the Term and the First Extension Term pay to the Landlord or as otherwise in this document provided, as Rent in lawful money of Canada, without notice or demand and without any set-off (provided that the Landlord is not in default of its obligations under the Lease), abatement, defalcation or deduction or compensation whatsoever hereunder or pursuant to Applicable Laws or pursuant to any other agreement with the Landlord or pursuant to section **35** of the *Commercial Tenancies Act*, (the benefit of which is expressly waived by the Tenant), the greater of Minimum Rent set out in Subsection **3.3(1)(a)** and Percentage Rent set out in Subsection **3.3(1)(b)** at the times and in the manner hereinafter set out:

(a) with regards to Minimum Rent, throughout

(i) the Term and the First Extension Term the Tenant shall pay no Minimum Rent;

(ii) years eleven (11) through twenty (20) of the Tenant's occupancy, being years one (1) through ten (10) of the Second Extension Term, the Tenant shall pay a Minimum Rent equal to seventy-five percent (75%) of the average total annual Percentage Rent paid by the Tenant during years eight (8) through ten (10) of the Tenant's occupancy (ie: years three (3) through five (5) of the Tenant's First Extension Term); and

(iii) years twenty-one (21) through thirty (30) of the Tenant's occupancy, being years eleven (11) through twenty (20) of the Second Extension Term, the Tenant shall pay a Minimum Rent equal to seventy-five percent (75%) of the average total annual Percentage Rent paid by the Tenant during years eighteen (18) through twenty (20) of the Tenant's occupancy (ie: years eight (8) through ten (10) of the of the Second Extension Term,

all of which, together with applicable taxes, shall be paid, in advance, in equal monthly instalments commencing on the first day of each and every month throughout the Term or any extension thereof, to the Landlord at Treasurer, Accounting Services, 14th Floor Metro Hall , 55 John Street, Toronto ON M5V 3C6, or at any other place designated by the Landlord, in Canadian funds, without demand and without deduction, abatement, set-off or compensation, from and after the Term Commencement Date to the end of the Term or the end of the First Extension Term, or Second Extension Term, as the case may be;

(b) with regards to Percentage Rent, throughout

(i) the Term and First Extension Term, the Tenant shall pay Percentage Rent equal to the ten percent (10%) of the Gross Revenues in excess of the Percentage Rent Threshold; and

(ii) the Second Extension Term, the Tenant shall, pay Percentage Rent equal to fifteen percent (15%) of the Gross Revenues in excess of the then-current Percentage Rent Threshold;

all of which, together with applicable taxes, shall be paid, in respect of each month's rent, on the last day of the month next following, throughout the Term or any extension thereof, to the Landlord at Treasurer, Accounting Services, 14th Floor Metro Hall , 55 John Street, Toronto ON M5V 3C6, or at any other place designated by the Landlord, in Canadian funds, without demand

and without deduction, abatement, set-off or compensation, from and after the Term Commencement Date to the end of the Term or to the end of the First Extension Term, or the Second Extension Term, as the case may be. Payments made pursuant to this Subsection 3.3(b) shall be based on the Tenant's forecasted Gross Revenues and shall be subject to an annual adjustment upon delivery by the Tenant of audited financial statements of Gross Revenue. The Tenant shall provide accurate monthly reports prepared using GAAP, and audited financial statements prepared by a Chartered Professional Accountant, to the Landlord annually for the purpose of confirming the calculation of the Percentage Rent. The Landlord shall have the right to inspect the Tenant's books and records at any time throughout the Term or any extension thereof, and to conduct an audit if the Landlord deems it appropriate. Where any discrepancies identified for any year of the then-current Term, a penalty in the amount of fifteen percent (15%) shall be levied against the Tenant and shall be classified as Additional Rent (though no such penalty shall be assessed if the discrepancy between the reported record and the audited record is one percent (1%) or less). Notwithstanding the foregoing, there shall be no such penalty if the variance arises due to fraudulent actions by Tenant's Authorized Member(s), as determined by the CCO.

(2) If the Parties cannot agree on the adjusted Minimum Rent and Percentage Rent, then the matter shall be submitted to arbitration, which submission shall be made not less than six (6) months prior to the scheduled date of Minimum Rent and/or Percentage Rent payment, as the case may be. The arbitrator shall have regard to the matters set out in Section **18.1** in making its determination.

3.4 Rent for Third Extension Term

(1) The Tenant shall, throughout the Third Extension Term, pay to the Landlord or as otherwise in this document provided, as Rent in lawful money of Canada, without notice or demand and without any set-off, abatement, defalcation or deduction or compensation whatsoever hereunder or pursuant to Applicable Laws or pursuant to any other agreement with the Landlord or pursuant to section **35** of the *Commercial Tenancies Act*, (the benefit of which is expressly waived by the Tenant), the greater of Minimum Rent set out in Subsection **3.4(2)** and Percentage Rent set out in Subsection **3.4(2)**, which amount shall be finalized in accordance with this Section **3.4**, at the times and in the manner hereinafter set out:

(2) The Minimum Rent per annum for the Third Extension Term shall be set at an amount equal to 75% of the average total annual Rent and paid by the Tenant to the Landlord during the last three years of the Second Extension Term. The Tenant shall propose a Percentage Rent formula for the Third Extension Term that shall not be less than 15% of Gross Revenue in excess of the Percentage Rent Threshold in the last year of the Second Extension Term and not more than 20% of Gross Revenues in excess of the Percentage Rent Threshold in the last year of the Second Extension Term, based on prevalent market rates.

(3) The Landlord and the Landlord's authorized representatives shall have the right to examine the Tenant's accounting records and procedures in respect of annual Rent for the last three years of Project operations prior to any annual Rent review period(s) on reasonable prior Notice and during regular business hours.

(4) If the parties are unable to agree on a Percentage Rent formula for the Third Extension Term six (6) months prior to expiry of the Second Extension Term, then either Party may refer the matter to arbitration in the manner set out in Article **18**. In reaching a conclusion on the matter, the Arbitrator shall consider, amongst other factors, the rent paid by comparable facilities, the historical rent paid by the Project, the nature and extent of capital improvements to be made by the Tenant during construction of the Project and during the Term, First Extension Term and Second Extension Term, the nature and extent of proposed capital investments to be made by the Tenant during the Third Extension Term, and the ability of the Project to pay the amended rent during the Third Extension Term.

(5) If an agreement on Third Extension Term Rent is not reached prior to the Third Extension Term commencement, the Tenant shall pay, as Rent, the same amount as it had been paying during the Second Term. When a final determination has been made in accordance with Subsection **3.4(4)** hereof, the Parties shall promptly make the appropriate adjustments.

ARTICLE 4
ADDITIONAL RENT

4.1 Additional Rent

The Tenant is responsible for the payment of all costs of developing, constructing, administrating, operating, maintaining, repairing, upgrading, refurbishing and replacing the Project and the Leased Lands during the Term and any extension thereof. Without limiting the foregoing, the Tenant covenants and agrees to pay or cause to be paid, from and after the first day of the Initial Construction Period, Additional Rent to the appropriate parties and at the times they become payable without notice or demand and without any set-off, abatement, defalcation or deduction whatsoever hereunder or pursuant to any other agreement with the Landlord and/or TRCA or pursuant to Section **35** of the *Commercial Tenancies Act*, (the benefit of which is expressly waived by the Tenant); or, at the Landlord's option in respect of **(c)**, **(g)**

and **(h)** below, based on the Landlord's reasonable estimates from time to time, and otherwise, within ten (10) days of demand.

"**Additional Rent**" shall mean all money payable by the Tenant under this Lease (except Minimum Rent and Percentage Rent) whether or not it is designated as Additional Rent and includes, without limitation, the following amounts:

(a) all amounts required to be paid by the Tenant to the appropriate and proper parties as contemplated in this Lease and the other collateral agreements described in this document and made of the same date of this Lease, whether to the Landlord or TRCA or otherwise;

(b) all costs of development and construction of the Project and Tenant's Construction Work as contemplated in this Lease, including all costs of securing the Leased Lands from the first day of the Initial Construction Period;

(c) all Taxes as described in Section **4.2**;

(d) all charges for or related to the supply of electricity, water, telephone, light, gas or oil, if any, heat, (including air conditioning, sewer and all other services, supplies and utilities supplied to the Leased Lands, including electrical power to outdoor signage and all electrical, mechanical and other building systems, and all costs for all work performed in connection with any services or utilities provided to the Project and Leased Lands and the costs of any other charges levied or assessed in lieu of, or in addition to such utilities. On request by the Landlord, the Tenant shall provide evidence that all charges required to be paid by this Subsection have been paid;

(e) all costs and expenses of insuring (without duplication) the Project and the Leased Lands as contemplated hereunder;

(f) all costs, expenses and charges, direct or indirect, incurred in, about and for the administration, operation, maintenance, repair, upgrade, refurbishment, replacement of equipment and structures and management of the Project and the Leased Lands except as otherwise provided in this Lease;

(g) all costs and expenses incurred by the Landlord and/or TRCA in performing any of the Tenant's obligations in this Lease where the Tenant has failed to do so, after notice having expired without cure (save in an emergency where no such notice shall be required) together (without duplication) with an administrative fee equal to twelve and one-half percent (12.5%) of such costs and expenses;

(h) any and all sums of money or charges required to be paid by the Tenant under this Lease, whether or not designated as Additional Rent or whether or not payable to the Landlord or to any other Person.

All payments required to be made by the Tenant pursuant to the provisions of this Lease may be referred to as Additional Rent and shall be deemed to be Rent, to be paid when due, and failure to make any such payments shall give the Landlord all of the same remedies as a failure to pay Rent hereunder.

Despite the foregoing, it is intended that, wherever possible, the Tenant shall contract directly with and pay directly to the service and utility providers for the services and utilities for the Project. Wherever this is not possible and the Landlord pays for any service or utilities for the Project or for the Leased Lands, then the Tenant will reimburse the Landlord within thirty (30) days of receipt of invoices for any such payments.

The Tenant shall indemnify and save the Landlord harmless from all losses, costs, charges and expenses arising from any Additional Rent, including but not limited to, any business taxes as well as any taxes that may be imposed in place of business taxes or which may be assessed against Rent payable under this Lease in place of Taxes, whether against the Landlord or the Tenant.

4.2 Taxes on Leased Lands

(1) The Tenant shall pay to the Landlord, as Additional Rent, all Taxes levied, rated, charged or assessed during the Term and any extension thereof on or in relation to the Taxable Area, or any part thereof allocated under Section **4.3**. Payment shall be due in equal monthly instalments, based on estimates by the Landlord, such that the Landlord shall have in its hands an amount sufficient to pay each instalment of Taxes when due to the taxing authorities. If the Landlord, in its sole option exercisable from time to time, so directs, the Tenant shall pay Taxes directly to the applicable taxing Authorities. In that event, the Tenant shall make the payment on or before the due date of each instalment, and shall provide to the Landlord on demand evidence of such payment in the form of receipted bills. The Taxes for the first and last year of the Term or any extension thereof are to be apportioned between the Landlord and the Tenant.

(2) Pursuant to Section **7**, the Landlord may use the MCF Area for local community activities, City or other uses as determined by the Parties acting reasonably. The Landlord shall request City Council to exempt that part of the Leased Lands used by the Landlord from taxation for municipal

and school purposes if the Landlord considers that a portion of the Leased Lands may be used as a municipal capital facility. Provided City Council passes a by-law for such exemption on terms and conditions satisfactory to the Landlord, the Parties shall, at the Tenant's sole expense, enter into the necessary Municipal Capital Facilities Agreement pursuant to Section 252 of the *City of Toronto Act, 2006*, as amended. The Parties agree that the tax exemption is to be effective from the latest of the following dates: the date the Municipal Capital Facilities Agreement is signed, the date the tax exemption by-law is enacted, and the Term Commencement Date. Such agreement shall be in a form acceptable to the City Solicitor.

(3) If the City is unable to obtain the exemption from real property taxes as set out in Section **4.2(2)** above or if such an exemption has been rescinded because of any action or inaction by (i) the Landlord or (ii) any other Person, save and except the Tenant or Tenant's Authorized Member, then the City shall be responsible, at its sole cost and expense, to pay the Taxes attributable to the Leased Lands, save and except the Taxable Area which shall, at all times, be the responsibility of the Tenant.

(4) If the exemption from Taxes as set out in Section **4.2(2)** has been obtained but rescinded, in whole or in part, because of any action or inaction by the Tenant which restricts the Landlord's use of the Project as provided for in the Municipal Capital Facilities Agreement, then the Tenant shall be responsible, at its sole cost and expense, to pay the Taxes attributable to the Taxable Area and that portion of the Leased Lands on which the exemption from real property taxes has been rescinded.

(5) If in any year with respect to any Taxes the Leased Lands are assessed separately by the relevant authorities, the Taxes payable by the Tenant under Section **4.2** shall be computed on the basis of such separate assessments.

(6) If in any year with respect to any Taxes all or any portion of the Leased Lands are not assessed separately as described in Subsection **(1)** above, then, for those portions that are not separately assessed, the Tenant shall pay its Taxes under Section **4.2** based on an allocation of a portion of the total Taxes payable for the Total Site consistent with other similar commercial uses in the area allocated to the Leased Lands, such allocation to be performed by the Landlord, acting reasonably.

4.3 Tax Appeals

Notwithstanding anything contained in this Lease to the contrary, the Tenant shall have the right to contest the amount or validity of any Taxes by appropriate legal proceedings, which proceedings shall be conducted promptly at the Tenant's sole expense and the Tenant will diligently prosecute the appeal or contestation to a speedy resolution and will keep the Landlord sufficiently informed of its progress from time to time; provided however, that such proceedings shall not be deemed or considered in any way as relieving, modifying or altering the Tenant's covenant to pay such imposition at the time or in the manner as required, nor subject the Landlord to any liability for the payment of any costs or expenses in connection with any such proceedings and the Tenant further covenants with the Landlord to indemnify and save harmless the Landlord from any such costs and expenses. The Tenant acknowledges that the Landlord shall have the right to participate in the Tenant's appeal. Nothing in this document shall prevent the Landlord from opposing the Tenant's appeal in its capacity as a municipality. If the Tenant does not pay any of the Taxes within thirty (30) days after the same becomes due and payable, the Landlord may, but shall not be obligated to pay, the Taxes and collect the amount it pays from the Tenant.

4.4 Delivery of Tax Bills to Tenant

If the Landlord receives any statement or notice relative to any impositions or declaring such impositions to be due, the Landlord shall, promptly on receipt , deliver the same to the Tenant.

4.5 Tenant's Responsibility

The Tenant shall:

(a) if the Landlord has directed it to pay Taxes as applicable pursuant to Section 4.2, to the applicable Authority, within fifteen (15) days of written request of the Landlord, deliver to the Landlord for inspection, receipts for payment of all Taxes payable by the Tenant;

(b) promptly deliver to the Landlord at least ten (10) days before the last day for appeal or contestation, notices of any Taxes or other assessments received by the Tenant which relate to the Project and which the Tenant intends to appeal or contest;

(c) furnish such other information in connection with any such Taxes as the Landlord reasonably determines from time to time; and

(d) indemnify the Landlord and TRCA against all Claims occasioned by or arising from all Taxes payable by the Tenant and Other Taxes, whether against the Landlord and/or TRCA or any of the Landlord's Representatives, including but not limited to, any increase occurring in Taxes or Other Taxes arising directly or indirectly out of any appeal or contestation of the Tenant of the Taxes or

Other Taxes relating to the Project or any part.

Nothing in this document prevents TRCA and/or the Landlord from appealing or contesting Taxes provided that TRCA and/or the Landlord, as the case may be, shall promptly deliver to the Tenant notice of any appeal or contestation that TRCA and/or the Landlord intend to institute with respect to any Taxes and will keep the Tenant informed of its progress from time to time.

4.6 Landlord's Responsibility for Taxes

If the Landlord requires the Tenant to pay Taxes to the Landlord, then:

(a) the provisions of Article 4 shall apply to the Landlord mutatis mutandis with respect to the payment of Taxes (but, for the purpose of clarity, not Other Taxes);

(b) the Landlord covenants to pay all Taxes, as and when they become due and payable;

(c) while contesting any Taxes or assessments, the Landlord shall make all payments of Taxes when due; and

(d) if the Landlord does not pay any of the Taxes within thirty (30) days after same become due and payable, the Tenant may pay, but is not obliged to pay, the Taxes.

4.7 Other Taxes, Utilities of Tenant etc.

In addition to the Taxes payable by the Tenant under this Article 4, the Tenant will pay to the proper taxing Authorities or to the Landlord, as it might direct, and will discharge in each Rental Year when they become due and payable, the following (collectively called **"Other Taxes"**):

(a) all HST, sales taxes, excise taxes, places of business taxes, business transfer taxes, commercial concentration taxes, and other taxes, directly related to the Leased Lands whether by law the responsibility of the Landlord, TRCA or the Tenant, and whether imposed by federal, provincial, municipal, school board, utility commission or other Authority and whether now or in the future in existence (and including any other taxes, rates, duties, assessments, fees or levies which are imposed on TRCA or the Landlord or the Tenant on account of or in lieu , or as a substitute for or in addition , or of a nature similar) and whether recurring annually, or at other intervals or on a special or single instance basis but excluding only any corporate, income profits or excess profits or similar taxes personal to the Landlord. HST shall not be deemed to be Rent, provided however that such tax, if not paid when due, shall be collectible in the same manner as Rent in arrears;

(b) all utility charges and rates and similar taxes, rates, charges and assessments including payments in lieu which are properly charged, levied or assessed in connection with the Leased Lands or any part or which are properly levied or assessed against the Tenant or which would, if unpaid, become a lien on the Leased Lands or the Tenant's leasehold interest where such lien or liens will, at any time, affect the interest of the Landlord; and

(c) all of the other costs and expenses of maintaining and operating the Leased Lands, including without limitation, its services, equipment and facilities; such costs and expenses to include, without limiting the generality of the foregoing: heating, snow and ice removal and clearance, administrative charges and salaries, repairs and replacement of equipment fixtures and facilities, landscaping contracts, grass cutting, lighting, cleaning, supplies, supervising.

4.8 Payment of Additional Rent

The amount of Additional Rent or any portion thereof which the Tenant is to pay may be estimated by the Landlord for such period, not in excess of twelve (12) months, as the Landlord may determine. The Tenant agrees to pay to the Landlord such amount in monthly instalments in advance during such period on the dates and at the times for payment of Minimum Rent and Percentage Rent provided for in this Lease. The Tenant agrees to deliver to the Landlord at the beginning of each Rental Year (or at such other time and for the period requested from time to time by the Landlord) a series of monthly post-dated cheques for the aggregate of the monthly Minimum Rent and Percentage Rent payments plus any Additional Rent payments estimated by the Landlord to be paid monthly in advance and HST. The Tenant shall furnish to the Landlord within fifteen (15) days after a written request, such reasonable proof of payment of any Rent payable under this Lease as the Landlord may reasonably require. Prior to each year of the Term, the Tenant shall provide a series of 12 monthly postdated cheques, each cheque in the estimated amount of the monthly installment of Rent plus HST, or if requested by the Landlord, shall arrange to pay the same by pre-authorized bank payment.

4.9 Pro-Rating Rent

If the date on which the first installment of Minimum Rent or Percentage Rent is due is on a day other than the first day of a calendar month, then, the Tenant will pay, a part of the Rent pro-rated on a per diem basis from the first day of the month in which the first installment is due occurs to the end of that month in, based on a period of three hundred and sixty-five (365) days.

4.10 Allocations

Where any amount, cost or expense is to be determined, allocated, apportioned or attributed under any provision of this Lease, the Landlord shall do so and shall act reasonably in determining and applying criteria which are relevant to doing so and the Landlord may retain engineering, accounting, legal and other professional consultants to assist and advise in doing so.

4.11 Statements

If requested by the Tenant, the Landlord shall provide reasonable details of Additional Rent charges within three (3) months after a fiscal period, and details of the actual amounts payable by the Tenant for such fiscal period for other items of Additional Rent, in each case providing reasonable detail necessary to the calculation of the amounts shown to be payable by the Tenant. If any such amounts are greater or less than the estimated amounts paid by the Tenant on account, appropriate adjustments will be made between the Landlord and the Tenant within 60 days after any such statement is given.

4.12 Set-Off

Notwithstanding anything to the contrary, the Tenant shall have no right to offset, deduct or abate any monies owing by the Tenant to the Landlord and/or TRCA or other entity under this Lease or any other document, nor to withhold the performance of any obligation of the Tenant hereunder for any reason whatsoever including, but not limited to, by reason of a default by the Landlord and/or TRCA under this Lease or pursuant to any other agreement between the Landlord and/or TRCA and the Tenant or the Ancillary Agreements, save and except for any amounts payable pursuant to Section **4.12**.

4.13 Interest

(a) All amounts payable to the Landlord under this Lease will bear simple interest at the rate of 1.25% per month (15% per year) (the "**Default Rate of Interest**"). Interest will be calculated and payable from and including the day after the day the amount is due until payment in full of the overdue amount is received by the Landlord. Interest will be calculated only on the principal amount outstanding from time to time, and interest charges will not be added to the outstanding principal amount for purposes of calculating interest. Payments received by the Landlord will be applied first to outstanding interest charges and the balance (if any) will be applied to the outstanding principal amount.

(b) The Default Rate of Interest may be increased by the Landlord from time to time by notice to the Tenant. The rights of the Landlord to charge and receive interest in accordance with this paragraph are without prejudice to any of the other rights of the Landlord at law or otherwise.

4.14 Returned Cheque

The Tenant will pay to the Landlord, immediately on demand, a charge of thirty-five dollars ($35.00) for every cheque tendered by the Tenant to the Landlord that is not honoured by the institution on which it is drawn (the "**Returned Cheque Fee**"). The Returned Cheque Fee may be increased by the Landlord from time to time by notice to the Tenant, so that it is at all times equal to the charge payable in respect of cheques tendered in payment of tax, water and court service charges that are not honoured by the institution on which they are drawn.

4.15 HST

The Tenant shall pay to the Landlord with each instalment of Rent, any HST exigible.

ARTICLE 5
LETTER OF CREDIT

5.1 Construction Security

Prior to the Initial Construction Period commencement, the Tenant shall deliver to the City the Construction Security as security for the Tenant's obligations pursuant to Section **6.3** hereof, and as security in the event that the City exercises its rights to draw down on the Construction Security in accordance with subsection **5(2)** hereof.

It is understood that the Tenant may be required to provide a letter of credit to the Landlord from time to time under the Heritage Easement Agreement and Site Plan Agreement in connection with the construction work contemplated in Section 6 hereof or other proposed alterations to the Project and the Building.

If the Construction Security provided to the City in connection with approvals granted for alterations to the Project to be completed under this Agreement relates to work that also constitutes approved work pursuant to the Heritage Easement Agreement, the Landlord agrees that the Tenant will be permitted to provide Construction Security that reflects that it is security for the work being undertaken under both the Heritage Easement Agreement and this Agreement, in which event, the amount of the Construction

Security will be for the higher of the security amounts required under the two agreements. It is further understood and agreed that the Construction Security shall not be released until all of the Tenant's obligations under both the Heritage Easement Agreement and this Agreement have been fulfilled.

5.2 Use of Construction Security by Landlord

In the event that the Tenant defaults in its obligations pursuant to Section **6.3** hereof, the Landlord shall be entitled to draw down on the Construction Security in whole or in part and to apply the proceeds thereof to the cost of fulfilling the Tenant's obligations; it being understood and agreed that in the event that the Construction Security is not sufficient to cover the Landlord's costs of fulfilling such obligations, the Tenant shall pay any additional amounts owing to the City with respect to such costs forthwith upon demand.

5.3 Reduction of Construction Security

The Parties agree that the Construction Security shall, on application to the Landlord by the Tenant, be reduced periodically. This reduction shall reflect the amount of construction completed to date, all as certified by an architect or quantity surveyor's certificate confirming both the cost of work completed to date and the cost of work to complete the Project. This reduction shall occur only after (i) the Tenant has delivered to the Landlord documentation satisfactory to the CCO acting reasonably, confirming that all amounts owing to contractors, suppliers and (sub)trades have been paid in full for the work completed to date, and (ii) receipt of certification of such completion signed by the project architect or a qualified heritage consultant, (the selection of which architect or consultant is to be Approved of by the Manager, Heritage Preservation Services) and (iii) the Landlord has confirmed its satisfaction therewith, acting reasonably, and within fourteen (14) business days of receipt of such documentation.

ARTICLE 6
CONSTRUCTION OF PROJECT DEVELOPMENT

6.1 Approvals for Project Development

(1) Except for (i) any Approvals required to be obtained by TRCA, the Province and the Landlord, which shall be obtained by the TRCA and the City and (ii) the City's Work, which shall be completed by the City, the Tenant shall, at its own expense and in a diligent and expeditious manner, be responsible to obtain and pay for the costs of all Approvals and agreements with any Authorities and utilities including, Site Plan Approval, heritage permits, building permits required to commence and complete construction of the Tenant's Construction Work, provided that:

(a) with the exception of their obligations in respect of any TRCA, Provincial or Landlord Approvals and the completion of the City's Work, TRCA and the Landlord assume no responsibility in connection with obtaining any such Approvals or any liability in the event such Approvals are not granted or carry restrictive conditions;

(b) TRCA, the Landlord and the Tenant will each keep the other informed, on a regular periodic basis, with respect to the status of all relevant Approvals, the progress of construction, and generally all matters relating to the design, construction and completion of the Project Development, and will provide the Landlord with such evidence thereof upon request as the Landlord may reasonably require; and

(c) the Tenant shall at its own expense obtain all necessary Approvals and agreements with any Authorities and utilities relating specifically to the Project and shall provide the Landlord with such evidence thereof upon request as the Landlord may reasonably required.

Notwithstanding the foregoing, where the Tenant has diligently pursued obtaining the required Approvals but have failed to do so, the Lease shall be at an end. Only those obligations which are specifically provided for in the Lease to survive the expiration of the Term or any extension thereof or the earlier termination of this Lease shall survive in accordance with Section **21.24** of this Lease.

(2) TRCA, the Landlord and the Tenant will, at their own expense, co-ordinate their efforts to expedite all infrastructure and site development issues required in connection with the completion of the Project Development and the obtaining of Approvals. The Tenant, TRCA and the Landlord shall actively and reasonably co-operate with and assist one another throughout their respective Approval processes in facilitating and expediting their respective receipt of any of the Approvals required in respect of the Project Development, and in addressing any conditions attached. Notwithstanding the foregoing, the Tenant further agrees that the Project Development will require independent City and other Approvals and may be subject to certain requirements in conjunction with the new draft Official Plan of the City, the consent of the Governor in Council or the Minister as provided in the *Conservation Authorities Act*, and TRCA's regulations, including Ontario Regulation 166/06, all of which the Tenant agrees to comply or cause compliance with, at its own expense, during the Term and any extension thereof.

(3) Subject to the provisions of Section **21.5(1)** and compliance with Article **6**, and at no expense or

liability to it or them, TRCA and the Landlord agree, within fifteen (15) Business Days after receipt of written request from the Tenant, and where necessary, to join in or consent to any application for permits, licences or other authorizations required by any Authorities in connection with any Tenant's Construction Work to be undertaken by the Tenant on the Leased Lands where such work is in accordance with the terms of this Lease and is in connection with any use of the Leased Lands permitted hereunder and to enter into as a consenting Party only into any development, Site Plan or other agreement necessary or desirable to give effect. The Tenant agrees, as a precondition to the obligation of TRCA and/or the Landlord to join in or consent to any such applications or to enter into any such agreements as an "owner" and to indemnify and hold harmless Landlord's Representatives and the TRCA and any TRCA representatives from any and all Claims, liability, expense or cost incurred as a result of or in connection with them or either of them entering into, joining with the Tenant in or consenting to any such application, development, site plan or other agreement.

(4) The Tenant and the Landlord and TRCA shall comply with their respective obligations under any terms and conditions of Site Plan Approval imposed by City Council or its designate, or other agreement with the City or any other Authority or utility. Each Party shall execute all such reasonable agreements as may be requested by the other. It is, however, expressly understood that if TRCA and/or the Landlord is requested to execute any planning applications or permits, they/it will do so in their respective capacity only as a consenting owner of the freehold and as a ground tenant of the Leased Lands pursuant to the Original Lease and at no expense or liability to it or them, and will not thereby fetter any of TRCA's or the City's statutory or other powers or mandates. Without limiting the generality of the foregoing, the Tenant agrees that the Landlord has the unfettered right to review and require such changes to the As-Built Record Drawings and Specifications as it may reasonably require to ensure, in the opinion of the CCO, compliance with all Approved Plans, including the Approved Site Plan, and the Tenant agrees to make such changes and to provide the Landlord with such evidence thereof as it may reasonably require forthwith upon request.

(5) The Tenant acknowledges in accordance with the Heritage Designation By-laws, **[a portion of]** the Leased Lands has been designated by Council under authority of the *Ontario Heritage Act*, as being of architectural and historic value or interest. The Tenant shall comply with any and all requirements under the *Ontario Heritage Act* and other applicable legislation and/or any by-law or regulation pursuant to such act or legislation with regard to those matters which are its responsibility with respect to the Leased Lands, and to ensure that all Tenant's Construction Work, renovations, repairs, and any and all other work undertaken by the Tenant in, on, at or about the Leased Lands and Project are in full compliance with the terms of Section **6.6**, and Applicable Law. The Tenant shall perform all obligations under any Site Plan and Heritage Easement Agreements as applicable to the Leased Lands at no cost to the Landlord or TRCA except to the extent otherwise expressly provided in this document and the failure by the Tenant to perform all such obligations under any such agreement shall constitute a default under this Lease.

(6) All construction activities for the Project must comply with all Applicable Law, including those laws and policies applicable to construction. When the Project Development is completed the Tenant further represents and warrants to the Landlord that the Project Development will comply in all respects with all Applicable Law.

6.2 Ancillary Agreements

Subject to (i) compliance with this Lease, (ii) the delivery of satisfactory evidence of the insurance, (iii) Section 6.4 Performance Security (including Construction Security), and (iv) prior reasonable notice having been given to TRCA and the Landlord, it is agreed that:

(a) TRCA, the Landlord and the Tenant shall work together in good faith to co-ordinate the timing and method of the Project Development so as to ensure a minimum of interference to the construction operations of the Tenant and Guildwood Park in accordance with the provisions of the Ancillary Agreements. The Parties shall at their own expense comply or cause compliance with such plan pending completion of the Project Development;

(b) during Construction:

(i) before applying for a building permit, there will be an agreed upon "Hoarding and Construction Marshalling Plan" agreed on by the Parties in respect of the Leased Lands and parts of Guildwood Park. The Parties shall at their own expense comply or cause compliance with such plan pending completion of the Project Development; and

(ii) the Tenant and its Authorized Members shall have the compensation-free and non-exclusive benefit and right during regular business hours, in common with all others entitled thereto, including the Landlord and TRCA and their respective Authorized Members, to effective access to and from the Leased Lands in accordance with the terms of the Ancillary Agreements. The Tenant agrees that the Landlord and TRCA reserve and shall have the compensation-free and non-

exclusive benefit and right for each of them and their respective Authorized Members, in common with all others entitled thereto, including the Tenant and other occupants of the Project, to use the common areas, facilities, entrances and exits, driveways, laneways, roads, ramps, passenger-ways, walkways, sidewalks, landscape areas and Parking Facilities associated with or used in connection with the Project Development, and/or Leased Lands, during the Term in accordance with the terms of the Ancillary Agreements.

6.3 Construction of Project Development

(1) The Tenant covenants and agrees with TRCA and the Landlord that the Tenant shall commence the Project Development during the Initial Construction Period, failing which the provision of Subsection 2.5(4) shall govern. From then on, the Tenant shall actively, diligently and continuously carry out the Project Development in a good and workerlike manner so as to achieve substantial Completion on or before the expiry of the Initial Construction Period, subject only to delays caused by Force Majeure, all in accordance with:

(a) this Lease;

(b) the Approved Plans and the As-Built Record Drawings and Specifications;

(c) the Project Development Timetable;

(d) the Heritage Easement Agreement and the objectives for the Project and Leased Lands as set out herein;

(e) the Site Plan for the Project as Approved in final form;

(f) the Construction Procedures Agreement, the Ancillary Agreements and the Hoarding and Construction Marshalling Plan described in Section **6.2(b)(i)**; and

(g) all Applicable Law,

and to the satisfaction of all other Authorities having jurisdiction in respect of all of the construction of the Project Development.

(2) In undertaking the Tenant's Construction Work, the Tenant shall:

(a) enter into all necessary agreements with the Architect and Architect's Consultants in respect of the Project Development and all other principal contractors and consultants, on terms that provide for a release of any copyright in plans, designs and other similar property, on terms that permit the Landlord and TRCA the rights to take an absolute assignment and assumption in the Event of Default under this Lease, and to do so without interference by the other contracting Parties and without payment of any penalty by TRCA and/or the Landlord;

(b) enter into all agreements with the Contractor in respect of the Project Development and all other principal contractors and consultants, on terms that provide for a release of any copyright in plans, designs and other similar property, on terms that permit the Landlord and TRCA the rights to take an absolute assignment and assumption in the Event of Default under this Lease, and to do so without interference by the other contracting parties and without payment of any penalty by TRCA and/or the Landlord; and

(c) keep both TRCA and the Landlord fully informed as to such agreements as referenced in Section 6.3(2)(a) and Section 6.3(2)(b) and shall consult with them as to the terms and obtain their consent in writing prior to entering into the same;

(d) not deviate from the Approved Plans and the As-Built Record Drawings and Specifications or make any Material Change(s) thereto without the prior written consent of the Landlord and TRCA as described in this document;

(e) ensure that and cause at all times, at its expense, the General Contractor and all other contractors and all Architects and Architect's Consultants and other consultants of the Tenant to incorporate and comply with the mandatory Tier 1 requirements of the City's Green Development Standard in existence as of March 31, 2014 Attached as Schedule **"N"** in the design and construction of the Project Development;

(f) adhere to and comply with the City's "Fair Wage" and "Labour Trades Contractual Obligations in the Construction Industry" policies during demolition and until completion of all Project Development, copies of which are attached hereto as Schedule **"H"**, as may be amended by the City from time-to-time, and the Tenant will provide the Landlord with such evidence of compliance therewith as the Landlord may reasonably request. The Landlord will endeavour to provide a current version of such policy to the Tenant shortly before the commencement of the Tenant's Construction Work, notwithstanding the

foregoing the Tenant shall contact the City's Fair Wage office prior to the commencement of construction to obtain a current version of such policies for the purposes of pre-qualifying proposed contractors, as determined by and in accordance with the then current usual practices of the City's Fair Wage Office, and the Tenant will provide the Landlord with such evidence of compliance therewith as the Landlord may reasonably request;

(g) adhere to and comply with all collective agreements in the construction industry under Applicable Law to which the Landlord is or becomes bound to prior to the Initial Construction Period commencement date;

(h) provide the Landlord, and as a condition precedent to commencing any Tenant's Construction Work, with a satisfactory release and indemnity relating to the issues in subsections **6.3(2)(f)** and **6.3(2)(g)** in the form and content satisfactory to the Landlord's legal counsel at least ten (10) Business Days prior to the Construction Commencement Date;

(i) do all acts and things required for the performance and completion of the Tenant's Construction Work in accordance with this Lease, including the requirements on its part set out in Article **10**;

(j) undertake the Project Development with care and in such a manner so that no damage or injury occurs to the Project Development or to the structures or other improvements located on abutting lands including, Guildwood Park, and if such damage or injury occurs, repair and restore the Project and the Leased Lands or such abutting lands and the structures and other improvements located there;

(k) obtain all requisite Approvals to commence and complete the Project Development in accordance with the requirements of this Lease and all other agreements referred to herein at its own expense and to provide the Landlord and TRCA with satisfactory evidence of such compliance forthwith on request;

(l) comply with the Landlord's purchasing policies respecting non-discrimination, and Occupational Health, Safety and Ergonomics Principles attached hereto as Schedule "I", and the *Municipal Freedom of Information and Protection of Privacy Act*;

(m) not be permitted to commence construction of the Project Development until the Initial Construction Period commencement date, except as otherwise provided in the Lease or as agreed to in writing by the Landlord and the Tenant;

(n) the Tenant agrees to comply with the reporting requirements related to the monitoring and approval of all payments to contractors and sub-contractors pursuant to the reasonable requirements of TRCA and the Landlord, in respect of all construction from time to time on the Leased Lands, provided that TRCA and the Landlord agree to accept the same reporting requirements of the Lender(s) so long as such requirements are consistent with those that would be required for similar projects of size and scope to the Project and on similar terms; and

(o) comply with all Applicable Laws in respect of the Project or any part.

(3) In terms of all Tenant's Construction Work, the Tenant:

(a) hereby represents, warrants and irrevocably covenants and agrees that the Landlord has not provided and will not provide or be requested to provide any release and/or indemnity of any kind whatever to the Tenant regarding any labour or employment issues in respect of the Total Site or any part; and

(b) shall provide the Landlord on request with a complete list of all unions, including construction trades, that hold certificates and/or have collective bargaining rights with the Tenant and any of its subsidiaries and/or related companies.

(4) Prior to obtaining access to the Leased Lands, the Tenant agrees that the Tenant, all contractors, subcontractors and others involved in the performance of the Tenant's Construction Work shall obtain and maintain insurance acceptable to both TRCA and the Landlord, insuring the full value of their work and the full value of products incorporated into their work and comprehensive liability insurance with inclusive limits of not less than Ten Million Dollars ($10,000,000.00) for Injury to any one or more Persons and damage and shall deliver satisfactory evidence of such insurance to TRCA and the Landlord. The policies of liability insurance shall be written to include both TRCA and the Landlord as an additional insured and property loss insurance shall include a waiver of subrogation endorsement.

(5) If at any time prior to completion of the Tenant's Construction Work, such work ceases, except by the conditions described in Section **13.2** or Section **21.6**, and has not been resumed within two (2) months of the date such work, was discontinued, or if the Tenant abandons the Leased Lands

then, the Landlord shall have the right, on written notice given to the Tenant, to terminate this Lease without any compensation owing by the City to the Tenant, in addition to such other rights and remedies the Landlord might have as herein provided or which may exist at law or in equity.

(6) The Tenant shall make good any damage to all roads, fences, sidewalks, land and building adjoining the Leased Lands and any services occasioned by or arising out of the preparation of the Leased Lands and the execution of the Tenant's Construction Work, all to the reasonable satisfaction of the CCO and TRCA, and if within a reasonable time after receipt of notice in writing from the CCO or TRCA requiring such repairs or alterations to be made to the Tenant's Construction Work, having regard to the nature and extent of the repairs or alterations required, the Tenant shall fail to do so, the Landlord may execute any necessary work for such purpose and the cost shall, at the Landlord's option, either (i) be deducted from the Construction Security, or (ii) be paid by the Tenant to the Landlord within thirty (30) days after written demand made, and such payment shall be deemed to be Additional Rent hereunder.

(7) The Tenant shall deliver to the Landlord and TRCA copies of all As-Built Record Drawings and Specifications and Approved Plans and all other specifications which pertain to the Project or any part or parts on a timely basis as requested. The Tenant agrees to use its best efforts to obtain from the author of each of such documents, at the time of their creation, the agreement by such author to permit the Landlord and/or TRCA to use all such documents without compensation to such author, upon the occurrence of an Event of Default.

6.4 Performance Security

(1) The Tenant covenants to require any Contractor for the Project Development or any part to provide:

(a) at the time of submitting its tender response a bid bond posted by the Contractor for the construction of the Project Development in the minimum amount of 10% of the overall Project Development contract price; and

(b) commencing with and as a condition to the Tenant's acceptance of such tender, performance and labour and materials bonds posted by the Contractor for the construction of the Project Development, each in the minimum amount of 50% of the overall Project Development contract price,

with the City and TRCA to be named in the bonds as obligees on terms and conditions acceptable to the City. The bonds shall be in a form acceptable to the City Solicitor in her sole and absolute discretion. The Tenant shall provide the Landlord and TRCA on or before the Initial Construction Period commencement date with such evidence of compliance as the Landlord and/or TRCA may reasonably request.

(2) Prior to the commencement of the Tenant's Construction Work, the Tenant shall furnish the Construction Security to the Landlord.

6.5 Changes to Approved Plans

(1) Once the Approved Plans and As-Built- Record Drawings and Specifications are Approved by TRCA and the Landlord in accordance with this Lease and the Heritage Easement Agreement, then only Material Changes shall require the prior Notice to and written approval of TRCA and the Landlord.

(2) TRCA, the Landlord and the Tenant agree that all significant decisions, reporting and meetings in respect of the Project Development shall be done in accordance with the terms of the Approved Plans. Notwithstanding the foregoing, if, in an emergency, any work or action is urgently required at times when a significant decision as required pursuant to the terms of the Project Development Plan cannot be immediately obtained, the Tenant is authorized and instructed to proceed with such steps as in its discretion are deemed urgently necessary for the protection and preservation of the Project Development or any part or to protect any party hereto from exposure to a penalty, liability or expense and immediately from then on the Tenant shall notify the Landlord of all such steps so taken.

6.6 Heritage and Planning Considerations

(1) The Tenant acknowledges and agrees that the Tenant shall be required at its expense to enter into and register the Heritage Easement Agreement and Site Plan Agreement against title to the Leased Lands, prior to issuance of a heritage permit or building permit for the Project, and that the Tenant will be required to obtain the City's Approval to a landscape plan for the Leased Lands as part of the Site Plan Approval of the Project Development. The Tenant shall provide TRCA and the Landlord with such evidence of compliance therewith as they may reasonably request. The Tenant further covenants that it shall at its own expense comply with and cause the compliance with the provisions of Heritage Easement Agreement during the Term and any extension thereof.

(2) The Tenant shall, at its cost, apply for and obtain all required approvals under the *Ontario*

Heritage Act for the Tenant's Construction and the operation of the Project on the Leased Lands. The Tenant acknowledges that the City's role regarding this Lease is as sub-landlord, not as a planning approving authority. The City's discretion regarding all planning, zoning, heritage, cultural and related matters in respect of the Project or any part thereof remains unfettered in accordance with Section **21.5** hereof.

(3) The Tenant shall be responsible for the payment of all building permit fees and all other Project-related development and planning charges, as applicable. The City covenants and agrees not to levy any Development Charges for that portion of the Project which will be used by the community pursuant to the Operating Agreement.

(4) The Tenant shall pay for and cause to be prepared the draft Reference Plan for the Leased Lands portion required for approval by the Province.

(5) The Tenant acknowledges that the Existing Guild Inn and Leased Lands form an important heritage asset of the City of Toronto. Throughout the Term, the Tenant covenants and agrees that it shall responsibly and prudently manage the operation and maintenance of the Project in accordance with this Agreement, the Heritage Designation By-laws and the Heritage Easement Agreement and Ancillary Agreements in a manner consistent with standards of a reasonable and prudent owner, taking into account the heritage designation and cultural significance of the property. All alterations shall be planned and undertaken with due regard for the heritage attributes and reasons for designation as set out in the Heritage Designation By-Laws and in compliance with the Heritage Easement Agreement and the requirements of the *Ontario Heritage Act*.

6.7 Landlord's Access to Project Development During Construction

(1) TRCA and the Landlord, its/their representatives and other consultants from time to time, shall have access to the Project and Leased Lands (i) at all reasonable times, (ii) on advanced notice to the Tenant and (iii) with a Tenant representative (except if, in the opinion of the Landlord, there is an emergency, when (i) through (iii) will not be required) during construction, among other things, for the purpose of confirming that such construction is being proceeded with substantially in accordance with the Approved Plans and As-Built Record Drawings and Specifications and the provisions of this Lease.

(2) All such inspections shall, to the extent reasonably possible, be in the presence of a representative of the Tenant except in the case of emergency and the Tenant agrees to make such representative available, provided that TRCA and the Landlord agree, except in the case of emergency, to comply with the Tenant's reasonable security practices and protocols applicable to all visitors to the Leased Lands provided such security practices and protocols have been provided to TRCA and/or the Landlord by the Tenant prior to the inspections. In carrying out its rights hereunder, TRCA and/or the Landlord shall use commercially reasonable efforts to minimize any interference with the activities of the Tenant, its contractors or the Tenant's sub-tenants. In furtherance of the foregoing, the Tenant agrees that:

(a) if ever the Landlord should have reasonable cause to suspect that some aspect of Project construction is a Material Change from the Approved Plans and/or Approved As-Built Record Drawings and Specifications, the Landlord or its Authorized Members shall be entitled to inspect the condition or state of any part of the Project Development within a reasonable time, after Notice to the Tenant; and

(b) after Completion, the Landlord or its Authorized Members shall be entitled to tour the Project from time to time acting reasonably, to review, on a general basis, whether the Applicable Standard is being met, the Authorized Uses are being observed, and the Tenant is in compliance with the other provisions of this Lease, including the Ancillary Agreements and the Heritage Easement Agreement. Such tours shall be initiated by the Landlord by giving forty-eight (48) hours notice following which the Tenant and the Landlord, as applicable, shall mutually agree on a time and date that does not unreasonably interfere with the Tenant's operations. In addition, if ever the Landlord should have reasonable cause to suspect that some aspect of operation or use is not in compliance with this Lease, it shall be entitled to inspect the condition or state of such aspect of the Project and Leased Lands with its/their representatives at a reasonable time after reasonable notice to the Tenant. If any part of the Project Development or Project does not conform with this Lease, notice of any such non-compliance may be given by the Landlord to the Tenant. Upon receipt of any such notice, the Tenant shall (subject to the Tenant's right to present evidence that the matter in question is in compliance) take such action as may be necessary to correct the non-compliance to the satisfaction of the Landlord in accordance with the provisions of this Lease.

6.8 Non-Liability

Neither TRCA nor the Landlord nor the Landlord's Representatives shall, by reason of the review by any of them of any of the Approved Plans, the As-Built Drawings and Specifications or any other plan or by reason of any inspection of the construction site, incur any liability for any defect in the construction

plan for the Project Development or any damages arising from it, and no such review or inspection, nor any actual or deemed Approval of TRCA and/or the Landlord relating thereto, shall relieve any other Person from liability for any damages arising from such construction plan or the undertaking of the Project Development.

6.9 Project Development Site Security

Given the location of the Leased Lands and the inherent risks to the public, the Tenant agrees that, prior to commencement of any Tenant's Construction Work, in, on or about the Leased Lands, the Tenant shall effect, maintain or cause to be maintained and keep in force security, twenty-four hours per day, seven days a week on terms acceptable to the Tenant, the Landlord and TRCA.

6.10 Discharge of Liens

If any construction lien or other liens or order for the payment of money shall be filed against the Total Site or the Leased Lands by reason, or arising out of any labour or material, work or service furnished to the Tenant or to anyone claiming through the Tenant, the Tenant shall cause the same to be discharged or vacated within ten (10) consecutive days of notice from the Landlord or TRCA requiring it to do so, failing which the Landlord and/or TRCA, at the expense of the Tenant, in addition to any other rights or remedies it/they may have, may, but shall not be obliged to, cause such liens or orders to be discharged or vacated by payment into court and the cost and legal costs the Landlord and/or TRCA on a solicitor and client basis shall be paid forthwith by the Tenant to the Landlord and/or TRCA, as appropriate, on demand as Rent in arrears. The Tenant shall indemnify and save the Landlord and TRCA harmless from any liability, claim, damages or expenses (including legal expenses) due to or arising from any such lien or order made against the Total Site, the Project, the Leased Lands and/or Guildwood Park.

6.11 No Consent to Liens

Nothing in this document contained shall authorize the Tenant, or imply any consent or agreement of TRCA and/or the Landlord, expressed or implied, to subject TRCA and/or the Landlord's estate or interest in the Project, the Leased Lands, the Total Site and/or Guildwood Park to any construction lien or any other lien of any nature or kind whatsoever, or for the performance of any labour or services or the furnishings of any materials or other property in respect of the Project, the Leased Lands, the Total Site and/or Guildwood Park or any part, or as giving the Tenant any right, power or authority to contract for or permit the performance of any labour or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against the Landlord and/or TRCA in respect . Notice is given to all parties that both TRCA and the Landlord expressly refuse and deny any consent or agreement or request to permit their estate or interest in the Project, the Leased Lands, the Total Site and/or Guildwood Park to be subject to any construction lien or other lien of any nature or kind whatsoever without the express written agreement of both TRCA and the Landlord to this effect which may be arbitrarily withheld. The Tenant acknowledges that TRCA and the Landlord are not, and should not be held to be, an owner as that term is defined in the *Construction Lien Act*, as amended with respect to the construction of any work on the Leased Lands by, or on behalf of the Tenant.

6.12 Accounts and Records

With respect to all Project Development operations conducted by it hereunder, the Tenant shall:

(a) keep and maintain at the site or at a designated office within the City of Toronto Approved of by the Landlord, as may be appropriate, complete and accurate As Built Record Drawings and Specifications of the Project Development with respect to the development and construction of the Project Development and with respect to the transactions entered into;

(b) on request of TRCA or the Landlord, provide such evidence as to the payment of Project Development costs (being the direct, actual, arm's length tendered hard costs of construction) and compliance with Sections **6.3**, **6.10**, **6.11** and Section **16.1(3)** as either Person may reasonably require; and

(c) on request of TRCA and/or the Landlord and its Authorized Members and consultants during normal business hours of the Tenant, allow the foregoing Person to enter the Project and to review, make and take away for the use of the Landlord and/or TRCA, copies of all records referred to in Section **6.12** as the CCO and/or TRCA considers appropriate, provided only that the Tenant is given twenty-four (24) hours prior written Notice. The Tenant waives any moral or legal rights it may have with respect to such records subject to any Applicable Laws pertaining to privacy or confidentiality of third party records. Failure to retain such records and/or to provide such access shall constitute a material Event of Default under this Lease thereby entitling the Landlord to cancel this Lease.

6.13 Guildwood Park

The Landlord shall maintain the Guildwood Park and the outside, landscaped area of the Leased Lands to a level comparable to other similar parks in the City of Toronto as acceptable to the General Manager of Parks, Forestry and Recreation. The City shall ensure ongoing access to the Project. Without limiting the generality of the foregoing, the City shall be responsible at its cost and not to be charged to

the Tenant as Additional Rent for landscaping, snow removal and the maintenance and repair of all parking lots, roadways and other structures and improvements within Total Site which lands are not included in the Leased Lands.

ARTICLE 7
OPERATION OF PROJECT

7.1 Opening Date

The Tenant covenants and agrees to use reasonable commercial efforts to have the Project open for business to the public 60 days after the expiry of the Initial Construction Period.

7.2 Non-involvement of City in Project Operations

The Tenant acknowledges and agrees that the City and City staff are not and will not be involved in the operations of the Project or Leased Lands or any part thereof. This provision may be relied upon and pleaded as an estoppel by the Landlord to any allegation to this effect by or on behalf of the Tenant and/or its Authorized Members.

7.3 Closure of Guildwood Park

(1) The Tenant acknowledges that from time to time during the Term and any extension thereof, an admission fee may be charged to attend Special Events at Guildwood Park. In that case, the Tenant's right of access set out at Section **2.1(2)** will not be affected. The Tenant and its Authorized Members using that part of the Guildwood Park used for Special Events during such an event will be charged for such use at the same rate as the general public, however the Tenant and its Authorized Members will not be charged for parking unless otherwise provided for in the Operating Agreement.

(2) Notwithstanding Section **2.1(2)**, if in the reasonable opinion of the CCO it is necessary or desirable to close Guildwood Park or any part thereof due to an actual or threatened occurrence which places the general health or safety of the City's Authorized Members at risk, including a Force Majeure event, then Guildwood Park or any part may be temporarily totally closed on such a temporary basis as may be considered appropriate by the CCO (in consultation with the City's General Manager of Parks, Forestry and Recreation) without liability or recourse. If such an event occurs, the Landlord will endeavour to facilitate access to the Leased Lands for the Tenant and its Authorized Members and there shall be no abatement or reduction in Rent, nor shall the Tenant or any of its Authorized Members receive any compensation for loss of business or claim of any kind.

7.4 Operations and Management

The Tenant covenants and agrees that throughout the Term and any extension thereof, the Project and Leased Lands shall be managed and operated actively, regularly and diligently in all respects to the Applicable Standard and in accordance with and subject to the provisions of this Lease, the Operating Agreement and all collateral agreements made between the Tenant and the Landlord and/or the TRCA as applicable.

7.5 Project Contact Personnel

On or before the last day of the Initial Construction Period , the Tenant shall provide the Landlord with a list of the names, titles, addresses for service and phone, email and fax numbers of the appropriate people to be contacted by the Landlord in the event issues regarding the use, operation or management of the Project and Leased Lands are brought to the Landlord's attention and such list shall be up-dated and sent to the Landlord on any change occurring to the information in the list. In the event the Tenant prepares an operational manual for the Project and Leased Lands, the Tenant shall deliver a true and complete copy to the Landlord within ten (10) days from then on and in the event such manual is updated from time to time, the Tenant shall deliver an up-dated copy to the Landlord at the same time. The Landlord and TRCA shall provide to the Tenant the names, titles, addresses for service and phone, email and fax numbers of the appropriate people to be contacted by the Tenant as necessary and such list shall be up-dated and sent to the Tenant by the Landlord or TRCA, as applicable, on any change occurring to the information in the list.

7.6 Project Personnel

(1) The selection and employment of personnel necessary for the proper operation of the Project and Leased Lands is the responsibility of the Tenant and within its sole discretion, subject to the provisions of this Lease, and is specifically not the responsibility of TRCA and/or the Landlord. The hiring, promoting and discharging of such personnel and the terms of their employment, including compensation, shall be at the discretion of the Tenant or others, subject to compliance with the other provisions of this Lease and any Ancillary Agreements.

(2) All personnel and employees employed at the Project and Leased Lands or any part thereof on a full-time or part-time basis and required for the conduct of operations at the Project shall be employees of the Tenant or others, and shall not be considered to be personnel or employees or

contractors or agents of the Landlord and/or TRCA in any manner whatever.

7.7 Operating Agreement

(1) Notwithstanding anything contained herein, the Landlord may, pursuant to this Section **7.7** and pursuant to the Operating Agreement, use the facilities and services in the MCF Area for community, City or other uses as determined by the Landlord, acting reasonably, (exclusive of the Taxable Area), for a minimum of 50% of the MCF Area operating hours during each year of the Term any extension thereof and as further set out in the Operating Agreement..

(2) The Parties acknowledge that, concurrent with the execution of this Lease, they have entered into the Operating Agreement which shall stipulate, among other things, the rates and fees to be paid by the City or community groups for the use of the Project facilities and any services provided, a parking management plan, and procedures for booking of the facility, including the Tenant's right to block certain dates during the year when the City's right to use the facilities as described in this Section shall not apply.

(3) The space within the Project available to the City will be made available to the public and permitted by the Parks, Forestry and Recreation Division in accordance with the City's Permit Policy and fee schedule for comparable facilities, but in this case, the fees will be passed through to the Tenant.

7.8 Parking Facilities

Upon completion of the construction of the Parking Facilities, the parties agree that the Parking Facilities shall enure to and become the absolute property of and vested in title in the Landlord and the TRCA without any payment of compensation to the Tenant with respect thereto.

ARTICLE 8
USE OF LEASED LANDS

8.1 Use

The Tenant shall use the Leased Lands to operate a modern restaurant and event/community and private event/banquet/conference centre and related ancillary uses and services in accordance with this Lease and the applicable use restrictions for the Total Site as set out in the City's Official Plan and zoning designations from time to time (the "**Authorized Uses**") and for no other purposes, unless the written consent of both the Landlord and TRCA which may be unreasonably withheld and all Authorities is obtained prior to any change from the Authorized Uses. The Authorized Uses may include and the Tenant may operate as ancillary to the Project, food and beverage facilities, a special events conference centre, an administrative office, maintenance facilities, all that are compatible with a facility of this calibre, conform with Applicable Laws, serve Project guests and that, in the opinion of the CCO acting reasonably, are (i) considered not to be in conflict with the City's then current objectives for the Cultural Precinct and its operation of Guildwood Park and (ii) supportive of the primary Authorized Uses and compatible with the image of the Project as a first class operation.

8.2 Prohibited Activities

The Tenant shall not occupy or use nor suffer or permit to be occupied or used any part of the Project or Leased Lands, nor shall it engage in any media advertising with respect to the Leased Lands or the Project, for:

(a) a casino or other establishment containing games of chance, provided that the Tenant may, from time to time and subject to compliance with all regulatory requirements, apply for a temporary event licence for a charity casino or similar type of charitable event. In this regard, the Tenant agrees that Article 8 effectively restricts or prohibits the Tenant and/or any Approved Assignee from expressing any interest, direct or indirect, now or at some time in the future in developing or operating a casino (except as expressly allowed herein) within or as a part of the Project or Leased Lands, as a business. This provision may be relied on and pleaded as an estoppel by the Landlord and/or TRCA to any such request or proposal by or on behalf of the Tenant;

(b) residential use or hotel/overnight accommodation of greater than 4 rooms;

(c) a permanent liquor licensed night club for the purpose of providing live and/or recorded musical entertainment;

(d) sporting events;

(e) a permanent ticketed concert venue, promoted to the general public, for over 200 seats;

(f) the sale and/or provision of goods and services not in keeping with a reputable and first class development, such as second hand goods or armed services surplus articles, insurance salvage stock, fire sale stock or bankruptcy stock, firecrackers or fireworks, fixtures or adult entertainment;

(g) the mass release (ten (10) or more) of balloons inflated with lighter-than-air gases into the atmosphere within a 24 hour period;

(h) an auction, bulk sale (other than a bulk sale made to an assignee or sub-tenant under a permitted Assignment), liquidation sale, "going out of business" or bankruptcy sale, or warehouse sale;

(i) a use which, because of the merchandising methods or quality of operation likely to be used, would tend to lower the character of the Leased Lands, the Cultural Precinct or Guildwood Park, in whole or part;

(j) any practice of unethical or deceptive advertising or selling procedures;

(k) transportation depots and/or stations such as bus, rail and/or truck;

(l) warehousing or storage other than facilities and uses that serve the Authorized Uses as above referred to;

(m) commercial parking facilities (other than the Parking Facilities and permitted ancillary uses as referred to in Section **8.1**);

(n) such other uses for which the Landlord might reasonably be required to give an exclusive use for another facility on the Leased Lands and which is not expected to be a principal or core use for the Leased Lands; and

(o) a permanent themed dinner theatre.

8.3 Operation

Subject to Sections **13.2** and **21.6**, the Tenant shall, throughout the Term and any extension thereof, to the extent that the same does not unreasonably interfere with the operation of Special Events, conduct or cause to be conducted in a reputable manner during the business hours set out in the Operating Agreement, the uses set out in Section **8.1** in the whole of the Leased Lands.

8.4 Compliance with Applicable Laws

The Tenant shall at its sole cost and expense at all times comply with all Applicable Laws, and shall not commit any act or omission that causes an increase in the fire risk for the cost of insurance or prevents the placing of insurance on the Leased Lands, and shall promptly at its own expense effect any changes, additions or repairs to the Leased Lands and Project necessary with respect to matters which are its responsibility under this Lease and any Ancillary Agreements, to so comply to any of the foregoing or to cease so effecting the fire risk or the insurance. The foregoing obligation shall apply with respect to the use of the Leased Lands and Project or any part and to the construction, repair, alteration, addition to, improvement or replacement.

8.5 Exclusivity

Provided that the Tenant is regularly and actively operating the Project or a portion thereof and is not in default of any material terms of the Lease, and Ancillary Agreements, it shall have the exclusive right, throughout the Term and any extension thereof to operate a restaurant and event/banquet/conference centre within the Total Site. For greater certainty, this exclusive right does not extend to (i) occasional catering, (ii) vending machines, (iii) food cart or (iv) other similar food uses within Guildwood Park. Mobile food carts shall not be permitted within **30** meters of the Leased Lands. For greater certainty, the reference to occasional catering means users of Guildwood Park may engage their own catering services as permitted by Applicable Law.

8.6 Compensation for Change of Guildwood Park Use

If the Landlord or the TRCA changes the use of Guildwood Park or uses the Guildwood Park in a manner so that it no longer operates as a park to, at a minimum, the current standard of Guildwood Park, and the change of use materially adversely affects the Tenant's business carried on at the Project, in the mutual opinion of the Landlord and Tenant (or in the opinion of an arbitrator as set out in Article **18** hereof if the Landlord and Tenant do not agree), then the City shall pay to the Tenant compensation for any material Claims (excluding Claims for nuisance) the Tenant may have due to the effect such changes have had on the Tenant's business operations on the Leased Lands, which shall include, if the business ceases to operate, the fair market value of the replacement cost of the business as if the business had been operating for the remainder of the Term and any extension thereof based upon its profitability for the period prior to the change of use, which compensation will be mutually agreed by the Landlord and the Tenant. Where no such compensation value can be agreed upon by the Landlord and Tenant, determination of the value of the replacement cost of the business shall be sent to arbitration as set out in Article **18** hereof.

ARTICLE 9
NAMING AND SIGNAGE RIGHTS, MARKETING AND ADVERTISING

9.1 Name of Leased Lands

The Tenant, from the outset and continuously throughout the Term and any extension thereof, shall use a business name for the Project as approved by the CCO (the "**Name**") which Name shall not be changed without the prior written consent of the Landlord, which may not be arbitrarily or unreasonably withheld. The Landlord acknowledges that the phrase "Guild Inn" is critical to the marketing plans and the financial success of the Project and agrees that the Tenant may incorporate the Phrase "Guild Inn" into the business name of the Project. Subject to compliance by the Tenant with the terms of this Section, the Tenant shall be permitted to use, mark and associate the Name with any of its merchandise or services. The Parties acknowledge and agree that the execution of this Lease does not confer any naming rights in favour of the Tenant. The Name shall remain the property of the Landlord at the end of the Term or any extension thereof.

9.2 Use of Trademarks

The Tenant shall obtain the prior written Approval of the Landlord if the Tenant uses trademarks, trade names, logos, designs or anything else owned or used by the Landlord, or includes references in any other manner to the Landlord in its marketing program and signage in respect of the Leased Lands and Project.

9.3 Signage

The following provisions shall apply to signage in respect of the Leased Lands and Project:

(a) The Tenant shall be permitted to locate: **(i)** external signage; and **(ii)** any internal signage visible from the exterior of the Leased Lands; provided that such signage is for the purpose of showing the name of, and directions to, the Leased Lands and further provided that the size, form, type, colour, design, content and location of such signage shall be subject to the prior written Approval of the Landlord, acting reasonably in accordance with the Heritage Easement Agreement and having regard to TRCA's and the Landlord's policies from time to time relating to signage at the Total Site, as well as normal site plan and development Approvals in respect of the Leased Lands;

(b) External signage shall accommodate only the name of the Project and directions thereto;

(c) The Tenant shall have full control over all signage, advertising and display facilities located within the Leased Lands and not visible from the outside of the Leased Lands, provided that such signage, advertising and display facilities comply with Applicable Laws, including Site Plan Approvals and Sections **9.4(2)** and **(3)**; and

(d) The Tenant shall not erect any signage other than that relating directly to the Project and Leased Lands, and such signage shall be in keeping with all Applicable Law.

9.4 Marketing and Advertising

The Tenant shall ensure that all advertising and promotion on the Leased Lands adheres to the Canadian Code of Advertising Standards as same may from time to time exist as well as all Applicable Laws.

ARTICLE 10
INSURANCE

10.1 Tenant's Insurance

At all times during the Term and any extension thereof, the Tenant at its own expense, shall take out and keep in full force and effect:

(a) All Risks insurance (including flood, earthquake coverage, sewer back-up and by-laws) property insurance (which shall contain provisions for settling joint loss disputes with the property insurers) in an amount equal to one hundred percent (100%) of the full replacement cost, insuring:

(i) the Leased Lands, including the Project;

(ii) all property owned by the Tenant or for which the Tenant is legally liable or installed by or on behalf of the Tenant, or located in, on or about the Leased Lands including, without limitation, leasehold Improvements, Trade Fixtures and Chattels, furniture, stock, office equipment, contents, the Project and any other buildings and structures erected on the Leased Lands, with coverage against all risks of physical damage;

(iii) extra expense insurance in such amounts as will reimburse the Tenant for extra expense incurred arising out of prevention of access to the Leased Lands, including the Project;

(iv) coverage for contingent liability from the enforcement of building by-laws including the demolition and replacement of undamaged portions of the buildings or structures and increased costs of construction;

(v) Business Interruption insurance in an amount sufficient to cover any rental obligations to the Landlord and/or TRCA; and

(b) coverage for the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis (which shall contain provisions for settling joint loss disputes with boiler and machinery insurers) , including Business Interruption insurance,

the Property and Boiler and Machinery policies described in Subsection **10.1(a)** and **10.1(b)** shall contain provisions for settling joint loss disputes with property and boiler and machinery insurers;

(c) comprehensive general liability insurance including owners' and contractors' protective, products, completed operations, intentional bodily injury for the protection of persons or property, personal injury including contractual liability, incidental medical malpractice, employer's liability (including full and contingent employers liability to cover certain risks not covered under the *Workplace Safety and Insurance Act*, broad blanket contractual liability, occurrence property damage and provisions for cross liability and severability of interests with limits of not less than Ten Million Dollars ($10,000,000.00) per any one accident or occurrence; and in such other amounts as the Landlord may, on not less than sixty (60) days prior written notice from time to time reasonably require. If serving alcohol on the Leased Lands, including the Project, for compensation, liquor liability insurance in the amount of no less than Ten Million Dollars ($10,000,000.00) per occurrence shall also be provided. The Landlord and TRCA are to be added as an additional insured;

(d) standard owner's automobile liability insurance with limits of not less than One Million Dollars ($1,000,000.00) in respect of any one accident;

(e) business interruption insurance on a standard loss of profits form in an amount sufficient to cover the Tenant's annual Rent for a period of not less than twenty-four (24) months from the date of loss;

(f) during any period of construction:

(i) **Single Project Wrap-Up Liability Insurance** acceptable to the Landlord and subject to limits of not less than Ten Million Dollars ($10,000,000.00) per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall name the City of Toronto, Toronto and Regional Conservation Authority, general contractor, trade contractors, subcontractors, employees, agents, architects, landscape architects, engineers, consultants, planners and project managers as additional insureds. The Wrap-Up Liability insurance shall include, but is not limited to, bodily injury and property damage including loss of use; personal injury; contractual liability; premises and operations; property damage; occurrence property damage; products and completed operations liability coverage extension of twenty-four (24) months (to commence upon substantial performance of any such Buildings); contingent employers liability; cross liability and severability of interest clause; and if applicable to the Lands and any Buildings, shoring, blasting, excavation, underpinning, demolition, pile driving, caisson work and work below ground surface including tunnelling and grading. This Wrap-Up Liability insurance policy shall be the primary insurance coverage in all cases for all risks of liability associated with the construction operations of this project.

(ii) **Builder's Risk Insurance** (i.e. All Risk physical damage insurance as opposed to a Named Peril) covering all property and equipment that is to form part of the Work project. This policy should have limits not less than the equivalent (new) replacement cost (including By-Laws) and include Business Interruption coverage including Delay/Start-Up and additional soft costs. The policy will contain a Waiver of Subrogation in favour of the City and TRCA,

(iii) **Contractor's Equipment Insurance** – All risk property insurance on the Contractor's tools, machinery, equipment and temporary facilities used during the performance of the Work (including owned, non-owned and rented). Such insurance will contain a Waiver of Subrogation in favour of the City and TRCA;

(iv) **Project Specific Errors & Omissions Insurance** (from the date of first design) covering all professionals engaged by the Tenant to fulfil the design elements of the Contract Work. Such insurance shall provide coverage for claims alleging an error, omission or negligent act in the performance of a professional service. Such insurance will have a limit of not less than five million dollars ($5,000,000.00) per claim limit, and shall continue

in force for a period of not less than twenty-four (24) months from the date of Substantial Performance;

(v) **Boiler & Machinery Insurance** (including testing coverage) during the course of construction. This policy should have limits not less than the full contract price or the equivalent (new) replacement (including By- Laws) cost and include Business Interruption coverage including Delay/Start-Up and additional soft costs. The policy will contain a Waiver of Subrogation in favour of the City and TRCA;

(vi) **Contractor's Pollution Liability Insurance** with a limit of not less than five million dollars ($5,000,000) per claim. The policy covers third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from the Contractor's operations and/or completed operations (i.e. Work performed). If single project, the policy should include an extended reporting period of twenty-four (24) months. If annual policy, it should be kept in force for twenty-four (24) months from the date of substantial completion. The City and TRCA should be named as an additional insured on this policy;

(vii) **Automobile Liability Insurance** for all licensed vehicles owned, rented and/or leased by or on behalf of the Tenant and its contractor(s) while on any business connected with the Work to a limit of not less than Two Million Dollars ($2,000,000) per occurrence in respect of bodily injury, death and damage to property including loss of use thereof. The Contractor shall obtain proof of insurance from its subcontractors for the vehicles they own, rent and/or lease;

(g) such other forms of insurance as the Landlord's Deputy City Manager and Chief Financial Officer or a mortgagee of the freehold, acting reasonably and being commercially reasonable, may require from time to time, in form, in amounts and for risks against which a prudent tenant under a Lease would insure.

10.2 Insurance Terms and Conditions

(1) General Provisions

All policies referred to in Section **10.1** shall be placed with a company or companies licensed under the laws of Canada ordinarily engaged, inter alia, in the business of insuring against such risks and which has been assigned a Best Rating of "A" or greater, or a similar rating of a comparable rating agency.

(2) Additional Name Insureds

All policies of insurance required to be taken out by the Tenant shall contain the standard mortgage clause in form and substance acceptable to the Landlord any freehold mortgagee, and any Leasehold Mortgagee, and shall name the Landlord, TRCA, any freehold mortgagee, any Leasehold Mortgagee and those persons for whom they are in law responsible, as additional named insureds.

(3) Cross-Liability and Severability of Interests

All policies of insurance required to be taken out buy the tenant and where the landlord and TRCA are named as additional insureds, except Automobile insurance, shall include a cross-liability and severability of interests clause.

(4) Waiver of Subrogation

All policies of insurance required to be taken out by the Tenant, except Automobile Insurance, shall contain a waiver of any subrogation rights that the Tenant's insurers may have against the Landlord and TRCA and against those for whom they are in law responsible, whether any such damage is caused by the act, omission or negligence of the Landlord or TRCA and against those for whom they are in law responsible.

(5) Approval of Insurers

All policies of insurance required to be taken out by the Tenant shall be placed with insurers to be approved by the Landlord and TRCA, acting reasonably.

(6) Notice of Material Change or Cancellation

Each policy shall contain an endorsement requiring the insurers to notify the Landlord and TRCA in writing, by registered mail, at least thirty (30) days prior to any material change that restricts or reduces the insurance required under this clause, or cancellation thereof.

(7) Breach of Conditions

Each policy will contain a waiver in favour of the Landlord and/or TRCA of any breach of a policy condition or warranty such that the insurance policy in question will not be invalidated in respect of the interest of the Landlord and TRCA by reason of a breach of any condition or warranty contained in such policies.

(8) Deductibles

The parties agree that insurance policies may be subject to deductible amounts, such amounts to be subject to the Approval of the Chief Financial Officer and Treasurer of the Landlord acting reasonably, and which amounts shall be borne by the Tenant.

(9) Primary Coverage

The insurance policies required pursuant to this clause shall be non-contributing with, and applicable only as primary and not as excess to, any other insurance available to the Landlord and/or TRCA and shall not call into contribution any insurance available to the Landlord and/or TRCA.

(10) Limits of Insurance

The Landlord or TRCA, acting reasonably, may require the limits of the insurance policies provided by the Tenant to be increased from time to time. The Tenant shall cause the limits of its insurance on its physical assets located on the Leased Lands, including the Project, to be adjusted for inflation from time to time.

10.3 Failure to Maintain Insurance

(1) The Tenant shall immediately advise the Landlord and TRCA upon becoming aware of any cancellation, material alteration or lapse of any policies of insurance required under this Article. If the Tenant fails to obtain and keep in force the policies of insurance, or should any such insurance not be Approved by the Landlord or TRCA not acting unreasonably, the Landlord may immediately obtain such policies and shall give the Tenant a written notice setting out the amount and dates of payment of all costs and expenses incurred by the Landlord and/or TRCA in connection to the date of such notice. Any sum so expended by the Landlord and/or shall be due and payable on demand without prejudice to any other rights or recourse of the Landlord hereunder.

(2) No such insurance taken out by the Landlord shall relieve the Tenant of its obligation to insure hereunder and the Landlord and TRCA shall not be liable for any loss or damage suffered by the Tenant in connection therewith.

(3) If the Tenant fails to obtain and keep in force the insurance required by this Lease and, if any similar insurance maintained by the Landlord shall be called into contribution at either or both of their option, and as a consequence the Landlord's cost of effecting such insurance increases, any such additional cost shall be payable by the Tenant to the Landlord forthwith on production of reasonable proof of such additional cost, without prejudice to any other rights of the Landlord as a result of the Tenant's failure to keep such insurance in place.

10.4 Increase in Insurance Premiums and Cancellation of Insurance

The Tenant agrees that it, its employees, agents, occupants and invitees will not keep in or on the Leased Lands, including the Project, any article or substance which may be prohibited by the insurance policy mentioned above, or do or omit, or permit to be done or omitted anything which will cause any increase in the insurance premiums or the cancellation of any insurance policy. If any insurance policy should be cancelled or the coverage reduced or a threat of cancellation or reduction of coverage made by reason of anything arising out of the use or occupation of the Leased Lands and the Total Site by the Tenant, and if the Tenant fails to remedy the condition giving rise to such cancellation, reduction or threat, on ten (10) days notice by the Landlord, the Landlord may enter the Leased Lands and remedy the condition at the sole cost and expense of the Tenant which cost and/or expense shall be payable to the Landlord forthwith on demand as rent in arrears, and in addition or in the alternative, may exercise any other remedy available to it.

10.5 Payment of Premiums

The Tenant shall duly and punctually pay all premiums under the policies as they become due and payable. In the event of default of payment by the Tenant, the Landlord may pay same and the amount so paid shall be forthwith payable as Additional Rent.

10.6 Evidence of Insurance

Upon Commencement of the Initial Construction period, the Tenant shall deliver to the Landlord and TRCA evidence of the insurance required in the form of Certificates of Insurance, in form and detail

satisfactory to the Landlord, not acting unreasonably, signed by an authorized representative of the insurer. The Tenant will make available the complete original copies of all applicable policies for examination if required by the Landlord. Certificates of insurance evidencing renewal or replacement of policies shall be delivered to the Landlord fifteen (15) days prior to the expiration of then current policies, without demand having to be made by the Landlord. The Landlord and TRCA shall at all times be supplied with certified evidence of such insurance being in force with respect to insurance applicable to Tenant's Construction Work, prior to commencement of any construction activities on the Leased Lands (including demolition and excavating the Leased Lands) and with respect to post-construction insurance, before any Person is permitted to occupy the Leased Lands or Project for the purpose of commencing the business operations contemplated in this document. The Tenant shall, on request, supply to the Landlord evidence of the continuation of all insurance coverage at least fifteen (15) days prior to the expiry of any policy or policies of insurance.

10.7 Release

The Tenant releases the Landlord and TRCA and its/their Authorized Members, successors and assigns, from any and all liability for Claims in respect of which the Tenant is indemnified under the insurance which it is obligated to obtain pursuant to the terms of this Lease or which it would have been indemnified had it obtained such insurance and diligently pursued it claims.

10.8 Payments of Proceeds of Insurance

Notwithstanding anything contained in this Lease to the contrary, unless this Lease is terminated in accordance with Article **17**, the Tenant shall be entitled to use the proceeds of the insurance policies described in this Lease other than proceeds attributable to Trade Fixtures and Chattels, (**"Insurance Proceeds"**) for the purpose of repairing or restoring any of the Leased Lands and Project including all Leasehold Improvements, and in connection therewith, the Landlord and TRCA agree as follows:

(a) where Insurance Proceeds become payable in an amount not exceeding the sum of one million dollars ($1,000,000.00) as adjusted from time to time to reflect a CPI change, they shall be released to the Tenant, and such proceeds shall be used by the Tenant to effect repairs, restoration and rebuilding;

(b) to the extent the Insurance Proceeds payable exceed the product of one million dollars ($1,000,000) as adjusted from time to time to reflect a CPI change, such excess shall be paid to an Insurance Trustee designated by the Tenant and acceptable to the Landlord and TRCA, otherwise such proceeds shall be paid into an account with a bank designated by the Landlord in the joint names of the Landlord and the Tenant and, unless this Lease is terminated in accordance with Article **17**, such Insurance Proceeds shall be released to the Tenant in order to fund the costs of repairs, restorations and replacements. Work in progress shall be paid for in instalments as progress payments out of the Insurance Proceeds;

(c) before any contract is entered into by the Tenant for the carrying out of any repair work pursuant to paragraph (b) above, copies of the estimates for all work and the contracts for the completion of such work shall be submitted to the Insurance Trustee (or if no Insurance Trustee, then to the Landlord and TRCA), and it shall distribute copies to the Landlord, TRCA and the Tenant;

(d) any progress payments to be made under this paragraph by the trustee to the Tenant shall not be made without the submission of a statement, certified by the architect of the party to whom the payments are to be made, stating the estimated cost to complete the work or repair at the date of the certificate, the amount claimed by individual contractors at that date, the amount owing on work already done, and the amount of any payments made at that date for work already done;

(e) in making any payment under this paragraph, the Insurance Trustee, or the Landlord and the Tenant, as the case may be, shall have regard to Construction Lien legislation applicable in the Province of Ontario and shall retain within its/their control for the period specified in such legislation, the amount of any hold-back required;

(f) if this Lease is forfeited, terminated or the Landlord retakes possession, for whatever cause, all monies retained by the Insurance Trustee or remaining in the bank account referred to in this Subsection (exclusive of insurance proceeds for Trade Fixture and Chattels) shall be applied, first, in satisfaction of any amounts payable to the Landlord and TRCA, (subject to the rights, if any, of a Leasehold Mortgagee pursuant to the Leasehold Mortgage Acknowledgment Agreement among such Leasehold Mortgagee, the Landlord, TRCA and the Tenant) and the balance, if any, shall be paid to the Tenant; and

(g) the fees of the Insurance Trustee, if any, shall be shared equally between the Landlord, TRCA and the Tenant or those subrogated to them.

10.9 Leasehold Mortgagees' Insurance Requirements

The foregoing provisions relating to insurance shall be subject to any additional requirements of any Leasehold Mortgagee which, to the extent the Landlord and/or TRCA's interests are affected, are acceptable to the Landlord and TRCA, in their sole discretion. If, in the judgment of the Landlord and/or

TRCA, the Landlord or TRCA, as the case may be, are prejudiced as a result of the requirements of any Leasehold Mortgagee, then, the Landlord or TRCA, as applicable, may elect to carry its own insurance, the reasonable costs of which shall be payable by the Tenant promptly upon request.

10.10 Fire, Health and Life Safety Protection Systems

(1) The Tenant shall ensure that the Leased Lands, including the Project, are equipped with up-to-date fire, health and life safety protection systems in compliance with the *Ontario Fire Code* and all other Applicable Laws.

(2) The Tenant shall permit the Landlord to inspect the Tenant's records relating to fire safety and compliance with the *Ontario Fire Code*, as amended, at any time on forty-eight (48) hours advance notice.

10.11 Co-Insurance

All policies of insurance required under this Article and all renewals shall contain a stated amount co-insurance clause effective for the term of the policy or the renewal so as to prevent the Tenant from becoming a co-insurer under.the terms of such policy or policies and to permit full recovery of the amount insured in the event of loss.

10.12 Insurance Not Obtainable

If, during the Term or an extension thereof, the insurance required to be maintained by the Tenant pursuant to Section **10.1** is not offered by any insurer in North America (which insurer meets the criteria set out in Section **10.2(1)** hereof), then the Tenant may Notify the City of this change in industry availability and the City shall advise the Tenant of the revised insurance requirement.

ARTICLE 11
REPAIRS, MAINTENANCE AND ALTERATIONS

11.1 Tenant Shall Maintain and Repair

During the Term and any extension thereof, the Tenant at its own cost and expense shall operate, repair and maintain the Leased Lands, including the Project and other Improvements (both inside and outside and structural or otherwise and whether of a capital nature), in good order and condition or shall cause the same to be operated, repaired and maintained at all times in good order and condition in the same manner and to the same standards and extent as would a prudent owner of a similar project and so that they meet the Applicable Standard and all other requirements of this Lease, the Heritage Easement Agreement and all collateral agreements in all material respects. All repairs and maintenance, when commenced, shall be carried out diligently. Such obligation to repair and maintain shall not be construed as limiting the right of the Tenant pursuant to Section **11.2** to make replacements, alterations or substitutions to the Leased Lands in lieu of repairing them. The Tenant will permit the Landlord and/or its agents, at all reasonable times during the Term and any extension thereof, to enter and view the state of repair of the Leased Lands, which entrance shall be made with at least 24 hours' prior written notice, and with a Tenant's representative accompaniment. In furtherance of the Tenant's obligations to operate, repair and maintain the Leased Lands, the Tenant covenants with the Landlord as follows:

(a) to acquire and replace, at its sole cost, any equipment required for operation of the Project and Improvements in accordance with the Applicable Standards set out in this document;

(b) to, throughout the Term and extension thereof, at its sole cost, to repair, keep in repair and maintain at all times the Leased Lands and Project and Improvements, both on the interior as well as on the exterior, and the chattels and equipment on the Leased Lands and the Project and Improvements, and this covenant shall oblige the Tenant, without limitation:

(i) to repair, keep in repair and maintain at all times in good order and in a commercially reasonable condition (and subject to compliance with the Heritage Easement Agreement and the Heritage Artifacts and Fine Art Loan Agreement) the structures, fixtures, windows, doors, walls, foundations, roofs, heating equipment, yards and other like areas, water and sewers and other utilities on the Leased Lands, and other fixtures in and appurtenant to the Leased Lands and the chattels and equipment , including without limitation, entrances, fire exits, painting, exterior window cleaning and all gardening, janitorial services, removal of snow and ice from any loading dock(s), the Leased Lands and surrounding sidewalks and the landscaping of the Leased Lands in the same manner and to the same extent as would a prudent owner and the Tenant will repair according to notice in writing from the Landlord;

(ii) to be responsible for the costs, direct or indirect, and all work in respect of the design, construction, installation, maintenance and repair of all signage for the Project and Leased Lands in accordance with the requirements set out in this Lease, the Heritage Easement Agreement and all Applicable Laws; and

(iii) for such purposes, to maintain, make all necessary repairs, replacements, alterations, additions, changes, substitutions, renovations and improvements, foreseen and unforeseen, structural or otherwise, in accordance with the Heritage Easement and to keep the Leased Lands and Project and Improvements and other fixtures and chattels and equipment on the Leased Lands fully useable and up-to-date for all purposes for which they have been installed, erected or purchased;

(c) to ensure that all maintenance, repairs, replacements, alterations, changes, substitutions or improvements required to be effected by the Tenant:

(i) are in compliance with the requirements of the Heritage Easement Agreement and the *Ontario Heritage Act*;

(ii) are in all respects to a standard at least substantially equal to the quality and workmanship of the original work and material affected;

(iii) do not materially alter the appearance of the Leased Lands and Project; and

(iv) meet all requirements of municipal and other governmental authorities and fire insurance underwriters;

(d) to leave the Leased Lands, Project and Improvements in a manner consistent with the obligation of the Tenant to repair, maintain and replace pursuant to the provisions hereunder, subject to reasonable wear and tear;

(e) not to commit or allow waste or injury to the Leased Lands, the Project, the Improvements, or Trade Fixtures and Chattels and not to use or occupy or permit to be used or occupied the foregoing for any unlawful purpose, or in any manner which results in the cancellation of insurance, or in refusal of an insurer to issue reasonable amounts of insurance, or in refusal of an insurer to issue reasonable amounts of fire (all-risk) and liability insurance on the Leased Lands and the property, the Project, the Improvements and the Trade Fixtures and Chattels;

(f) to keep the Leased Lands and the Project and the Improvements in a good state of cleanliness and not to allow any refuse or garbage to accumulate in or from the Leased Lands or Project or Parking Facilities or any part;

(g) to comply with all Applicable Law which relate to use of the Leased Lands and the Project and the Improvements during the Term and any extension thereof;

(h) not to call on the Landlord at any time during the Term and any extension thereof to make repairs to or replacements to any part of the Leased Lands or any property or the Project or Improvements or chattels or equipment on the Leased Lands, or any alternation, addition, change, substitution, whether structural or otherwise to such Leased Lands, property, Project, Improvements, chattels or equipment, save and except for Guildwood Park, which shall be the Landlord's responsibility to maintain and repair; and

(i) subject to Article **14**, the Tenant covenants and agrees that if the repair, reconstruction or replacement is required due to damage caused by a hazard against which the Project is insured, the Tenant covenants and agrees that it shall restore the same as nearly as possible to its state of utility prior to the damage and with materials of like kind and quality without deduction for depreciation, subject to the provisions of any Leasehold Mortgage Acknowledgment Agreement between the Landlord, TRCA, the Tenant and any Leasehold Mortgagee. Notwithstanding the foregoing, the Tenant shall not be required to repair the damage to the structure if such damage occurs during the final two years of the Term or if the Tenant has elected not to exercise any existing further options to renew the Term. If the Tenant makes such an election, the proceeds of insurance (save and except that insurance that was held for the Trade Fixture and Chattels) shall be paid to the Landlord. Where the Tenant elects not to pursue its insurance recovery claim, then the Landlord has the right to pursue the Insurance claim as if it were the insured party.

11.2 Alterations

Provided the Tenant is not in default hereunder, the Tenant may make or permit to be made such replacements, alterations or substitutions of any portion of the Leased Lands and Project in lieu of repairing the same provided that the Approval of the Landlord shall be first obtained for any structural repairs, replacements, alterations or substitutions and provided that:

(a) such replacements, alterations, substitutions or other Improvements shall not materially change the scale or character or use of the Project or impair or weaken the structure, structural integrity or mechanical or electrical systems of the Project or necessitate the closing of the Leased Lands for a period in excess of fourteen (14) consecutive days and shall be done in compliance with the terms of this Lease, the Heritage Easement Agreement and the Site Plan Agreement;

(b) every replacement, alteration, substitution or other Improvement shall at all times comply with all Applicable Laws (including the *Ontario Heritage Act* and municipal by-laws) and must, in the reasonable opinion of the CCO and the Landlord's Manger, Heritage Preservation Services:

(i) lead or be calculated to lead to a more efficient site design configuration that serves the interests of TRCA, the City, members of the public, Guildwood Park and the Landlord, in such manner and proportion as the CCO, acting reasonably considers to be appropriate;

(ii) be of a quality and functionality and standard equal to or superior to the existing Improvement, landscaping or work; and

(iii) increase the functionality and efficiency of the Project without in any way compromising the Heritage interpretative values and terms and conditions of the Heritage Easement Agreement;

and, in all instances, the Tenant agrees that it shall have provided the Landlord and TRCA with at least sixty (60) days prior written Notice of any proposed structural replacement, alteration, substitution or other Improvement and the Approval of the Landlord and TRCA shall have first been obtained in accordance with the requirements of this Lease and the Heritage Easement Agreement;

(c) no demolition of the Project or any buildings or other Improvements situate on the Leased Lands as at the Term Commencement Date shall be permitted without the prior Approval of the Landlord and TRCA and otherwise than in accordance with the provisions of Article **6;**

(d) the Tenant represents, warrants, covenants and agrees to and with the Landlord and TRCA that it shall not, directly or indirectly, make or request or permit any planning applications of any nature or kind whatsoever in respect of the Project and Leased Lands other than in respect of and to give effect to its current proposal for the Project as described in Approved Plans without the prior written Approval of the Landlord and TRCA first having been obtained (which Approvals may be unreasonably or arbitrarily withheld). The Tenant agrees that any breach of the provisions of this Section **11.2(d)**, if not remediated within fifteen (15) days of receipt of Notice from the Landlord, shall constitute a material Event of Default under this Lease thereby entitling the Landlord to terminate this Lease and, without limiting the foregoing, the Landlord may effectively plead the provisions of this Section **11.2(d)** as an effective estoppel to any such application, action or proceeding now or hereafter made or submitted in that regard;

(e) prior to commencing construction of any expansion of its permitted Improvements, the Tenant shall submit plans and specifications therefore prepared by the Tenant's Architects to the Landlord and the TRCA for their written approval prior to commencement of construction; and

(f) all permitted alterations, Improvements or other work undertaken by or for the Tenant once begun, shall be prosecuted diligently to completion and be performed in all respects in accordance with this Lease and Applicable Laws, including the Heritage Easement Agreement and all necessary site plan control agreements.

11.3 Ownership of Trade Fixtures and Chattels

For greater certainty, any improvements in the nature of Trade Fixtures and Chattels shall not become the property of the Landlord and may be removed by the Tenant at any time, provided that the Tenant is not in default of any of the terms and conditions of this Lease, and provided that the Tenant repairs any damage caused by such removal. At the end of the Term or extension thereof or on earlier termination of this Lease, the City shall have the first right of refusal exercisable on a minimum of nine (9) months Notice prior to the end of the Term to acquire the Tenant's Trade Fixtures and Chattels at the then-current fair market value, taking into consideration any depreciation due to age and use, which value shall be mutually agreed upon by the Parties. Where such value cannot be mutually agreed upon, the City shall be entitled to bring the matter to Arbitration in accordance with Article **18** and such value shall be determined by the arbitrator.

ARTICLE 12
ENVIRONMENTAL PROVISIONS

12.1 Definitions

For the purposes of this Article **12,** the following terms shall have the following meaning ascribed to them:

(a) **"Contaminant"** means any contaminants, pollutants, substances or materials that could cause damage, impairment, harm, degradation or other liability, including to the natural environment or human health, and includes all such substances that are regulated by Environmental Laws, including any Hazardous Substances, "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in Environmental Law; Contaminate and Contamination shall have a like meaning;

(b) **"Discharge"** means any spilling, leaching, pumping, pouring, emitting, injecting, escaping, migrating, dumping, depositing, or other releasing into the natural environment, whether intentional or unintentional, and includes any other definition provided in Environmental Laws; and

(c) **"Environmental Laws"** means any and all applicable international, federal, provincial, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives, guidelines and guidance documents, having the force of law, and obligations or requirements arising from common law; including the prevention of discharge of Contaminants into the natural environment, relating to the protection of the environment, occupational health and safety, health protection, or to any Contaminant.

12.2 Compliance with Environmental Laws

(1) Notwithstanding any other provision of this Lease, the Tenant, in its use and occupation of the Leased Lands and its activities in the Project will fully comply with all applicable Environmental Laws. The Tenant covenants that, during the Term or any extension thereof, no Contaminant shall be used, generated, released, manufactured, refined, produced, processed, stored, disposed of or allowed anywhere on, under or about the Leased Lands or Guildwood Park, other than in accordance with applicable Environmental Laws.

(2) The Tenant will obtain and comply with the terms of all licenses, certificates of approval, permits and other approvals required by Environmental Laws for the conduct of its business at or from the Leased Lands.

12.3 Discharges of Contaminants

(1) The Tenant will not authorize, cause or permit a Discharge of Contaminants in, on, under or from the Leased Lands or Guildwood Park, except in accordance with Environmental Laws.

(2) Where a Discharge that is not authorized by Subsection **12.3(1)** does occur, the Tenant will immediately report the occurrence of the Discharge to all Authorities to whom notification is required under Environmental Law in the circumstances, and to the Landlord. The Tenant will then immediately stop and clean up the Discharge to bring the Leased Lands, and any other affected area, into compliance with Environmental Laws, will repair any damage to the Leased Lands or Guildwood Park caused by such Discharge and will provide the Landlord and TRCA with a certificate from the Tenant's duly qualified consulting engineer confirming such compliance.

(3) If the Tenant fails or refuses to promptly clean up a Discharge referred in Subsection **(1)**, and to restore the Leased Lands and any other area of Guildwood Park affected by the Discharge, the Landlord may elect in writing to carry out the whole or any part of the clean up and restoration at the Tenant's expense.

(4) The Tenant will permit the Landlord to perform an audit by a qualified professional of the Tenant's Discharges of Contaminants into the Leased Lands or Guildwood Park in, on, under or from the Leased Lands on two (2) days notice to the Tenant provided that a representative of the Tenant may at all times (but without obligation) accompany the Landlord's personnel, and with minimal interference with the Tenant's use.

12.4 Orders of an Authority

(1) The Tenant will fully comply with all orders of an Authority which may be directed to the Tenant and which relate to the Leased Lands or Guildwood Park or any part, including orders to provide financial assistance, to perform studies, to improve pollution control, to remove waste, to conduct investigations or to prepare or perform an environmental cleanup of the Leased Lands or Guildwood Park, provided that the contamination which is the subject of the order was caused or permitted by the Tenant.

(2) Should an order of an Authority be issued to the Landlord or TRCA requiring the Landlord or TRCA to do anything in relation to a Discharge of Contaminants caused or permitted by the Tenant and relating to the Tenant's use of the Leased Lands or Guildwood Park, the Tenant shall, at its own expense and on receipt of written notice from the Landlord, comply with the order including preparing and submit ting the required plans and meet all related requirements and the Tenant shall carry out all such clean up plans under the direction of the Landlord.

(3) If the Tenant fails or refuses to promptly and fully carry out an order referred to in this Article 12, or if, in the Landlord's opinion, the Tenant is not competent to carry out the order, the Landlord may elect in writing to carry out the whole or any part of the order at the Tenant's expense.

12.5 Inspection

(1) The Landlord may, on a minimum of 24 hours prior written notice, inspect the Leased Lands and Project and the Tenant's records relating to its handling of Contaminants to determine whether

the Tenant is fully complying with all Environmental Law and its environmental obligations under this Lease.

(2) Where the Landlord reasonably considers it necessary, the inspection may be performed in whole or in part by experts, and may include sampling, monitoring, and other tests, provided that all intrusive testing shall be carried out in the presence of a representative of the Tenant.

(3) If the Landlord's inspection discloses a breach of an Environmental Law, or a fact situation which could reasonably be anticipated to result in a breach of an Environmental Law, the Landlord will have the right to take whatever steps are reasonably required to rectify such breach, or prevent such breach from occurring, as the case may be.

12.6 Environmental Indemnification

Where the Landlord has carried out an order referred to in Section **12.4** or has cleaned up or made restoration as a result of a Discharge referred to in Section **12.3**, or has otherwise incurred any expense or damage relating to a Discharge of Contaminants caused by the Tenant, and/or arising from the Tenant's use of the Leased Lands and Guildwood Park, the Tenant will indemnify the Landlord for all costs incurred by the Landlord with respect to any of the foregoing, and such reimbursement shall be considered Additional Rent.

12.7 Clean Up

The Tenant shall, at its sole cost and expense, at the expiration of the Term or any extension thereof, or such earlier termination of this Lease, remove all Contamination placed on the Leased Lands by the Tenant in accordance with all Applicable Laws of any Authority and repair any damage to the Leased Lands and Guildwood Park caused by the existence and/or the removal of any such Contamination. TRCA, the Landlord and the Tenant shall mutually agree, acting reasonably, with respect to the management and control of any consultants responsible for remediation. All reports and other materials of scientists, engineers or other environmental consultants of the Tenant and related to the Leased Lands shall be addressed to the Tenant, TRCA and the Landlord and TRCA and the Landlord shall be entitled to rely on such materials for all purposes. The Tenant further undertakes to plan and permit any of its remediation measures and processes to be integrated with the construction processes to be undertaken by TRCA and/or the Landlord. The Parties will mutually agree with respect to the co-ordination and scheduling of such work and the allocation of costs therefore (whether by way of direct payment or reimbursement) if any of TRCA and/or the Landlord's remediation work is undertaken by the Tenant, it being agreed that any remediation obligations of TRCA and/or the Landlord in respect of Guildwood Park shall be without prejudice to its/their rights, if any, to pursue those Persons responsible for such contamination.

12.8 Non-Merger

Nothing in the foregoing changes each Party's respective liabilities and obligations for Contamination for which it responsible as provided for elsewhere in this Lease. The provisions of Article **12** will survive and continue to apply following the expiry or earlier termination of this Lease.

ARTICLE 13
DAMAGE OR DESTRUCTION AND EXPROPRIATION

13.1 No Termination

Save as provided in Section **13.2**, the partial destruction or damage or complete destruction by fire or other casualty of the Leased Lands shall not terminate this Lease or entitle the Tenant to surrender possession of the Leased Lands or to demand any abatement or reduction of Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

13.2 Restoration of Leased Lands by Tenant

In the event of damage to or destruction of any part of the Leased Lands, subject to Section **11.1**, the Tenant shall immediately as such damage may occur (i) reconstruct or replace the Leased Lands and Project or the portion destroyed in whole or in part (as is needed) with a new structure, (ii) repair such damage, or (iii) replace such destruction. Any such replacement, repair or reconstruction of the Leased Lands or any part shall be commenced diligently after such damage or destruction and within thirty (30) days from then on or such longer period as is reasonably necessary having regard to the circumstances at such time but in any event within two hundred and ten (210) days after such damage or destruction and shall be made or done in compliance with the provisions of Section **11.1** and shall be substantially to the scale and character of the structures damaged but after allowing the changes necessitated by then current technology, construction practices and standards of the Project industry and only if Approved by the Landlord and TRCA. If any repairs or replacements constitute a Material Change or require a new structure to be erected, then, the plans and specifications for such repairs or replacements or new structure shall be first approved by the Landlord and TRCA in accordance with this Lease and the Heritage Easement Agreement and the Site Plan Agreement. In no circumstances will the Landlord or TRCA be required to pay any costs or expenses of any nature or kind associated with any such repair, reconstruction or replacement. If:

(a) the Leased Lands are totally or substantially damaged such that in the opinion of an independent architect appointed by the Landlord (such opinion to be delivered to the Landlord and the Tenant within thirty (30) days of such damage), the Leased Lands or Project cannot be restored or made fit for the purposes of the Tenant within one hundred and eighty (180) days of receipt of the Architect's opinion regarding such damage, then the Term shall extend by the aggregate of twenty-four (24) months and that time period which is equivalent to the time period commencing on the date of the occurrence of such damage to the date of re-opening of the Leased Lands or Project to the public, provided that in any event the Landlord will not extend the Term of the Lease beyond the then-existing Term of the Original Lease without the prior written consent of the TRCA; or

(b) the damage or destruction occurs within the last five (5) years of the Third Term or any extension thereof, then, the Tenant may determine not to proceed with such repair or replacement, and give notice of termination of this Lease within thirty (30) days of such damage but the insurance proceeds for the purpose of repair or replacement to the level and standard above provided are to be made available to the Landlord for such purpose and, in the opinion of the independent Architect referred to above, are to be sufficient for such purpose. In the event Notice of termination if given, this Lease shall have no further force or effect as and from such date (save and except where expressly provided for otherwise and with respect to all uncured Events of Default, and with respect to any releases or indemnities provided for in this Lease) and all insurance proceeds in respect of the Leased Lands and the Project (save and except for Trade Fixtures and Chattels) shall be paid over to the Landlord, subject to the interests of any Leasehold Mortgagee.

If the Tenant must or has elected to proceed with such repair or replacement as set out above, the Tenant shall only pay Minimum Rent as applicable, not Percentage Rent during the restoration of the Project and will commence paying Rent once the Project is again open for business to the public.

13.3 Repair or Replacement by Landlord

If the Tenant does not commence the replacement, repair or reconstruction of the Leased Lands as required by Section **13.2**, or having commenced does not proceed diligently to completion, the Landlord may do so and for any such purposes the Landlord shall have a right of entry on the Leased Lands. If the Landlord exercises its rights under this Article the Tenant will pay over or cause to be paid over to the Landlord any proceeds of insurance received by the Tenant in respect of the damage or destruction of the Leased Lands or, if the Landlord has elected to put the Insurance Trust Agreement in place, the Tenant will cause the Insurance Trustee to release the proceeds of insurance to the Landlord in accordance with the Insurance Trust Agreement and the Tenant will pay to the Landlord forthwith on demand from time to time the difference, if any, between any such insurance proceeds paid to the Landlord and its total costs and expenses of completing such replacement, repair or reconstruction

13.4 Expropriation

If at any time during the Term or any extension thereof title is taken to any portion of the Leased Lands by expropriation, each Party shall be entitled to separately pursue and retain such compensation as may be awarded to it and the parties shall co-operate with each other in pursuing their respective claims. The Tenant will have no claim, action, right of action or any other demand against the Landlord as a result or arising from the expropriation of all or any part of the Leased Lands.

ARTICLE 14
INDEMNITY

14.1 Indemnity by Tenant

The Tenant shall indemnify and save harmless the Landlord and TRCA from any and all Claims whatsoever relating to the use of the Leased Lands arising during the Term or any extension thereof out of:

(a) any breach, violation or non-performance of any covenant, condition or agreement set forth in this Lease and any other collateral agreements to be fulfilled, kept, observed or performed by the Tenant pursuant to this Lease;

(b) any Injury to person or persons, including death resulting at any time from it occurring on or in the Leased Lands or Project or occasioned by the use and/or occupation of the Leased Lands, and/or the Project;

(c) any damage to or loss of property of the Tenant, any sub-lessee, licensee and all Persons claiming through or under it, them or any of them, or damage to any other property howsoever, occasioned on or in the Leased Lands and Project;

(d) any Claim made in connection with damage or Injury caused to a sub-tenant, licensees or occupant of the Project or any persons claiming through or under it, them or any of them, for damage to the Project or Leased Lands or any of the foregoing, arising directly or indirectly in respect of or from the Tenant's Construction Work;

(e) any personal Injury to any Person or Persons in, on, at or about the Total Site or any part, including death, or any loss of property or any property damage or other injury to any property while such Person or Persons or property is in, on, at or about the Total Site or any part, relating to any use or work in, on, at or about the Total Site by the Tenant or the Tenant's Authorized Members or Authorized Members;

(f) any contract, lien, mortgage, charge or encumbrance on or in respect of the Project and/or Leased Lands or any part arising from or occasioned by the act, default or negligence of the Tenant or those for whom the Tenant is in law responsible;

(g) all costs and expenses of every kind and nature relating to the Project Development, the Project and Leased Lands, unless expressly excluded under this Lease to be the responsibility of the Landlord or TRCA. Without limiting the generality of the foregoing, the Tenant is not responsible for any costs incurred by the Landlord or TRCA with respect to the preparation and/or review of such documentation required by the Landlord or TRCA to complete the Tenant's Construction Work and/or to give effect to the Project Development, unless expressly stated to be the responsibility of the Tenant;

(h) the completion of the Tenant's Construction Work, including the construction of the Project by the Tenant, including, without limitation, all construction liens in connection therewith; and

(i) any appeal of an assessment of Taxes made by the Tenant, excluding any financial loss of the Landlord due to a reduction in the amount of Taxes payable by the Tenant resulting from such appeal being successful;

except and to the extent that such causes of action, suits, damages, losses, costs, claims and demands are due to the gross negligence or wilful acts or omissions of the Landlord, and/or TRCA or Persons for whom they are in law responsible or any breach by the Landlord or TRCA of its obligations set forth in this Lease and to the extent to which the Tenant is not indemnified in respect of such Claim under the insurance which it is obligated to obtain pursuant to the terms of this Lease or to the extent to which it would not have been so indemnified had it obtained such insurance and diligently pursued its claims due to no fault of the Tenant.

Without limiting the generality of the foregoing, the Tenant shall from time to time and at all times does from now on, truly save, keep harmless and fully indemnified the Landlord and its respective Authorized Members of and from any Claims which the Landlord and/or its Authorized Members may sustain or incur (including in connection with any appeal), resulting from or pertaining in any manner to the Lease unless established to have been caused by wilful conduct or the negligence of the Landlord or those for whom the Landlord is in law responsible.

14.2 Indemnity By Landlord and TRCA

The Landlord and TRCA shall indemnify and save harmless the Tenant from any and all manner of actions, causes of action, suits, damages, losses, costs, claims and demands of any nature whatsoever arising during the Term or any extension thereof out of any breach, violation or non-performance of any covenant, condition or agreement set forth in this Lease to be fulfilled, kept, observed or performed by, respectively, the Landlord and/or TRCA pursuant to this Lease, except to the extent that such causes of action, suits, damages, losses, costs, claims and demands are due to the negligence or wrongful acts or omissions of the Tenant, its invitees or Persons for whom it is in law responsible or for which the Tenant is obligated to have insured. For greater certainty, the Landlord and the TRCA's indemnities are individual for their respective breaches, and are not joint and several.

14.3 Duration

The obligations to indemnify contained in Sections **14.1** and **14.2** shall survive any termination of this Lease, anything in this Lease to the contrary notwithstanding. Nothing in Sections **15.1** and **15.2** shall create or extend any right for the benefit of any Third Party.

ARTICLE 15
ASSIGNMENT, SUBLETTING AND MORTGAGING

15.1 Consent Required

(1) Until Completion of the Project, the Tenant shall not, without the prior written consent of the Landlord (which consent may be arbitrarily or unreasonably withheld and Section **15.2(3)** shall not apply), undertake or permit an Assignment and any such purported Assignment is void and of no effect. From and after the Completion of the Project Development, the Tenant shall be permitted to undertake an Assignment with the prior written consent of the Landlord (which consent shall not be unduly delayed or unreasonably withheld). In no event shall any Assignment to which the Landlord has consented constitute a release or otherwise relieve the Tenant or a approved assignee hereunder from the performance of the terms, covenants and conditions in this document on its part contained to be observed and performed throughout the Term, including the necessity for the Tenant or any assignee to obtain the prior written consent of the Landlord to a subsequent Assignment. The Tenant liability shall

not continue during any subsequent extension of the Term following the assignment of the Lease.

(2) The Tenant shall be permitted to license or sublease premises within the Project to third parties for business purposes that are complementary to the Project, subject to obtaining the prior written approval of the Landlord and so long as these licenses or subleases do not extend beyond the duration of the Term or the then-current extension thereof. In any event, at the end of the Term or on earlier termination, such licenses and/or subleases shall also terminate.

(3) Revenues from non arm's-length licensees and subtenants shall be included in Tenant's Gross Revenue, as if generated by arm's length licensees and subtenants. The Tenant shall pay to the City, as Additional Rent, fifty percent (50%) of any rents or fees for any subleases or licences for any arm's length subleases or licences.

15.2 Factors Affecting Consent

(1) The Landlord and the Tenant agree that any one of the following factors, and any other commercially reasonable factors, will be reasonable grounds for determining whether to grant consent to the Tenant's Assignment request:

(a) that the proposed Assignee has the financial capability to meet the Tenant's obligations under this Lease; or

(b) the proposed Assignee and its principals must meet the other requirements of this Lease and are not parties of ill-repute or bad character and are not Persons with whom the Landlord and TRCA is or has ever been in adverse litigation; or

(c) any other commercially reasonable factors, such consent not to be unreasonably withheld and subject to arbitration under the *Arbitration Act, Ontario*, in the event the Landlord or TRCA is properly alleged to have unreasonably withheld its consent.

For the sake of clarity, and notwithstanding anything to the contrary in this document contained, no Assignment or other disposition may be made if the Tenant shall be in default under this Lease or any Ancillary Agreements and unless the proposed Assignee covenants to be bound by all of the provisions of this Lease and such other relevant agreements and in no circumstances will a change of Authorized Use be permitted. The Landlord's written consent to any Assignment remained in force for a period of 120 days from then on, during which the Tenant is required to complete the Assignment and to enter into an assumption agreement directly with the Landlord substantially in the form of attached Schedule "J" - Form of Assignee's Assumption Agreement.

(2) The Parties acknowledge and agree that it shall not be unreasonable for the Landlord to withhold its consent in the following circumstances:

(a) the City has not been provided with evidence satisfactory to the City as to the financial ability of the proposed Assignee to operate the Project;

(b) the City having conducted due diligence is not satisfied with respect to the business and/or personal reputation of the proposed Assignee;

(c) if the proposed Assignee is or has been engaged in litigation with the City to the extent that the City is not satisfied with the proposed assignee assuming the Project; or

(d) if the proposed assignee does not agree to assume all of the obligations of the Tenant under the Lease and all collateral agreements.

(3) Where the Tenant does not agree with the Landlord's determination regarding whether to grant its consent to a proposed Assignee pursuant to Subsection **15.2(1)**, then the Tenant may take the matter to arbitration in accordance with Article **18** hereof for determination whether the Landlord had reasonable grounds for withholding its consent.

15.3 Further Conditions Precedent to any Permitted Assignment

In addition to compliance with the requirements set out in Sections **15.1** and **15.2**, the Tenant agrees that it shall not be entitled to undertake an Assignment unless:

(a) any proposed Assignee is also approved by any third party whose consent is required for the Assignment, such as TRCA and any Leasehold Mortgagee of the Tenant;

(b) in the case of an Assignment, the Assignee enters into an assumption agreement directly with the Landlord and TRCA, as applicable, to assume all obligations of the Tenant pursuant to all agreements and continuing loan arrangements and Leasehold Mortgages concerning the Project Development, including this Lease and all Ancillary Agreements except as otherwise set out in it and agreed to in writing by TRCA and the Landlord;

(c) the Landlord's or TRCA's consent to any Transfer will not constitute a waiver of the necessity for the Landlord's and TRCA's consent to any subsequent or other Assignment, whether by the Tenant or the proposed Assignee. This restriction on Assignments applies also to any Assignment by operation of Applicable Laws;

(d) provided that in each such case, all sub-leases of the Leased Lands shall be assigned to the same Assignee (or if transferred to more than one Assignee as may be otherwise permitted by the provisions under this Lease, all leases of the Leased Lands shall contain cross-default provisions, satisfactory to the Landlord);

(e) the Tenant has successfully demonstrated to the reasonable satisfaction of TRCA and the CCO that any proposed Assignment is and will be seamless and that all Project operations and management thereof will remain continuous, failing which, the Tenant's Assignment request shall be rescinded;

(f) the term of the proposed Assignment does not extend beyond the Term or whichever respective extension thereof in which the proposed Assignment takes place; and

(g) the proposed Assignment contains a provision providing that if this Agreement is terminated during the term of the proposed Assignment, that Assignment will also terminate.

15.4 Notice

If the Tenant intends to effect an Assignment, the Tenant shall give prior notice to the Landlord and TRCA of such intent specifying the identity of the Assignee and shall provide such financial, business or other information related to the proposed Assignee and its principals as the Landlord or any freehold mortgagee reasonably requires, together with copies of any documents which record the particulars of the proposed Assignment (which may be redacted to remove confidential terms of the transaction). The Landlord shall, within forty-five (45) Business Days after having received such notice and all requested information reasonably required by the City to make such determination, notify the Tenant that it consents or does not consent to the proposed Assignment in accordance with the provisions and qualifications of this Article.

15.5 Preparation of Consent

Subject to Section **21.21**, any form of Assignee's Assumption Agreement or other document evidencing the Landlord's or TRCA's consent to any Assignment where such consent is required, shall be prepared by the Landlord or its solicitors and all reasonable legal costs associated with the proposed Assignment, including, without limitation, any reasonable due diligence costs in investigating the proposed Assignee or preparing any documentation relating to any Assignment shall be paid by the Tenant.

15.6 Copies of Subleases

At any time during the Term or any extension thereof, if requested by the Landlord, the Tenant shall forthwith deliver to the Landlord, true copies of any subleases with respect to the Leased Lands.

15.7 Assignment to Affiliates

Notwithstanding the provisions of Section **15.1**, but subject always to compliance with Sections **15.2**, **15.3**, **15.4**, and **15.5**, the Tenant may, at any time after Completion of the Project so long as an Event of Default is not outstanding beyond its curative period, and subject to the requirements of any other Leasehold Mortgage financing obtained by the Tenant which continues in effect after Completion, effect an Assignment to an Affiliate of the Tenant so long as Guild Inn Estates Inc. shall, at the relevant time, be the Tenant, provided that the following pre-conditions shall first have been satisfied:

(a) no default shall occur as a result of such assignment in respect of any Leasehold Mortgage;

(b) the Assignee shall have expressly covenanted and agreed in writing with the Landlord that the Assignee will perform and observe all of the covenants and obligations of the Tenant hereunder and that the Assignee will remain an Affiliate of the Tenant so long as the Assignee has any interest in this Lease or the Leased Lands;

(c) concurrently with the Assignment of the Lease, the Tenant shall have also effected a transfer to the Assignee of all of the Tenant's right, title and interest in and to the Lease, all Material Contracts and all related Project Development documentation; and

(d) the Tenant shall have expressly covenanted and agreed in writing with the Landlord that the Tenant will be jointly and severally liable with the Assignee to perform and observe all of the covenants and obligations being assumed by the Assignee pursuant to this Subsection and that the Assignee will remain an Affiliate of the Tenant so long as the Assignee has any interest in this Lease or the Leased Lands.

15.8 Leasehold Mortgages

In addition to the restrictions on Assignment as set out in this document, for greater clarity, the Tenant shall not mortgage, charge, pledge, hypothecate, place a security interest in respect of or otherwise encumber this Lease or the Leased Lands or any part or otherwise enter into any arrangement under which the interest of the Tenant in and to this Lease or the Project Leased Lands or any part becomes security for any indebtedness or other obligation other than pursuant to a Leasehold Mortgage described in Article **16**, and any such purported mortgage, charge, pledge, hypothecation, placing of a security interest in respect of or other encumbrance other than in accordance with Article **16** is void and of no force or effect.

15.9 Assignment by Landlord

If the Landlord and/or TRCA transfers the Total Site and/or any part, including the Leased Lands and the Landlord and/or TRCA assigns this Lease to the transferee and if the transferee executes an assumption of this Lease in favour of the Tenant, then, the Landlord and/or TRCA, as the case may be, shall be relieved of all liability under this Lease after the date of such transfer, except if such transfer is to from the Landlord to a non-governmental or non-public body, in which case the Landlord shall not be relieved of its liability under this Lease after the date of such transfer.

ARTICLE 16
FINANCING OF PROJECT DEVELOPMENT

16.1 Financing of Project Development

(1) The Tenant shall provide the Landlord with a statement at least sixty (60) days prior to the commencement of the Initial Construction Period certifying the aggregate hard and soft costs of the Tenant's Construction Work and start up of the business to be at least Nine Million Dollars ($9,000,000.00) (the "**Estimate**"), as outlined in the Project Budget.

(2) The Tenant may grant Leasehold Mortgages in favour of the Leasehold Mortgagees, provided that:

(a) the Landlord and TRCA have been given written Notice of any Leasehold Mortgage (s) together with the name and address for service of such Leasehold Mortgagee(s). The Tenant shall have in place and provide the Landlord and TRCA on or before the Term Commencement Date with a certified true copy of any such Loan agreement (s) (which shall be in a form and content acceptable to the Landlord and shall be subject to the Approval of the Landlord), including both construction and permanent financing, to cover the Project costs set out in the Project Budget;

(b) the Tenant is not then in material default hereunder or such default shall be cured in conjunction with an advance under such Leasehold Mortgage. However, this provision does not derogate, extend or restrict the time periods otherwise applicable under this Lease;

(c) such Leasehold Mortgage covers the whole of the Tenant's interest in this Lease and provide that any loss under the policies of insurance required to be furnished shall be disposed of in accordance with the insurance provisions of Article **11**;

(d) any such security against all or part of the Project and/or the Leased Lands in favour of any Leasehold Mortgagee, registered or otherwise, shall be entirely subordinated to the freehold right, title and interest of TRCA and the Landlord's interests;

(e) any Leasehold Mortgage shall be satisfactory to the Landlord and TRCA acting reasonably, including being entirely non-recourse to the Landlord and TRCA and in no circumstances shall any such security or interest affect TRCA's or the Landlord's interests in the Project and Leased Lands in any way, whether in circumstances in which the Landlord or TRCA assumes control of the Project and/or Leased Lands or otherwise terminate this Lease or otherwise; and

(f) such Leasehold Mortgagee has first entered into an agreement with the Landlord in the form of attached Schedule "**F**" Form of Leasehold Mortgage Acknowledgment Agreement as amended only to incorporate such revisions which are reasonably requested by such Leasehold Mortgagee and Approved by the Landlord, acting reasonably.

(3) It is agreed that if the cost of the Tenant's Construction Work exceeds the Estimate, the Tenant shall be entirely responsible for arranging the funding of the amount in excess of the Estimate ("**Additional Funding**") on the best terms negotiable for financing.

(4) The Tenant shall provide copies of all Leasehold Mortgages and related commitments, to the Landlord and TRCA prior to finalization and the Landlord's written approval shall be obtained.

(5) So long as an Event of Default is not occurring, the Tenant may, on no less than twenty (20) Business Days prior written notice to the Landlord, re-finance or replace any Leasehold Mortgage or enter into new Loans provided the following conditions to such re-financing are met:

(a) the aggregate principal outstanding under all Loans may be for up to but shall not exceed 75% of the fair market value (as agreed to by the Parties acting reasonably), of the Project and Leased Lands taking into account all relevant factors;

(b) there shall not be more than two (2) Loans outstanding at any given time;

(c) the provisions of Section **16(2)(c)** to Section **16(2)(j)** inclusive shall apply; and

(d) the Tenant agrees to pay all of the Landlord's reasonable costs and expenses in relation to the re-financed or replaced Loan, including without limitation, its reasonable counsel fees and disbursements with respect to the negotiation and settlement of the tri-partite agreements and review of the Loan agreements irrespective if the re-financed Loans are completed.

(6) All requests to the Landlord and TRCA for consent to all Leasehold Mortgages (such consent not to be unreasonably or arbitrarily withheld), including loan commitments, shall be made to the Landlord and TRCA in writing together with a copy of a proposed Leasehold Mortgage Acknowledgement Agreement in the form attached hereto as Schedule "F" to be executed by all parties accompanied by such information in writing as the Landlord and TRCA might reasonably require. The Landlord and TRCA shall respond to the request for consent within twenty (20) Business Days. The Tenant shall pay to the Landlord as Additional Rent all reasonable third party costs incurred in connection with the Landlord and TRCA considering/processing such request for consent and any Leasehold Mortgage Acknowledgement Agreement forthwith on request, provided, however, that the foregoing costs shall not be payable by the Tenant in respect of the first Leasehold Mortgage(s).

(7) Nothing contained in this Lease shall be construed to grant the Tenant the right to encumber or the right to subordinate TRCA's fee interest and/or the Landlord's Lease interest in the Project and Leased Lands to the lien of any holder of any Equity Development Security or to the lien of any Leasehold Mortgagee and nothing contained in any Leasehold Mortgage nor in this Lease in any way binds TRCA and/or the Landlord or its/their successors or assigns to subordinate TRCA's reversionary interest and/or the City's Lease interest in the Total Site or any part to any Leasehold Mortgagee. For clarity, TRCA's and the Landlord's rights shall remain paramount in all respect save and except as may be provided for in any executed Leasehold Mortgage Acknowledgement Agreements.

16.2 Additional Leasehold Mortgage Provisions

If the Tenant enters into any permitted Leasehold Mortgage and if the Tenant or any Leasehold Mortgagee serves the Landlord with a Notice specifying the name of the Leasehold Mortgagee and the Leasehold Mortgagee's Service Address, the following provisions will apply:

(a) the Landlord, the Tenant and the Leasehold Mortgagee will enter into a Leasehold Mortgage Acknowledgement Agreement, subject to any reasonable changes requested by the Leasehold Mortgagee and approved by the Landlord acting reasonably, and this agreement must be registered by the Tenant at its cost on title to the Leased Lands;

(b) the Landlord will provide the Leasehold Mortgagee with copies of any Notices of default by the Tenant under this Lease concurrently with the giving of same to the Tenant;

(c) the Landlord will not, without having given forty-five (45) days prior Notice to the Leasehold Mortgagee, accept the surrender of, modify or amend, or agree to accept the surrender of, modify or amend, this Lease in any respect;

(d) the Landlord will not terminate this Lease except in accordance with the provisions of this Section **16.2**, but nothing in this Article **16** prohibits the Landlord from terminating the Lease pursuant to Article **17**, provided that forty-five (45) days Notice is given to the Leasehold Mortgagee that the Landlord is exercising its rights under Article **17** to terminate the Lease;

(e) subject to Sections **16.2(j)** and **16.2(k)**, the Landlord may not exercise any of its rights or remedies against the Tenant consequent on any Event of Default (save and except its right to obtain insurance pursuant to Section **10.3**) unless the Landlord has first served on the Leasehold Mortgagee at the Leasehold Mortgagee's Service Address a copy of the Notice of the Event of Default given by the Landlord to the Tenant in respect of the Event of Default which entitles the Landlord to exercise the rights or remedies provided in Article **17**, and unless the Tenant and the Leasehold Mortgagee have not remedied such default as permitted by Sections **16.2(f)** and **16.2(g)**;

(f) save and except its right to obtain insurance pursuant to Section **10.3**, the Landlord must allow the Leasehold Mortgagee a period of sixty (60) days respecting arrears of rent and a period of

(f) save and except its right to obtain insurance pursuant to Section **10.3,** the Landlord must allow the Leasehold Mortgagee a period of sixty (60) days respecting arrears of rent and a period of sixty (60) days respecting default in obligations other than rent after the date of service on the Leasehold Mortgagee of a copy of the Notice of an Event of Default for the purpose of curing the default specified in the Notice or causing the same to be cured (provided that with respect to default in obligations other than rent, if such default by its nature requires longer than such period to cure, then such period is extended for such further period of time as may be reasonably required to cure such default considering the nature), and the right of the Landlord to re-enter, or to forfeit or terminate this Lease as a result of the Event of Default, will cease on the Leasehold Mortgagee's curing the Event of Default within the period allowed to the Leasehold Mortgagee hereunder for such purpose. If the nature of the Event of Default is such that it cannot be cured or remedied by a third party, the Landlord must, on the request of the Leasehold Mortgagee, enter into a new lease on the same terms as this Lease and the Event of Default is be deemed to have been cured within the requisite time period (provided that all monetary defaults must still be cured regardless of a new lease being entered into), provided that any request by a Leasehold Mortgagee hereunder is effective only if made in writing to the Landlord within thirty (30) days of service on the Leasehold Mortgagee of such Notice by the Landlord of a termination of this Lease having been effected;

(g) the period allowed to the Leasehold Mortgagee for the purpose of curing any Event of Default specified in the Notice (which cure period shall be set out in the Notice) received by the Leasehold Mortgagee which is of such nature that the Leasehold Mortgagee must be in possession of the Leased Lands or any part in order to cure the Event of Default will be extended to include the period of time required by the Leasehold Mortgagee to obtain such possession with due diligence, provided that during such extended period all the other obligations of the Tenant under this Lease are being duly performed, and that there shall be an outside cure date (which outside cure period for such extended period shall be set out in the Notice) despite any extension;

(h) the Landlord will accept performance by the Leasehold Mortgagee of any covenant, condition or agreement on the part of the Tenant to be performed hereunder as having the same force and effect as though performed by the Tenant;

(i) if the Leasehold Mortgagee fails to cure, within the period of time allowed for curing the same pursuant to this s. **16.2**, any Event of Default specified in a copy of a Notice of the Event of Default served on the Leasehold Mortgagee, the Landlord may, subject to the provisions of Sections **16.2(j)** and **16.2(k)**, exercise any of its rights hereunder without further Notice to the Leasehold Mortgagee;

(j) if an Event of Default has occurred and is continuing and the Leasehold Mortgagee, within 60 days after receipt of a copy of Notice of Event of Default, commences and diligently prosecutes to conclusion foreclosure or other proceedings to acquire the Tenant's leasehold interest hereunder, the Landlord will not re-enter, forfeit or terminate this Lease, provided that:

  (i) subject to the provisions of this Article **16**, the Landlord will not be precluded from exercising any rights or remedies under this Lease in respect of any other Event of Default during such period of forbearance; and

  (ii) during such period of forbearance the other obligations of the Tenant arising during such period of forbearance including, without limiting the generality of the foregoing, the obligation of the Tenant to pay Rent, are complied with;

(k) the Leasehold Mortgagee may, subject to the terms hereof, cure any Event of Default;

(l) as part of enforcing its security, the Leasehold Mortgagee may for a period not exceeding ten (10) Business Days enter onto the Leased Lands for the purpose of assessing the chattels, leasehold improvements, fixtures and equipment, removal of or conducting a sale of the chattels, leasehold improvements, fixtures and equipment to the extent it has a security interest in same and in so doing is not a mortgagee in possession provided that after five (5) days on the Lands, the Leasehold Mortgagee pays the Landlord a fee equivalent to the per diem Rent (without duplication of any Rent that may have been received with respect to the said ten (10) day period) under this Lease for each day it or its agents are on the Leased Lands, and the Leasehold Mortgagee shall leave the Leased Lands in accordance with Section **2.9** hereof; and

(m) the Leasehold Mortgagee may arrange for a receiver or manager to operate the Tenant's business at the Leased Lands.

Notwithstanding the foregoing, the Leasehold Mortgagee shall have no right to approve Lease amendments between the Tenant and the Landlord and the TRCA as they may be negotiated and implemented from time to time.

16.3 Assignments by Leasehold Mortgagee

If a Leasehold Mortgagee should enter into possession of the Leased Lands or any part or should in any other manner realize its security in the course of exercising its remedies under a Leasehold Mortgage, then so long as the Leasehold Mortgagee has observed and performed all the obligations of the Tenant under the Lease, including the curing of all defaults of the Tenant under the Lease that are capable of remediation by the Leasehold Mortgagee and of which the Leasehold Mortgagee has Notice from the Landlord pursuant to the terms of this Lease, the Leasehold Mortgagee may assign its interest in this Lease with the prior written consent of the Landlord, such consent not to be unreasonably withheld or delayed, and the Leasehold Mortgagee must promptly serve Notice of any such proposed Assignment on the Landlord and must serve on the Landlord:

(a) within thirty (30) days after the Term Commencement Date of such Assignment, a copy of the instrument of Assignment which must contain the assignee's assumption of the Tenant's obligations hereunder and which shall be in a form satisfactory to the TRCA and the Landlord; and

(b) on or before the Term Commencement Date of such Assignment, an agreement that would be required under Article **16** if the Tenant whose interest is mortgaged to the Leasehold Mortgagee had assigned such interest to the assignee.

Upon any such Assignment to which the Landlord has consented, the Leasehold Mortgagee will be released from all liability for the performance of the Tenant's liabilities and obligations under this Lease which accrue after the date of the Assignment.

The Landlord and the Tenant covenant and agree, on the written request of a Leasehold Mortgagee, to assign to the Leasehold Mortgagee the right, title and interest of the Tenant in and to the proceeds of any insurance placed by the Tenant in accordance with Article **10** of this Lease, provided, however, that such Leasehold Mortgagee covenants and agrees that its rights pursuant to such assignment are subject to Articles **10** and **15** of this Lease and subject to the terms of the Leasehold Mortgage Acknowledgement Agreement.

ARTICLE 17
DEFAULT

17.1 Events of Default

In any of the following events (each an "Event of Default"):

(a) if the Tenant undergoes any corporate change of control other than as provided for in the Assignment definition to which the Landlord have not consented in writing in accordance with Article **15**. On the request of the Landlord (but in any event no more than three (3) times a year), the Tenant shall make available for inspection at all reasonable times, corporate information necessary to determine whether a corporate change of control has occurred. When requested after any such review, the Tenant shall provide to the Landlord a Solicitor's opinion (from a lawyer in good standing with the Law Society of Upper Canada) confirming whether a corporate change of control has occurred;

(b) if Rent or any part shall not be paid on any day when such payment is due, the Landlord may, at any time from then on, give Notice of such failure to the Tenant and if the failure is not remedied by the Tenant within five (5) Business Days after the giving of such Notice;

(c) if the Tenant has been given notice of default under Subsection **(b)** on three (3) occasions in any twenty-four (24) month period, then from then on if the Tenant fails, for any reason to pay any Rent when due and the failure continues for five (5) days after such payment was due, no notice shall from then on need to be given and an Event of Default shall have then occurred;

(d) if the Tenant shall fail or neglect to provide any information required hereunder or to perform or comply with any of the terms, covenants or conditions contained in this Lease (other than the covenants to pay Rent) on the part of the Tenant to be performed or observed, the Landlord may, at any time from then on, give Notice of such failure or neglect to the Tenant and the Tenant:

(i) if the matter complained of in such Notice is capable of being remedied by the payment of money (save and except the failure to maintain insurance), has not corrected the matter complained of within a period of ten (10) Business Days after the giving of such Notice; or

(ii) if the matter complained of in such Notice is not capable of being remedied by the payment of money has not corrected the matter complained of within a period of twenty (20) Business Days after the giving of such Notice, or if a period of more than such twenty (20) Business Days is reasonably required to remedy, with reasonable diligence, the matters complained of in such Notice, has not promptly commenced to remedy the same and diligently prosecute the remedying of the same to completion;

(e) if an Event of Insolvency shall have occurred with respect to the Tenant or any other Assignee;

(f) any Material Contract is terminated as a result of the Tenant's default, or any uncured default in the Operating Agreement or the Heritage Easement Agreement;

(g) a breach of an obligation by the Tenant which has resulted in cancellation of insurance coverage where the Tenant has not prior to or concurrent with such cancellation replaced such coverage with comparable coverage or breach of an obligation where there has been a notice of cancellation of insurance coverage which has not been cured and where the Tenant has not, within the period of time set out in such notice (or within thirty-six (36) hours where no period is set out in the notice) replaced such coverage with comparable coverage or which is otherwise a breach of the obligations respecting insurance;

(h) this Lease or any material portion of the Tenant's or Assignee's assets are taken under a writ of execution (unless same is discharged within thirty (30) days);

(i) the Tenant purports to make or makes an Assignment other than in compliance with the provisions of this Lease;

(j) if the Tenant is in default under any collateral agreements including any Ancillary Agreements, the Construction Procedures Agreement, or any Leasehold Mortgage after any applicable Notice or cure periods with respect to the Tenant curing such default has expired;

(k) if any Leasehold Mortgagee takes steps to enforce its security against the Tenant (unless the relevant default is cured within any time period for rectification provided therefore in the Leasehold Mortgage and related security);

(l) the Tenant abandons the Leased Lands or Project or any part or disposes or attempts to dispose of any part, other than as permitted pursuant to this;

(m) if any representation or warranty or information made or supplied by the Tenant to the other Parties proves to have been untrue or misleading in any material respect as of the date on which it was made and the same has not been rectified within a period of ten (10) days of the TRCA or the Landlord giving Notice to this effect;

(n) the Tenant shall voluntarily cease carrying on its activities without the prior written consent of both TRCA and the Landlord (which may be unreasonably or arbitrarily withheld);

(o) the Tenant has failed to commence construction by the start of the Initial Construction Period other than due to Force Majeure; or

(p) if the date by which the Project is open to the public has not been attained within six (6) months of the completion of the Initial Construction Period due to the Tenant's default (other than due to Force Majeure),

then, the Landlord, at its option, may terminate this Lease by Notice to the Tenant, in which event such termination shall be effective immediately on the delivery of such Notice and may enter on the Leased Lands with or without process of law and take possession. If there is a dispute between the Tenant and the Landlord as to whether an Event of Default has occurred, is continuing or has been remedied, corrected or otherwise dealt with as provided above, such dispute shall be submitted to resolution in accordance with the dispute resolution provisions of this Lease.

17.2 Right to Cure Defaults

Without limiting any other remedies the Landlord may have arising out of this Lease or at law in respect of any default in the performance of the Tenant's obligations under this Lease, the Landlord shall have the right, in the case of any default and without any re-entry or termination of this Lease, to enter on the Leased Lands and cure or attempt to cure such default (but this shall not obligate the Landlord to cure or attempt to cure any such default or, after having commenced to cure or attempt to cure such default, prevent the Landlord from ceasing to do so) and the Tenant shall promptly reimburse to the Landlord any expense incurred by the Landlord in so doing and the same shall be recoverable as Rent. The Tenant shall pay the Landlord's costs and expenses of correcting the default immediately on demand by the Landlord, together with a reasonable allowance for overhead and administration.

17.3 Other Sums Recoverable as Rent

All amounts which may from time to time become due from the Tenant to the Landlord under any provision of this Lease (including without limitation amounts due to reimburse the Landlord for the expense of remedying any default by the Tenant or exercising its rights hereunder if an Event of Default shall have occurred) shall, if unpaid, be recoverable as Rent, and the Landlord shall have all remedies in respect of their non-payment as in the case of a non-payment of Rent.

17.4 Right to Re-enter and Relet

In addition to any other remedy available to the Landlord, if an Event of Default shall have occurred and be continuing, the Landlord shall have the right to enter the Leased Lands and Project or any part as agent of the Tenant and to relet the Leased Lands and this Lease shall thereon terminate. Provided further that in the event that the Landlord shall be entitled to, and shall make a re-entry, the re-entry or other action taken shall not be deemed to relieve the Tenant of its obligation to pay annual Minimum Rent and Additional Rent hereunder and such rents shall continue to accrue and be payable until the Landlord is able to relet the Leased Lands and Project, or otherwise deal with the Leased Lands and Project in such manner that it does not sustain any loss. Provided further that in addition to all other rights reserved to it, the Landlord shall have the right to re-enter on the Leased Lands as agent of the Tenant, without being liable therefore, and to relet the whole or any portion of land for any period and to receive the rent therefore, said rent to be any sum which the Landlord deems reasonable. The Landlord may make such changes in the character or the improvement of the Leased Lands and Project as the Landlord may determine to be appropriate or helpful in effecting such lease. Provided further that the Landlord shall have the right, as agent of the Tenant, to take possession of any property of the Tenant on the Leased Lands and Project, to store such property at the expense and risk of the Tenant or to sell or otherwise dispose of such property in such manner as the Landlord sees fit without Notice to the Tenant. The Landlord shall apply the proceeds of any such sale or reletting, first, to the payment of any expenses incurred by the Landlord with respect to any such reletting or sale, second, to the payment of any indebtedness of the Tenant to the Landlord other than Rent and, third, to the payment of Rent in arrears, with the residue to be held by the Landlord and applied to payment of future Rent as it becomes due and payable; provided that the Tenant shall remain liable for any deficiency to the Landlord.

17.5 Remedies of Landlord Generally

If an Event of Default shall have occurred and be continuing, the Landlord, whether or not the Term or any extension thereof shall have been terminated pursuant to the provisions, may after Notice to the Tenant enter on and repossess the Leased Lands and Project or any part by force, summary proceedings or otherwise, and may remove the Tenant and all other persons and any and all property from it. The Landlord shall not be under any liability to the Tenant for or by reason of any such entry, repossession or removal. The Landlord shall in addition to the right of re-entry have all other rights and remedies, including damages and injunction, at law or in equity arising on any default by the Tenant under this Lease. Such remedies are not exclusive or alternative, but the Landlord may from time to time have recourse to all or any of such remedies.

17.6 Examination and Inspection

The Landlord may enter on the Leased Lands and/or in the Project at all reasonable times during usual business hours upon twenty-four (24) hours prior Notice or as much Notice as possible in an emergency situation for the purpose of inspecting the Leased Lands or Project for the purpose of ascertaining whether all of the obligations of the Tenant under this Lease with respect to the Leased Lands are being performed. The Landlord shall not have any duty to make any such inspection nor shall the Landlord incur any liability or obligation to the Tenant for not making any such inspection.

17.7 Expenses

Whenever the Landlord takes any proceedings, does any work, or otherwise incurs any expense or takes any action with respect to any default by the Tenant, and whether or not legal proceedings are begun in consequence of such default and whether or not this Lease is terminated, the Landlord shall be entitled to be paid by the Tenant forthwith on demand in addition to any other amounts which may be payable or owing hereunder, all of the following:

(a) the cost of effecting any repairs or performing any obligation, together with a reasonable allowance for overhead and administration;

(b) court costs, collection costs, and legal fees on a solicitor and client basis; and

(c) if any amount herein due and payable to the Landlord remains unpaid thirty (30) days after it is due, interest on the amount outstanding from time to time shall be paid to the Landlord at the rate set out in Sections **4.14** and **4.15**.

17.8 Landlord and TRCA Defaults

In the event that the Landlord or TRCA have breached any of its/their obligations in this Lease, the Tenant shall deliver notice of such default to both the Landlord and TRCA who shall from then on have thirty (30) Business Days within which to remedy such default or, in the case of breaches not involving the failure to pay money, if such breach cannot be reasonably remedied within such thirty (30) days, then, the Landlord or TRCA, as applicable, shall have such longer period of time as is reasonable in the circumstances, provided that the Landlord or TRCA, as applicable, have commenced to remedy such breach within such thirty (30) day period and from then on proceed diligently and continuously to remedy such default and so long as the Landlord and/or TRCA are doing so, it/they will not be in default under this Lease.

17.9 Waiver by Tenant of Exemption from Distress

The Tenant agrees with the Landlord that, notwithstanding anything contained in the *Commercial Tenancies Act* of Ontario or any statute subsequently passed to take the place of or amend the said Act, none of the goods and chattels of the Tenant on the Leased Lands at any time during the Term or any extension thereof shall be exempt from levy by distress for Rent in arrears by the Tenant as provided for by any sections of the said Act or any amendments, and that if any claim is made for such exemption by the Tenant or if a distress is made by the Landlord, this covenant and agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying on any such goods as are named as exempted in any sections of the said Act or any amendments, the Tenant waiving, as it does, all and every benefit that could or might have accrued to the Tenant under any or by virtue of any sections of the said Act, or any amendments but for this covenant. The Tenant shall provide the Landlord on or before the Term Commencement Date with a satisfactory written acknowledgement of this estoppel and the waiver any benefits that could or might otherwise have accrued to it under or by virtue of any sections of said Act or any amendments in form and substance satisfactory to the City Solicitor.

17.10 Termination by Tenant

The Tenant covenants and agrees that the Tenant shall only exercise its right to terminate this Lease pursuant to the provisions of the *Bankruptcy and Insolvency Act*, provided that the Tenant has received the prior written consent of the Landlord and of all approved Leasehold Mortgagees and Assignees of the Leased Lands whose interest in the Leased Lands has been registered against title to the Leased Lands prior to such termination.

ARTICLE 18
ARBITRATION

18.1 Arbitrable Matters

The Parties agree that any dispute concerning a matter specifically made arbitrable by this Lease shall be submitted to arbitration in accordance with the provisions of this Article, and the result of such arbitration shall be final and binding on the parties and shall not be subject to any appeal or contestation.

18.2 Initiation of Arbitration

Any Party (the "Initiating Party") may initiate arbitration by written notice (the "Initiating Notice") to the other Party or Parties (collectively and individually called the "Responding Party"). The Initiating Notice shall:

(a) describe the dispute which is to be arbitrated, including an indication of the position(s) taken by the Initiating Party;

(b) confirm that the Initiating Party has endeavoured in good faith to resolve the dispute through informal discussions with the Responding Party but that this has been unsuccessful and the Initiating Party believes there is no reasonable likelihood of success within a reasonable period of time;

(c) specify the remedy sought by the Initiating Party; and

(d) set out three (3) or more names of persons considered by the Initiating Party to be qualified to act as arbitrators.

Within ten (10) days after the Initiating Notice is given, the Responding Party may give the Initiating Party a written response (the "Reply") to the allegations and submissions of the Initiating Party, setting out with reasonable particularity the position of the Responding Party with respect to the foregoing. For greater certainty, the failure of the Responding Party to provide the Reply shall not preclude the Initiating Party from proceeding with the arbitration.

18.3 Selection of Arbitrator

As soon as possible after the Initiating Notice is given, the Parties will meet and endeavour in good faith to select an arbitrator by mutual agreement, being either one of the persons named in accordance with the foregoing section or some other person. The provisions of the *Municipal Arbitration Act* R.S.O. 1990, c M.48 as the same may be amended from time to time, or any successor or replacement legislation shall not apply to this Lease. If an arbitrator is not selected by agreement of the Parties within ten (10) days after the Initiating Notice is given, then, at any time from then on either party may make an application to a Judge of the Supreme Court of Ontario, or such other official as may have jurisdiction from time to time under the *Arbitration Act*, to appoint an arbitrator, and the provisions of the *Arbitration Act* shall govern such appointment. If neither Party has made an application for the appointment of an arbitrator within fifteen (15) days after the Initiating Notice, then the Initiating Party shall be deemed to have abandoned the arbitration. Unless otherwise agreed between the Parties, the arbitration shall be conducted in accordance with the provisions of the *Arbitration Act*. The arbitrator so selected or appointed (the "Arbitrator") shall proceed to hear the submissions of the Parties, and may consider any matters they determine to be relevant. The Arbitrator shall be instructed to render a decision within ninety (90) days after their selection. The decision of the Arbitrator shall be final and binding on the parties and not subject to appeal or contestation, although the Arbitrator shall have jurisdiction to provide supplementary decisions by way of interpretation or elucidation of the original decision. The decision of the Arbitrator may be entered in any court having jurisdiction over the matters in dispute. Except where this Lease expressly allocates responsibility for the costs of arbitration, the Arbitrator shall have the authority to assess the costs of the arbitration against either or all of the Parties, including witness and counsel fees.

18.4 Avoidance of Multiplicity of Arbitrations

The Parties will co-operate in good faith to avoid a multiplicity of arbitrations as to various aspects of the same or related matters. In furtherance of this objective, the Arbitrator selected or appointed as to a particular issue who identifies a related and arbitrable issue may require that the arbitration be delayed while the parties attempt to resolve the related and arbitrable issue, or that the scope of the arbitration be extended to include that issue. If separate Arbitrators are appointed with respect to different issues but either concludes the issues are related and should be considered in a single arbitration, the Arbitrators may, after receiving submissions from the parties, settle between themselves appropriate procedures to that end and those procedures shall be binding on the Parties. If such procedures are not agreed on between the Arbitrators, both arbitrations shall continue.

18.5 Procedures and Related Matters

Forthwith after the selection or appointment of the Arbitrator, the Arbitrator shall be provided with a copy of the Initiating Notice and the Reply, if any, and the parties shall be provided with the opportunity to make submissions as to the procedures to be followed in the arbitration. Those procedures shall give each Party a reasonable opportunity to be heard and may or may not, at the discretion of the Arbitrator, provide for matters such as:

(a) pre-arbitration exchange of information;

(b) re-arbitration examinations of witnesses;

(c) exchange of documents by way of pleadings in addition to the Initiating Notice and the Reply;

(d) submission of written argument prior to, during or after the arbitration;

(e) the conduct of the arbitration by exchange of documents, by a hearing at which oral evidence is taken and argument heard, or by some combination; and

(f) any other matters appropriate in the context,

and may set out a timetable or schedule of times within which steps must be taken. In formulating these procedures, the Arbitrator shall have due regard to the nature of the issues to be resolved, the urgency of those issues, the need for a full and fair hearing and any other relevant matters.

ARTICLE 19
QUIET ENJOYMENT

19.1 Quiet Enjoyment

The Landlord and TRCA covenant and agree with the Tenant that if the Tenant pays the Rent reserved and performs the covenants in this document on its part contained, during the Term or any extension thereof, the Tenant shall and may peaceably enjoy and possess the Leased Lands for the Term or any extension thereof without any interruption or disturbance whatsoever from the Landlord or TRCA or any other Person lawfully claiming from or under the Landlord or TRCA, save and except as otherwise provided in this Lease and Ancillary Agreements of the same date and provided further, however, that nothing in this Section shall limit the rights of inspection conferred on the Landlord and/or TRCA in this document. In the event that the Landlord and/or TRCA mortgages its interest in the Total Site or Guildwood Park or any part from time to time, the Tenant shall, on request, subordinate its interest in the Leased Lands to and in favour of such mortgagee(s) provided that the Landlord and/or TRCA provides to the Tenant a non-disturbance agreement in a form mutually agreeable to the Tenant, TRCA, the Landlord and the Landlord's mortgagee, all acting reasonably.

ARTICLE 20
STATUS CERTIFICATES

20.1 Status Certificates

At any time and from time to time so long as this Lease shall remain in effect, on not less than twenty (20) Business Days prior written request by the other Party or by a Leasehold Mortgagee to execute, the Landlord and the Tenant, as applicable, will acknowledge and deliver to the other Party or Parties or a Leasehold Mortgagee, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified, stating the modifications) and the dates to which the Rent has been paid, if any, that no Event of Default has occurred hereunder or, if so, the nature, and as to such other matters as may be reasonably requested from time to time by either party or the Leasehold Mortgagee. If no response is received within the expressed time period (not less than twenty (20) Business Days) from a party to whom a written request is delivered pursuant to this Section, the Party submitting the request may deliver, by personal service, a second request to the Party requested to respond. Such second request shall require a response not less than twenty (20) Business Days after the day on which it is delivered. If no response is received to such second request within such expressed response period, the Party from whom the response was requested shall be deemed to have provided a written certificate to the requesting Party to the effect that this Lease is unmodified and in full force and effect and that no Event of Default has occurred which is continuing, except, in each case, to the extent that the requesting party has actual notice to the contrary.

20.2 Estoppel Certificate

Each of the Parties shall, at any time and from time to time during the Term or any extension thereof, on not less than fifteen (15) Business Days prior notice by the other Party, execute, acknowledge and deliver to the other Party a statement in writing certifying that this Lease is in good standing, unmodified and in full force and effect, or where requested, that the particular terms have been met or satisfied, as the case may be, or if there have been modifications that the same are in good standing, in full force and effect as modified, stating the modifications, the dates to which the Rent and other charges, if any, have been paid in advance, the defaults, if any, on the part of the Party requesting such statement known to the Party from whom such statement is requested and the action taken or proposed to be taken by such last-mentioned Party with respect to the same; to the extent required by the Landlord from time to time, the Tenant shall provide similar certification in respect of the obligations imposed on the Tenant under this Lease or any Ancillary Agreements. It is the intention of this Section that any such statements delivered pursuant to this Article may be relied on by any prospective purchaser of TRCA's freehold estate, the City's Lease interest in the Total Site, the Tenant's leasehold estate, any mortgagee of the freehold, and any permitted assignee or sublessee of the Tenant's leasehold estate or any Leasehold Mortgagee, as the case may be.

20.3 Form of Certificates

Each of the certificates referenced in Sections **20.1** and **20.2** shall be on the Landlord's standard form, subject only to those minor modifications reasonably requested, all to the satisfaction of the City Solicitor.

ARTICLE 21
GENERAL

21.1 Further Tenant Obligations

The Tenant covenants and agrees in respect of the use of the Project or any part, as follows:

(a) that during the Term and any extension thereof, financial statements required for the City to administer the Lease and Operating Agreement detailing the proposed Project Development and

the operation of the proposed Project will be required by the City for information purposes only. The Tenant agrees to provide such information in form and substance acceptable to the City, acting reasonably, forthwith on request of the City. This information will be treated by the City in accordance with all applicable laws, including the provisions of the *Municipal Freedom of Information and Protection of Privacy Act (Ontario)*;

(b) that during the Term and any extension thereof, the Tenant will comply with or cause to be complied with, all Applicable Laws in respect of this Lease, the Project and Leased Lands, including federal and provincial legislative enactments, those relating to Official Plan and zoning and building by-laws, environmental, heritage, health and safety laws, those of the Minister of Natural Resources for Ontario, and those of TRCA and of the City which relate to the Project and Leased Lands or any part and to the equipment, maintenance, operation and use of the same including leasehold Improvements and the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Project Development, or any part. The Tenant covenants to comply with or cause to be complied with the requirements of all police, fire and sanitary Authorities and to observe and obey all Applicable Laws and other requirements governing the conduct of any businesses conducted on the Leased Lands;

(c) notwithstanding Subsection **21.1(b)**, to comply, at its expense, at all times during the Term and any extension thereof in respect of the Project and Leased Lands and the use, operation and management thereof with all applicable TRCA regulations made under the Conservation Authorities Act, including Ontario Regulation 166/06

(d) the Tenant covenants and agrees with the Landlord that it shall, throughout the Term and any extension thereof diligently, actively and punctually:

(i) perform or cause to be performed all of the obligations under this Lease and the Material Contracts and all collateral agreements, all in accordance with the provisions hereof and thereof; and

(ii) take all action, proceedings and enforce all remedies available to the Tenant, acting as a commercially reasonable prudent tenant, to cause any third party to perform all of their obligations under any Material Contracts, to the extent that the failure to do so could reasonably result in a breach by the Tenant of its obligations under this Lease;

(e) the Tenant shall promptly pay for all materials supplied and work done in respect of the Leased Lands and Project so as to ensure that no lien is registered against the same or any part or against TRCA's or the Landlord's or the Tenant's interests in the Total Site and/or the Leased Lands, as the case may be. If a lien is registered or filed, the Tenant shall ensure that it is discharged, at its own expense, forthwith, failing which the Landlord and/or TRCA may, at its/their option, discharge the lien by paying the amount necessary into court and the Tenant shall reimburse the amount so paid and all expenses of the Landlord and/or TRCA including reasonable legal fees (on a substantial indemnity basis) to the Landlord and/or TRCA, forthwith;

(f) not to commit, suffer or permit any act or omission in the Leased Lands or any part which shall result in an illegal use or cause any breach of any Applicable Laws, the Construction Contract, this Lease, any Leasehold Mortgage and any collateral agreements; and

(g) to maintain in force during the Term and any extension thereof all necessary licences, permits, and other Approvals relating to the use and occupancy of the Leased Lands and the Project by the Tenant and any other Persons approved pursuant to this Lease.

21.2 Provision

The Tenant agrees not to oppose any request under the *Planning Act* or the City of Toronto Act for a minor variance or for a s.37 Agreement or for a site plan, re-zoning, severance or Official Plan Amendment of Guildwood Park or any part thereof now or hereafter made by or on behalf of TRCA and/or the City or its/their designate during the Term and any extension thereof, provided that such requests shall not have the effect of materially adversely affecting the Tenant's Project.

21.3 Corporate Authority

The Tenant represents, warrants and certifies to the Landlord and TRCA that the Tenant is and will continue to be throughout the Term and any extension thereof, a body corporate duly incorporated and in good standing and duly organized under the laws of the Province of Ontario and to carry out to completion the activities to be conducted by it in respect of the Tenant's Construction Work and the operation and management of the Project, in accordance with the requirements on its part in this Lease, and that there are no legal restrictions on the right of the Tenant to carry out its obligations under this Lease. The signatories executing this Lease on behalf of the Tenant, the Landlord and TRCA each respectively warrant and certify to each other that they are each authorized and empowered to bind each of the Tenant, the Landlord and TRCA to this Lease by their signatures. The Tenant agrees to indemnify and save harmless the Landlord and TRCA from and against any and all fines, claims, costs, damages, losses or expenses of any nature whatsoever resulting or arising from any breach of these representations and warranties.

21.4 Approvals Required by Parties under Lease

Wherever the provisions of this Lease contemplate an Approval or consent of or to or a decision with respect to any action, Person, firm, corporation, document or plan by either the City or the Tenant, this Lease (unless the text expressly states that such Approval or consent may be arbitrarily or unreasonably withheld, or unless the text expressly states that the time periods are to be otherwise, in which latter case this Section shall apply but the time periods shall be adjusted accordingly) shall be deemed to provide that:

(a) such request for Approval, consent or decision shall:

(i) clearly set forth the matter in respect of which such Approval, consent or decision is being sought;

(ii) form the sole subject matter of the correspondence containing such request for Approval, consent or decision; and

(iii) clearly state that such Approval, consent or decision is being sought,

otherwise such request shall be deemed never to have been made;

(b) such Approval, consent or decision shall be in writing;

(c) if provided by the Tenant or the Landlord such Approval, consent or decision shall not be unreasonably withheld or delayed, save and except as may otherwise be specifically provided elsewhere in this Lease;

(d) the Party whose Approval or consent is requested shall, within ten (10) Business Days (unless otherwise set out herein) after receipt of such request, advise the other Party by Notice in writing either that it consents or approves, or that it withholds its consent or Approval and in the latter case it shall set forth, in reasonable detail, its reasons for withholding its consent or approval;

(e) in the event that the responding written Notice mentioned in Subsection **21.4(d)** is not delivered within the applicable time limit, the Party whose consent or approval is requested shall conclusively be deemed to have refused to give its approval or consent but such party shall nevertheless act promptly either to provide reasons for its refusal or to reverse its deemed refusal; and

(f) any Approval from the Parties required pursuant to the provisions of this Lease shall, unless otherwise expressly stated in this document, the Site Plan Agreement or the Heritage Easement Agreement, not be unreasonably withheld and shall be granted or declined within twenty (20) Business Days after the request for Approval has been submitted (unless a shorter or longer period is expressly provided for in this Lease or the Heritage Easement Agreement). Any failure to respond to any such request shall be deemed to be the consent or Approval or prior written consent or Approval requested provided that a second written request has been given to such Party no earlier than five (5) Business Days prior to the expiry of the initial twenty (20) Business Days and such Party has not responded within five (5) Business Days of such second request. Any refusal or denial of a consent or Approval shall be accompanied by written reasons therefore.

21.5 City and TRCA Roles

(1) Nothing in this Lease derogates from, interferes with, or fetters the exercise by the City, whether or not it is the leasehold tenant from TRCA of the Total Site including the Leased Lands, of the City's discretion and/or all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the City in its role as a municipality. The City's discretion with respect to planning, zoning heritage and related matters in respect of the Project Development, the Project and Leased Lands, will remain unfettered at all times and in all respects during the Term and any extension thereof and the City is not prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities. Nothing in this Lease derogates from, interferes with, or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials in the exercise of their statutory and municipal duties.

(2) No communication or dealing between the Tenant and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City that is not clearly in respect of and in accordance with this Lease shall be deemed to be a communication or dealing under this Lease between the Tenant and the Landlord as Parties to this Lease, or will be deemed to affect the Landlord as a Party to this Lease with notice of any such communication or dealing. It is intended and agreed that any communication or dealing between the Landlord and the Tenant as Parties to this Lease shall only be effective if delivered in the manner provided in Section **21.19**. No communication or dealing between the Tenant as a Party to this Lease and the Landlord as a Party to this Lease, shall relieve the Tenant from the responsibility of

discharging its lawful obligations to the City imposed by statute, regulation, by law or by any other lawful manner separate and apart from the obligations of the Tenant imposed by this Lease.

(3) Nothing herein derogates from, interferes with or fetters the exercise by TRCA of all of its rights and obligations as a conservation authority (whether discretionary or mandatory) or imposes any obligations on TRCA in its role as a conservation authority, and TRCA shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities as a conservation authority.

21.6 Force Majeure

If, by reason of Force Majeure, the Tenant or the Landlord or TRCA, as the case may be, if in good faith and without default or neglect on its part, is/are prevented or delayed in carrying out its obligations hereunder (save and except the payment of Rent) which under the terms of this Lease it is or may be required to do by a specified date, or within a specific period of time, the date or the period of time within which the obligation or the work was to have been completed shall be extended by a period of time equal to that of such delay or prevention, and the Tenant or the Landlord or TRCA, as the case may be, shall be deemed not to be in default if it performs and completes the obligation or the work in the manner required by the terms of this Lease within such extended period of time, or within such further extended period of time as may be agreed on from time to time between the Landlord and the Tenant or TRCA. Where a time limit in this document is stated to be subject to extension as a result of Force Majeure, any dispute as to whether or not a party is entitled to extension of such time limit as a result of Force Majeure, including whether or not an element of Force Majeure exists or the length of time during which such element of Force Majeure did exist, shall be resolved in accordance with the dispute resolution procedures set out in Article **18**.

21.7 Registration

The Tenant shall not register or permit the registration of this Lease or any Assignment or sublease or other document evidencing an interest of the Tenant or anyone claiming through or under the Tenant in this Lease or the Leased Lands except that at the Tenant's request and subject to the Tenant paying the Landlord's costs and expenses, the Tenant may register a notice of lease or caveat which describes the Parties, the Term, and any options or right to extend or renew, and contains the other minimum information required under the applicable legislation, but the notice of lease or caveat must be in form satisfactory to the Landlord or TRCA, acting reasonably. At the end of the Term or any extension thereof, whether by forfeiture, termination, effluxion of time or otherwise, any and all registrations made by the Tenant, any Approved Assignees or any of the Tenant's mortgagees shall be removed by and at the sole cost of the Tenant.

21.8 Certificates

A certificate procured by the Landlord from an Architect, professional engineer, land surveyor or other qualified individual as to: any question of fact concerning the completion of any construction or other work; the extent to which the completion of any work or obligation has been delayed by Force Majeure; whether the Leased Lands or any part is being kept in good repair; the cause of any destruction or damage and the extent and duration for which the Leased Lands is incapable of being used for their intended purposes by reason of any destruction or damage, shall be final and binding on the Parties.

21.9 Relationship of Parties

Nothing in this Lease shall create any relationship between the Parties other than that of Landlord and Tenant and contracting party with TRCA, and it is specifically agreed that none of the Parties are partners, joint venturers, agents or trustees of the other(s). Without limiting the generality of the foregoing, the Parties expressly acknowledge and agree that the Landlord is in no way liable for the debts or any other liabilities of the Tenant, whether relating to the Leased Lands or otherwise, and similarly, the Tenant is in no way liable for the debts or any other liabilities of the Landlord.

21.10 Agreements, etc. to Run with Leased Lands and Guildwood Park

All of the agreements, rights, privileges, obligations and duties contained in this Lease shall be construed as covenants running, in the case of the Landlord and TRCA, with the balance of the Total Site (excluding the Leased Lands), as the servient tenement, and the Leased Lands, as the dominant tenement; and in the case of the Tenant, with its interest in this Lease and the Leased Lands, as the servient tenement, and the balance of the Total site (excluding the Leased Lands), as the dominant tenement; and all of the foregoing as extending and enuring to the benefit of, and being binding on, the Landlord and TRCA and the Tenant and their respective successors and permitted assigns, to the same extent as if such successors and assigns were in this document named as original Parties hereto, all to the end that this Lease shall always bind the owner and holder of any interest in or to the Leased Lands and the owner of the balance of the Total Site (excluding the Leased Lands).

21.11 Time of the Essence

Time shall in all respects be of the essence of this Lease provided, however, that the time for doing or completing any matter provided for in this document may be extended or abridged by an

agreement in writing signed by the Tenant and the Landlord and TRCA, or by their respective counsel who are hereby expressly appointed in that regard.

21.12 Remedies Cumulative

The remedies of Parties under this Lease are cumulative and the exercise by such Parties of any right or remedy for the default or breach of any term, covenant, condition or agreement in this document contained shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which such Parties may be lawfully entitled for such default or breach. Any waiver by such Parties of the strict observance, performance or compliance by another Party hereto of or with any term, covenant, condition or agreement in this document contained, or any indulgence granted by a Party hereto to another Party hereto shall not be deemed to be a waiver of any subsequent default or breach by such other Party, not entitle such other Party to any similar indulgence.

21.13 Amendment

This Lease may not be modified or amended except by instrument in writing of equal formality to this Lease signed by the Parties hereto or by their successors and permitted assigns.

21.14 Further Assurances

The Landlord and the Tenant and TRCA and each of them shall and will at all times and from time to time from now and on every reasonable written request so to do, make, do, execute, deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be required for more effectually implementing and carrying out the true intent and meaning of this Lease.

21.15 Waiver

A Party hereto or a Party to an agreement entered into pursuant hereto (the "Waiving Party") may from time to time by instrument in writing and in its sole discretion waive in whole or in part any default, breach, non-performance and/or non-observance by any other Party hereto or by any Party to an instrument or agreement entered into with the waiving Party pursuant hereto (the "obligated Party") of any of the covenants or obligations in favour of the waiving Party to be observed or performed by the obligated Party under this Lease or such other agreement entered into. Any such waiver may be retroactive but in any event shall only apply and extend to the specific matter forming the subject of such waiver, shall only extend to the waiving Party and shall not otherwise affect or prejudice the right of the waiving Party to require the due and strict observance and/or performance by the obligated Party of such covenant or obligation from then on or any other covenant or obligation in favour of the waiving Party to be observed or performed by the obligated Party under this Lease or such other agreement entered into (including in the case of a partial or limited waiver, the observance and/or performance of that part of such covenant or obligation not waived thereby). Any such waiver shall be without prejudice to any right of a Party not Party to the waiver to require the due and strict observance and/or performance of a covenant in its favour that is the subject to such waiver in favour of the waiving Party.

21.16 Legal Fees Regarding Consents

In the event the Tenant requests the Landlord or TRCA to execute any document or give any consent or approval, the Tenant shall promptly pay each of them the legal fees including staff time or such fees as City Council may approve from time to time it incurs in doing so (on a substantial indemnity basis) and disbursements for considering the same. Provided, however, that this Section shall not apply to any TRCA and Landlord Approval of:

(a) Approved Plans;

(b) the As-Built Record Drawings and Specifications;

(c) Approvals dealing with the design and site review and the Approval process under Section **6.1**; or

(d) the Landlord's and TRCA's legal costs for the initial Leasehold Mortgage Acknowledgment Agreement(s) with the Lender(s) and other Leasehold Mortgagees financing construction of the Project Development.

21.17 Calculation of Interest

In calculating interest payable under this Lease for any period of time, the first day of such period shall be included and the last day of such period shall be excluded. Interest shall accrue from day to day on the basis of a 365 day year, for the actual number of days elapsed and shall be calculated semi-annually. Where the calendar year of calculation contains 366 days, each rate of interest in this document shall be expressed as a yearly rate for purposes of the *Interest Act*, R.S.C. 1985, C.1-15 as the same may be amended from time to time, or any successor or replacement legislation as such rate multiplied by 366 and divided by 365.

21.18 HST

In the event that HST or any other sales or use tax is applicable to any amounts payable to any party hereunder after assessing all reasonably available exemptions, such taxes shall be payable in respect of (and in addition to) such amounts.

21.19 Notice

Any notices, demands, requests, agreements, certificates, statements, reports, opinions or other instruments or communications (individually or collectively called a "Notice") which may be or are required to be given pursuant to this Lease shall be in writing, shall not be unreasonably withheld or delayed unless specifically provided for in this document, and shall be delivered by personal service or sent by prepaid registered mail (except during a postal disruption or threatened postal disruption), or sent by facsimile as follows:

(a) In the case of the Tenant at:

Guild Inn Estate Inc.
955 Lakeshore Boulevard West
Toronto ON M6K 3B9
Attention: President

Fax: (416) 260-0552

with a copy to its solicitors at:

Parente Borean LLP
3883 Highway 7, Suite 207
Woodbridte ON L4L 6C1

Attention: Don Parente
Fax: (905) 850-6069

(b) and in the case of the City to it at:

City of Toronto
Facilities & Real Estate Division
Metro Hall, 55 John Street, 2nd Floor
Toronto, ON
Canada M5V 3C6
Attention: Director of Real Estate Services
Fax: (416) 392-1880

and with a copy to the City Solicitor at:

City of Toronto, Metro Hall
55 John Street, 26th Floor
Toronto, ON
Canada M5V 3C6
Fax: (416) 397-5624

and with a copy to General Manager of Economic Development & Culture at:

City Hall, 9th Floor, East Tower
100 Queen Street West
Toronto, ON
Canada M5H 2N2
Fax: (416) 397-5600

and with a copy to General Manager of Parks, Forestry and Recreation at:

City of Toronto
Parks Forestry and Recreation Division
100 Queen Street West, 4th Floor

Toronto ON M5H 2N2

Attention: General Manager, Parks Forestry and Recreation

and with a copy to the Chief Planner of the City Planning Division at:

City of Toronto
Office of the Chief Planner
100 Queen Street West, 12th Floor East
Toronto ON M5H 2N2

Attention: Chief Planner

(c) and in the case of TRCA to it at:

5 Shoreham Drive
Toronto, ON M3N 1S4

Attn: Chief Executive Officer

Fax: (416) 661-6898

or at such other place as such party may from time to time designate by written notice to the other. Any such Notice given in this manner shall be deemed to have been validly and effectively given and received: if personally delivered, on the day of such delivery; or if sent by prepaid registered mail, on the third (3rd) Business Day next following the mailing, provided, however, that during all postal disruption or threatened postal disruption, delivery shall be in person; and if sent by facsimile, on the Business Day next following the day on which it was sent. The CCO will administer and manage this Lease and any related agreements or documentation on behalf of the Landlord, and where the Landlord is either entitled or obligated to provide consents, approvals, waivers, notices or notices of termination hereunder, the CCO or the City Solicitor may do so; provided, however, that the CCO or the City Solicitor may always elect to submit the issue of the giving of such Notice or the contents of any Notice, to City Council for its determination and direction.

21.20 Independent Covenants

If for any reason whatsoever any term, covenant or condition of this Lease, or the application to any Person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition:

(a) is deemed to be independent of the remainder of this Lease and to be severable and divisible from it and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Lease or any part; and

(b) continues to be applicable to and enforceable to the fullest extent permitted by law against any person and circumstances other than those as to which it has been held or rendered invalid, unenforceable or illegal.

21.21 Survival of Tenant's Covenants

All agreements, covenants and indemnifications in this Lease made by the Tenant shall survive the expiration or earlier termination of this Lease, anything to the contrary in this Lease notwithstanding.

21.22 Gender and Number

Words importing the singular shall include the plural and vice versa. Words importing gender shall include all genders.

21.23 Entire Agreement

This Lease, the Letter of Intent the Ancillary Agreements specifically referred to in this document constitute the entire agreement among the Parties pertaining to the Lease of the Leased Lands to the Tenant and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect.

There are no conditions, warranties, representations or other agreements between the Parties in connection with this Lease except as specifically set forth in this document or in such other agreements.

21.24 Continuation of Certain Obligations

Wherever specifically provided for in this Lease or if it is necessary for the full implementation of any provision of this Lease, the obligations of the Tenant shall survive the expiration of the Term or any extension thereof or the earlier termination of this Lease, as the case may be.

21.25 Counterparts

This Agreement may be signed in counterparts (including counterparts by facsimile) and all counterparts taken together shall be deemed to constitute one and the same instrument.

21.26 Contra Proferendum and Legal Advice

The parties acknowledge and agree that both parties have participated in the drafting of this Lease, and any rule of law providing that ambiguities shall be construed against the drafting party shall be of no force or effect. Each of the parties confirms that they have been advised to obtain and have obtained independent legal advice regarding this Lease, prior to executing this Lease.

21.27 Governing Law

This Lease shall be governed by and construed in accordance with the laws of the Province of Ontario and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals from it.

21.28 Liability

In the event that there shall be more than one person comprising the Tenant hereunder the rights and obligations of such persons shall, in every case, be joint and several.

21.29 Licences, Approvals

The Tenant represents, warrants, covenants and agrees that it has and that the Tenant and any approved Third Party Manager at all times during the Term or any extension thereof will have all licences and other Approvals necessary to carry on its operations on the Leased Lands and to hold its interests in real or personal property contemplated by this Lease and to perform their respective obligations hereunder.

21.30 Conflict with Ancillary Agreements

Should this Lease conflict with any provision of an Ancillary Agreement, the provisions of the Ancillary Agreement shall govern.

21.31 Binding Effect

This Lease shall extend to, be binding on and enure to the benefit of the Parties hereto and their respective successors and permitted assigns as limited in this Lease.

IN WITNESS WHEREOF the Parties have hereto affixed their respective corporate seals attested to by the hands of their proper officers in that behalf duly authorized.

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor
File No. 2200-805-5116.2014

CITY OF TORONTO

Per: Joe Casali
Name: Joe Casali
Title: Director of Real Estate Services c/s

Per:
Name:
Title:

(I/We have authority to bind the corporation)

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

City Clerk

GUILD INN ESTATE INC.

Per:
Name:
Title: SAM D'UVA PRESIDENT c/s

Per:
Name: PIERO SUPPA

Title:

(I/We have authority to bind the corporation)

TORONTO AND REGION CONSERVATION AUTHORITY

Per: _____
Name: Gerri Lynn O'Connor, Chair
Title: c/s

Per: _____
Name: Brian Denney, Secretary-Treasurer
Title:

(I/We have authority to bind the corporation)

Schedule "A-1"

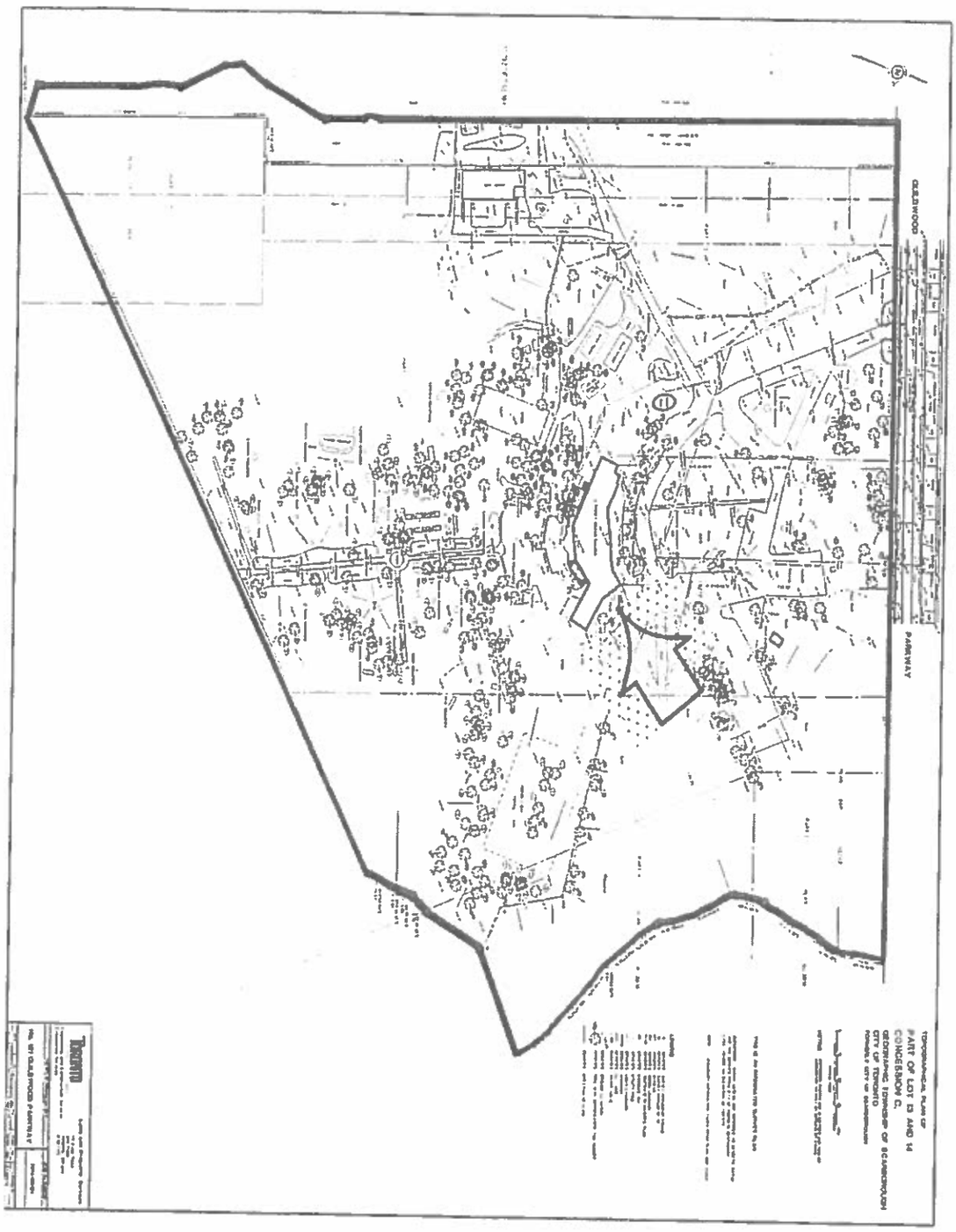
Legal Description for Total Site

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

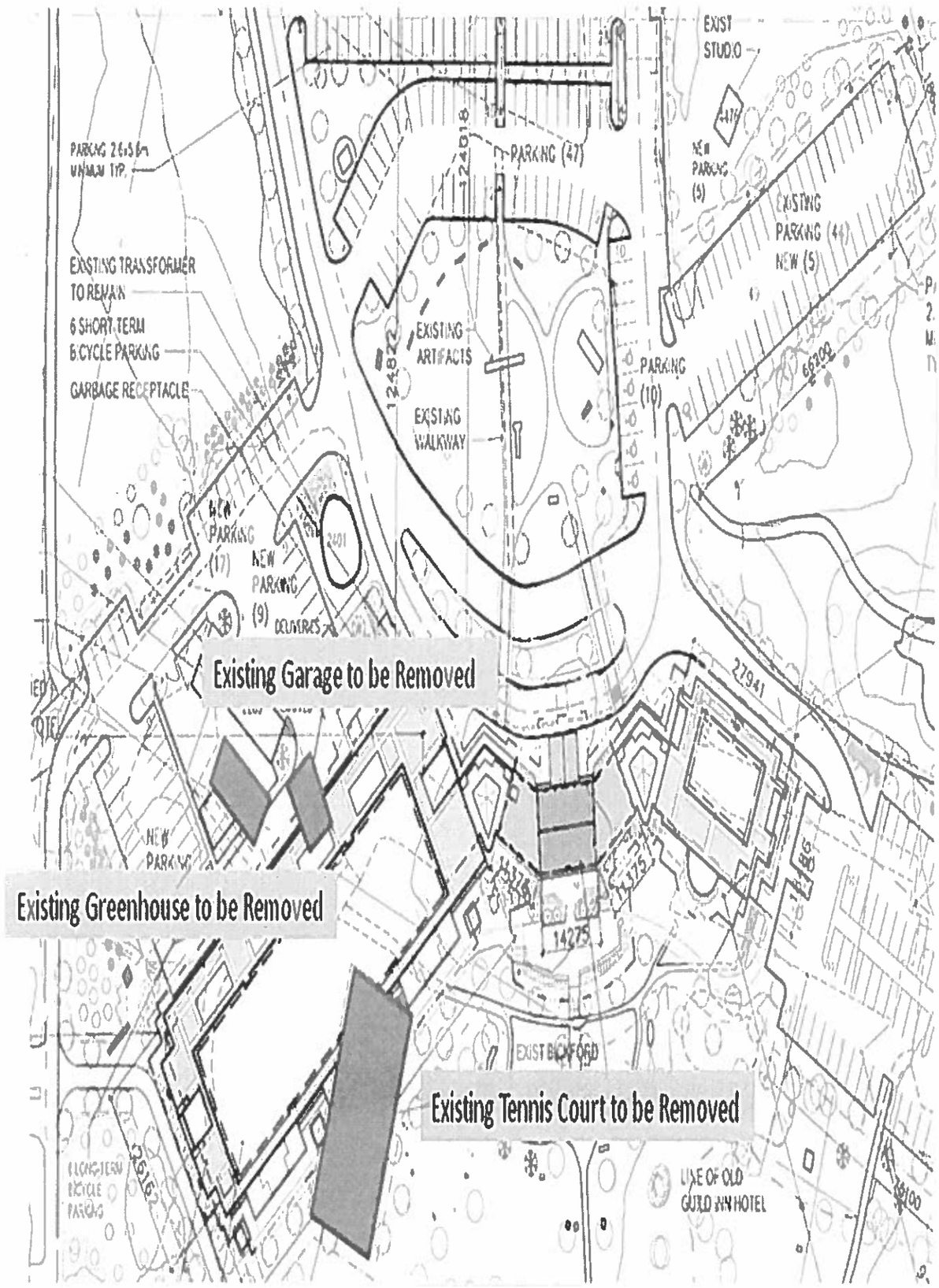
Schedule "A-2"

Sketch Showing Total Site



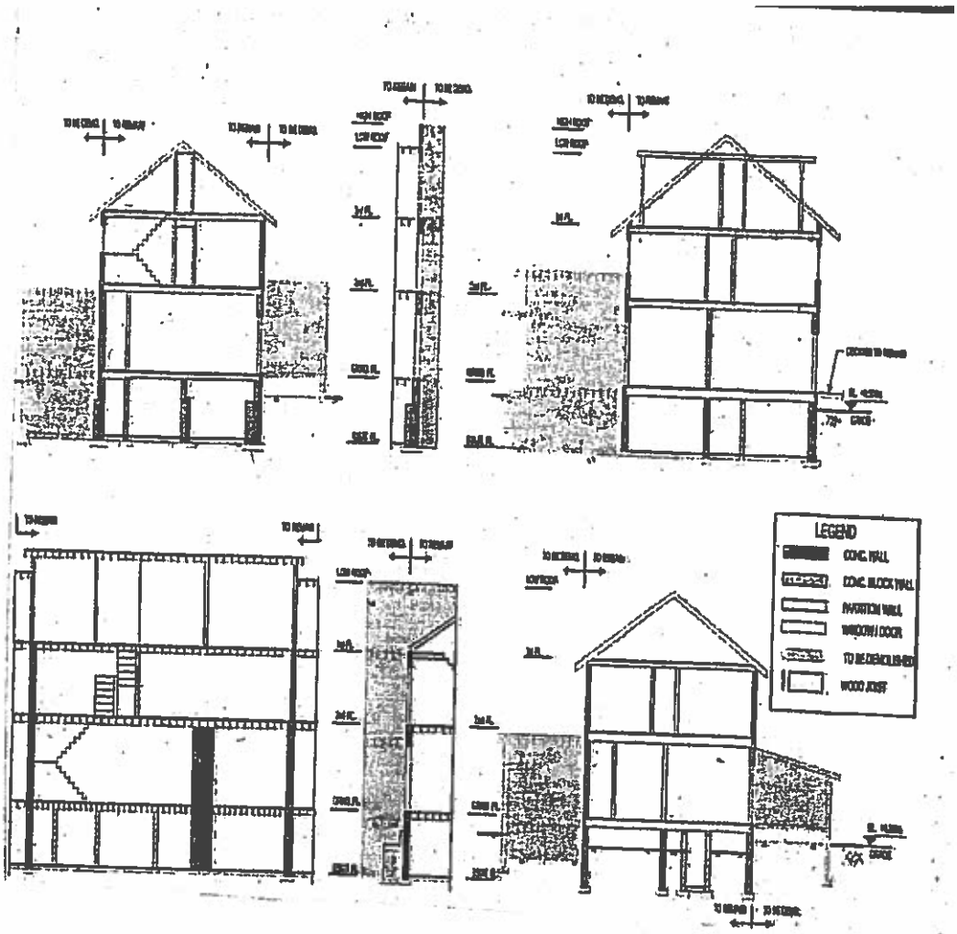
Schedule "A-3"

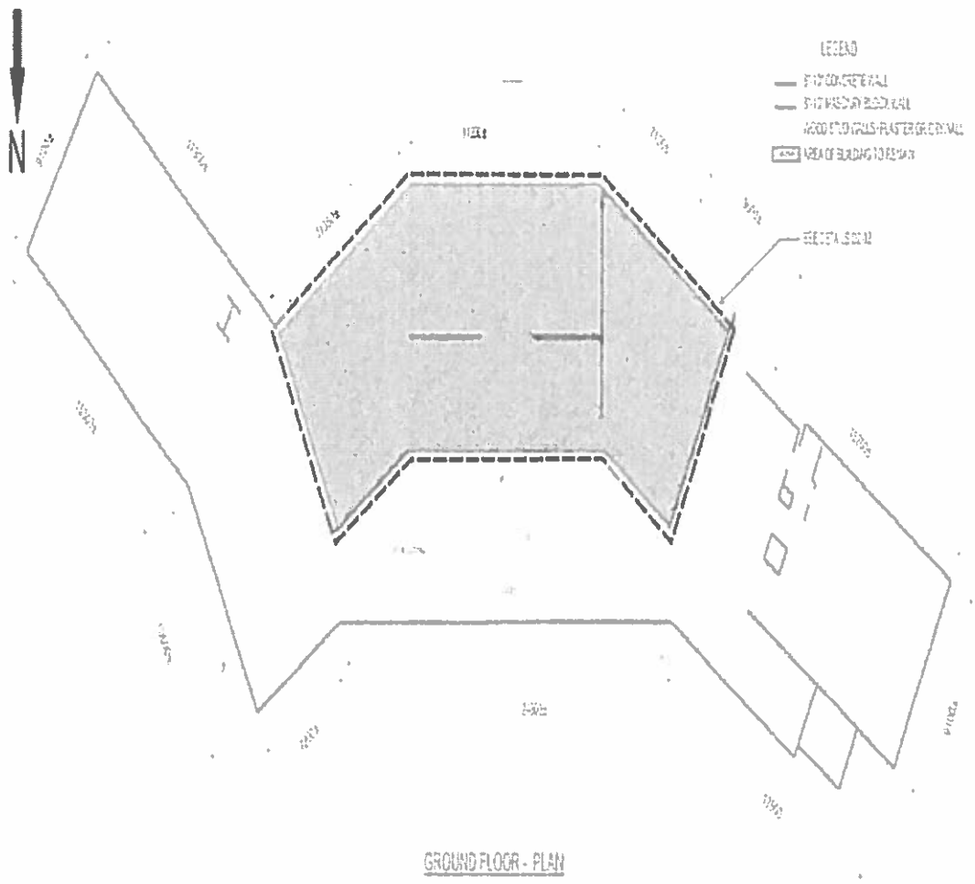
Removal Items - City's Works



Schedule "A-4"

Structures to be Demolished

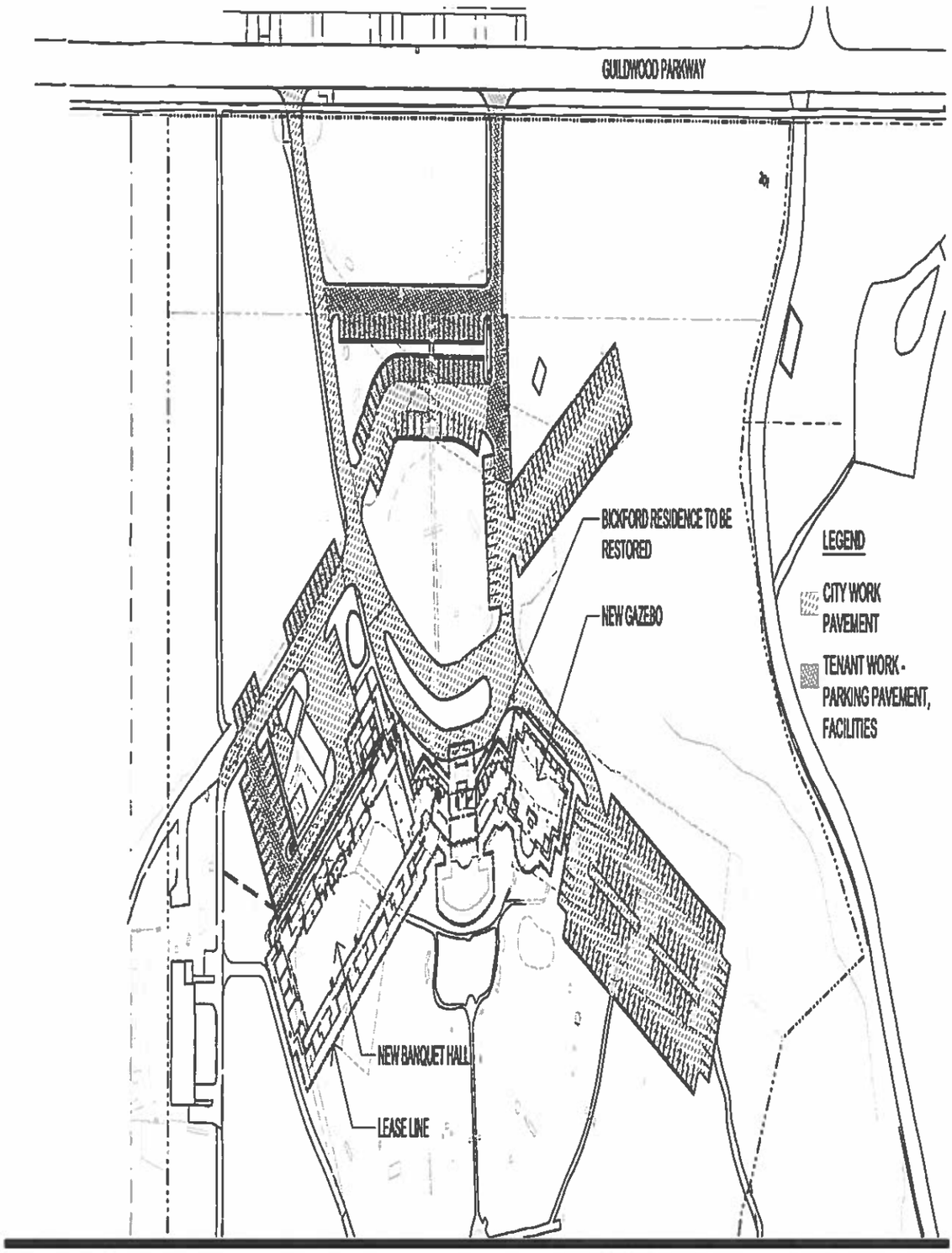




GROUND FLOOR - PLAN

Schedule "B"

Sketch Showing Leased Lands



QUEEN'S QUAY ARCHITECTS in association with GG ARCHITECTS with PHILIP GOLDSMITH ARCHITECT

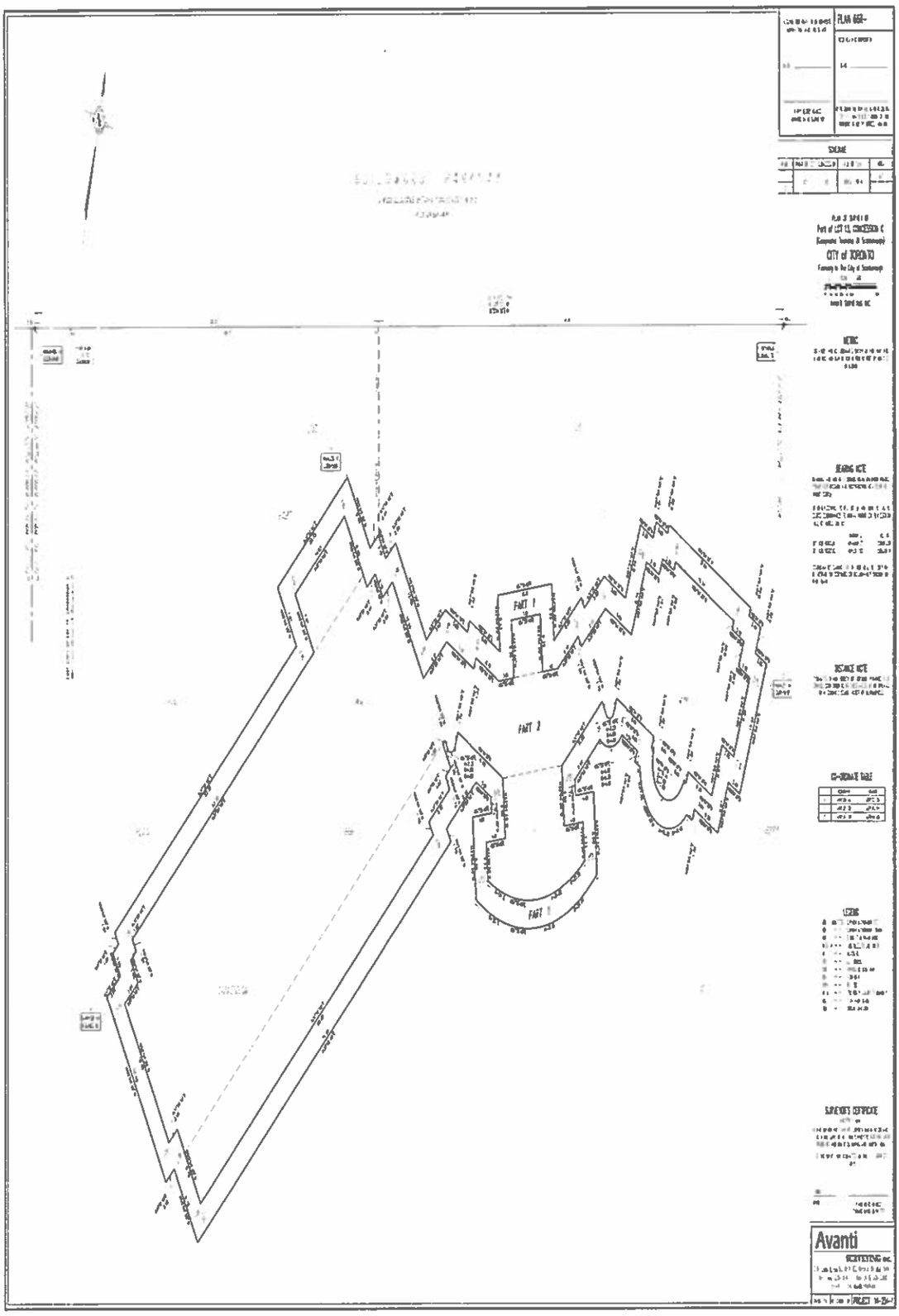
SCHEDULE B - TO LEASE BETWEEN CITY OF TORONTO AND GUILD INN ESTATES INC.

Scale: 1:1400

A2

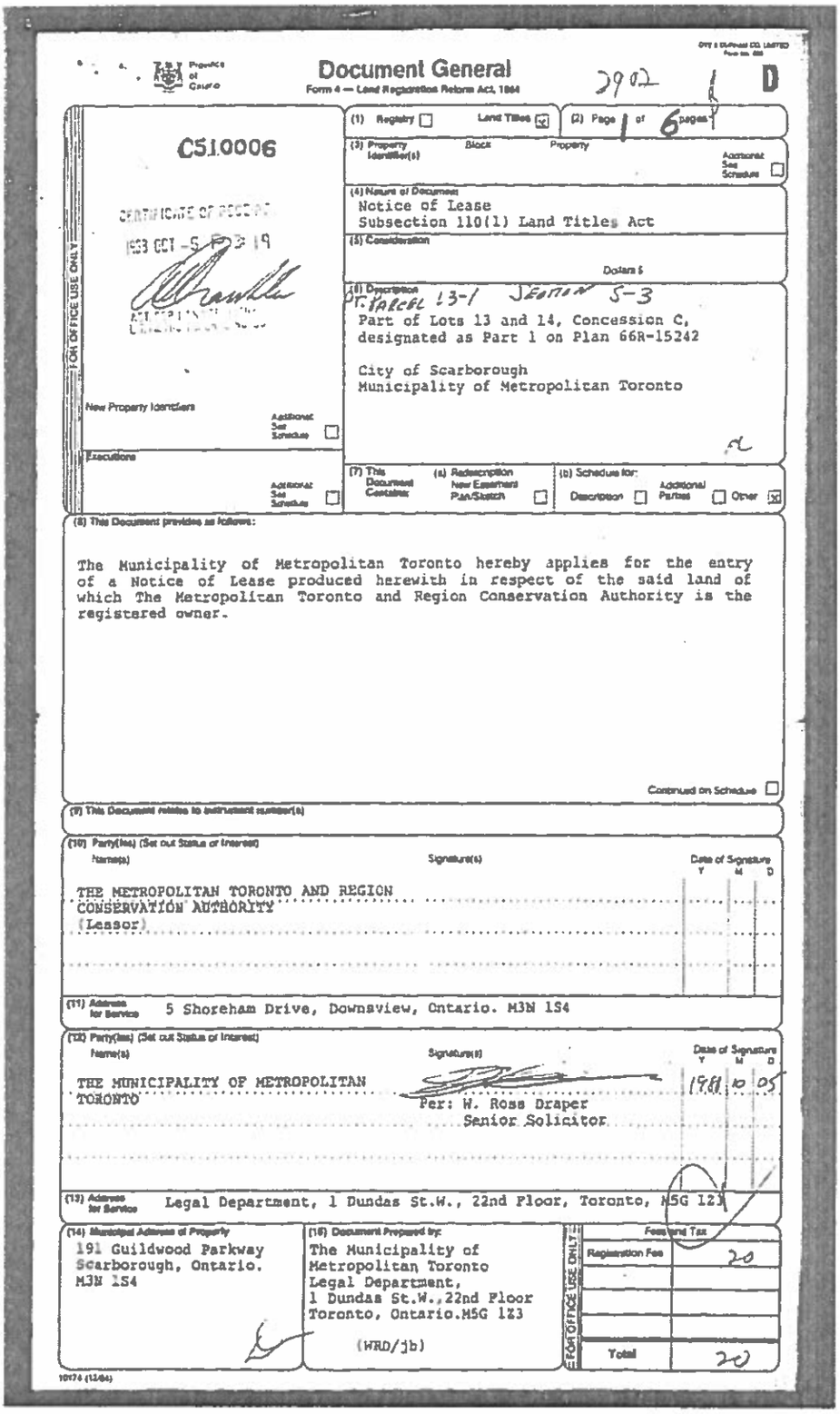
Schedule "C"

Draft Reference Plan



Schedule "D"

Original Lease



Province of Ontario

Document General

Form 4 — Land Registration Reform Act, 1984

3902 1 D

C510006

CERTIFICATE OF RECEIPT

1983 OCT -5 P 2:19

(1) Registry ☐ Land Titles ☒ (2) Page 1 of 6 pages

(3) Property Identifier(s) Block Property Additional See Schedule ☐

(4) Nature of Document: Notice of Lease Subsection 110(1) Land Titles Act

(5) Consideration Dollars $

(6) Description PT. PARCEL 13-1 SECTION 5-3

Part of Lots 13 and 14, Concession C, designated as Part 1 on Plan 66R-15242

City of Scarborough
Municipality of Metropolitan Toronto

New Property Identifiers Additional See Schedule ☐

Executions Additional See Schedule ☐

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch ☐ (b) Schedule for: Description ☐ Additional Parties ☐ Other ☒

FOR OFFICE USE ONLY

(8) This Document provides as follows:

The Municipality of Metropolitan Toronto hereby applies for the entry of a Notice of Lease produced herewith in respect of the said land of which The Metropolitan Toronto and Region Conservation Authority is the registered owner.

Continued on Schedule ☐

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D
THE METROPOLITAN TORONTO AND REGION CONSERVATION AUTHORITY (Lessor)		

(11) Address for Service 5 Shoreham Drive, Downsview, Ontario. M3N 1S4

(12) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D
THE MUNICIPALITY OF METROPOLITAN TORONTO	Per: W. Ross Draper Senior Solicitor	1983 10 05

(13) Address for Service Legal Department, 1 Dundas St.W., 22nd Floor, Toronto, M5G 1Z3

(14) Municipal Address of Property: 191 Guildwood Parkway Scarborough, Ontario. M3N 1S4

(15) Document Prepared by: The Municipality of Metropolitan Toronto Legal Department, 1 Dundas St.W.,22nd Floor Toronto, Ontario.M5G 1Z3 (WRD/jb)

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	20
Total	20

10176 (12/84)

2

THIS LEASE made as of the 1st day of SEPTEMBER 1988.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT

B E T W E E N :

THE METROPOLITAN TORONTO AND REGION CONSERVATION AUTHORITY

(herein called the "Landlord")

OF THE FIRST PART

- and -

THE MUNICIPALITY OF METROPOLITAN TORONTO

(herein called the "Tenant")

OF THE SECOND PART

I. WHEREAS the Landlord is the owner of the lands described in Schedule "A" (herein referred to as the "Demised Premises");

II. AND WHEREAS the Demised Premises have been operated as a hotel;

III. AND WHEREAS the parties have agreed to lease the Demised Premises to the Tenant;

IV. AND WHEREAS the Tenant has agreed to sublet the Demised Premises to Giant Step Realty Corp. ("GS") pursuant to a lease made as of the 1st day of April, 1988 between the Tenant and GS and herein referred to as the "Sublease".

WITNESS that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid and observed and performed, the Landlord does demise and lease onto the Tenant the Demised Premises reserving unto the Landlord, its servants, agents and invitees an easement over those portions of the Demised Premises, described as the Lands in the Sublease for the purpose of access and egress to Landlord's adjoining lands on the following terms and conditions:

APPROVED AS TO FORM
For GEORGE H. RUST-D'EYE
Metropolitan Solicitor

1. To have and to hold the Demised Premises for and during the term of ninety-five (95) years and one (1) day commencing September 1, 1988, provided, however, should the Sublease be terminated whether by a effluxion of time or otherwise the Landlord shall be entitled to terminate this Lease one (1) day after termination of the Sublease.

2. The Tenant covenants and agrees to pay to the Landlord an annual rent of $1.00 (the receipt of which is hereby by the Landlord acknowledged by the Landlord) and to pay all taxes and local improvement charges levied or charged against the Demised Premises and to pay all expenses, payments and outgoings incurred in respect of the Demised Premises for any

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X.

matter. Any costs and expenses of any kind which may become payable out of or on account of the Demised Premises shall entitle the Landlord to recover same from the Tenant as if it were rent in arrears.

3. The Demised Premises are leased to the Tenant for the purposes permitted in the Sublease and for no other purpose. The Landlord may inspect the premises at all reasonable times on reasonable notice.

4. The Tenant shall at the expiration or sooner determination of the demised term, or any renewal thereof, subject to the rights of the sublessee under the Sublease, peacefully surrender and yield up unto the Landlord the premises hereby demised with the appurtenances together with all erections and improvements which at any time during the said term shall have been made therein or thereon in the same condition as same are to be in on termination of the Sublease.

5. The Tenant covenants and agrees with the Landlord that at the expiration of this term the Tenant shall return to the Landlord, subject to the rights of the sublessee under the Sublease, all of the goods, chattels, furniture and equipment owned by the Landlord or the Tenant, including all chattels, furnishings, furniture and equipment acquired by the Tenant pursuant to the Sublease and contained in the Demised Premises and used in connection therewith in good condition, reasonable wear and tear excepted, and if requested all liquor licences and authorities it may have from the Liquor Licence Board of the Province of Ontario in accordance with all applicable provincial legislation subject to the approval of the Liquor Licence Board being given to such transfer.

6. The Landlord covenants with the Tenant:

(a) for quiet enjoyment.

7. Proviso for re-entry by the Landlord on non-payment of rent or non-performance of covenants, subject to the rights of the sublessee under the Sublease.

8. The Landlord shall not be liable or responsible in any way for any personal or consequential injury of any kind that may be suffered or sustained by the Tenant or GS, or any employee, agent or patron of the Tenant or GS or any other person who may be upon the Demised Premises or for any loss or theft of, or damage or injury to, any property belonging to the Tenant or its employees or any other person while such property is on the premises, howsoever caused, and in particular, but without limiting the generality of the foregoing, the Landlord shall not be liable for any injury or damage of any kind to any such persons or property caused by the breakdown of the drainage system, by flooding or erosion, by failure to remove snow or ice, by interruption of any public utility or service, or by leakage or overflow of steam, water, rain or snow from any part of the building complex, or elsewhere, or from its water, steam, sprinkler, or drainage pipes or plumbing works or by any damage caused by the act or omission of any tenant or sub-tenant.

9. The Tenant shall indemnify and save harmless the Landlord against all fines, suits, claims, demands and actions of any kind to which the Landlord may become liable by reason of any breach, violation or non-performance by the Tenant of any covenant, term or

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provision of this Lease, or as a result of any lien being registered against the Demised Premises, or by reason of any injury occasioned to or suffered by any person of damage to any property caused by any wrongful act by the Tenant or any of its employees, sub-tenants, licencees, concessionaires, contractors, agents or assignees or against any and all costs, counsel fees, expenses and liabilities incurred in or about any such claim or any action and proceeding brought thereon.

10. (a) Any notice, request or demand herein provided or given hereunder if given by the Tenant to the Landlord shall be sufficiently given if mailed by registered mail postage prepaid addressed to the Landlord at:

5 Shoreham Drive,
Downsview, Ontario
M3H 1S4

Attention: Secretary-Treasurer

(b) Any notice herein provided for or given hereunder if given by the Landlord to the Tenant shall be sufficiently given if mailed as aforesaid addressed to the Tenant at:

The Clerk, The Municipality of
Metropolitan Toronto,
City Hall,
West Tower, 2nd Floor,
Toronto, Ontario
M5H 2N2

with a copy to the Metropolitan
Solicitor

(c) Any notice mailed as aforesaid shall be conclusively deemed to have been given on the next business day following the day on which such notice is mailed as aforesaid. Either the Landlord or the Tenant may at any time give notice in writing to the other of any change of address of the party giving notice and after the giving of such a notice the address therein specified shall be deemed to be the address of the party giving it.

11. AND it is hereby agreed between the parties hereto that should the Tenant remain in possession of the said Demised Premises after the termination of the term hereby granted, without other special agreement, it shall be a yearly tenant only at a rental of $1.00 per year payable in advance on the 1st day of every year and subject in all other respects to the terms of this Lease.

12. This Lease shall be binding upon and extend and enure to the benefit of the parties hereto, their successors and assigns.

THE METROPOLITAN TORONTO AND REGION CONSERVATION AUTHORITY

Per _____
Vice-Chairman - Les Haney

Per _____
Director, Finance and Administration -
James W. Dillane

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4.

Authorized by Resolution No. 5 (20)
of the Executive Committee adopted
in Council on the 1st day of
May 19 82

Metropolitan Clerk

THE MUNICIPALITY OF METROPOLITAN
TORONTO

Per: _____
Metropolitan Clerk
D. CROMBIE

Per: _____
Metropolitan Treasurer
A. BROOKS

6

SCHEDULE "A"

to a LEASE between

THE METROPOLITAN TORONTO AND REGION CONSERVATION AUTHORITY
- and -
THE MUNICIPALITY OF METROPOLITAN TORONTO

DEMISED PREMISES

ALL AND SINGULAR those parcels of land situated in the City of Scarborough, in The Municipality of Metropolitan Toronto, described as follows:

FIRSTLY:

Part of Lots 13 and 14, in Concession "C", in the said City of Scarborough, designated as Part 1 on Plan 66R-15242, deposited in the Land Registry Office for the Land Titles Division of Toronto (No. 66). BEING PT PARCEL 13-1 Section S-3

SECONDLY:

Part of Lot 14, in Concession "C", in the said City of Scarborough, designated as Part 1 on Plan 64R-7198, deposited in the Land Registry Office for the Registry Division of Toronto (No. 64).

INSURANCE TRUST AGREEMENT

FORM OF INSURANCE TRUST AGREEMENT

THIS AGREEMENT made as of the _____of _____, _____.

B E T W E E N:

[INSERT NAME OF INSURANCE TRUSTEE]

(hereinafter called the "Insurance Trustee")

- and -

CITY OF TORONTO

(the "Landlord")

- and -

GUILD INN ESTATE INC.

(the "Tenant")

- and –

TORONTO AND REGION CONSERVATION AUTHORITY

(the "TRCA")

- and -

[INSERT NAME OF LEASEHOLD MORTGAGEE]

(the "Leasehold Mortgagee").

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor

WHEREAS TRCA owns the land known municipally as 201 Guildwood Parkway, Toronto which is described in Schedule "A" attached hereto (hereinafter referred to as "Guildwood Park") and the Landlord has a leasehold interest in Guildwood Park;

AND WHEREAS the Tenant has a leasehold estate in part of Guildwood Park known as the "Leased Lands" pursuant to a Lease dated _____ , entered into between the Landlord, TRCA and the Tenant (hereinafter called the "Leasehold Estate"), notice of which is registered on title to Guildwood Park as Instrument No. _____ (hereinafter, as it may be amended or modified from time to time, called the "Lease");

AND WHEREAS the Tenant has charged its interest in the Lease and the Leased Lands to the Leasehold Mortgagee;

AND WHEREAS the Landlord and the Tenant acknowledge that the Leasehold Mortgagee is a Leasehold Mortgagee as defined in the Lease;]

AND WHEREAS the Tenant is obliged by the terms of the Lease to maintain certain insurance;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements contained in this Agreement and for other good and valuable consideration (the receipt and sufficiency whereof is hereby acknowledged by each of the parties), the Parties covenant and agree in favour of each other as follows:

1. Definitions

For the purposes of this Agreement, capitalized terms used but not defined herein shall have the respective meanings given to them in the Lease.

2. Appointment of Insurance Trustee

The Landlord, the Tenant and the TRCA hereby appoint the Insurance Trustee as trustee under this Agreement, and the Insurance Trustee hereby accepts the trusts declared herein and agrees to

perform the same upon the terms and conditions herein set forth. The Insurance Trustee shall have no duties or responsibilities except as expressly provided in this Agreement and shall not be obligated to recognize nor have any liability or responsibility arising under any other agreement to which the Insurance Trustee is not a party notwithstanding that reference thereto may be made in this Agreement.

3. Payment of Certain Proceeds to Insurance Trustee

The Landlord, the Tenant and TRCA shall cause proceeds of any insurance policies provided for in Section **10.8** of the Lease payable in the event of loss or damage to be made payable to the Insurance Trustee. The Landlord, TRCA, the Tenant and the Leasehold Mortgagee shall from time to time do, sign, execute and endorse all transfers, assignments, cheques, loss claims, receipts, writings and things necessary or desirable for the purposes aforesaid and for such purpose irrevocably do appoint the Insurance Trustee their attorney to do, sign, execute and endorse the same in the name of the Landlord, the Tenant, TRCA and the Leasehold Mortgagee as appropriate and on their behalf and as the Insurance Trustee may deem necessary or desirable.

4. Application of Insurance Proceeds

The Insurance Trustee shall, in the event that it receives insurance monies from an insurance claim with respect to any replacement, repair or reconstruction which does not exceed $250,000.00 per claim (including any applicable deductible), pay over to the Tenant all such monies, which shall be used to affect the relevant replacement, repair or reconstruction. The Insurance Trustee shall, in the event that it receives any other insurance monies under the provisions of this Agreement, pay over to the Tenant from such monies amounts in reimbursement of costs and expenses incurred by the Tenant in the replacement, repair or reconstruction, of the loss or damage in respect of which such monies were paid to the Insurance Trustee, after deducting therefrom any amounts paid pursuant to Section 5 hereof in respect of such replacement, repair, or reconstruction but only to the extent of such monies. The Insurance Trustee shall release the total proceeds of all such insurance from an insurance claim relating to any replacement, repair or reconstruction in excess of $500,000.00, subject to statutory holdback requirements, to the Tenant for the sole purpose of making expenditures for the required replacement, repair, or reconstruction of the Leased Lands (or to reimburse the Tenant for such expenditures already made), but only after having received the following:

(a) evidence satisfactory to the Insurance Trustee (which may be by way of a certificate, signed on behalf of the Tenant by an officer of the Tenant) describing the purpose for which the monies are required and stating the amount expended thereon together with such evidence as the Insurance Trustee may require in support of such statement;

(b) an opinion of any solicitor acceptable to the Insurance Trustee that the property replaced, repaired, or reconstructed is, subject to the security constituted by any Leasehold Mortgage, free of encumbrances, except for encumbrances permitted under such Leasehold Mortgage;

(c) evidence satisfactory to the Insurance Trustee (which may be by way of a certificate signed on behalf of the Tenant by an officer of the Tenant) stating that to the best of the knowledge and belief of the signor after due enquiry that neither a default under the Lease nor an Event of Default has occurred and is continuing, that payment has been made of all costs and expenses incidental to, or arrangements satisfactory to the Insurance Trustee have been made for, financing or otherwise to provide payment of, the total cost of such replacement, repair, or reconstruction and, if any policy or policies of insurance the proceeds of which shall have been received by the Insurance Trustee shall be deductible insurance, evidence satisfactory to the Insurance Trustee that the full deductible amount has been paid in payment of costs and expenses incidental to such replacement, repair, or reconstruction; and

(d) while and for so long as there remain monies owing to the Leasehold Mortgagee under a Leasehold Mortgage, a certificate signed on behalf of each of the Leasehold Mortgagee and Insurance Trustee, by an officer of each of the Leasehold Mortgagee and the Insurance Trustee, and by the CCO of the Landlord stating either that the conditions precedent contained in such Leasehold Mortgage have been fulfilled in the same manner as they would have had to have been fulfilled had the disbursement been an advance of monies under such Leasehold Mortgage or, that the said conditions precedent have been waived.

If the Landlord shall be entitled to receive proceeds of insurance pursuant to Section **10.8** of the Lease, references in this Section and in Section **5** to the Tenant shall be deemed to be references to the Landlord; provided that the Landlord need not provide the evidence referred to in Subsection **4(c)** that neither a default under the Lease nor an Event of Default has occurred and is continuing nor shall the provisions of Subsection **4(d)** be applicable. The Insurance Trustee may, if it has not received notice to the contrary, accept as conclusive evidence of the entitlement of the Landlord to such proceeds, a certificate signed on behalf of the Landlord by an officer of the Landlord to the effect that the Landlord is entitled to the proceeds of insurance pursuant to Section **10.8** of the Lease.

5. Payment in Instalments

The Insurance Trustee will, if requested by the Tenant, pay such proceeds of insurance in instalments (subject to statutory holdback requirements), against proper certificates of a member in good

standing of the Ontario Association of Architects (or any successor thereto) during the period of, and for costs already incurred by the Tenant in the replacement, repair, or reconstruction of the loss or damage in respect of which such monies were paid to the Insurance Trustee; provided the insurance Trustee receives the opinion of counsel required by Subsection **4(b)** as to the property at the time replaced, repaired, or reconstructed and the evidence required by Subsection **4(c)** and, if applicable, the certificate referred to in Subsection **4(d)**.

6. Payment of Balance

The balance of such proceeds in excess of the amount expended by the Tenant in such replacement, repair, or reconstruction and paid to the Tenant pursuant to Section 4 and 5 shall be paid over by the Insurance Trustee to the Tenant.

7. Investment

Pending payment of insurance monies to the Tenant as provided in Sections 4, 5 and 6 such monies shall, on the written request of the Tenant:

(a) be deposited by the Insurance Trustee with any Schedule I Chartered Bank and in each case against demand deposit certificates or with its own deposit department; or

(b) be invested in the bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province thereof; provided that no such investments shall have a maturity greater than one year from the date of such investment therein.

The Insurance Trustee shall, at any time and from time to time, on the written request of the Tenant demand payment of the monies evidenced by any such certificates or sell such investments. Any interest or other distributions from time to time received by the Insurance Trustee upon or in respect of such monies and investments or any amount realized on the sale of investments in excess of the purchase price thereof plus costs of sale shall be dealt with in the same manner as such proceeds.

8. Term

This Agreement shall remain in effect during the Term of the Lease and for so long thereafter as there are insurance monies held by the Insurance Trustee.

9. Administration of the Trusts

The Insurance Trustee may in relation to this Agreement act on the opinion or advice of or information obtained from any counsel, auditor, architect, engineer or other expert whether obtained from any counsel, auditor, architect, engineer or other expert whether obtained by the Insurance Trustee or otherwise and may employ or retain such assistance as may be necessary for the proper discharge of its duties under this Agreement and may pay proper and reasonable compensation for all such legal and other advice or assistance. Except where some other mode of proof is required or permitted by this Agreement, the Insurance Trustee shall, if it is acting in good faith, be at liberty to accept and rely on a certificate signed on behalf of a party hereto by an officer of such party:

(a) as to any statements of facts, as conclusive evidence of the truth of such statements;

(b) as to any expenditure made or expense incurred, as sufficient evidence that such expenditure has been so made or that such expense has been so incurred; and

(c) as to compliance with any other applicable provision of this Agreement.

10. Liability and Indemnification of Insurance Trustee

No duty with respect to effecting or maintaining insurance or notifying anyone of the failure to insure shall rest upon the Insurance Trustee in its capacity as trustee hereunder, and the Insurance Trustee shall not be responsible for any loss by reason of want or insufficiency of insurance, or by reason of the failure of any of the companies or other insurers in which the insurance is carried to pay the full amount of any loss against which they may have insured the Tenant. The Landlord shall be responsible for the payment of the fees of the Insurance Trustee and shall reimburse the Insurance Trustee for all expenses incurred by it in connection with its duties under this Agreement (including without limitation the reasonable fees and expenses of its counsel or other experts, advisors or other agents) and shall indemnify it and save it harmless against any and all liabilities, costs and expenses including legal fees, for anything done or omitted to be done by it in the performance of this Agreement, except as a result of its negligence or bad faith.

11. Appointment of New Insurance Trustee

The Insurance Trustee may resign its trust, or be removed by the Landlord, TRCA and the Tenant jointly, in either case on 90 days written notice to the Landlord, the Tenant and TRCA, or to the Insurance Trustee, as the case may be. Forthwith upon such resignation or removal the Landlord, the Tenant and TRCA shall jointly appoint a new trustee hereunder; failing such joint appointment, any of the Landlord,

the Tenant or TRCA may apply to a judge of the Superior Court of Justice who shall have power to make such appointment. Upon the appointment of a new Insurance Trustee it shall be vested with the same powers and duties as its predecessor.

12. Successors and Assigns of Beneficiaries

The benefits under this Agreement accruing to each of the Landlord, the Tenant and TRCA shall extend to all their respective successors and assigns, including mortgagees of their respective interests, all of whom, according to their interests, shall also be bound by all the provisions and obligations of this Agreement (it being the responsibility of each party to require its successors and assigns to expressly acknowledge and agree to be bound by this Agreement). Upon the acquisition by any such successor or assign of such an interest, such successor or assign shall be joined, as a party benefiting and bound by this Agreement, by the appropriate further agreement supplementary to this Agreement (but no such agreement shall impose any positive obligation upon a mortgagee until such time as such mortgagee has foreclosed or entered into possession). The parties acknowledge that the Leasehold Mortgagee has satisfied this condition by joining in this Agreement.

13. Notices

All notices, demands, requests and payments which may be or are required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given if served personally upon the party or any executive officer of the party for whom it is intended, or mailed, prepaid and registered, and in the case of the Landlord, TRCA and the Tenant, addressed to them at their respective addresses, as set out in Section **21.9** of the Lease, in the case of the Leasehold Mortgagee, addressed to it at •, Attention: •and in the case of the Insurance Trustee, addressed to it at •, Attention:• or such other address in Canada as the parties may from time to time advise by notice in writing, and all the provisions of Section **21.19** of the Lease as to the time when any notice is deemed to have been given and post office work stoppages shall apply.

14. Dispute Resolution

Any controversy, claim or dispute arising out of or relating to this Agreement, including, without limitation, with respect to its formation, execution, validity, application, interpretation, performance, breach, termination or enforcement on the transactions contemplated hereby shall be resolved in accordance with the terms and conditions of the Dispute Resolution Agreement.

15. Conflict with Lease

Should this Agreement conflict with any provision of the Lease, the provisions of this Agreement shall govern.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

• **(Insurance Trustee)**

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

CITY OF TORONTO

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

_____
City Clerk

GUILD INN ESTATE INC.

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

TORONTO AND REGION CONSERVATION AUTHORITY

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

- **(LEASEHOLD MORTGAGEE)**

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Schedule "A"

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Schedule "F"

Leasehold Mortgage Acknowledgement Agreement

LEASEHOLD MORTGAGE ACKNOWLEDGMENT AGREEMENT

[N.B. Forbearance and Priority provisions may be inserted once Tenant provides details of its proposed sublease/financing arrangements for consideration of TRCA and the Landlord]

THIS AGREEMENT made in quadruplicate and dated the _____ day of _____, _____.

B E T W E E N:

CITY OF TORONTO

(hereinafter called the "Landlord")

OF THE FIRST PART,

- and -

GUILD INN ESTATE INC.

(hereinafter called the "Tenant")

OF THE SECOND PART,

- and -

TORONTO AND REGION CONSERVATION AUTHORITY

(hereinafter called the "TRCA")

OF THE THIRD PART,

- and -

•

(hereinafter called the "Leasehold Mortgagee")

OF THE FOURTH PART.

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor

WHEREAS TRCA owns the land known municipally as 201 Guildwood Parkway, Toronto which is legally described in Schedule "A" (hereinafter referred to as "Guildwood Park"), and the Landlord has a leasehold interest in Guildwood Park;

AND WHEREAS the Tenant has a leasehold estate in part of 201 Guildwood Park, known as the "Leased Lands" pursuant to the Lease dated _____ entered into between the Landlord and the Tenant (hereinafter called the "Leasehold Estate"), notice of which is registered on title to 201 Guildwood Parkway as Instrument No. _____ (hereinafter, as the same may be amended or modified from time to time, called the "Lease");

AND WHEREAS by the terms of the Lease it is provided that the Tenant may at any time and from time to time charge or encumber its Leasehold Estate as security for the Tenant's financial obligations provided that certain conditions have been complied with as more particularly set forth in the Lease;

AND WHEREAS the Leasehold Mortgagee has agreed to lend to the Tenant a sum of money not exceeding the amount of • Dollars ($•) of lawful money of Canada, at an interest rate and upon terms agreed to by the Leasehold Mortgagee (the "Loan"), and the Tenant has filed with the Landlord and TRCA a copy of the proposed Leasehold Mortgage of all of the Tenant's right, title and interest in and to the Lease and the Leasehold Estate in favour of the Leasehold Mortgagee;

AND WHEREAS the Tenant and the Leasehold Mortgagee are entering into this Agreement with the Landlord and TRCA in accordance with the requirements of the Lease;

AND WHEREAS the conditions set forth in the Lease in respect of the proposed Leasehold Mortgage of the Lease to secure the Loan will have been complied with upon execution and registration of this Agreement and of the Leasehold Mortgage;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereby covenant and agree as follows:

1. Acknowledgements

(1) The Landlord acknowledges and agrees that:

(a) the Landlord has received a copy of the proposed Leasehold Mortgage from the Leasehold Mortgagee;

(b) the Leasehold Mortgage constitutes a Leasehold Mortgage (as defined in the Lease) and

(c) the Landlord consents to the Leasehold Mortgage set out herein.

(2) The Tenant and the Leasehold Mortgagee agree that the Leasehold Mortgage does and will provide that it is expressly subject to the rights of the Landlord under the Lease, and in particular to the right of the Landlord to acquire title to the Leased Lands as defined in the Lease, in accordance with and subject to the provisions and conditions of the Lease.

(3) The Tenant acknowledges the terms of this Agreement.

(4) The Parties acknowledge and agree that all capitalized terms which are not defined herein have the respective meanings ascribed thereto in the Lease.

(5) The Leasehold Mortgagee acknowledges that the term of the Leasehold Mortgage is within the existing Term of the Lease.

2. Liability of Leasehold Mortgagee

(1) Notwithstanding the provisions hereof or of the mortgage and charge of the Leasehold Estate contained in the Leasehold Mortgage, the Landlord agrees with the Leasehold Mortgagee that, unless and until the Leasehold Mortgagee has foreclosed or taken possession or control of the Leasehold Estate, nothing herein or therein contained renders the Leasehold Mortgagee liable to the Landlord under the Lease for the fulfilment or non-fulfilment of any of the obligations of the Tenant thereunder.

(2) The Leasehold Mortgagee hereby agrees with the Landlord that if the Leasehold Mortgagee forecloses or takes possession or control of the Leasehold Estate pursuant to the Leasehold Mortgage, then, so long as the Leasehold Mortgagee is the owner of or in possession or control of the Leasehold Estate, the Leasehold Mortgagee must observe and perform all the obligations of the Tenant under the Lease, including the curing of all defaults of the Tenant under the Lease that are capable of remediation by the Leasehold Mortgagee and of which the Leasehold Mortgagee has received Notice from the Landlord pursuant to the terms of the Lease.

(3) The Leasehold Mortgagee covenants and agrees with the Landlord that prior to the sale or transfer of the Leasehold Estate following the realization by the Leasehold Mortgagee of the security of the Leasehold Mortgage or by the exercise of the power of sale of the Leasehold Mortgage or otherwise, the Leasehold Mortgagee must require the prospective Assignee of the Leasehold Estate to have fulfilled the requirements of an Assignee as provided for in Section **15** of the Lease, including, without limiting the generality of the foregoing:

(a) covenanting with the Landlord to perform all of the Tenant's obligations under the Lease, including the curing of all defaults of the Tenant under the Lease that are capable of remediation; and

(b) entering into an assumption agreement with the Landlord;

but so soon as such Assignee fulfils such requirements, the Leasehold Mortgagee and the Landlord are relieved and discharged from their covenants, agreements and obligations to each other in this agreement.

(4) As part of enforcing its security, the Leasehold Mortgagee may, for a period within thirty (30) days of the termination of the Lease or Landlord taking possession of the Leased Lands, whichever is earlier, and not exceeding fourteen consecutive days (the "Enforcement Period"), enter onto the Leased Lands for the purpose of assessing the chattels, leasehold improvements, fixtures and equipment, removal of or conducting a sale of the chattels, leasehold improvements, fixtures and equipment to the extent it has a security interest in same (the "Enforcement Activities") and in so doing will not be a mortgagee in possession, provided that after five days on the Lands, the Leasehold Mortgagee pays the Landlord a fee equivalent to the per diem Rent (without duplication of any Rent that may have been received with respect to the said 10 day period) under the Lease for each day it or its agents are on the Lands. The Enforcement Activities can only be undertaken during the Enforcement Period.

(5) The Leasehold Mortgagee may arrange for a receiver or manager to operate the Tenant's business at the Leased Lands.

3. Curable Events of Defaults

(1) The Landlord must not

(a) without giving 45 days prior Notice to the Leasehold Mortgagee accept the surrender of, modify or amend, or agree to accept the surrender of, modify or amend, the Lease in any material respect; or

(b) terminate, or agree to terminate, the Lease except in accordance with the provisions of this Section 3.

(2) Subject to Subsection **3(7)**, the Landlord may not exercise any of its rights or remedies against the Tenant consequent upon any Event of Default unless the Landlord has first served on the Leasehold Mortgagee at the Leasehold Mortgagee's Service Address the Notice of the Event of Default (which Event of Default entitles the Landlord to exercise the rights or remedies provided in Section 17 of the Lease), and unless the Leasehold Mortgagee has not remedied such default as permitted by Subsections **(3)** and **(4)**.

(3) The Landlord must allow the Leasehold Mortgagee a period of 60 days respecting arrears of rent and a period of 60 days respecting default in obligations other than rent after the date of receipt by the Leasehold Mortgagee of the Notice of an Event of Default for the purpose of curing the default specified in the Notice or causing the same to be cured (provided that except with respect to payment defaults, if such default by its nature requires longer than such period to cure, then such period will be extended for such further period of time as may be reasonably required to cure such default considering the nature thereof provided the Leasehold Mortgagee is proceeding expeditiously and continuously to cure same), and the right of the Landlord to re-enter, or to forfeit or terminate the Lease as a result of the Event of Default, will cease upon the Leasehold Mortgagee's curing the Event of Default within the period allowed to the Leasehold Mortgagee hereunder for such purpose. If the nature of the Event of Default is such that it cannot be cured or remedied by a third party, the Landlord must, upon the request of the Leasehold Mortgagee, enter into a new lease on the same terms as this Lease in accordance with Section 5 and the Event of Default is deemed to have been cured within the requisite time period.

(4) The period allowed to the Leasehold Mortgagee for the purpose of curing any Event of Default specified in the Notice received by the Leasehold Mortgagee (which is of such nature that the Leasehold Mortgagee must be in possession of the Leased Lands or any part thereof in order to cure the Event of Default) will be extended to include the period of time required by the Leasehold Mortgagee to obtain such possession with due diligence, provided that during such extended period all the other obligations of the Tenant under this Lease are being duly performed.

(5) The Landlord will accept performance by the Leasehold Mortgagee of any covenant, condition or agreement on the part of the Tenant to be performed hereunder as having the same force and effect as though performed by the Tenant.

(6) If the Leasehold Mortgagee fails to cure any Event of Default specified in the Notice of the Event of Default received by the Leasehold Mortgagee within the period of time allowed for curing the same pursuant to this Section **3**, the Landlord may, subject to the provisions of Subsection **3(7)**, exercise any of its rights hereunder without further notice to the Leasehold Mortgagee.

(7) If an Event of Default has occurred and is continuing and the Leasehold Mortgagee, within 60 days after receipt of the Notice of Event of Default, commences and diligently prosecutes to conclusion foreclosure or other proceedings to acquire the Tenant's leasehold interest hereunder, the Landlord will not re-enter, forfeit or terminate this Lease, provided that:

(a) subject to the provisions of this Section **3**, the Landlord will not be precluded from exercising any rights or remedies under the Lease in respect of any other Event of Default during such period of forbearance; and

(b) during such period of forbearance the other obligations of the Tenant arising during such period of forbearance including, without limiting the generality of the foregoing, the obligation of the Tenant to pay Rent, are complied with.

4. New Lease

(1) If by reason of any Event of Default or by operation of law the Lease is terminated before its stated expiration date, so long as the Leasehold Mortgagee:

(a) makes written request to the Landlord for a new lease within 60 days next after the Leasehold Mortgagee is advised by Notice given by the Landlord of the termination of the Lease, the Landlord shall, within ten days of serving the Notice of termination on the Tenant, serve upon the Leasehold Mortgagee the said Notice to inform the Mortgagee that the Landlord has served upon the Tenant a Notice of termination; and

(b) agrees, for so long as it is in possession of the Leased Lands:

(i) to be bound by all of the covenants and obligations of the Tenant under the Lease;

(ii) to be subject to the rights of the Landlord pursuant to the Lease;

(iii) to cure all defaults of the Tenant under the Lease which are capable of remediation by the Leasehold Mortgagee and of which the Leasehold Mortgagee has received notice from the Landlord pursuant to the terms of this Agreement; and

(iv) to indemnify and save harmless the Landlord from and against all claims, demands, losses, damages, costs, expenses or requirements regarding non-curable defaults of the Tenant,

then the Landlord agrees to enter into a new lease of Leased Lands in favour of the Leasehold Mortgagee for what would have been the remainder of the Term of the Lease, effective immediately prior to such termination, at the same rent and upon all the same terms, provisions, covenants and agreements contained in the Lease and the Leasehold Mortgagee will assume and have the same rights and benefits as the Tenant pursuant to the new lease as if the Lease was not forfeited, surrendered or terminated.

(2) The failure of the Leasehold Mortgagee or its nominee to execute and deliver to the Landlord such new lease within 30 days after it has been tendered by the Landlord to the Leasehold Mortgagee or its nominee, or to comply with any of the other provisions and conditions herein specified with respect to such new lease, is conclusively, unless otherwise agreed to in writing between the Landlord and the Leasehold Mortgagee or its nominee, deemed an abandonment and waiver on the part of the Leasehold Mortgagee of all rights to obtain such new lease.

(3) If there is more than one Leasehold Mortgagee of the Leasehold Estate that makes a request for a new lease pursuant to this Section **4** or any other agreement entered into pursuant to a Leasehold Mortgage Acknowledgement Agreement, the Landlord must enter into a new lease of the Leased Lands with whichever of such Leasehold Mortgagees making such request has the encumbrance having priority.

5. No Termination, Surrender, etc.

Except pursuant to the express terms of the Lease, the Landlord will not agree with the Tenant to terminate, forfeit or cancel the Lease or accept the surrender of the Leasehold Estate prior to the end of the Term without 45 days prior written notice to the Leasehold Mortgagee served in the manner specified in this Agreement.

6. Application of Insurance Proceeds

If at any time or times proceeds of insurance become payable to the Leasehold Mortgagee or to an insurance trustee for, among others, the Leasehold Mortgagee, the Leasehold Mortgagee must take such action as may be reasonable in the circumstances to cause such proceeds to be applied in accordance with the obligations of the Tenant contained in the Lease notwithstanding the provisions of Subsection **6(2)** of the *Mortgages Act* (Ontario) or any similar provision of any successor or replacement statute.

7. Furnish Notice of Defaults

The Leasehold Mortgagee must provide the Landlord with prompt Notice of any defaults which occur under the Leasehold Mortgage and the Landlord has a right to cure such defaults within the same period of time after notice to it from the Leasehold Mortgagee of such defaults as is afforded to the Tenant to cure such defaults (including the right to pay the entire amount owing under the Leasehold Mortgage where such amount has become due and obtain, at the Landlord's option, either a discharge or an assignment of the Leasehold Mortgage).

8. Change to Lease Terms

(1) The terms of the Lease may be amended, from time to time, at the Leasehold Mortgagee's request to include such provisions as the Leasehold Mortgagee may require, subject to the prior written Approval of the Landlord acting reasonably.

(2) The Landlord, the Tenant and the TRCA agree not to amend the Lease without having provided reasonable notice to the Leasehold Mortgagee of their intention to do so.

9. Notice

Any notices, demands, requests, agreements, certificates, statements, reports, opinions or other instruments or communications (individually or collectively called a "Notice") which may be or are required to be given pursuant to this Lease shall be in writing, shall not be unreasonably withheld or delayed

unless specifically provided for in this document, and shall be delivered by personal service or sent by prepaid registered mail (except during a postal disruption or threatened postal disruption), or sent by facsimile as follows:

(b) In the case of the Tenant at:

Guild Inn Estate Inc.
955 Lakeshore Boulevard West
Toronto ON M6K 3B9
Attention: President

with a copy to its solicitors at:

Parente Borean LLP
3883 Highway 7, Suite 207
Woodbridge ON L4L 6C1
Attention: Don Parente

(c) and in the case of the City to it at:

City of Toronto
Real Estate Services Division
Metro Hall, 55 John Street, 2nd Floor
Toronto, ON M5V 3C6
Attention: Director of Real Estate Services

and with a copy to the City Solicitor at:

City of Toronto, Metro Hall
55 John Street, 26th Floor
Toronto, ON M5V 3C6

and with a copy to General Manager of Economic Development and Culture at:

City Hall, 9th Floor, East Tower
100 Queen Street West
Toronto, ON M5H 2N2

and with a copy to General Manager of Parks, Forestry and Recreation at:

City Hall 4th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

(c) and in the case of TRCA to it at:

5 Shoreham Drive
Toronto, ON M3N 1S4
Attn: Director, Finance & Business Development Division

(d) and in the case of the Leasehold Mortgagee to it at:

•

(the "Leasehold Mortgagee Service Address")

or at such other place as such party may from time to time designate by written notice to the other. Any such Notice given in this manner shall be deemed to have been validly and effectively given and received: if personally delivered, on the day of such delivery; or if sent by prepaid registered mail, on the third (3rd) Business Day next following the mailing, provided, however, that during all postal disruption or threatened postal disruption, delivery shall be in person; and if sent by facsimile, on the Business Day next following the day on which it was sent. The CCO will administer and manage this Lease and any related agreements or documentation on behalf of the Landlord, and where the Landlord is either entitled or obligated to provide consents, approvals, waivers, notices or notices of termination hereunder, the CCO or the City Solicitor may do so; provided, however, that the CCO or the City Solicitor may always elect to submit the issue of the giving of such Notice or the contents of any Notice, to City Council for its determination and direction.

10. Successors and Assigns

The benefits under this Agreement accruing to each of the Parties hereto extend to all their permitted respective successors and assigns, all of whom, according to their interests, are also bound by all the provisions and obligations of this Agreement (it being the responsibility of each Party to require its

successors and assigns to expressly acknowledge and agree to be bound by this Agreement). Upon the acquisition by any such successor or assign of such an interest, such successor or assign must be joined, as a party benefiting and bound by this Agreement, by the appropriate further agreement supplementary to this Agreement.

11. Registration of Leasehold Mortgage Agreement

The Leasehold Mortgagee may register notice of this Leasehold Mortgage on title to the Leased Lands at its sole cost. Such Notice shall be prepared by the Leasehold Mortgagee's solicitors, and shall be subject to the prior review and written approval of the Landlord and the TRCA and their respective solicitors, such review and approval shall be at the Leasehold Mortgagee's expense, and shall be registered at the Leasehold Mortgagee's expense. The Leasehold Mortgage covenants to remove any such notice forthwith upon the earlier of the Loan being repaid, this agreement having terminated, or the Lease terminating.

12. Conflict with Lease

Should this Agreement conflict with any provision of the Lease, the provisions of this Agreement shall govern.

13. Status of Lease

The Landlord and Tenant acknowledge that, as of the date hereof, the Lease is in full force and effect and has not been modified, amended, supplemented or terminated, the Tenant is not in default in respect of any payment of moneys due under the Lease and, to the best of their knowledge and belief, there are no other outstanding defaults of any nature whatsoever under the Lease.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals under the hands of their respective proper officers duly authorized in that behalf.

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

_____
City Clerk

CITY OF TORONTO

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

GUILD INN ESTATE INC.

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

TORONTO AND REGION CONSERVATION AUTHORITY

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

- **(LEASEHOLD MORTGAGEE)**

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Schedule "A"

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Schedule "G"

Heritage Artifacts and Fine Art Loan Agreement

THIS AGREEMENT made in duplicate this ___ day of_____, 201__.

B E T W E E N :

CITY OF TORONTO

(the "City")

-- and --

GUILD INN ESTATE INC.

(the "Borrower")

APPROVED AS TO FORM

For Anna Kinastowski

WHEREAS:

1. The City is the owner of the ***[NTD: insert brief description of name of collection]*** collection comprising the works of art and other artifacts related to the Bickford House at Guildwood Park (the "*Collection*").

2. The parties have entered into a lease for the lands municipally known as part of 201 Guildwood Parkway on the _____ day of _____, 20___ (the "*Lease*").

3. The Borrower wishes to borrow [a limited portion of] the *Collection*, being those artifacts set out in Schedule "A" (the "*Artifacts*") for the duration of the *Lease*.

4. The City is willing to lend the *Artifacts* to the Borrower for the duration of the *Lease* and on the terms and conditions set out in this agreement (the "*Agreement*").

NOW THEREFORE in consideration of the covenants and agreements hereinafter contained and the sum of Two Dollars ($2.00) paid by the Borrower to the City, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Term

1. **(1)** The Borrower may borrow the *Artifacts* for a period coterminous with the Lease (the "*Term*"). The *Artifacts* shall remain in the possession of the Borrower through the *Term* unless this *Agreement* is terminated by the City pursuant to section 4 hereof.

Fee

2. **(1)** The Borrower shall pay to the City as a fee for the use of the *Artifacts*, without abatement, deduction or set-off, the amount of _____($_____) Dollars, plus any applicable HST or other taxes, payable in advance on or before the first day of the *Term*.

(2) The obligations of the Borrower under this section 2 shall survive the expiry or earlier termination of this *Agreement* or the *Lease* in respect of all amounts required to be paid during or in respect of the *Term* or any renewal.

Ownership

3. (1) Ownership of the *Artifacts* shall at all times remain with the City, even in the event that the City has been compensated for total or partial loss. Ownership of any items permanently added to, removed from or altered in the *Artifacts* during the course of restoration shall vest in and/or remain with the City.

(2) The Borrower has no right to retain possession of the *Artifacts* beyond the end of *Term* unless the City's Council authorizes a new loan agreement. At the end of the *Term*, the Borrower shall immediately return the *Artifacts* to the City.

(3) The *Artifacts* must be made accessible to City staff upon reasonable notice thereof to the Borrower.

Termination

4. (1) This *Agreement* may be terminated by the City at any time without notice if the Borrower (i) fails to comply with any of the terms and conditions contained herein; (ii) fails to fulfil its obligations hereunder; or (iii) the *Lease* is terminated for any reason; and the Borrower shall not be entitled to any compensation whatsoever in relation thereto.

(2) In the event that the City determines there has been a breach of any of the terms and conditions of this *Agreement*, notice thereof shall be provided to the Borrower, which shall immediately rectify the breach, or, if the breach is of such a nature that it can not be immediately rectified, the Borrower shall commence and diligently proceed to rectify the breach. Where necessary, the Borrower shall consult and co-operate with the City to attempt to resolve the breach, which resolution may include the return of the *Artifacts* to the City at a time and location to be determined by the City's General Manager of Economic Development & Culture or his/her designate (the "General Manager") and at the Borrower's sole expense.

(3) This *Agreement* may be terminated by the Borrower upon giving written notice (the "*Termination Notice*") of such termination to the City. The *Termination Notice* shall specify the termination date (the "*Termination Date*") which shall be no more than six (6) but no fewer than three (3) months after the *Termination Notice* is given. If the *Termination Notice* is given, then the following shall apply:

- **(i)** this *Agreement* shall terminate on the *Termination Date* and the Borrower shall, at its cost, deliver all artifacts to a location and in a manner proscribed by City's Supervisor, Collections and Conservation of the Economic Development and Culture Division (the "*City's Supervisor*"), without payment or compensation of any kind from the City;
- **(ii)** if required by the City, the Borrower shall execute a surrender of this *Agreement* in a mutually-satisfactory form;
- **(iii)** the Borrower shall be responsible for the payment of any applicable charges to and including the *Termination Date* including without limitation all charges in respect of any period prior to the *Termination Date* which are subsequently billed or adjusted after the *Termination Date*; and
- **(vi)** neither party shall have any further liability or obligation to the other after the *Termination Date* except for the Borrower's obligations under Subsection (iii), above, and except for any default under this *Agreement* by either party occurring on or before the *Termination Date* and in respect of which notice is given to the defaulting party on or before the 60th day after the *Termination Date*.

Care of Artifacts

5. (1) The *Artifacts* shall at all times be cared for and managed to the standards of then-current standard museological and conservation practices. The Borrower agrees to take all reasonable precautions to protect the *Artifacts* from all physical hazards including fire, theft, vandalism, pollution, dirt, insects, water and extremes of light, heat and relative humidity. The *Artifacts* shall be protected from handling by the public.

(2) The Borrower shall follow the provisions in the City's "Historical Collection Development Policy", "Living History Collection Policy", and related Definitions (November, 2013) as same may be modified from time to time.

(3) Prior to displaying the *Artifacts*, the Borrower shall provide the City with an interpretative plan outlining its intended manner of displaying the *Artifacts* in museum or display areas within the Leased Lands as defined in the *Lease*. Such interpretative plan shall be subject to the review of and must be satisfactory to the *City's Supervisor*.

Transportation of Artifacts

6. **(1)** Where the movement of the *Artifacts* is required, the Borrower shall pay the cost of the transportation and packing of the *Artifacts* in co-ordination with the General Manager and City staff, within the framework of a professionally prepared transportation and installation plan produced by the Borrower and approved in writing by the City (the "*Transportation and Installation Plan*").

(2) The *Artifacts* shall be repacked using the same protective methods and materials in which it was sent. Damaged crates shall be repaired prior to shipment.

(3) Approval of the *Transportation and Installation Plan* will occur prior to the release of the *Artifacts* to the Borrower by the City.

(4) All transportation costs associated with the *Artifacts* are the responsibility of the Borrower.

7. The *Artifacts* shall be housed and displayed indoors and, where appropriate, outdoors within the Project and on the Leased Lands (both as defined in the *Lease*), throughout the *Term*.

Condition of Artifacts

8. **(1)** The *Artifacts* shall remain in the condition they were received, used according to any conditions specified on any attached schedules, and shall be returned to the City in the same condition as when borrowed.

(2) The Borrower may be permitted to undertake conservation treatment of some or all of the *Artifacts* upon approval from and at the sole discretion of, the City's Artifact Conservator. Any such approved treatment of the *Artifacts* shall occur within the framework of a professionally prepared treatment plan produced by the Borrower and approved by the City's Artifact Conservator (the "Treatment Plan").

(3) Approval of the *Treatment Plan* will be in advance of the commencement of any conservation treatment.

(4) Written permission must be obtained from the General Manager to alter or deviate from the approved *Treatment Plan* in any way, or to otherwise change, fumigate, modify, tamper with or do anything else to or with the *Artifacts*.

Inspection

9. The City shall be permitted to inspect the *Artifacts* at any time during the Borrower's normal business hours upon providing the Borrower with forty-eight (48) hours written notification thereof.

Costs

10. Except as otherwise specifically set out herein, the Borrower shall be responsible for all costs associated with this *Agreement*, including (but not limited to) packing, transportation, customs brokerage, consultant's fees, legal fees, conservation costs and any other out-of-pocket expenses incurred by the City or any of its agents.

Reproduction

11. **(1)** Subject to subsection 11(2), the *Artifacts* may be photographed, filmed or televised for documentation purposes, condition reports, or by the general public for private, non-commercial use in accordance with the Borrower's usual policies, and for promotional purposes only. The copyright of any such photographic reproductions shall remain with the City.

(2) Prior approval from the City's Director of Museum and Heritage Services is required to photograph, film or televise the *Artifacts* for commercial purposes. The Borrower hereby agrees to provide the City with two (2) copies of any documentation or publication prepared by the Borrower or containing a photographic reproduction of the *Artifacts*. In addition, the City has the right to request, from time-to-time, an estimate of the number of visitors who have viewed the *Artifacts*.

(3) For the purposes of this section 10 the contact person shall be the *City's Supervisor* of Collections and Conservation Services.

(4) Any reproduction as set out herein shall be subject to the City's then-current licensing policies, which may include permit, administration or usage fees.

Artifacts Names

12. The Borrower shall provide labels giving credit to the City to be placed adjacent to each *Artifact*. The credit line shall read "The Rosa and Spencer Clark Collection at the Guild: Courtesy of the City of Toronto, Economic Development & Culture Division", or such other identifying statement as provided by the City. The Borrower shall acknowledge the City as the source of the *Artifacts* when the same is described in print, or on the radio, film or television. Furthermore, the Borrower shall acknowledge the contribution of the City to special exhibitions in all press releases and publicity events.

Damage

13. **(1)** If the *Artifacts* are lost, stolen, destroyed or damaged during the *Term*, the Borrower shall report same to the General Manager immediately, and follow up with a written report to the General Manager, regardless of who may be responsible therefor.

(2) For the purposes of this paragraph 13 the contact person shall be the Registrar of Collections and Conservation Services or his/her designate or successor, in the City's Economic Development & Culture Division.

Insurance

[NTD: this is a general insurance provision for many Artifacts. The City shall confirm the insurance requirements with Risk Management having regard to the specific Artifacts listed in Schedule A.]

14. **(1)** The Borrower shall at all times during the currency of the *Term* (including transportation of the *Artifacts* to the Borrower) at its own expense and in the names of the Borrower and the City, maintain in force insurance coverage with respect to the *Artifacts* in a form and content satisfactory to the City, and shall provide the City with certificates of a policy or policies of an insurance provider satisfactory to the City:

(a) insurance against loss by such insurable hazards as the City may from time to time reasonably request on a replacement-cost basis; and

(b) inclusive coverage for legal liability for bodily injury, death or property damage in the amount of Two Million Dollars ($2,000,000.00) or such other amounts as the City from time to time may request.

(2) Every policy or policies of insurance shall provide cross-liability coverage protecting the City in respect of claims by the Borrower as if the City were separately insured; a waiver of subrogation in favour of the City and those for whom in law it is responsible; and shall also contain an undertaking by the insurer that no material change adverse to the City or the Borrower be made except after not less than Thirty (30) Days' prior written notice to the City, and the City may require the Borrower to supply evidence thereof from time to time.

(3) The amount of insurance shall be set at _____ ($_____) and shall be considered replacement value whether market, intrinsic or otherwise of the *Artifacts* for all purposes.

(4) In the event of a total loss, the Borrower shall be liable to the City for the value of the *Artifacts* based upon the value set out above. In the event of a partial loss, the Borrower shall be liable for any loss that may occur as a result of such damage, however, the Borrower's total liability shall not exceed the total amount set out in subsection 14(3) above and shall be reduced by the amount of the insurance proceeds received by the City under the policy referred to therein.

(5) The Borrower agrees to indemnify the City for any costs incurred to restore the *Artifacts* to their pre-loss condition, plus any costs incurred by the City to settle the insurance claim, including (but not limited to) administrative costs, third-party expert opinion and valuation.

Indemnification

15. The Borrower shall at all times indemnify and save harmless the City of and from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever (including those under or in connection with the Workplace Safety and Insurance Act, 1997, and any successor legislation) (the "*Claims*"), made or brought against, suffered by or imposed on the City or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and property of the City or of the Borrower) directly or indirectly arising out of, resulting from or sustained as a result any liens, attachments, charges or other encumbrances or claims upon or in respect of the *Artifacts*, this *Agreement* or the Borrower's possession of the *Artifacts*, except that the Borrower shall not be responsible for any *Claims* resulting from any inherent deficiencies of the *Artifacts*.

Notice

16. Any demand or notice required to be given or made herein shall be hand delivered or mailed by prepaid registered mail addressed as follows:

(1) In the case of the City to:

Collections and Conservation Centre
Economic Development & Culture Division

City of Toronto
98 Atlantic Avenue
Toronto, ON M6K 1X9

Attention: Supervisor, Collections and Conservation

(2) In the case of the Borrower to:
X
X
X
Attention: **X**

or to such other address as the parties may from time to time designate in writing and any such demand or notice shall be deemed to have been properly made or given and received on the day on which it shall have been delivered or if mailed then the expiration of the third (3rd) business day (excluding Saturdays) after the date of the mailing.

Assignment and Other Transfers

17. The Borrower shall not assign or transfer this *Agreement*, grant any interest therein as security for any obligation, or permit any person, firm or corporation whatsoever to use any part of the *Artifacts* without the written consent of the City, which consent may not be arbitrarily or unreasonably withheld or delayed.

City as Municipal Corporation

18. (1) Nothing in this *Agreement* derogates from, interferes with, or fetters the exercise by the City of all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the City in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities. Nothing this *Agreement* derogates from, interferes with, or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this *Agreement*.

(2) No communication or dealing between the Borrower and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City that is not clearly in respect of and in accordance with this *Agreement* will be deemed to be a communication or dealing under this *Agreement* between the Borrower and the City as parties to this *Agreement*, or affect the City with notice of any such communication or dealings. It is intended and agreed that any communication or dealing between the Borrower and the City as parties to this *Agreement* will only be effective if delivered in accordance with the notice provisions in this *Agreement* will relieve the Borrower from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or by any other lawful manner separate and apart from the obligations imposed under this *Agreement*.

Authority to Enter into Agreement

19. (1) The City represents and warrants to the Borrower that it is the owner of the *Artifacts* that the persons executing this *Agreement* on behalf of the City have the authority to bind the City.

(2) The Borrower represents and warrants to the City that it has the capacity, authority and right to enter into this *Agreement* and that the persons executing this *Agreement* on behalf of the Borrower have the authority to bind the Borrower.

Interest on Overdue Accounts and Returned Cheques

20. (1) All amounts payable to the City under this *Agreement* will bear simple interest at the rate of 1.25% per month (15% per year) (the "*Default Rate of Interest*"). Interest will be calculated and payable from and including the day after the day the amount is due until payment in full of the overdue amount is received by the City. Interest will be calculated only on the principal amount outstanding from time to time, and interest charges will not be added to the outstanding principal amount for purposes of calculating interest. Payment received by the City will be applied first to outstanding interest charges and the balance (if any) will be applied to the outstanding principal amount.

(2) The *Default Rate of Interest* may be increased by the City from time to time by notice to the Borrower. The rights of the City to charge and receive interest in accordance with this paragraph are without prejudice to any of the other rights of the City at law or otherwise.

(3) The Borrower will pay to the City, immediately on demand, a charge of thirty-five dollars ($35.00) for every cheque tendered by the Borrower to the City that is not honoured by the institution on which it is drawn (the "*Returned Cheque Fee*"). The *Returned Cheque Fee* may be increased by the City from time to time by notice to the Borrower, so that is at all times equal to the charge payable in respect of cheques tendered in payment of tax, water and court service charges that are note honoured by the institution on which they are drawn.

Interpretation

21. (1) Construing. Nothing in this *Agreement*, nor any conduct of the parties, shall create any relationship other than that of lender and borrower and the City shall not be deemed to be a partner of the Borrower in the conduct of the borrower's business or a joint venturer with the Borrower.

(2) Enurement. This *Agreement* shall be binding upon and shall enure to the benefit of the parties and their respective successors and approved assigns.

(3) Counterparts. This *Agreement* may be executed in counterparts and when each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all of such counterparts, when taken together, shall constitute one and the same agreement.

(4) Strict Performance. The Borrower acknowledges that no failure or delay by the City in exercising any right, power or privilege under this *Agreement* shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

(5) Time of the Essence. Time shall be of the essence for this *Agreement* and for every part hereof and no extension or variation of this *Agreement* shall operate as a waiver of this provision.

(6) Entire Agreement. This *Agreement* constitutes the entire agreement between the parties with respect to all of the matters herein and its execution has not been induced by, nor do either of the parties rely upon or regard as material, any representations or writings not expressly incorporated herein. This *Agreement* may not be amended or modified in any respect except by written instrument signed by each of the parties. Any schedules referred to in this *Agreement* are incorporated by reference and form part of the *Agreement*.

(7) Currency. Unless otherwise provided herein, all monetary amounts referred to in this *Agreement* shall refer to the lawful money of Canada.

(8) Headings for Convenience Only. The division of this *Agreement* into articles and sections is for convenience of reference only and shall not affect the interpretation or construction of this *Agreement*.

(9) Governing Law. This *Agreement* shall be interpreted and enforced in accordance with the laws of the Province of Ontario and Canada. Any legal proceeding arising in connection with this *Agreement* shall be commenced and heard in a court (or, if applicable, a tribunal of competent jurisdiction) sitting in Toronto, Ontario, which it is agreed will be the appropriate location. If the court (or, if applicable, tribunal of competent jurisdiction) does not sit in Toronto, the legal proceedings shall be commenced and heard in the jurisdiction nearest to the City of Toronto within the Province of Ontario in which such court (or, if applicable, tribunal of competent jurisdiction) convenes.

(10) Gender. In this *Agreement* words importing the singular number shall include the plural and vice versa, and words importing the use of any gender shall include the masculine, feminine and neuter genders and the word "person" shall include an individual, a trust, a partnership, a body corporate, an association or other incorporated or unincorporated organization or entity.

(11) Calculation of Time. When calculating the period of time within which or following which any act is to be done or step taken pursuant to this *Agreement* the date which is the reference date in calculating such period shall be excluded. If the last day of such period is not a business day, then the time period in question shall end on the first business day following such non-business day.

(12) Legislation References. Any references in this *Agreement* to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

(13) Severability. If any article, section, paragraph or other portion of this *Agreement* is determined to be unenforceable or invalid for any reason whatsoever that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this *Agreement* and such unenforceable or invalid article, section or other portion thereof shall be severed from the remainder of this *Agreement*.

(14) Further Assurances. The Borrower shall execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required for the better carrying out and performance of all the terms of this *Agreement*.

(15) Extended Meanings. In this *Agreement*: (1) each obligation of the City or the Borrower, even though not expressed as a covenant, is deemed to be a covenant for all purposes; (2) the expression "the Borrower shall" means "the Borrower covenants to and agrees with the City that it shall"; (3) the expression "the Borrower acknowledges" means "the Borrower acknowledges to and agrees with the City"; (4) the expressions "at any time" and "at all times" mean "at any and all times and from time to time"; (5) the expression "including" means "including without limiting the generality of the foregoing"; (6) the expression "incurred by" means incurred by, suffered by sustained by, levied against or brought against.

IN WITNESS WHEREOF the parties have executed this Loan *Agreement*.

SIGNED, SEALED AND DELIVERED

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GUILD INN ESTATE INC.

_____
Name:
Title:

_____
Name:
Title:

I/We have authority to bind the corporation.

CITY OF TORONTO

_____
Name:
Title:

_____
Name:
Title:

I/We have authority to bind the corporation.

Authorized by Report No. __ of the _____Committee adopted by the Council of the City of Toronto on the day ___of_____, 20__ .

Schedule "A"

[NTD: Insert list of Artifacts that are included in this Loan Agreement.]

Accession Number: _____

Insurance Value: $_____.00

Schedule "H"

City of Toronto Fair Wage Policy and Labour Trade's Contractual Obligations in the Construction Industry

TORONTO

City Manager's Office

Fair Wage Office
100 Queen Street West
City Hall, 19th Floor, West
Toronto, Ontario M5H 2N2

Tel: 416-392-7300 - General Enquiry
416-392-FAIR - Complaints Hotline
Fax: 416-392-0801
E-mail: fairwage@toronto.ca
Web: www.toronto.ca/fairwage

Fair Wage Policy*

A1. Definitions

As used in this Fair Wage Policy, the following terms have the meaning indicated:

APPRENTICE – An Individual who has entered into a registered training agreement under which the individual is to receive workplace-based training in a trade, other occupations or skill set as part of an apprenticeship program approved by the Ontario Ministry of Training, Colleges and Universities.

APPRENTICESHIP PROGRAM – A program recognized by Ontario Ministry of Training, Colleges and Universities which provides for the qualification, recruitment, selection, employment, and training on the job. Apprenticeship and training leads to Ontario Certification of Qualification and Apprenticeship for Journeyperson status, which is recognized by employer and employee representatives of industry.

CONTRACT – A legal, business agreement between the City of Toronto and the contractor to perform work or services or to provide materials and supplies.

CONTRACTORS – Any person or business entity with whom the City enters into a contract with to perform the work or provide services.

FAIR WAGE SCHEDULE – Stipulated rates of pay for different classifications of work produced and obtainable from the Fair Wage and Labour Trades Office.

FIELD WORK – All work in performance of the contract that is not shop work.

FRINGE BENEFITS – Includes such benefits as company pension plans, extended health care benefits, dental and prescription plans, etc. It does not include legislated payroll deductions such as C.P.P., E.H.T., W.S.I.B. or E.I.C.

NON-COMPLIANCE – The occurrence of any of the following conditions:

A. Contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his/her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry.
B. Sub-contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his/her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry.
C. Contractor or sub-contractor has been found in violation of the Fair Wage Policy (non-compliance applies to both contractor and sub-contractor.
D. Contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry.
E. Sub-contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry.

PROCUREMENT CALL DOCUMENT – Includes a Tender, Request for Quotations and a Request for Proposals as issued by the Purchasing and Materials Management Division, and as defined in Chapter 195 of the Toronto Municipal Code.

*Fair Wage Policy – (extracted from Schedule A of the City of Toronto Municipal Code, Chapter 67)

SHOP WORK – Any work in performance of the contract that is done in or at any factory, foundry, shop or place of manufacture not located at or upon the site of the work, and not operated solely for the purpose of the work.

SUB-CONTRACTOR – Any person or business entity not contracting with or employed directly by the City but who supplies services or materials to the improvement under an agreement with the contractor or under the contract with another sub-contractor.

WAGES or RATE OF WAGES – Includes the hourly rate, vacation and holiday pay and any applicable amount for fringe benefits shown in the current Fair Wage Schedule, to be paid to the worker as part of the worker's wages or for the worker's benefit provided for in any collective agreement applicable to that worker.

WORKERS – Includes mechanics, workers, labourers, owners and drivers of a truck or other vehicle employed in the execution of the contract by the contractor or by any sub-contractor under them and clerical staff.

A2. City of Toronto Council references

A. City of Toronto Council, by the adoption of Corporate Services Committee Report 13, Clause 1, as amended, at its meeting of October 1 and 2, 1998, directed that the Fair Wage Policy of the former Municipality of Metropolitan Toronto be adopted for all City departments, agencies, boards and commissions and replace all existing fair wage policies of the former local municipalities
B. City of Toronto Council, by the adoption of Administration Committee Report 7, Clause 1, as amended, at its meeting of June 18, 19 and 20, 2002, directed that certain changes be made to the Fair Wage Policy and Procedures.
C. City of Toronto Council, by the adoption of Administration Committee Report 5, Clause 2, at its meeting of June 24, 25 and 26, 2003, directed that certain further changes be made to the Fair Wage Policy and Procedures, and to the Fair Wage Rate Schedule.
D. City of Toronto Council, by the adoption of Government Management Committee Item 8.9, at its meeting of October 22 and 23, 2007, directed that certain changes be made to the Fair Wage Policy.

A3. Purpose and history of Fair Wage Policy

A. The Fair Wage Policy has as a central principle the prohibition of the City doing business with contractors, sub-contractors and suppliers who discriminate against their workers.
B. Originally implemented in 1893 to ensure that contractors for the City paid their workers the union rates or, for non-union workers, the prevailing wages and benefits in their field, the Fair Wage Policy has expanded over the years to other non-construction classifications such as clerical workers.
C. The policy also requires compliance with acceptable number of working hours and conditions of work in order to protect the rights of workers.

A4. Intent of Fair Wage Policy

The intent of the Fair Wage Policy can be summarized as follows:

A. To produce stable labour relations with minimal disruption;
B. To compromise between the wage differentials of organized and unorganized labour;
C. To create a level playing field in competitions for City work;
D. To protect the public; and
E. To enhance the reputation of the City for ethical and fair business dealings.

A5. Application

A. The provisions of the Fair Wage Policy apply equally to contractors and all sub-contractors engaged in work for the City of Toronto. It is understood that contractors cannot sub-contract work to any sub-contractor at a rate lower that called for in the Fair Wage Policy.

*Fair Wage Policy – (extracted from Schedule A of the City of Toronto Municipal Code, Chapter 67)

B. The fair wage rates do not apply to small businesses, typically those with owner-operators, or partnerships, or principals of companies as long as they undertake the work themselves.

C. It should be noted that under the above City of Toronto Council reference authorities, the conditions of the Fair Wage Policy cannot be waived, unless authorized by Council to do so.

A6. Establishment of rates

A. Establishing fair wage rates and schedules are intended to minimize potential conflicts between organized and unorganized labour in the tendering and awarding of City contracts.

B. Certain designated construction-related rates are based on the lowest rate established by collective bargaining, while the wage rates for other classifications are based on market and industrial surveys in accordance with the prevailing wages for non-union workers in the geographic area.

C. The City encourages contractors to hire and train apprentices under approved apprenticeship programs. Apprentices/trainees will be assessed based on Provincial Qualification Apprenticeship Certification Criteria.

D. Fair wage rates, including rates for apprentices, are established through discussion between the Fair Wage Office and with employee and employer groups and associations (having both union and non-union members). This discussion will also include appropriate apprenticeship programs for construction-related trades.

E. The proper wage rates to be paid to apprentices/trainees are those specified by a particular industry program in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination. In the event employees reported as apprentices and trainees have not been properly registered, or are utilized at the jobsite in excess of the ratio of journeymen permitted under the approved program, they must be paid the applicable schedule of wage rate. The Manager, Fair Wage Office may assess established employee work history as to determine the appropriate apprentice/trainee level.

F. These rates are reviewed by the above-noted groups and are recommended to Council, by the Manager, Fair Wage Office for approval every three years.

A7. Contractor and sub-contractor responsibilities

A. Contractors will be responsible for any violations or non-compliance issues arising from the engagement of any sub-contractor on City work.

B. The contractor or sub-contractor shall pay or cause to be paid weekly or biweekly to every worker employed in the execution of the contract wages at the following rates, namely:

(1) For workers employed in shop work:

(a) The union rate of wages in the particular district or locality in which the work is undertaken for any class or work in respect of which there is such union rate; and

(b) For any class of work for which there is no such union rate, the rate of wages shall be the rate of wages, as determined by the Manager, Fair Wage Office prevailing in the particular district or locality in which the work is undertaken.

(2) For workers employed in field work:

(a) Where the contractor or sub-contractor is in contractual relationship with a union recognized by the Ontario Labour Relations Board as the bargaining agent for the relevant workers, the applicable rate of wages set out in the collective agreement; and

(b) Where there is no such contractual relationship, a rate not less than that set out for such work in the Schedule of Wage Rates files by the Manager, Fair Wage Office, with the City Clerk of the Corporation after being first approved by Toronto Council; and

(c) For any class of work for which there is no rate, the rate of wages shall be the rate of wages, as determined by the Manager, Fair Wage Office, prevailing in the particular district or locality in which the work is undertaken.

C. The contractor and sub-contractor shall:

(1) At all times keep a list of the names and classifications of all workers employed in the work, the hourly rate and hours worked per day and a record of the amounts paid to each.

(2) From time to time, if demanded by the Manager, Fair Wage Office, furnish a certified copy of all paysheets, lists, records and books relating to the work and keep the originals thereof open at all times for examination by the Manager.

(3) At all times furnish and disclose to the said Manager any other information respecting wages of workers that may be desired by the Manger in connection with the work.

(4) Attach to all accounts rendered for payment of money upon the contract, a declaration affirming that the requirements of the Fair Wage Policy have been fully complied with.

(5) Display legible copies of this Fair Wage Policy in a prominent position in his or her workshop(s), accessible to all employees.

E. The contractor or sub-contractor shall not compel or permit any worker engaged for the work to work more than the number of hours per day and the number of hours per week set out in the Fair Wage Schedule for the particular type of work involved except in case of emergency, and then only with the written permission of the Commissioner or head of the department/division having charge of the work or the person then acting as such.

A8. Responsibilities of Manager, Fair Wage Office

A. To fulfil the duties of the Manager, as set out in Chapter 67 of the Toronto Municipal Code, 67-A3

B. In every procurement call to which the Fair Wage Policy applies, the Manager, Fair Wage Office, will determine the applicable Fair Wage Schedules for the work requested in the procurement call, or whether unionized workers need to be utilized for the work requested in the procurement call as per Chapter 67 Schedule B Labour Trades Contractual Obligations in the Construction Industry.

C. Once the applicable Fair Wage Schedule is determined for a specific procurement call, the Manager, Fair Wage Office will provide a copy of the Fair Wage Schedule to Purchasing and Materials Management Division to insert into the procurement document, before the procurement documentation is issued.

D. In case of a jurisdictional dispute or dispute as to rate of wages to be paid under the contract or as to the amount to be paid to any worker or apprentice, the decision of the Manager, Fair Wage Office, shall be final and binding upon all parties.

E. After the procurement call closes, the Manager, Fair Wage Office, at the request of Purchasing and Materials Management Division, will send a fair wage declaration form to the three lowest bidders, to determine if the bidder will comply with the fair wage policy and fair wage schedule.

A9. Penalty Provisions

A. If the contractor or sub-contractor fails to pay any worker wages at the rate called for in Chapter 67-A7, the City may:

(1) Charge an administrative fee not in excess of 15 per cent of the balance necessary to make up the amount that should have been paid from the contractor's progress draw or holdback; and

(2) Pay the worker(s) directly for any back-wages owing directly from the contractor's progress draw or holdback.

B If a tenderer or bidder is found not to comply with the Fair Wage Policy, the Manager may recommend the next lowest bidder for contract aware to Purchasing & Materials Management Division in the following circumstances:

(1) On the declaration form discussed in Chapter 67-A8E, a contractor or sub-contractor does not meet the Fair Wage Schedules.

(2) An investigation is underway and the firm does not co-operate in providing timely information within 5 business days after being requested by the Manager, Fair Wage Office in fulfilling his or her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry and, operationally, the provision of goods and/or services cannot be delayed.

(3) A contractor or sub-contractor is in violation of the Fair Wage Policy and has not paid restitution to its workers.

(4) A contractor or sub-contractor is unable to comply with the City of Toronto Labour Trades Contractual Obligations in the Construction Industry.

*Fair Wage Policy – (extracted from Schedule A of the City of Toronto Municipal Code, Chapter 67)

A10. Disqualification Provisions

A. When a contractor or any sub-contractor is found to be in non-compliance with the provisions of the Fair Wage Policy in two separate instances over a period of three years inclusive, the Manager, Fair Wage Office must report and may recommend to the Government Management Committee that the said contractor or sub-contractor be disqualified from conducting business with the City for a period of two years, inclusive.

B. The disqualification period will start from the day of the decision of Council.

C. After the disqualifying period is over, the said contractor or sub-contractor will be placed on probation for the next year. If another non-compliance violation occurs, the Manager, Fair Wage Office must report and may recommend to the Government Management committee that the said contractor or sub-contractor, be disqualified from conducting business with the City for an indefinite period of time.

D. All non-compliance activities (including firm names) and disqualification statistics will be reported to Council annually. Disqualified firms will be published on the City's website.

*Fair Wage Policy – (extracted from Schedule A of the City of Toronto Municipal Code, Chapter 67)

TORONTO

Corporate Services

Fair Wage Office
100 Queen Street West
City Hall, 18th Floor, West
Toronto, Ontario M5H 2N2

Tel: 416-392-7300 - General Enquiry
416-392-FAIR - Complaints Hotline
Fax: 416-392-0801
E-mail: fairwage@toronto.ca
Web: www.toronto.ca/fairwage

Labour Trades Contractual Obligations in the Construction Industry*

B1. Legislative Applicability of Labour Trades Obligations.

The mandatory Labour Trades provisions for municipalities bound by province-wide collective agreements are separate from Fair Wage Policy established, monitored and enforced by the City. Central to any understanding of municipal obligations to Labour Trades, is that the City has no discretion in setting wage rates or in using union labour for certain trades performing Work for the City. This is by virtue of the Province-wide collective agreements applicable to trades in the Industrial, Commercial and Institutional (ICI) and Residential sectors and other negotiated collective agreements in other sectors of the construction industry.

The Province-wide collective agreements are binding on all employers in the sector. The former City of Toronto was first considered an "employer" when the relevant unions obtained bargaining rights beginning in 1978. As a result, subject to the jurisdiction of the collective agreements, union workers must be used for contracted-out Work. The use of union sub-contractors for municipal building projects is also required in most cases.

B2. Current Labour Trades Contractual Obligations in the Construction Industry.

A. The City of Toronto is bound by the current province-wide collective agreements with respect to the Industrial, Commercial and Institutional sectors of the construction industry between:

(1) The Carpenters' Employer Bargaining Agency and the Ontario Provincial Council, United Brotherhood of Carpenters and Joiners of America.

(2) The Mechanical Contractors Association of Ontario and the Ontario Pipe Trades Council of the United Association of Journey-men and Apprentices of the Plumbing and Pipe-Fitting Industry of the United States and Canada.

(3) The Electrical Trade Bargaining Agency of the Electrical Contractors Association of Ontario and The International Brotherhood of Electrical Workers and the IBEW Construction Council of Ontario.

(4) The International Union of Bricklayers and Allied Craftsmen and the Ontario Provincial Conference of the International Union of Bricklayers and Allied Craftsmen, and The Masonry Industry Employers Council of Ontario.

(5) The International Association of Heat and Frost Insulators and Asbestos Workers and The Master Insulators' Association of Ontario Inc.

(6) The International Brotherhood of Painters and Allied Trades and The Ontario Painting Contractors Association.

(7) The Ontario Glazier Agreement between The Architectural Glass and Metal Contractors Association and The International Brotherhood of Painters and Allied Trades; and

(8) The Environmental Sheet Metal Association Toronto and the Sheet Metal Workers' International Association and the Ontario Sheet Metal Workers' Conference.

(9) The Ontario Erectors Association Incorporated, and the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers and the Ironworkers District Council of Ontario

B. Exhibition Place is bound,

(1) By collective agreements in all sectors of the construction industry between:

(a) The Carpenters' Employer Bargaining Agency and The Ontario Provincial Council, United Brotherhood of Carpenters and Joiners of America.

(b) The Mechanical Contractors Association of Ontario and The Ontario Pipe Trades Council of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.

(c) The Electrical Trade Bargaining Agency of the Electrical Contractors Association of Ontario and The International Brotherhood of Electrical Workers and the IBEW Construction Council of Ontario; and

(2) By Letters of Understanding between the Board and, respectively, Local 506 of the Labourers International Union of North America and The International Brotherhood of Painters and Allied Trades.

C. Any non-maintenance part(s) of the Work that is the work of Union members for whom the said Council, Brotherhood, Association or Local is the collective representative under the provisions of any one of the said collective agreements or the said Letters shall in each case be performed only by an employer owing contractual obligations to such representative, unless such obligations do not prohibit performance of such part(s) of the Work by others.

B3. Guidelines for Prospective Bidders.

This summary is an overview of the current status of trades' certifications and the relevant construction sectors for which firms and workers with the appropriate union affiliations must be used when performing the following Work for the City of Toronto and Exhibition Place.

Type of Work	City of Toronto * I.C.I.	Exhibition Place
Asbestos/ Insulation	X	
Bricklaying/ Masonry	X	
Carpentry	X	X
Electrical	X	X
Glazing	X	
Iron Workers	X	
Labourers		X
Mechanical	X	X
Painting	X	X
Sheet Metal	X	

** (Industrial, Commercial, Institutional sector)*

B4. Decisions, Fair Wage Policy.

The Fair Wage Office will make final decisions with respect to:

- Work jurisdictions, in consultation with the industry
- type of Work involved
- whether or not union firms/workers must be used
- if Labour Trades Contractual Obligations apply

* Labour Trades Contractural Obligations -- (extracted from Schedule B of the City of Toronto Municipal Code, Chapter 67)

Schedule "I"

Non-Discrimination, Occupational Health, Safety and Ergonomics Principles

TORONTO

Uzma Shakir
Director

City Manager's Office
Joseph P. Pennachetti, City Manager

Office of Equity, Diversity & Human Rights
100 Queen Street West
City Hall, 14th Floor, West Tower
Toronto, ON M5H 2N2

Tel: 416-392-1108
Fax: 416-696-4174
ushakir @toronto.ca
www.toronto.ca

For Office Use only
POLICY DECLARATION

Supplier Number

Company/Organization Name

Date

Declaration of a Nondiscrimination Policy

The City of Toronto requires all firms or organizations who supply goods and services to the City and its Agencies, Boards, Commissions and Special Purpose Bodies, to adopt and to post a Non-Discrimination Policy that ensures that the:

Organization/firm upholds policies which prohibit discrimination and which protect the right to be free of hate activity based on race, ancestry, place of origin, colour, ethnic origin, disability, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, family status, receipt of public assistance, political affiliation, religious affiliation, record of offences, level of literacy or any other personal characteristics by or within the organization.

Check if organization/firm has previously completed and filed the form with City: ☐ Yes ☐ No
If yes, please do not complete the form.
If no, please complete the form.

Please type or print where applicable

Legal Firm Name	**Common or Business Name (if different)**
Address of Principal Place of Business	**Mailing Address (if different)**
Tel. No. **Fax No.**	**Tel. No.** **Fax No.**
Name of Chief Executive Officer/President	**Name of Employment Equity Official:**
Position Title:	**Position Title:**
Signature of Authorized Official:	**Date:**

Check if Firm is more than 50% owned by* (check all that apply):

☐ Aboriginal Peoples/First Nations Of Canada ☐ People with Disabilities ☐ Racial Minorities ☐ Women
☐ Not Applicable

** Please see reverse for explanation of definitions*

The information requested on this form is, collected pursuant to Clause 6 of Corporate Services Committee Report 11, adopted by Council on July 29,30 and 31, 1998 and Clause 2 of Corporate Services Committee Report 19 adopted by Council on December 16 and 17,1998. Its purpose is to verify that your firm has adopted the Non-Discrimination Policy and to compile statistics for the purpose of monitoring the equal opportunity designated group status of the ownership of firms. If you have any questions about this declaration, please contact the Director of Equity, Diversity and Human Rights at 416-392-1108. Multi-Lingual Line call 311 and TTY 416-338-0889.

Please return completed form to the address shown above (Private Sector Firms)

311
Toronto at your service

TORONTO

Definitions:

Aboriginal Peoples/ First Nations of Canada: A person is an Aboriginal person if he or she is a member of the First Nations (status and non-status Indians), Inuit (Aboriginal peoples from Arctic Canada) and Métis (mixed First Nation and European ancestry).

Person With A Disability: A person is a "person with a disability" if the person has a persistent physical, mental, psychiatric, sensory or learning impairment that substantially limits one or more major life activities and,

(i) the person considers himself or herself to be disadvantaged in employment by reason of that impairment, or -

(ii) the person believes that an employer or potential employer is likely to consider the person to be disadvantaged in employment by reason of that impairment.

Racial Minority: Also called racialized people or visible minorities, a person is a member of a racial minority because of his or her race or colour. Racial minorities include African Canadian/Black, East Asian, South East Asian, South Asian, West Asian or Arab and others that have bi-or multi-racial origins.

Human Resources Policies **Purchasing Policy** **Policy for Incorporating Occupational Health, Safety and Ergonomics Principles into the Purchasing Process** Category: **Health and Safety** Sub-Category: **Ergonomics**	TORONTO

Policy Statement

The Occupational Health and Safety Act requires that employers "take every precaution reasonable for the protection of workers". The City of Toronto purchases numerous products (materials, equipment, vehicles, furniture, chemicals, etc.), many of which have the potential to affect the health, safety and well-being of its employees. This corporate Policy for Incorporating Occupational Health, Safety and Ergonomics Principles into the Purchasing Process is therefore intended to:

- establish an efficient, cost-effective and consistent process for identifying and addressing potential health, safety and ergonomic risk factors prior to the acquisition of products
- assist service areas in meeting their operational goals by reducing injuries and illnesses
- maintain compliance with occupational health, safety and ergonomics legislation and/or standards
- sustain efficiency and productivity by minimizing the need for costly and disruptive retrofits

The City has demonstrated its commitment to public, employee and environmental health through a number of initiatives such as the Environmental Plan (Clean, Green and Healthy: A Plan for an Environmentally Sustainable Toronto) and the Environmentally Responsible Procurement Policy and Procedures. This policy is intended to complement these initiatives in a manner which enhances the health and safety of City employees.

This policy applies to the City's Purchasing and Materials Management Division (PMMD) and staff in all City divisions who purchase, or request the purchase of, products. It applies to the purchase of all products, including those not processed by PMMD.

Responsibilities

Effective implementation of the Policy for Incorporating Occupational Health, Safety and Ergonomics Principles into the Purchasing Process will be achieved when identified parties assume the following assigned responsibilities:

Divisions requesting purchase of goods/services or purchasing goods/services directly will:

1. In conjunction with occupational health and safety staff, review applicable regulations and standards, when necessary, to ensure all health, safety and ergonomics requirements are addressed in purchasing documentation.
2. Identify potential health, safety, and ergonomics issues in the purchase process for products by:
    - reviewing accident statistics or risk factors for injury or illness associated with similar existing products
    - reviewing concerns raised by joint health and safety committees, end-users, or occupational health, safety, and ergonomics staff
    - consulting with occupational health, safety and/or ergonomics staff and joint health and safety committees, when necessary

    Note: The level of involvement, if any, of health, safety, and ergonomics staff will be determined by the extent to which products are governed by occupational health and safety legislative requirements and/or standards, the potential for the products to result in employee injury or illness, and the City's injury or illness record with similar purchases.

3. Address identified issues during the purchasing process, as follows:

    If purchasing independently of PMMD

    - reference appropriate health, safety and ergonomics legislation and/or industry standards in purchase documentation
    - consult, where necessary, with health, safety and/or ergonomics staff and/or joint health and safety committees on methods to addressidentified health, safety and/or ergonomics issues

    If purchasing in conjunction with PMMD:

    - consult with PMMD to determine whether there are any existing specifications which should be incorporated into the purchase
    - advise PMMD staff of health, safety and ergonomic concerns to be addressed during the purchase and recommended means to resolve them for inclusion in purchase specifications
    - identify appropriate health, safety and ergonomics legislation and/or industry standards in purchase documentation
    - consult, where necessary, with health, safety and/or ergonomics staff on methods to address identified health, safety and/or ergonomics issues
    - request that product training by the supplier be included in

the specification, where necessary

4. Identify, in consultation with occupational health, safety and ergonomics staff, criteria to be consistently applied to product evaluations.
5. Arrange for field testing of products by end-users in advance of purchase, whenever possible and as appropriate, consulting with health, safety and ergonomic specialists, local health and safety staff and/or joint health and safety committees in this process.
6. Verify that products submitted for purchase have met all mandatory health and safety requirements or request written verification of compliance, if compliance cannot be otherwise confirmed. Ensure that a demonstration of product(s) is provided, where applicable.
7. Take every precaution reasonable for the protection of workers in the selection of products.
8. Assign appropriate representatives to participate in an annual review (with purchasing and occupational health, safety and ergonomics staff) of any health, safety and/or ergonomics issues which may be addressed through the purchasing process.

Purchasing and Materials Management Division will:

1. Reference, or ensure reference is made to, appropriate legislation and accepted industry occupational health, safety and ergonomic standards and guidelines, either generally or explicitly (where warranted), in quotation requests, tenders and requests for proposals for products/services purchased.
2. Include a clause referencing occupational health, safety and ergonomics in general bidders' terms and conditions for tenders, proposals and quotation requests, as appropriate, indicating that those bids not complying with specified requirements will be rejected.
3. Confirm with user divisions, where applicable, during the purchasing process that all health, safety and ergonomics issues have been identified and addressed.
4. Consult, where necessary, with end-users, health, safety and/or ergonomics staff or other sources (as applicable) on methods to address identified health, safety and/or ergonomics issues.
5. Maintain information on identified hazards, received from divisions, health, safety and ergonomics staff or other sources, as applicable, and incorporate necessary changes into next purchasing cycle.
6. Participate in an annual review (initiated by divisional and occupational health, safety and ergonomics staff) of any health, safety and/or ergonomics issues arising from the purchasing process.

Occupational health, safety and ergonomics staff will:

1. Assist in the identification and resolution of health, safety and ergonomics risks potentially associated with new products and/or services by:
    - reviewing regulations and standards applicable to purchases and advising clients on purchasing documentation needs

- reviewing information provided by divisions
- reviewing results of assessments of products/services
- reviewing injury and illness reports and/or statistics
- reviewing information provided by joint health and safety committees
- conducting assessments of products or services and recommending safer alternatives, as required
- providing training of staff, as required, or reviewing supplier training packages to ensure adequacy

2. Assist divisions and PMMD, when the nature and extent of risk or employee concerns so warrant, by:
   - providing general and/or specific input into specifications
   - evaluating bids from a health, safety or ergonomics perspective, and/or
   - participating in field testing, selection and ongoing follow-up review
3. Assist divisions with the development of divisional procedures to ensure that health, safety and ergonomic considerations and obligations are addressed throughout the purchasing process.
4. Participate in an annual review of any health, safety and/or ergonomics issues arising from the purchasing process.

Joint health and safety committees will:

1. Bring occupational health, safety and ergonomics concerns with goods or services to the attention of divisional management and make recommendations for improvement.
2. Recommend evaluation by health, safety or ergonomics specialists, when necessary.
3. Respond to requests for information on health, safety and ergonomics issues arising from the purchase of products.
4. Nominate a representative to participate in field testing, when needed.

End-users of products and/or services will:

1. Bring any health, safety and/or ergonomics concerns with respect to purchased products or services to the attention of their immediate supervisors and, if and where necessary, to their joint health and safety committees. PMMD should be immediately advised of these concerns, where applicable (i.e. in cases where the product is not in compliance with contract /purchase documentation requirements)
2. When required, participate in field testing of products and services (e.g. equipment, chemicals, personal protective equipment, hand tools, etc.) to assist in the selection process.

References Occupational Health and Safety Act and its regulations

Endorsed by Occupational Health and Safety Coordinating Committee (OHSCC), April 25, 2000

Approved by	The City of Toronto Senior Management Team (SMT)
Date Approved	October 20, 2000
Reviewed by OHSCC	November 26, 2008

Go back

Schedule "J"

Assignee's Assumption Agreement

ASSIGNEE'S ASSUMPTION AGREEMENT

Form of Assignee's Assumption Agreement

THIS AGREEMENT made in quadruplicate dated the _____ day of _____, _____.

B E T W E E N:

•

(hereinafter called the "Assignee")

- and -

GUILD INN ESTATE INC.

(hereinafter called the "Tenant")

- and -

CITY OF TORONTO

(hereinafter called the "Landlord")

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor

WHEREAS TRCA owns the land known municipally as 201 Guildwood Parkway, Toronto which is described in Schedule "A" attached hereto (hereinafter referred to as "Guildwood Park") and the Landlord has a leasehold interest in Guildwood Park;

AND WHEREAS the Tenant has a leasehold estate in part of 201 Guildwood Parkway known as the "Leased Lands" pursuant to a Lease dated _____ , entered into between the Landlord and the Tenant (hereinafter called the "Leasehold Estate"), notice of which is registered on title to Guildwood Park as Instrument No. _____ (hereinafter, as it may be amended or modified from time to time, called the "Lease");

AND WHEREAS the Lease provides that the Tenant may assign, sublet or otherwise transfer (each an "Assignment") its Leasehold Estate in the Leased Lands to an Assignee, Approved of by the Landlord, provided that certain conditions have been complied with as more particularly set forth in the Lease;

AND WHEREAS in accordance with the requirements of the Lease, the Tenant and the Assignee are entering into this Assumption Agreement with the Landlord;

AND WHEREAS the conditions in the Lease in respect of the proposed Assignment of the Leasehold Estate will have been complied with upon execution and registration of this Assumption Agreement and of the Assignment;

AND WHEREAS all capitalized terms which are not defined in this Agreement have the respective meanings ascribed to them in the Lease.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the Parties hereby covenant and agree as follows:

1. Receipt of Lease

The Assignee acknowledges that it has received an executed copy of the Lease and is familiar with the terms, covenants and conditions contained therein.

2. Assignee Eligibility

The Tenant and the Assignee represent and warrant to the Landlord that the Assignee is an eligible assignee in accordance with the Lease.

3. Landlord Consent

(1) The Landlord consents to the assignment of the Lease from the Tenant to the Assignee upon and subject to the provisions of the Lease and the terms of this Assumption Agreement, including the following:

(a) this consent does not in any way derogate from the rights of the Landlord under the Lease nor operate to release the Tenant from its obligation to pay rent from time to time becoming due under the Lease and from the Tenant's liabilities, responsibilities or its non-observance or non-

performance of all of the terms, covenants and conditions contained in the Lease on the part of the Tenant therein to be observed and performed (and the Landlord's rights and remedies arising as a result of any such non-performance or non-observance) all subject to the terms of the Lease and notwithstanding the assignment for any disaffirmances or disclaimer of the assignment, the Tenant remains liable during the balance of the then-currentTerm of the Lease for the observance and performance of all the terms, covenants and conditions contained in the Lease, save and except for any changes to the provisions thereof which may have been made between the Landlord and the Assignee, notwithstanding the Assignment;

(b) this consent does not constitute a waiver of the necessity for consent to any further transfer, assignment, sublease, mortgaging or encumbering of the Lease or the Leased Lands or the parting with or sharing possession of all or any part of the Leased Lands by the Assignee; and

(c) by giving its consent pursuant to this Agreement, the Landlord does not hereby acknowledge or approve of any of the terms of this Agreement as between the Assignor and Assignee nor does the Landlord acknowledge or approve thereby of any other agreement between the Assignor and the Assignee, except for the assignment itself.

4. Effective Date and Registration

(1) The Tenant and the Assignee agree that this Assumption Agreement and the consent hereunder by the Landlord to the Tenant to assign, sublet or otherwise transfer (as applicable) the Tenant's leasehold interest under the Lease to the Assignee takes effect (the "Effective Date") on the date of the execution of this Assignment as certified by all Parties in writing.

(2) This Assumption Agreement must be attached by the Tenant and by the Assignee as a schedule to the Assignment, notice of which must be registered as one document by the Assignee on title to the Leased Lands within thirty days of the execution by the Landlord of this Assumption Agreement.

5. Tenant and Assignee Covenants

(1) The Assignee covenants to the Tenant and to the Landlord that the Assignee will perform and abide by and be bound by at all times, all of the terms, covenants and conditions and obligations on the part of the Tenant contained in the Lease and the Ancillary Agreements and that the Landlord is entitled to all remedies in respect of breaches of covenants and conditions as if the Assignee were named in the Lease and the Ancillary Agreements. Without limiting the generality of the foregoing, the Assignee hereby covenants and agrees with the Landlord that it will at all times from and after the Effective Date during the balance of the Term of the Lease pay the rent reserved by the Lease and all other payments covenanted to be paid by the Tenant therein at the times and in the manner provided for in the Lease, and will observe and perform all of the terms, covenants and conditions in the Lease and the Ancillary Agreements on the part of the Tenant therein to be observed and performed as and when the same are required to be observed and performed as provided by the Lease and the Ancillary Agreements, including, without limitation, the provisions of the Lease and the Ancillary Agreements relating to the permitted use of the Leased Lands and the insurance which the Tenant is required to take out pursuant to the Lease and the Ancillary Agreements.

(2) The Assignee covenants to the Landlord that the Assignee will occupy and use the Leased Lands as set out in the Lease solely for the permitted purposes of the Leased Lands set out in the Lease.

(3) The Assignee releases and discharges the Landlord relating to any injury or damage resulting from the Assignee's use of the Leased Lands, except to the extent same is due to the negligence or wrongful acts or omissions of the Landlord, or those for whom it is in law responsible.

(4) The Assignee agrees to indemnify and save the Tenant and the Landlord harmless from any and all actions, suits, losses, charges, demands, liabilities and expenses incurred or suffered by the Landlord as a direct or indirect result of any failure or refusal by the Assignee to perform and abide by all of the terms, covenants, conditions and obligations on the part of the Tenant contained in the Lease or any breach by the Assignee of the terms of the Lease or of the terms hereof or in connection with loss of life, personal injury, damage to property or any other loss or injury arising during the term of the assignment, or any occurrence in, on, or at the Leased Lands, or from the occupancy of the Leased Lands, or occasioned wholly or in part by an act or omission of the Assignee or by anyone permitted to be on the Leased Lands by the Assignee, except to the extent same is due to the negligence or wrongful acts or omissions of the Landlord, or those for whom it is in law responsible.

(5) The Assignee acknowledges and agrees with the Tenant and the Landlord that:

(a) the Assignee is accepting possession of the Leased Lands from the Tenant in an "as is" condition as of the Effective Date;

(b) the Landlord has no responsibility or liability for making any renovations, alterations, repairs, improvements in or to the Leased Lands;

(c) in accordance with the requirements of the Lease, this Assignment is subject to the Landlord's absolute right of property in the Leased Lands, with this right of the Landlord, effective upon the termination of the Lease and being in priority to any other interest in the Leased Lands which may now exist or hereafter be created or acquired by the Assignee and that all dealings by the Assignee which in any way affect the title of the Leased Lands are made expressly subject to the Landlord's absolute right of property in the Leased Lands;

(d) in the event of termination of the Lease in accordance with the provisions thereof, the rights of the Assignee terminate automatically in accordance with the provisions of the Lease; and

(e) any default of the Assignee in complying with this Agreement also constitute a default under the Lease.

(6) The Tenant and the Assignee hereby covenant with each other that:

(a) the Assignment between them is subject to an obligation and covenant between them not to do or allow to be done any act or omission or other matter or thing which will constitute or be deemed to constitute a default under the Lease and covenant further to do all such acts, matters and things as may be requisite and necessary to maintain the Lease in good standing at all times; and

(b) the Assignee is liable to the Landlord for the performance of the obligations of the Tenant under the Lease as of the date of this Assignment Agreement.

(7) This Agreement is entered into and delivered to the Landlord in accordance with Section 15 of the Lease. This Assumption Agreement only fulfills the obligations in Section 15 of the Lease of the Tenant and the Assignee who are parties to this Assumption Agreement. Other person(s) intended to be subsequent in interest to the Tenant, including the assignees, sublessees or other transferees of the Assignee, are required to take such steps as may be required of them by the Lease, including entering into an Assumption Agreement with the Landlord; and, without limiting the generality of the foregoing, the Assignee may not mortgage its leasehold estate nor agree to mortgage its leasehold estate unless it has obtained the consent of the Landlord and the Leasehold Mortgagee has executed an acknowledgement agreement with the Landlord pursuant to Section 15 of the Lease in the form required by the Lease. Any Leasehold Mortgage in contravention of this provision is null and void.

(8) The Tenant agrees with the Landlord that any default of the Tenant or of the Assignee in complying with this Agreement also constitutes an Event of Default under the Lease.

(9) The Landlord may, without prejudice to any of its rights under this Agreement or under the Lease, collect Rent directly from the Assignee and apply the amount collected to the Rent required to be paid pursuant to this Lease, but no acceptance by Landlord of any payments by the Assignee is deemed a waiver of the Tenant's continuing liability for the performance of all the terms, covenants and obligations on the part of Tenant set forth in the Lease.

6. Notice

Any notices, demands, requests, agreements, certificates, statements, reports, opinions or other instruments or communications (individually or collectively called a "Notice") which may be or are required to be given pursuant to this Lease shall be in writing, shall not be unreasonably withheld or delayed unless specifically provided for in this document, and shall be delivered by personal service or sent by prepaid registered mail (except during a postal disruption or threatened postal disruption), or sent by facsimile as follows:

(a) In the case of the Tenant at:

Guild Inn Estate Inc.
955 Lakeshore Boulevard West
Toronto ON M6K 3B9
Attention: President

with a copy to its solicitors at:

Parente Borean LLP
3883 Highway 7, Suite 207
Woodbridte ON L4L 6C1
Attention: Don Parente

(b) and in the case of the City to it at:

City of Toronto
Real Estate Services Division

Metro Hall, 55 John Street, 2nd Floor
Toronto, ON M5V 3C6
Attention: Director of Real Estate Services

and with a copy to the City Solicitor at:

City of Toronto, Metro Hall
55 John Street, 26th Floor
Toronto, ON M5V 3C6

and with a copy to General Manager of Economic Development and Culture at:

City Hall, 9th Floor, East Tower
100 Queen Street West
Toronto, ON M5H 2N2

and with a copy to General Manager of Parks, Forestry and Recreation at:

City Hall 4th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

(c) and in the case of TRCA to it at:

5 Shoreham Drive
Toronto, ON M3N 1S4
Attn: Director, Finance & Business Development Division

(d) and in the case of the Assignee to it at:

•

or at such other place as such party may from time to time designate by written notice to the other. Any such Notice given in this manner shall be deemed to have been validly and effectively given and received: if personally delivered, on the day of such delivery; or if sent by prepaid registered mail, on the third (3rd) Business Day next following the mailing, provided, however, that during all postal disruption or threatened postal disruption, delivery shall be in person; and if sent by facsimile, on the Business Day next following the day on which it was sent. The CCO will administer and manage this Lease and any related agreements or documentation on behalf of the Landlord, and where the Landlord is either entitled or obligated to provide consents, approvals, waivers, notices or notices of termination hereunder, the CCO or the City Solicitor may do so; provided, however, that the CCO or the City Solicitor may always elect to submit the issue of the giving of such Notice or the contents of any Notice, to City Council for its determination and direction.

7. Conflict with Lease

Should this Agreement conflict with any provision of the Lease, the provisions of this Agreement shall govern.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals under the hands of their respective proper officers duly authorized in that behalf.

Executed by the Tenant this _____day of _____20

GUILD INN ESTATE INC.

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Executed by the Assignee this _____day of _____20

•

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Executed by the Landlord this _____day of _____20

CITY OF TORONTO

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

_____
City Clerk

Schedule "A"

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Schedule "K"

Initial Construction Period Agreement

INITIAL CONSTRUCTION PERIOD AGREEMENT

Form of Initial Construction Period Agreement

THIS AGREEMENT dated the _____ day of _____, 2015.

BETWEEN:

CITY OF TORONTO
(the "Landlord")

- and -

GUILD INN ESTATE INC.
(the "Tenant")

- and -

TORONTO AND REGION CONSERVATION AUTHORITY
(the "TRCA")

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor

WHEREAS subject to the terms and conditions contained in the Lease entered into between the Landlord, the Tenant and TRCA dated _____, and registered on title to certain lands owned by the TRCA which are described in Schedule A attached hereto (the "Guildwood Park"), as Instrument No. _____ ("Lease"), the Tenant has a leasehold estate in a portion of the Guildwood Park;

AND WHEREAS the Lease requires the Landlord and the Tenant forthwith after commencement of the Initial Construction Period to execute an agreement that records the commencement and termination of the Initial Construction Period;

AND WHEREAS all capitalized terms which are not defined herein have the respective meanings ascribed thereto in the Lease;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereby covenant and agree as follows:

1. The Tenant and the Landlord mutually agree that the commencement date of the Initial Construction Period is the ■ day of ■, 20■.

2. The Tenant and the Landlord mutually agree that the Initial Construction Period expires on the earlier of:

   (i) 60 days following substantial completion (as defined in the *Construction Lien Act* (Ontario)) of construction of the Project; and

   (ii) twenty-four (24) months after commencement of the Initial Construction Period.

IN WITNESS WHEREOF the Parties have hereto affixed their respective corporate seals attested to by the hands of their proper officers in that behalf duly authorized in that behalf:

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

_____
City Clerk

CITY OF TORONTO

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

GUILD INN ESTATE INC.

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

TORONTO AND REGION CONSERVATION AUTHORITY

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Schedule "A"

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Schedule "L"

Effective Date Agreement

EFFECTIVE DATE AGREEMENT

Form of Effective Date Agreement

THIS AGREEMENT dated the _____ day of _____, 2015.

B E T W E E N:

CITY OF TORONTO
(the "Landlord")

- and -

GUILD INN ESTATE INC.
(the "Tenant")

- and -

TORONTO AND REGION CONSERVATION AUTHORITY
(the "TRCA")

APPROVED AS TO FORM
For Anna Kinastowski
City Solicitor

WHEREAS subject to the terms and conditions contained in the Lease entered into between the Landlord, the Tenant and TRCA dated _____, and registered on title to certain lands owned by the TRCA which are described in Schedule A attached hereto (the "Guildwood Park"), as Instrument No. _____ ("Lease"), the Tenant has a leasehold estate in a portion of the Guildwood Park;

AND WHEREAS the Lease requires the Landlord and the Tenant forthwith after the Effective Date, to execute an agreement that records the Effective Date and expiry date of the Lease;

AND WHEREAS all capitalized terms which are not defined herein have the respective meanings ascribed thereto in the Lease;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereby covenant and agree as follows:

1. The Tenant and the Landlord mutually agree that the Effective Date is the ■ day of ■, 20■.

2. The Tenant and the Landlord mutually agree that the Term expires in accordance with the provisions of the Lease.

IN WITNESS WHEREOF the Parties have hereto affixed their respective corporate seals attested to by the hands of their proper officers in that behalf duly authorized in that behalf:

Authorized by Government Management Committee Item 28.10 adopted, as amended, in Council on the 1st, 2nd, and 3rd of April, 2014, and by Member Motion MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, adopted by Council on the 25th, 26th, 27th, and 28th of August, 2014

_____
City Clerk

CITY OF TORONTO

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

GUILD INN ESTATE INC.

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

TORONTO AND REGION CONSERVATION AUTHORITY

Per:_____

Name/Title:

Per:_____

Name/Title:

I/We have authority to bind the corporation

Schedule "A"

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Schedule "M"

Permitted Encumbrances

The Leased Lands are being leased subject to the following encumbrances:

1. Normal utility easements serving the Leased Lands and/or other properties, including any unregistered hydro easements.

2. Applicable municipal by-laws, and registered development agreements, subdivision agreements, site plan agreements and building restrictions, provided they are complied with.

3. Any registered easements, rights-of-way, licences, and restrictions that run with the land and which do not materially interfere with the existing use of the Leased Lands.

4. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown and any statutory exceptions to title.

5. Errors, omissions and defects, if any, in surveys and surveying matters generally, and irregularities, easements, encroachments, rights-of-way or other defects and discrepancies in title or possession which are or would be disclosed by an up-to-date survey of the Leased Lands, or any minor discrepancies in the legal description contained in any registered deed or other instrument.

6. Minor title defects which in the aggregate do not materially affect the usability of the Leased Lands.

7. Any rights of expropriation, access or user, or any other similar right conferred or reserved by or in any statute of Canada or Ontario.

8. Any statutory liens or levies not disclosed by registered title, prior to the date of this Lease.

9. Inchoate liens for taxes or assessments by public authorities.

10. All by-laws, agreements, easements, notices and other encumbrances shown on PIN 06521-0014 (LT) as of January 22, 2015.

Schedule "N"

Green Development Standards

TORONTO City Planning Division

Toronto Green Standard Version 2.0 Statistics Template

For Mid to High-Rise Residential and All Non-Residential Development

The Toronto Green Standard StatisticsTemplate is submitted with Site Plan Control Applications and stand alone Zoning Bylaw Amendment applications. Complete the table and copy it directly onto the Site Plan submitted as part of the application. Refer to the full Toronto Green Standard for Mid to High-Rise Residential and All Non-Residential Development (Version 2.0) for the complete set of standards and detailed specifications: www.toronto.ca/greendevelopment
For Zoning Bylaw Amendment applications: complete General Project Description and Section 1.
For Site Plan Control applications: complete General Project Description, Section 1 and Section 2.

Toronto Green Standard Statistics

General Project Description	Proposed
Total Gross Floor Area	
Breakdown of project components (m^2)	
Residential	
Retail	
Commercial	
Industrial	
Institutional/other	
Total number residential units *(residential only)*	

Section 1: For Stand Alone Zoning Bylaw Amendment Applications and Site Plan Control Applications

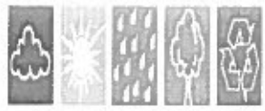
Automobile Infrastructure	**Required**	Proposed	Proposed (%)
Number of parking spaces			
Number of parking spaces with physical provision for future EV charging *(residential)*			
Number of parking spaces dedicated for priority parking, LEV, car pooling, car sharing *(institutional/commercial)*			
Cycling Infrastructure	**Required**	Proposed	Proposed (%)
Number of long-term bicycle parking spaces *(residential)*			
Number of long-term bicycle parking spaces *(all other uses)*			
Number of long-term bicycle parking *(residential and all other uses)* located on			
a) first storey of building			
b) second storey of building			
c) first level below-ground (also indicate % of net area of level occupied by bicycle parking)			
d) second level below-ground (also indicate % of net area of level occupied by bicycle parking)			
e) other levels below-ground (also indicate % of net area of level occupied by bicycle parking)			
Number of short-term bicycle parking spaces *(residential only)*			
Number of short-term bicycle parking spaces *(all other uses)*			
Number of male shower and change facilities *(non-residential only)*			
Number of female shower and change facilities *(non-residential only)*			
Storage and Collection of Recycling and Organic Waste	**Required**	Proposed	Proposed (%)
Waste storage room area *(residential only)* (m^2)			

Section 2: For Site Plan Control Applications

Cycling Infrastructure	**Required**	Proposed	Proposed (%)
Number of short-term bicycle parking spaces (*residential and all other uses*) at-grade or on first level below grade			

Urban Heat Island Reduction: At Grade	**Required**	Proposed	Proposed (%)
Total non-roof hardscape area (m^2)			
Total non-roof hardscape area treated for Urban Heat Island **(minimum 50%)** (m^2 and %)			
Area of non-roof hardscape treated with: (indicate m^2 and %)			
a) high-albedo surface material			
b) open-grid pavement			
c) shade from tree canopy			
d) shade from structures covered by solar panels			
Percentage of required car parking spaces under cover **(minimum 50%)***(non-residential only)*			
Urban Heat Island Reduction: Roof	**Required**	Proposed	Proposed (%)
Available Roof Space (m^2)			
Available Roof Space provided as Green Roof (m^2 and %)			
Available Roof Space provided as Cool Roof (m^2 and %)			
Water Efficiency	**Required**	Proposed	Proposed (%)
Total landscaped site area (m^2)			
Landscaped site area planted with drought-tolerant plants **(minimum 50%)** (m^2 and %)			
Urban Forest : Increase Tree Canopy	**Required**	Proposed	Proposed (%)
Total site area (m^2)			
Total number of trees planted **(site area x 40% ÷ 66)**			
Number of surface parking spaces (if applicable)			
Number of shade trees located in surface parking area interior **(minimum 1 tree for 5 parking spaces)**			
Natural Heritage: Site	**Required**	Proposed	Proposed (%)
Total number of species planted			
Total number of native species planted and % of total species planted **(minimum 50%)**			
Bird Friendly Glazing	**Required**	Proposed	Proposed (%)
Total area of glazing of all elevations within 12m above grade (including glass balcony railings)			
Total area of treated glazing **(minimum 85% of total area of glazing within 12m above grade)** (m^2 and %)			
Percentage of glazing within 12m above grade treated with:			
a) Low reflectance opaque materials			
b) Visual markers			
c) Shading			
Storage and Collection of Recycling and Organic Waste	**Required**	Proposed	Proposed (%)
Waste storage area for bulky items and other **(minimum 10m^3)** *(residential only)*			

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST



For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

The Toronto Green Standard (TGS) is a two-tier set of performance measures, with supporting guidelines for new development. Its purpose is to promote sustainable site and building designs that address Toronto's urban environmental pressures: air quality, climate change and energy efficiency, water quality and efficiency, ecology and solid waste.

This Checklist is part of a Complete Application. It must contain adequate detail on how the design meets the Toronto Green Standard. The Checklist must also reference the appropriate plans, drawings and reports that demonstrate compliance with the performance measures. Complete the Checklist in conjunction with the appropriate Standard that applies to the development type, including the Specifications, Definitions and Resources column that provides more information on how to comply. The Checklist is completed by the project architect or planning consultant and is submitted to City Planning staff as part of your development application.

Application Submitted

☐ Site Plan Control ☐ Zoning Bylaw Amendment ☐ Draft Plan of Subdivision

Office Use Only

District Offices: ☐ North York District ☐ Toronto East York District ☐ Scarborough District ☐ Etobicoke York District

Date Received: _____ Planner: _____ Application No.: _____

Is this checklist revised from an earlier submission? ☐ Yes ☐ No

Property and Applicant

Address of Subject Land (Street Number/Name): _____

Applicant/Agent

Name: _____ Telephone: _____ E-mail: _____ Registered Owner: _____

Proposal Description

Gross Floor Area: _____ Number of Storeys: _____ Number of Units: _____

Project Information (include a narrative of your project highlighting green attributes or performance measures)

- Tier 1 performance measures are required by the City and must be addressed as part of your approved development application.
- Tier 2 performance measures are voluntary with higher performance levels. Achieving Tier 2 means that you are eligible to apply for a refund of development charges equivalent to 20% of the 2014 rate.

☐ **Check here if you intend to achieve Tier 2 of the Toronto Green Standard (complete pages 9-12).**

TORONTO 311 Livegreen Toronto

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

TIER 1: AIR QUALITY

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
AQ 1.1	Low-Emitting Vehicle Spaces **EXAMPLE**	Physical provision for future electric vehicle charging (residential) or dedicated priority parking spaces (non-residential) for parking above minimum requirement	A minimum of 100 automobile parking spaces are required under the Zoning Bylaw. 115 automobile parking spaces are provided for this development. Dedicated carpool parking is provided for 15 spaces.	Site Plan # A1-01 Underground Garage Plan# Other #
AQ 1.1	Low-Emitting Vehicle Spaces	Physical provision for future electric vehicle charging (residential) or dedicated priority parking spaces (non-residential) for parking above minimum requirement		Site Plan # Underground Garage Plan # Other #
AQ 2.1	Bicycle Parking Rates	Minimum bicycle parking rates		Site Plan # Underground Garage Plan # Other #
AQ 2.2	Long-term bicycle parking location	Long-term parking in secure bicycle parking facility or purpose-built bicycle locker		Site Plan # Underground Garage Plan # Other #
AQ 2.3	Short-term bicycle parking location	Short-term bicycle parking in a highly visible and publicly accessible location		Site Plan # Underground Garage Plan # Other #
AQ 2.4	Shower & change facilities	Shower and change facilities (non-residential only)		Site Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
AQ 3.1	Connectivity	Safe, accessible pedestrian routes that connect with off-site pedestrian networks and priority destinations		Floor Plan # Other #
AQ 3.2	Sidewalk space	Pedestrian clearway at least 2.1 m wide to accommodate pedestrian flow		Site Plan # Landscape Plan # Other #
AQ 3.3	Weather protection	Covered outdoor waiting areas		Site Plan # Other #
AQ 3.4	Pedestrian specific lighting	Pedestrian scale lighting		Site Plan # Building Cross-section # Other #
AQ 4.1	Urban Heat Island Reduction: At Grade	One of the following is provided: ☐ High-albedo surface materials **OR** ☐ Open grid pavement **OR** ☐ Shade within 5 years of construction **OR** ☐ Shade from structures covered by solar panels **OR** ☐ Combination of above options Place 50% required parking spaces under cover (non-residential option only)		Landscape Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

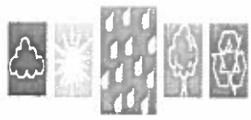
Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
AQ 5.1	Green & cool roofs	Choose the applicable category: ☐ Green roof By-law applies OR ☐ Green roof by-law does not apply OR ☐ City-owned buildings and all Agencies, Boards, Commissions and Corporations (ABCCs)		Site Plan # Roof Plan # Other #

TIER 1: GREENHOUSE GAS EMISSIONS/ENERGY EFFICIENCY

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
GHG 1.1	Energy efficiency	Design building(s) to achieve at least 15% energy efficiency improvement over the current Ontario Building Code		☐ Design Development Stage Energy Report OR ☐ Small Buildings Checklist
GHG 1.2	On-site renewable energy	City-owned buildings and all ABCCs: Install renewable energy devices		☐ Feasibility study

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST



For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

TIER 1: WATER QUALITY, QUANTITY AND EFFICIENCY

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
WQ 1.1	Erosion & sediment control	Adherence to *Erosion and Sediment Control Guidelines for Urban Construction*		Site Grading Plan # Other #
WQ 2.1	Stormwater balance	Stormwater retained on-site to the same level of annual volume allowable under pre-development conditions		☐ Stormwater Management Report Site Grading Plan # Other #
WQ 2.2	Stormwater retention & reuse	One of the following is provided: ☐ The first 5mm from each rainfall retained on-site OR ☐ Maximum allowable annual runoff volume is no more than 50% of the total average annual rainfall depth		☐ Stormwater Management Report Site Grading Plan # Other #
WQ 3.1	Total suspended solids (TSS)	Remove 80% of total suspended solids based on the post-development level of imperviousness		☐ Stormwater Management Report Site Grading Plan # Other #
WQ 3.2	E. Coli reduction	Control the amount of E. Coli directly entering Lake Ontario and waterfront areas		☐ Stormwater Management Report Site Grading Plan # Other #
WQ 4.1	Drought-tolerant landscapes	Water efficient plant material provided for at least 50% of landscaped site area		Landscape Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

TIER 1: ECOLOGY

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
EC 1.1	Tree protection	Adherence to the Tree Protection Policy and Specifications for Construction Near Trees		☐ Arborist Report Site Plan # Landscape Plan # Tree Preservation Plan # Other #
EC 1.2	Preservation of mature trees	Protect and retain all trees that are 30 cm or more DBH from injury or removal		☐ Arborist Report Site Plan # Landscape Plan # Tree Preservation Plan # Other #
EC 1.3	Ravine protection	Within the Ravine Protected Area, protect and retain trees of all diameters		☐ Arborist Report Site Plan # Landscape Plan # Tree Preservation Plan # Other #
EC 1.4	Street tree retention	Protect and retain all trees adjacent to City of Toronto streets and roadways and City-owned Parkland		☐ Arborist Report Site Plan # Landscape Plan # Tree Preservation Plan # Other #
EC 2.1	Tree planting	Tree canopy cover distributed across site area and public boulevard		Landscape Plan # Other #
EC 2.2	Soil volumes	Provide all trees planted with a minimum volume of 30 m^3 of high quality soil per tree		Landscape Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
EC 2.3	Trees along street frontages	Plant large shade trees along all street frontages		Landscape Plan # Other #
EC 2.4	Trees in parking lots	Plant shade trees throughout the parking lot interior		☐ Arborist Report Landscape Plan # Other #
EC 2.5	Watering program	Provide a watering program for trees for at least the first 2 years after planting		☐ Arborist Report Landscape Plan # Other #
EC 3.1	Biodiversity in landscapes	Plant landscaped site area using a minimum of 50% native species		☐ Arborist Report Landscape Plan # Other #
EC 3.2	Ravines and natural areas buffers	Where a setback from top-of-bank is required, plant landscaped area of the setback with native species		Landscape Plan # Other #
EC 3.3	Invasive species	No invasive species on properties along streets abutting ravines and natural areas		Landscape Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
EC 4.1	Bird friendly glazing	Treat a minimum of 85% of all exterior glazing within the first 12m of the building above grade, using a combination of the following strategies: ☐ Low reflectance, opaque materials ☐ Visual markers ☐ Muted reflections For City-owned and all Agencies, Boards, Commissions and Corporations: Treat all exterior glazing within 16 m of the building above grade as per EC 4.1. Visual markers must have maximum spacing of 50 mm x 50 mm.		Landscape Plan # Other # Elevation Plans #
EC 4.2	Rooftop vegetation	Treat the first 4 m of glazing above the feature		Landscape Plan # Other #
EC 4.3	Grate porosity	Ensure ground level grates have a porosity of less than 20 mm x 20 mm (or 40 mm x 10 mm)		Landscape Plan # Other #
EC 5.1	Exterior lighting	Shield all exterior light fixtures		Site Plan# Landscape Plan # Building Elevation # Other#

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

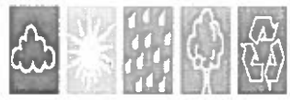
For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

TIER 1: SOLID WASTE

Section	Development Feature	Tier 1 Required Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
SW 1.1	Waste collection & sorting	Residential: Provide a waste sorting system		Floor Plan # Other #
SW 1.2	Waste storage spaces	Residential: Provide easily accessible waste storage room		Site Plan # Underground Garage Plan # Floor Plan # Other #
SW 1.3	Bulky waste	Residential: Provide a minimum of 10 m² for bulky items and additional diversion programs		Site Plan # Underground Garage Plan # Floor Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST



For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

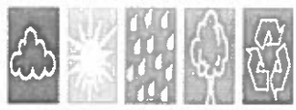
Tier 2 is the voluntary, enhanced performance level. Site plan applications received on or after May 1, 2009 that meet both Tier 1 and 2 of the Toronto Green Standard are eligible to apply for a potential refund of development charges equivalent to 20% of the 2014 rate. Completion of Tier 2 involves meeting all of the performance measures identified below as **CORE** and selecting three performance measures identified as **OPTIONAL** Indicate where Tier 2 performance measures will be documented in the right hand columns of the checklist.

Tier 2 is verified during the construction stage by third party evaluators registered with the City. The detailed eligibility criteria, application and verification procedures are found at: toronto.ca/greendevelopment

TIER 2: CORE

Section	Development Feature	Tier 2 Voluntary Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
AQ 4.2	Enhanced UHI, Non-roof hardscape	Treat 75% of the site's non-roof hardscape		Landscape Plan # Other # ☐ Declaration template
GHG 1.3	Enhanced energy efficiency	Design and construct the building(s) to achieve at least 25% energy efficiency improvement over the current Ontario Building Code		☐ As Constructed Energy Model Report **OR** ☐ Small Buildings Checklist
GHG 2.1	Building Commissioning	Commission the project using best practice commissioning		☐ Declaration template
WC 4.2	Water Efficient Fixtures	Reduce potable water consumption by at least 30% using efficient water fixtures and appliances		☐ Declaration template

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST



For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 2 Voluntary Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
WQ 4.3	Irrigation	Reduce potable water use for irrigation by 50%		Landscape Plan # Roof Plan # Other # ☐ Declaration template
EC 5.2	Enhanced Lighting	Direct rooftop architectural illumination downward and turn off between the hours of 11 p.m. and 6 a.m. during migratory bird seasons		Roof Plan # Lighting Plan # Other #
EC 5.3	Lighting Controls	Install an automatic device that reduces the outward spillage of internal light by one of the following: ☐ Reducing the input power to lighting fixtures ☐ Shielding all openings in the building envelope		☐ Declaration template

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

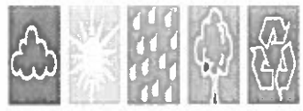
For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

TIER 2: OPTIONAL (SELECT 3)

Section	Development Feature	Tier 2 Voluntary Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
AQ 1.2	Enhanced LEV spaces	Electrical provision for future electric vehicle charging		☐ Declaration template
AQ 2.5	Enhanced Bicycle parking rates	Provide enhanced bicycle parking rates		Site Plan # Underground Garage Plan # Other #
AQ 2.6	Bike share	Provide public bike share location at-grade		Site Plan # Other #
GHG 1.4	On-site renewable energy	Design and install on-site renewable energy systems		☐ Declaration template ☐ As-constructed Energy Model Report
GHG 2.2	Meters	Install thermal energy meters		☐ Declaration template
WQ 2.3	Enhanced stormwater retention & reuse	Provide enhanced stormwater retention and reuse		☐ Declaration template

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST

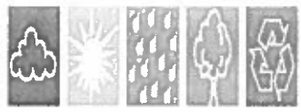


For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 2 Voluntary Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
EC 2.6	Enhanced trees in parking lots	Plant internal shade trees in surface parking areas		Site Plan# Landscape Plan # Other #
EC 2.7	Enhanced tree planting	Provide additional tree planting beyond the development site and the associated public boulevard		Site Plan# Landscape Plan # Other #
EC 3.4	Enhanced Landscaping	Restore or protect a minimum 50% of the site area or 20% of the total site area with native or drought-tolerant vegetation.		Site Plan# Landscape Plan # Other #
EC 4.4	Enhanced bird friendly glazing	Use a combination of the following to treat a minimum of 95% of all exterior glazing within the first 12 m of the building: ☐ Low reflectance, opaque materials ☐ Visual markers ☐ Mute reflections		Landscape Plan # Other # Elevation Plans #
EC 4.5	Opaque building materials	Provide at least 50% of the exterior surface of the building as non-reflective opaque materials		Building Elevation# Building Cross-Section #
SW 1.4	Enhanced waste collection & sorting	Provide three separate chutes for collection of each of the three waste streams on all floors (Residential)		Floor Plan # Other #

TORONTO GREEN STANDARD VERSION 2.0 – CHECKLIST



For New Mid to High Rise Residential and all New Non-Residential Development

Complete in conjunction with the full Toronto Green Standard and Specifications.

Section	Development Feature	Tier 2 Voluntary Performance Measure Summary	Description (How is this performance measure being met?)	Reference the Plans, Drawings or Reports
SW 1.5	Enhanced waste storage space	One of the following is provided (Residential): ☐ separated kitchen cabinet space for collection of three waste streams ☐ dedicated area(s) within the building for collection and storage of recycling and organics		Floor Plan # Other #
SW 1.6	Household hazardous waste	Provide a dedicated collection area or room		Floor Plan # Other #
SW 2.1	Building reuse	Maintain at least 55% of the existing building structure and envelope		☐ Declaration template
SW 3.1	Construction waste	Recycle at least 75% of non-hazardous construction and demolition debris		☐ Declaration template
SW 4.1	Recycled content	Ensure that at least 20% construction materials comprise recycled content		☐ Declaration template
SW 5.1	Regional materials	Ensure at least 20% of the building materials or products have been extracted, harvested, recovered or processed within 800 km of the final manufacturing site		☐ Declaration template

SCHEDULE "B"
(By-law)

Authority: Government Management Committee Item 28.10, adopted as amended, by City of Toronto Council on April 1, 2 and 3, 2014 and MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

CITY OF TORONTO

BY-LAW No. 967-2014

To authorize the entering into of an agreement for the provision of a municipal capital facility at the Guild Inn at 201 Guildwood Parkway.

Whereas section 252 of the *City of Toronto Act, 2006* (the "Act") provides that the City may exempt from taxation for municipal and school purposes land or a portion of it on which municipal capital facilities are, or will be, located, and an agreement for municipal capital facilities may allow for the lease, operation or maintenance of the facilities; and

Whereas paragraph 2 of section 2 of Ontario Regulation 598/06 prescribes municipal facilities used for a community centre as eligible municipal capital facilities; and

Whereas subsection 6(1) of Ontario Regulation 598/06 requires that in respect of municipal facilities used for a community centre, the facility must be used primarily for local community activity, and Council must declare the facility to be for the purposes of the City and to be for public use; and

Whereas the City of Toronto (the "City") as landlord under a lease from the Toronto and Region Conservation Authority ("TRCA") will enter into a sublease (the "Lease") with Guild Inn Estate Inc. (the "Tenant") for the use of part of the premises known as the Guild Inn and as described in Schedule "A" hereto (the "Premises"); and

Whereas the portions of the Premises identified in Schedule "B" hereto will be used for community centre purposes (the "Eligible Premises"), and Council has declared the Eligible Premises to be for the purposes of the City and to be for public use; and

Whereas Council is desirous of entering into an agreement with the Tenant for the provision of municipal facilities for use for community centre purposes at the Eligible Premises, and of providing an exemption from taxation for municipal and school purposes and an exemption from development charges to the Eligible Premises;

The Council of the City of Toronto enacts:

1. The City of Toronto is authorized to enter into an agreement under section 252 of the Act with the Tenant for the provision of City facilities for community centre purposes at the Eligible Premises, in accordance with Ontario Regulation 598/06 (the "Agreement").

2. The Eligible Premises are exempt from:

(1) Taxation for municipal and school purposes; and

(2) Development charges.

3. This by-law shall be deemed repealed:

(1) If the Tenant ceases to lease the Eligible Premises without having assigned the Agreement to the new tenant of the Eligible Premises;

(2) If the Eligible Premises cease to be used for community centre purposes;

(3) When the Lease, or any renewal or extension of the Lease, expires;

(4) If the Lease, or any renewal or extension of the Lease, is terminated, for any reason whatsoever; or

(5) If the Agreement is terminated for any reason whatsoever.

4. (1) Sections 1, 3 and 4 of this by-law shall come into force on the day that the by-law is enacted.

(2) Section 2 of this by-law shall come into force on the later of the following:

(a) the day this by-law is enacted; and

(b) the day that the Agreement is entered into by the City and the Tenant; and

(c) the day that the Lease is entered into by the City and the Tenant.

Enacted and passed on August 28, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

Schedule "A" of By-law 967-2014
The Premises

Part of the property municipally known as the Guild Inn, 201 Guildwood Parkway, Toronto, Ontario, as shown on the attached drawing

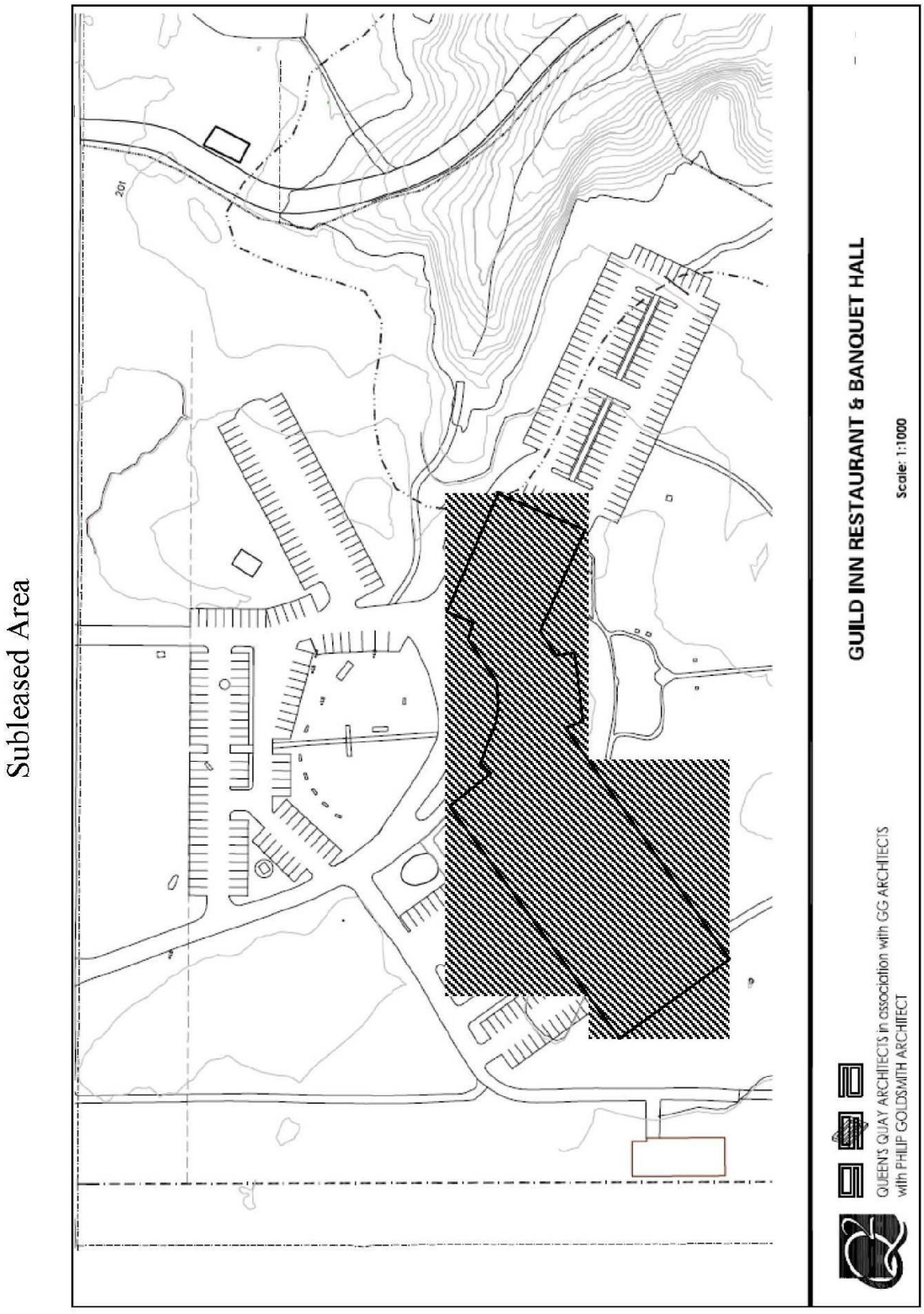
Assessment Roll No: 190107330001900

Legal Description:

Firstly: Part of Parcel 13-1, Section S3; Part of Lots 13 and 14, Concession C Scarborough, Designated at Part 1 on Reference Plan 66R-15242, City of Toronto, being Part of PIN 06521-0014 (LT);

Secondly: Part of Lot 14 Concession C Scarborough, Designated as Part 1 on Reference Plan 64R-7198, City of Toronto, being Part of PIN 06521-0400 (LT).

Drawing of the Premises:



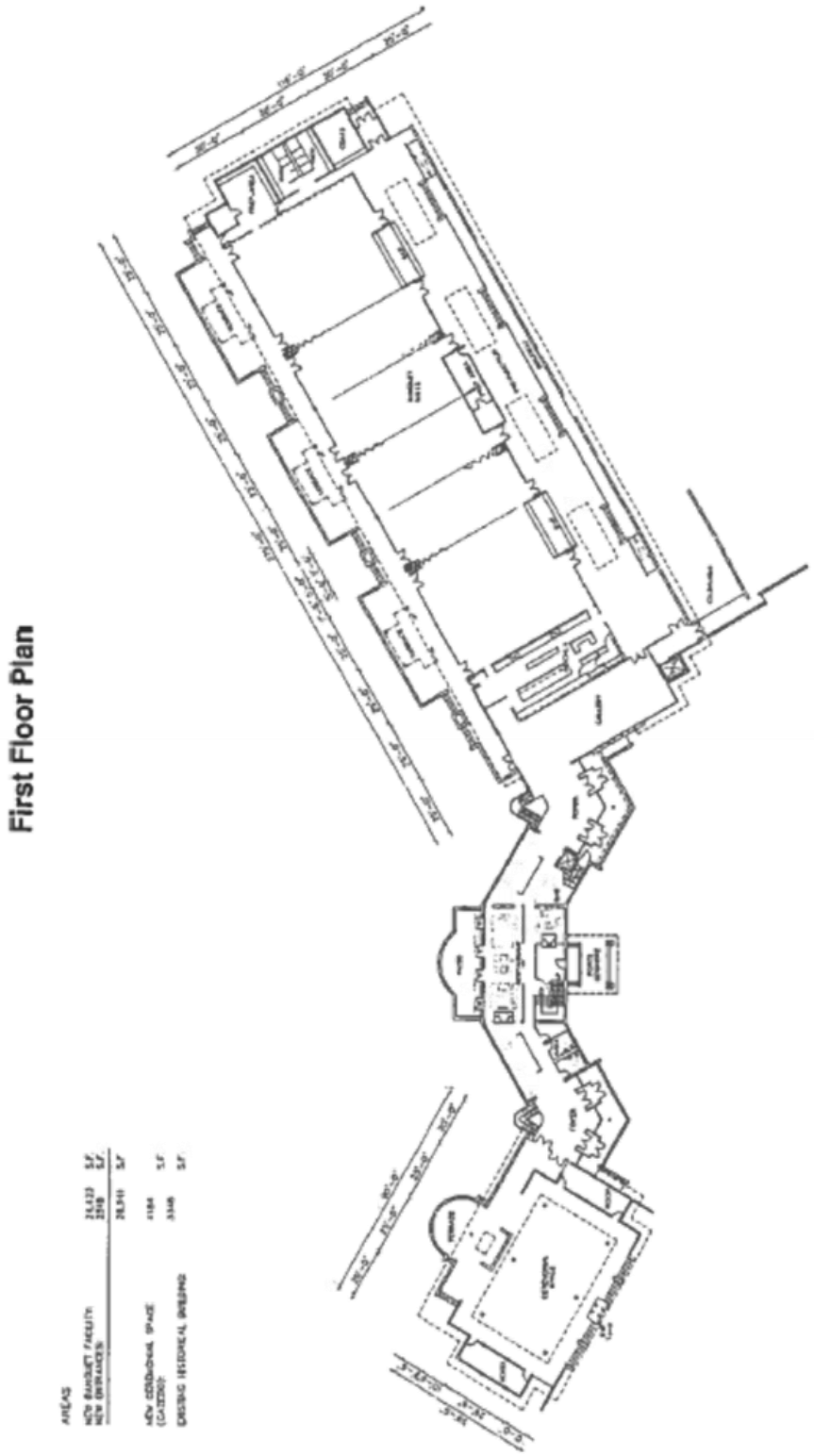
Schedule "B" of By-law 967-2014
The Eligible Premises

The portions, as indicated on the following drawing, of the Premises comprised of the following:

(a) 23,350 square feet of indoor space used as a Banquet Hall and Community Centre; and

(b) 4,184 square feet of outdoor space used as a Gazebo

Drawing of the Eligible Premises:



Authority: Government Management Committee Item 28.10, adopted as amended, by City of Toronto Council on April 1, 2 and 3, 2014 and MM55.51, moved by Councillor Ainslie, seconded by Councillor Shiner, as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

CITY OF TORONTO

BY-LAW No. 78-2015

To amend By-law No. 967-2014 to amend the space for which a municipal capital facility agreement is authorized at the Guild Inn at 201 Guildwood Parkway.

Whereas at its meeting of August 28, 2014, City Council enacted By-law No. 967-2014, being a by-law to authorize the entering into of an agreement for the provision of a municipal capital facility at the Guild Inn at 201 Guildwood Parkway; and

Whereas it is necessary to amend By-law No. 967-2014 to amend the description of the Eligible Premises, to correctly reflect the portion of the property that will be used for community centre purposes;

The Council of the City of Toronto enacts:

1. By-law No. 967-2014 is amended by deleting Schedule "B", The Eligible Premises, and substituting the attached Appendix "A" as Schedule "B" to By-law No. 967-2014.

Enacted and passed on December 11, 2014.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

APPENDIX "A"

Schedule "B"
The Eligible Premises

The portions, as indicated on the following drawing, of the Premises comprised of the following:

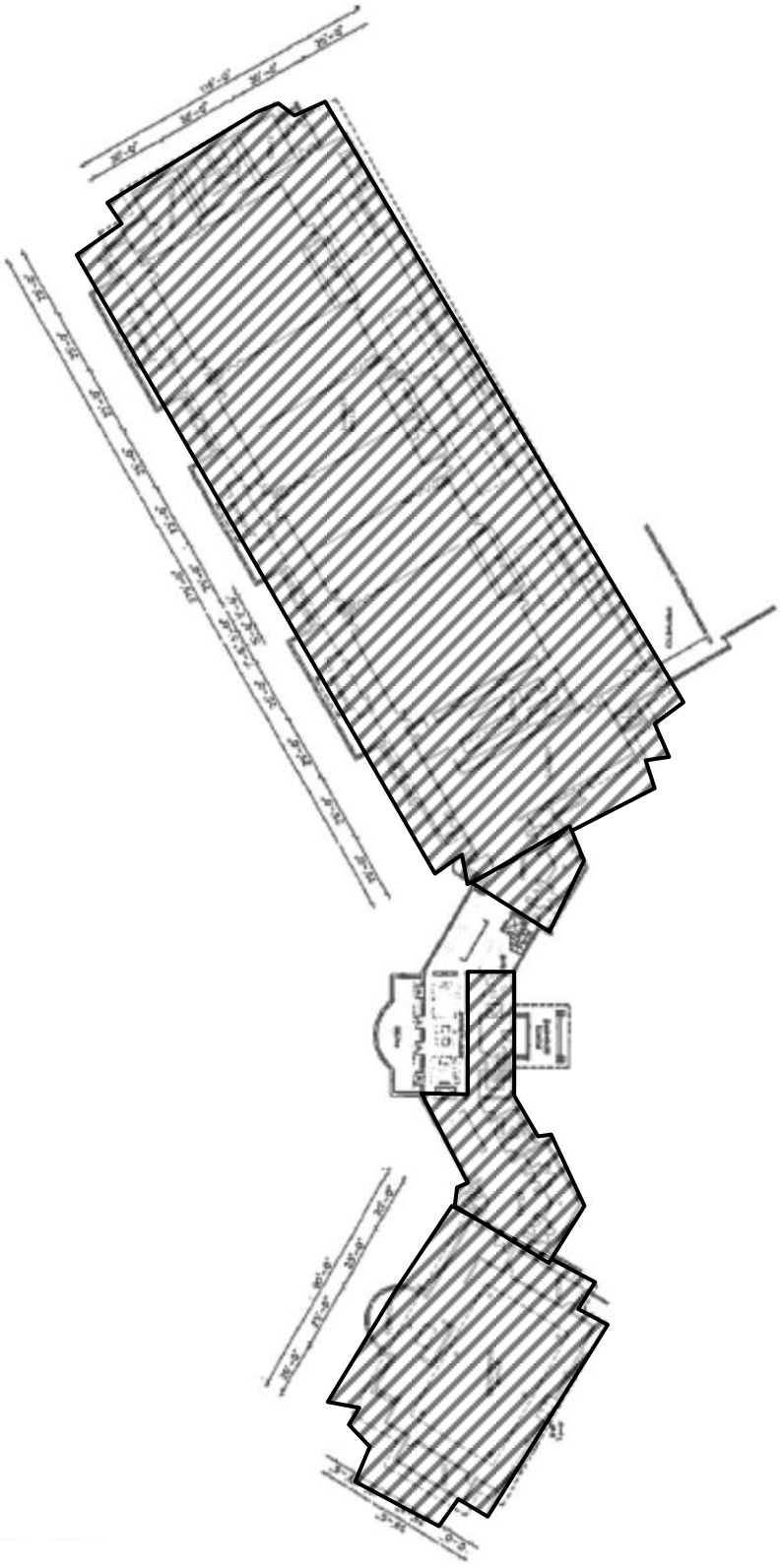
(c) Basement:
- 1,408 square feet of space used as Washrooms;
- 6,065 square feet of space used as Museum and Storage

(d) 1st Floor:
- 22,367 square feet of space used as a Banquet Hall and Community Centre;
- 4,185 square feet used as a Gazebo;
- 812 square feet used as the West Museum and Display Area;
- 812 square feet used as the East Museum and Display Area;
- 628 square feet used as the Foyer Museum Display Area; and
- 860 square feet used as a Meeting Room

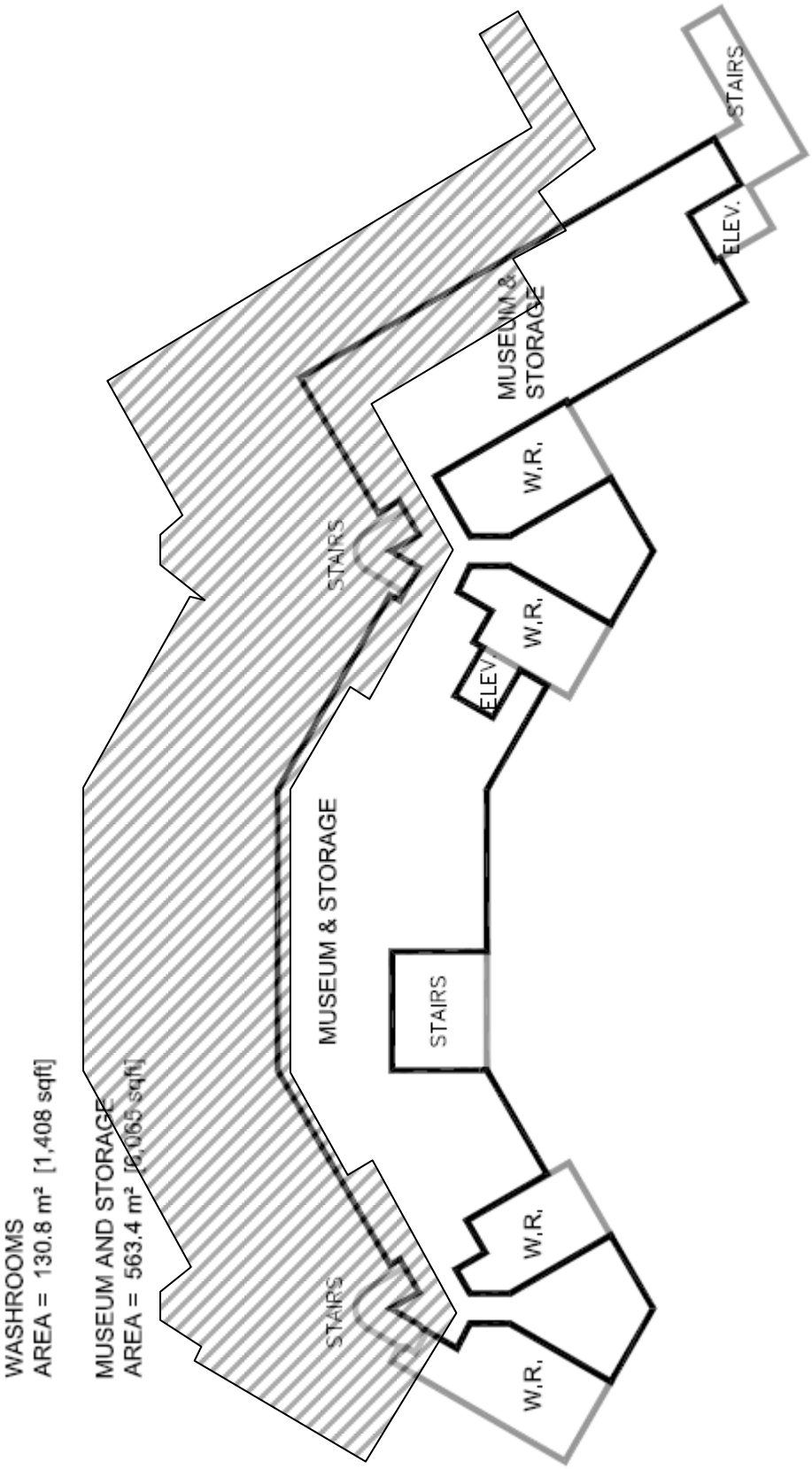
(e) 2nd Floor:
- 2,086 square feet used as a Meeting Room

Drawing of the Eligible Premises:

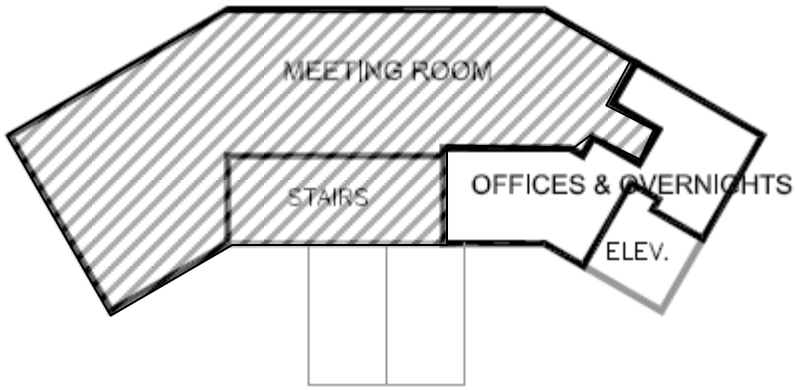
First Floor Plan



Basement Floor Plan



Second Floor Plan

MEETING ROOM
AREA = 193.8 m² [2,086 sqft]

OFFICES & OVERNIGHTS
AREA = 62.4 m² [672 sqft]